

**PUBLIC MEETING****TUESDAY THE 27<sup>th</sup> DAY OF JUNE 2000**

The meeting was called to order by Chairman Phil Olson at 9:09 A.M. Also present were County Commissioners Bill Murdock and Jennifer Smith Mitchell, Chief Deputy County Attorney Susan Swimley, and Acting Clerk to the Board Glenda Noyes.

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Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**JUNE 19, 2000**

- A regularly scheduled meeting of the Commissioners and the County Attorney's Office was held to discuss numerous legal issues. In attendance were Commissioners Olson, Mitchell and Murdock, Deputy County Attorneys Chris Gray and Gerry Higgins, Chief Deputy County Attorney Susan Swimley, County Attorney Intern Sarah Anthony and Executive Secretary Glenda Noyes. The floodplain contract with Phil Forbes of Morrison-Maierle was discussed. Commissioner Mitchell made a motion to re-affirm the intent of Contract 2000-132, retroactive to April 13, 2000, to appoint Phil Forbes, Engineer with Morrison-Maierle, to act as Floodplain Administrator pursuant to Floodplain Administration Regulations, but not to act as Planning Director. Commissioner Olson seconded the motion. Motion passed unanimously.
- A special meeting of the Commissioners was held to discuss dust control on county roads. In attendance were Commissioner Olson, Murdock and Mitchell and Road and Bridge Superintendent Lee Provance. Mr. Provance presented the Commission with a proposed dust control cost-share agreement and policy. The Commissioners agreed on the criteria for the dust control cost-share agreement.

**JUNE 20, 2000**

- A special meeting of the Commissioners was held to consider a land exchange with the Montana Dept of Transportation. In attendance were Commissioners Olson, Murdock and Mitchell, Deputy County Attorney Chris Gray, and Executive Secretary Stacy Johnston. As Ron Olsen, agent for MDT, did not attend and was unavailable to answer questions and address concerns, the meeting was rescheduled to July 6, 2000 at 11:15 a.m.

**JUNE 21, 2000**

- The Commissioners conducted regular County business.

**JUNE 22, 2000**

- A special meeting of the Commissioners was held to discuss R.I.D. maintenance budget and assessments. In attendance were Commissioners Olson, Murdock and Mitchell, Jack Schunke and Linda Nelson of Morrison-Maierle, Chief Deputy County Attorney Susan Swimley, County Attorney Intern Sarah Anthony, Cheri Larsen of the Assessors Office, Clerk and Recorder Shelley Vance, Road and Bridge Staff Engineer Roy Steiner, Road and Bridge Superintendent Lee Provance, and Fiscal Officer Ed Blackman. The Commissioners asked Jack Schunke to draft a response to Gene Cook's letter of June 8, 2000, regarding adding lots to the Hebgen Lake R.I.D. for the Commissioners consideration of his proposal. This would also be contingent upon the State's approval of the addition.

**JUNE 23, 2000**

- The Commissioners conducted regular County business.

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**The following items were on the consent agenda:**

1. Approval of Claims (none)
2. Consideration of the following contracts: Detention Center Physician Services, Drs. Sonnenberg and McLaughlin; Gary Rylander – Management software with the County Attorney's Office; Modification to Contract #2000-139 with Bailey Paving, Inc., Change Order #1; Modification to Contract #1999-124 with MSE-HKM for Landfill, Task Order #4; Modification to Contract #1999-124 with MSE-HKM for Landfill, Task Order #5.
3. Request for final plat approval for Two Rivers Minor Subdivision, located in Section 31, T6S, R4E. Gallatin County Planner W. Randall Johnson reported that it appears the conditions for final plat approval have been met.

**2 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46**

Commissioner Mitchell asked that the request for final plat approval for Two Rivers Minor Subdivision be pulled and placed on the regular agenda for discussion. It was also noted that there are no claims to be approved. Commissioner Murdock made a motion to approve the consent agenda as amended. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Planner W. Randall Johnson presented the Two Rivers Minor subdivision for discussion. Commissioner Mitchell asked if there were any changes to this subdivision since the preliminary plat approval. Mr. Johnson stated that there were not, other than a reduction in impact fees that had been previously approved by the Commission. Commissioner Mitchell questioned the ownership of the remainder parcel, and Mr. Johnson explained that the covenants require this piece to remain under the ownership of the developer. A deed restriction exists which will ensure this, and should the developer decide to sell the piece, the purchaser will have to go through subdivision review. Commissioner Mitchell moved to approve the Two Rivers Minor Subdivision, finding that it appears to have met the conditions for final plat approval. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Fiscal Officer Ed Blackman presented a resolution to amend the Gallatin County Planning Board FY 2000 budget to include unanticipated revenues from the Bozeman Jurisdictional (Donut) area. Mr. Blackman explained that this resolution is due to an oversight of the Fiscal Department. A public hearing was held in April for a similar resolution, which also included funding a Planner I position for the Planning Department. That resolution was not approved due to this inclusion. The resolution in question today does not include funds for a Planner I position, but proposes to use unanticipated revenues from the take-over of the Bozeman jurisdictional area for advertising, contracted services, printing costs, and office supplies for the Planning Board. Commissioner Murdock stated that this is not new money being spent, but a transfer of available funds, and Mr. Blackman concurred. Commissioner Mitchell made a motion to approve Resolution 2000-39, amending the Gallatin County Planning Board FY 2000 budget to include unanticipated revenues from the Bozeman Jurisdictional (Donut) area. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Treasurer Jeff Krauss presented the Treasurer's quarterly report for December 1999. He so noted: I, Jeff Krauss, County Treasurer of Gallatin County, State of Montana, upon oath depose and say: That, at the close of business on December 3, 1999 there was on deposit to my credit in the following banks, balances as shown by the statements of cashiers of such banks herewith; that, from such balances, there should be deducted for checks outstanding, and added for deposits made, amounts as follows:

<u>BANKS</u>	<u>ACCOUNT NUMBER</u>	<u>BANK BALANCES</u>	<u>OUTSTANDING CHECKS</u>	<u>DEPOSITS</u>	<u>TREASURER'S BALANCES</u>
Norwest Bank, Bozeman Branch	712386	\$801,789.00	(\$123,018.27)	\$8,981,946.94	\$9,660,717.67
	20491	\$0.00	\$0.00	\$0.00	\$0.00
	315503	\$0.00	\$9,551.98	\$0.00	\$9,551.98
AMERICAN BANK	280102436	\$54,032.92	\$0.00	(\$17,116.14)	\$36,916.78
VALLEY BANK OF BELGRADE	108103	\$13,709.19	\$0.00	(\$1,397.52)	\$12,311.67
MANHATTAN STATE BANK	4100013	\$17,921.85	\$0.00	(\$10,557.50)	\$7,364.35
SECURITY BANK, THREE FORKS	5200116	\$9,610.80	\$0.00	\$0.00	\$9,610.80
FIRST SECURITY BANK, WY	700351	\$18,603.28	\$0.00	\$0.00	\$18,603.28
BIG SKY	101710	\$7,407.77	\$0.00	(\$364.25)	\$7,043.52

WESTERN BANK

FISCAL AGENT	N/A	\$100.00	\$0.00	\$0.00	\$100.00
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		\$923,174.81	(\$113,466.29)	\$8,952,511.53	\$9,762,220.05
			Cash		\$1,915,724.67
			School		\$10,645,944.12
			Investments		
			Airport Authority		\$7,662,206.00
			County and		\$30,111,003.47
			Pooled		
			Investments		
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			TOTAL Cash on		\$60,097,098.31
			Hand		

All of the bank balances over \$100,000 are 100% secured by securities on deposit with Norwest Bank. Commissioner Olson asked if all of the revenues are coming in normally and Mr. Krauss reported that they are not. There has been a lot of difficulty with the Motor Vehicle revenue, and they haven't been able to distribute them properly. Commissioner Mitchell questioned the absence of the Fire Service Areas on the investment report, and Mr. Krauss explained that the report includes only County pooled investments.

Treasurer Jeff Krauss presented the Treasurer's quarterly report for March 2000. He so noted that: I, Jeff Krauss, County Treasurer of Gallatin County, State of Montana, upon oath depose and say: That, at the close of business on March 31, 2000 there was on deposit to my credit in the following banks, balances as shown by the statements of cashiers of such banks herewith; that, from such balances, there should be deducted for checks outstanding, and added for deposits made, amounts as follows:

<u>BANKS</u>	<u>ACCOUNT NUMBER</u>	<u>BANK BALANCES</u>	<u>OUTSTANDING CHECKS</u>	<u>DEPOSITS</u>	<u>TREASURER'S BALANCES</u>
Norwest Bank, Bozeman Branch	712386	\$813,536.00	(\$22,518.80)	\$1,547,512.34	\$2,338,529.54
	20491	\$0.00	\$0.00	\$0.00	\$0.00
	315503	\$0.00	\$176,778.73	\$0.00	\$176,778.73
AMERICAN BANK	280102436	\$34,248.75	(\$73.44)	\$0.00	\$34,175.31
VALLEY BANK OF BELGRADE	108103	\$16,606.42	\$0.00	(\$7,081.41)	\$9,525.01
MANHATTAN STATE BANK	4100013	\$27,940.98	\$0.00	(\$7,958.69)	\$19,982.29
SECURITY BANK, THREE FORKS	5200116	\$17,181.22	\$0.00	(\$425.94)	\$16,755.28
FIRST SECURITY BANK, WY	700351	\$17,516.83	\$0.00	(\$294.59)	\$17,222.24
BIG SKY WESTERN BANK	101710	\$23,308.49	\$0.00	(\$1,705.30)	\$21,603.19
FISCAL AGENT	N/A	\$100.00	\$0.00	\$0.00	\$100.00
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		\$950,438.69	\$154,186.49	\$1,530,046.41	\$2,634,671.59
			Cash		\$290,711.42
			School		\$10,645,943.67
			Investments		

4 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

Airport Authority	\$7,662,206.00
County and Pooled Investments	\$25,554,538.58
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TOTAL Cash on Hand	\$46,788,071.26

Commissioner Mitchell made a motion to accept the Treasurer's quarterly reports for December 1999 and March 2000. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Mike Lane, Vice-Chairman, Open Lands Board, presented consideration of a resolution calling for election for the Open Space Bond Issue. Mr. Lane explained that he is an agriculture representative on the Open Lands Board, and here to ask the Commission to support placing the Open Space Bond Issue on the November 7<sup>th</sup> ballot. Mr. Lane read the ballot language and explained the chain of events that have brought this issue before the Commission. In June of 1997 the Commission formed the Open Space Task Force, which then reported their recommendations in October of 1998. At that time, the Commission formed the Gallatin County Open Lands Board, consisting of 15 members. In November 1999, the Open Lands Board hired an Executive Director and initiated a countywide survey process. The survey was conducted in February and March 2000, with 500 respondents. The survey was conducted by Moore Information Public Opinion Research, located in Portland, Oregon. In April and May of 2000, results of the survey were submitted to the Open Lands Board and they voted unanimously to request the County Commissioners to pass a resolution to place a \$10 million dollar bond on the November 7<sup>th</sup> ballot. The results of the survey showed that 68% of the respondents would vote in favor of the bond issue, and 20% stated that they would definitely not vote in favor of it. Since June 1997, the voluntary Open Lands Board members have contributed more than 2248 hours, or 281 working days, towards this project. The fifteen members have worked hard to accomplish the goals of the board, to preserve open space and the economic viability of Gallatin County. Nancy Flikkema, agriculture representative member of the Open Lands Board, also spoke in support of the bond issue. She stated that the biggest concern of the board is growth and over-population in the County. She noted that Commission has shown vision, first by creating the Open Space Task Force and subsequently the Open Lands Board, and will support this vision a second time by supporting the bond issue. The estimate for increase in taxes, based on a \$100,000 home, is \$28.00. The challenge has been to see that this tax increase would not hurt the agriculture population. Treasurer Jeff Krauss has determined that approximately 8% of the total property taxes in the County come from agriculture. The Board determined to match all of the bond expenditures with a 10% match which would be used exclusively for rebate to the agriculture property owners for the increase in their taxes for this 10 million dollar bond. All matching funds will be raised prior to the expenditure of any bond funds for specific projects. The board has solidified this matching fund proposal in three ways: First, unanimous passage of a motion by the board to support the 10% matching funds for tax rebate purposes for the agriculture owners. Second, to change the board by-laws to reflect at least eight board positions will be representatives from the agriculture industry. And third, to ask the Commissioners to pass a motion today which states: "The County Commission, through the Open Lands Board, is committed to raising .10 cents on the dollar from non-Open Space Bond resources. These matching funds must be made available to reimburse farmers and ranchers for the increased tax liability resulting from the issuance of the bonds." Ms. Flikkema also suggested that this agreement be formalized with a Memorandum of Agreement between the Open Lands Board and County Commissioners. As the suggested motion states, the 10% matching funds would come from funding other than bond proceeds, such as from donations, grants and industry. The board is also dedicated to leveraging their funds with foundation and government programs, which conservatively will generate an additional 2-5 million in leveraged funds in addition to the 10 million dollars. The board is also focusing their efforts toward legislative action that will help preserve open space and agriculture preservation. Mr. Lane explained that the 10 million dollar indebtedness would not occur all at once, but over a matter of years. If a certain project arises, the money is requested and has to be spent within 80 days. Mr. Lane projected that it would probably take five years to spend all of the money. However, before spending any of the money, the 10% matching funds have to be raised. Commissioner Olson noted that the amount taxed for each year could be different depending on the amount borrowed. The \$28.00 increase for a \$100,000 home is based on the 10 million being borrowed all at once. Commissioner Olson asked if any discussion took place regarding the effect this tax increase may have on low-income and fixed-income individuals. Mr. Lane noted that the board did not discuss this impact, but mainly focused on the effect the increase would have on agriculture property owners. Commissioner Olson asked Mr. Lane if he or any of the

other board members were expecting any financial benefit from this bond. Mr. Lane stated that they did not, and added that this would be a conflict of interest. Commissioner Olson stated that previously he had been told that this bond money would not benefit the agriculture in general, and Mr. Lane stated that they meant that the members would not benefit, but agriculture in general would. Ms. Flikkema stated that none of the agriculture representatives on the board would benefit from the money, but the bond is to be a tool for people in the agriculture industry to help them from not having to sell their land and enable them to keep it in production. Commissioner Olson stated that the 10 million dollars would benefit some agriculture producers, but in general would not benefit many. Ms. Flikkema noted that due to State and Federal laws, their options are very limited and the bond issue was the best solution to the challenge that they could come up with. Ms. Flikkema explained that they have been trying to find a variety of ways to help the agriculture population. She noted that the greatest hindrance to helping preserve and accommodate the agriculture producers is the inheritance tax. The board is working towards doing away with the federal death tax and other means to helping the farmer who wishes to pass down his farm. Ray White, rancher, spoke in opposition to this issue. Noting that while he does not object to the open space concept, he does object to additional tax on agriculture operations. Mr. White stated that his family has furnished agriculture open space and resents that he may have to pay additional millage to purchase more open space. Mr. White expressed concern about the rebate and how difficult and costly it may be to administer this reimbursement. He also noted concern over the lack of policy setting, who would qualify for the rebate, who would be responsible for the maintenance of the open space, and how many mills this tax increase will be. Mr. White stated that if it were simply the land that were taxed the additional millage, he would not be opposed to the bond issue, however, when the buildings and machinery are also taxed, it would make a huge jump in the cost to the agriculture producer. The following people spoke in favor of placing the open space bond issue on the November ballot: Mary Vant Hull, Felicia Hutchison, Grace Morgan, Frank Silva, Terry Lonner, Carmen McSpadden, Vera Lou Landis, Archie Alexander, Devon Sorlie, Mark Haggerty, Greater Yellowstone Coalition, Debby Degan, Executive Director of the Gallatin Valley Land Trust, Brent Morris, Executive Director of the Open Lands Board, and Tom Milesnick. They had many reasons which included support for the Open Space Lands Board, which has found a development alternative that provides agriculture producers options other than giving their land to developers; support for the board that has reached a unanimous decision after three years of deliberations and considerations of many options; concerns that the County continues to grow and there needs to be a way to protect some of the open space; the need for many tools in securing open space so that people have options; open space will provide lower income families the benefit of low-cost recreational alternatives; and this is not the perfect solution, but doing something is better than doing nothing. Treasurer Jeff Krauss certified that the County has a general debt limit, which is approximately 13 million dollars. Of that 13 million, approximately 11 million is available. He noted that the issuance of a Detention Center bond would be separate from this 13 million dollar limit. Mr. Krauss expressed his concern over using 10 million of the 13 million-debt service room on open space. Mr. Krauss questioned the rebate system, noting that if taxes were refunded from county money, those people may not be paying taxes according to law. Commissioner Olson asked Mr. Krauss about the interest on 10 million dollars and he reported that the first year, it would be approximately \$650,000. Mr. Krauss stated that he would not feel comfortable with the rebate situation, unless under advisement of the County Attorney, and added that the cost to create a new tax bill and pay someone to issue the rebates will be considerable. He noted that if the bonds are authorized, they won't be sold for a while, and pay back would probably not begin until 2002. By that time, livestock taxes will have been phased out and personal taxes will have been cut in half, the 31 percent homestead exemption on real property taxes will be fully in effect. Also, property taxes are regressive and if you are 62 years or older you are eligible for an elderly homeowner income tax credit which is for property taxes of a thousand dollars or what you were billed in that year, whichever is less. In addition, low-income people are eligible for a change in their tax rate that lowers the amount of taxes that they pay. There are mechanisms that reduce the amount of property taxes for elderly and low-income people already in place. Mr. Krauss also expressed his personal opinion that he has witnessed the hard work of the Open Lands Board, and does support placing the bond issue on the ballot for purposes of purchasing property rights or development rights. The alternative, as he sees it, is zoning, and Government imposed zoning has some very negative aspects. County wide zoning forces people to farm whether it is profitable or not, forces people to not realize the value of their property, and impacts inheritance and retirement. Mr. Krauss expressed his support of agriculture, and of giving people an alternative, providing balance for the County. Chief Deputy County Attorney Susan Swimley commented on the rebate issue, noting that the County Attorney's Office and Bond Council were made aware of the request to rebate the taxes. She pointed out the proposed motion by Nancy Flikkema, setting out the language which should be used for the rebate, stating that it would be 10 cents on the dollar and the Commission should adopt the concept by motion and allow the County Attorney and Bond Council to work out the details of the rebate. Commissioner Mitchell reported that letters were received from Amy House, Patty Steinmiller, and comments were submitted from 11 different parks and user groups in support of the bond issue. Archie Alexander explained the Board's intentions regarding

the rebate, noting that they did not intend for the money to come from county resources or bond funds but from private foundations and individuals. He noted that the details and process on how to pay out the funds have not been established, but will be done according to a set of uniform rules that will be established. Commissioner Mitchell stated that she is grateful for the hours spent by the Open Space Task Force and the Open Lands Board to come up with an innovative tool with which to help solve our open space problem. She noted that the Commission has witnessed a significant change in the maturity of the board and find it gratifying to see the board work together towards a unanimous decision such as this. Commissioner Mitchell expressed her support of placing this issue to a vote of the people. Commissioner Olson stated that he has been a supporter of the Open Lands Board from the beginning and has a lot of respect for the board members. Commissioner Olson expressed concern that the bond will not actually help agriculture very much. He stated that changes need to happen in Washington in order for landowners to truly experience alternatives to development. Commissioner Olson noted that some of his concerns regarding the impact on elderly and low-income individuals were relieved with the statements made by Treasurer Krauss. However, he does not like the idea of allowing a majority of voters to make a decisions for the County as a whole, especially since this is not a matter of public health and safety. He expressed his wish that this solution could be of benefit to all agriculture, rather than just a few. Commissioner Olson also stated that he called the bank and inquired about the interest that would be paid on the bond, and was told it would be 5-6 million dollars, which is taxpayer money that would be lost. Commissioner Murdock spoke in support of the bond issue. He stated while this isn't a perfect program, nothing in life is, and the idea of not placing this issue to a vote of the people is unconscionable. He noted that while this is not a panacea, it is a start, and by creating land conservation dollars, we are sending a signal of proactive approach to a lurking problem. Commissioner Murdock also noted that the surveys, public sentiment, and action in front of the Zoning Commission hearings reflect support for placing the bond issue in front of the public. Commissioner Murdock made a motion to pass Resolution 2000-40, submitting to the qualified electors of Gallatin County, Montana, the question of issuing general obligation bonds in the amount of Ten Million and No/100 dollars (\$10,000,000.00) for the purpose of preserving open space in Gallatin County subject to the terms and conditions set forth herein, with the language to be stated on the ballot as proposed: "Shall the board be authorized to issue and sell general obligation bonds of the County, in the amount of up to Ten Million and No/100 (\$10,000,000.00), for the purpose of preserving open space in Gallatin County by purchasing land and conservation easements from willing landowners for the following purposes: managing growth, preserving ranches and farms, protecting wildlife areas and water quality of streams and rivers, providing parks and recreation areas and paying costs associated with the sale and issuance of general obligation bonds, which bonds shall bear interest at a rate to be determined by the Board, payable semiannually during a term of not to exceed twenty (20) years and redeemable on any interest payment date after one-half of their term, with all expenditures based on recommendations of the Open Lands Board (citizen's advisory committee), after public comment, and subject to an independent audit?" Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Murdock made a motion for the Commission, through the Open Lands Board, to be committed to raising 10 cents on the dollar from non-Open Space bond resources. These matching funds must be made available to reimburse farmers and ranchers, who so request, for the increased tax liability resulting from the issuance of the bonds. Commissioner Olson questioned whether or not the motion excluded using non-tax dollars for the reimbursement. Commissioner Murdock suggested adding "non-tax sources" before "non-Open Space..." Seconded by Commissioner Mitchell, as amended. In discussion, Commissioner Murdock added that this motion is being made on the advise of the County Attorney's office who will be working with bond council to formulate a method and formalize this motion. Treasurer Jeff Krauss questioned the "non-tax sources," definition, and whether or not the Commission really wanted to exclude all tax sources. Open Lands Board member Carmen McSpadden commented that the board would like to leverage this money and turn it into twenty million. This could be done using money from Heritage Fund and Federal and local funding. She asked that the Commission not use the language "non-tax dollars" because it would exclude them from getting money from State and Federal resources. She explained that the rebate is completely outside of the bond, but could use money from other sources to fund them. Commissioner Olson explained his concern that future Commissions could use money that would have otherwise been used for county operations. The Commission decided to modify the motion to state "except from Open Space Bond resources and County tax or County non-tax revenue sources." Commissioner Murdock amended his motion to reflect this change. Commissioner Mitchell seconded the amendment. None voting nay. Motion carried.

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Chief Deputy Susan Swimley presented a pending resolution for consideration regarding an order retaining property acquired by tax deed for County purposes. The property is known as the A.E. Montana property located in the NW¼ of the NW¼ of Section 23, T1S, R3E, also known as Tract A of COS 998. In March the Commission voted to retain and classify this property for County purposes and

the current resolution is an order stating this intention. Commissioner Murdock made a motion to pass Resolution 2000-41, an order retaining the property acquired by tax deed for County purposes, described as Tract A of COS 998, located in Section 23, T1S, R3E. Commissioner Mitchell seconded the motion. In discussion, the Commission asked Ms. Swimley if this property still has to go through the inventory process. She stated that the Commission still has to set parameters and process that will classify what kind of property it is and the intention for the property. Commissioner Mitchell noted that she is not in favor of retaining the property, she sees it as another project that will take too much staff time and effort. Commissioner Murdock stated that he is in favor of retaining the property because the Rural Fire Council may be able to use the property as a training site, and if that doesn't pan out the property can be sold at a later time. Commissioner Olson agreed. Commissioners Olson and Murdock voted in favor of the motion. Commissioner Mitchell voted nay. Motion carried two to one.

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Gallatin County Planner Jennifer Madgic presented a request for preliminary plat approval for the Elk Grove PUD/Major Subdivision, located in the S $\frac{1}{2}$  and SE $\frac{1}{4}$  of Section 23; and the S $\frac{1}{2}$  and SW $\frac{1}{4}$  of Section 24; and the N $\frac{1}{2}$  and NW $\frac{1}{4}$  of Section 25; and the N $\frac{1}{2}$  and NE $\frac{1}{4}$  of Section 26, T2S, R4E. The property is generally located east of Highway 191, north of Blackwood Road, south of Violet Road, approximately one and a half miles south of Four Corners. The proposed subdivision has been reviewed for the following primary criteria: Agriculture, agricultural water user facilities, local services, fire protection, law enforcement, emergency medical, schools, natural environment, and wildlife and wildlife habitat. If the Commission decides to approve the subdivision, the following conditions for final plat approval are suggested: 1. Phase 1 shall include 145 residential lots including lots in Blocks A-G. Phase 2 shall include 86 lots including lots in Blocks H-O, and proposed day-care lot, Lot M. Phase 3 shall include 69 lots including lots in Blocks P-T. Phase 4 shall include 12 commercial lots. 2. The final plat(s) shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 3. Department of Environmental Quality approval shall be obtained for the subdivision for proposed central water and wastewater systems as deemed appropriate per phase. Applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. 4. Two copies of the covenants, a copy of the conditions of preliminary approval, documents establishing the property owners' association, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval pertaining to each phase. The Attorney's Office shall review and approve the covenants, documents establishing the property owners' association, and certificate prior to final plat approval(s). 5. *Applicant shall record on the final plat(s) a waiver of right to protest creation of rural improvement districts, sewer districts, water districts, and/or any local improvement districts including any additional traffic control device proposed on US Highway 191.* 6. All utility easements shall be shown on the final plat(s). Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat(s): The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever. 7. A Memorandum of Understanding shall be signed between the Weed Control District and applicant prior to final plat approval(s). 8. Applicant shall record the following covenants on or with the final plat(s): a) The control of noxious weeds by the Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District. b) The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds after 10 days notice from the property owners' association, the association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment. c) Individual lot accesses from County public roads shall be built to the standards of Section 7.G.2 of the Subdivision Regulations. d) The fire district shall receive a stamped set of engineered sprinkler system plans for review and approval prior to construction of any commercial facilities. Inspections shall be scheduled, with 48-hour notice, during construction and after completion. e) Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. f) All fences bordering agricultural lands shall be maintained by the

property owners, in accordance with state law. g) *Use of wood-burning stoves is restricted within the Elk Grove Planned Unit Development.* h) *Lot owners may not remove water or cause to be removed water from irrigation ditches without deeded water rights. Before any maintenance and/or improvements are performed on any ditches the owner of the water right must give written permission for work to be done.* i) Any covenant, which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission. 9. County Road Department shall approve road names for all interior roads. 10. Road sign(s) shall be required at all intersections as appropriate per phase. 11. STOP sign(s) shall be required at all intersections with County-maintained roads and main subdivision collector roads as appropriate per phase. 12. A one-foot no access strip shall be shown around the entire perimeter of Elk Grove, except at approved and permitted access points. 13. All interior roads (except as noted) shall be constructed to County paved standards with a minimum of 60-foot rights-of-way dedicated to the public. Roads within Block A shall be constructed to County paved standards and have 40 feet of right-of-way dedicated to the public. Road improvements shall correspond with applicant's phasing schedule as shown on the submitted preliminary plat and as explained in the submitted Environmental Assessment. 14. A 30-foot wide dedicated right-of-way will be required on the north edge of the property line including Violet Road, running from U.S. 191 in an eastward direction to a point located at the southeast property corner of Lot 530 (Rainbow Subdivision) and the property to the north (owned by Cok) (Phases 1 & 4). 15. *A fully developed second access road, with unrestricted ingress and right-turn-only egress, must be constructed to County standards, with 60-foot dedicated public right-of-way to Blackwood Road (Phase 1).* 16. An emergency access with 60 feet of right-of-way from Block "A" to north shall be shown on the final plat as a public easement. This road is not required to be constructed (Phase 1). 17. A future access road/emergency road, 60-foot public easement must be shown between Block L at the cul-de-sac to the Morgan family trust to the north (Phase 2). 18. All roadwork per phase shall be inspected and certified by a Montana-licensed engineer. 19. *Blackwood Road shall be paved and constructed to 24-foot-wide County standards along the length of the subdivision, south and east. Applicant shall provide 45 feet of right-of-way on the north and west sides of the Blackwood Road centerline. Additionally, applicant shall work with County Road Department in improving design of second curve on Blackwood Road (north of southeast corner). All improvements relating to Blackwood Road shall be completed prior to final plat approval of Phase 1.* 20. *The curve on Blackwood Road at the southeast property corner shall be re-aligned to a minimum radius of 200 feet to improve public safety. Additional right-of-way may be required at this corner to accommodate realignment.* 21. *Applicant shall conduct a traffic impact analysis on Blackwood Road and shall participate in improvements to such road as deemed warranted by the County Road Department prior to final plat approval of each phase.* 22. *Two fully-constructed road approaches shall be required on Blackwood Road, including the installation of channelization traffic control devices to prevent left turns onto Blackwood Road. Each approach shall be signed and posted with "no left turn allowed" (eastward direction). The County Road Department shall approve both approaches prior to construction. The second approach shall be constructed prior to final plat approval of Phase II.* 23. *Prior to final plat approval of Phase III, County Road Department shall evaluate the traffic controls at Blackwood Road approaches and applicant shall be responsible for any needed improvements, including, if warranted, installation of acceleration and turning lanes at the approaches. Applicant shall be responsible for all costs.* 24. *The central wastewater facility road shall be private.* 25. *The property owners' association shall be responsible for all parking enforcement with provisions contained in the covenants.* 26. *The property owners' association shall be responsible for the maintenance of all interior roads.* 27. *Encroachment permits from the Montana Department of Transportation must be obtained for access onto US Highway 191. Applicant shall minimize access problems for residence at 79851 Gallatin Road.* 28. Approved plans for any improvements and/or construction on US Highway 191 shall be obtained from the Montana Department of Transportation. A letter satisfying completion of this condition shall be obtained from the Montana Department of Transportation per phase. 29. *Prior to final plat approval of Phase 4, applicant shall conduct an engineering warrant analysis on US Highway 191 to be reviewed and approved by the MT Department of Transportation. Applicant shall participate in improvements to such highway as deemed appropriate by MDT.* 30. The final plat(s) shall contain a statement requiring lot accesses be built to Gallatin County Subdivision Regulation standards. 31. Applicant shall make payment of road impact fees in accordance with the Gallatin County Subdivision Regulations as required per phase. 32. Applicant shall make payment of fire protection impact fees in accordance with the Gallatin County Subdivision Regulations as required per phase. 33. Applicant shall provide an appropriate fire protection method for proposed commercial and residential uses in accordance with the Subdivision Regulations. 34. Applicant shall have the Gallatin Gateway Rural Fire District review and approve the fire protection method (including hydrants) and any other fire-related design(s) prior to final plat approval(s). Applicant shall submit written verification from the fire district that all requirements have been met for each phase. (Note: A reduction in the fire flow requirements for commercial structures shall be permitted provided that: automatic fire sprinklers and alarm systems shall be installed



in all commercial structures, the draft hydrant located at the pond shall be capable of flowing a minimum of 1,500 GPM for two hours, these specifications must be met for all 12 months of the year. In addition, all pressurized (individual) hydrants shall provide a minimum of 1,000 GPM for two hours during peak domestic flow.) 35. Spacing of fire hydrants shall not exceed 500 feet road-travel distance and final hydrant locations shall be approved by the fire chief or his designee. 36. Pressurized hydrants shall be provided for the central wastewater treatment facility, the daycare facility and the existing barn/pavilion. 37. All fire hydrants shall be Mueller Super Centurion 2000 model with one 4.5" NST male and two 2.5 NST male fittings. Pertinent fire hydrants shall be protected with bullards. All hydrants to be approved by Gallatin Gateway Rural Fire District. 38. Applicant shall provide final plat(s) to the Gallatin Gateway Rural Fire District. 39. The water main system serving all lots including all fire hydrants shall be installed prior to final plat approval of each phase. 40. *Applicant shall consult with the County Trails Committee regarding the proposed trail system, including provision of a trail easement along Blackwood Road.* 41. *Applicant shall submit a parks improvements plan per phase and shall install such improvements prior to final plat approval of each phase.* 42. *Parkland shall be dedicated per phase as required by the Subdivision Regulations and as proposed under applicant's phasing schedule. Applicant shall provide a landscaping plan for public areas within each phase prior to final plat approval of each phase.* 43. *Final disposition of Remainder Tracts RT1 and RT2 shall be approved by the County prior to final plat approval of Phase 3 consistent with applicant's current representations, the PUD criteria and the County Plan Review sections of the Staff Report.* 44. Applicant shall provide landscape plan addressing screening of proposed central wastewater facility. Plan shall include provisions to effectively screen facility as viewed from nearby residences and from Blackwood Road. 45. *Applicant shall submit the Elk Grove Community Design Review Guidelines for review to the Planning Department prior to final plat approval of Phase 1.* 46. If during construction anything of historic significance is discovered, applicant shall contact the Montana Historical Society. 47. Applicant shall provide a plan to address school bus stop(s) to be reviewed and approved by the Bozeman School District. 48. Applicant shall provide a wetlands investigation completed by a qualified consultant, using the Army Corps of Engineers Wetlands Manual. If the investigation indicates presence of wetlands, applicant shall have the wetlands delineated by a qualified consultant. The wetlands delineation shall be shown on the final plat. *Applicant shall obtain any appropriate state and/or federal permits pertaining to wetlands and/or other waterways.* 49. Final plat shall provide a 35-foot setback between the ordinary highwater mark of an active ditch or creek and any commercial or residential structure. Additionally, applicant shall comply with Section 76-3-504(9) MCA regarding provision of ditch maintenance easement(s) as appropriate. 50. *Final plat(s) shall contain the following statement: Lot owners shall not remove water and/or cause to be removed water without deeded water rights.* 51. *Applicant shall consult with water users to ensure preservation of water rights.* 52. Applicant shall consult with the US Postal Service regarding mail delivery. If a centralized mail system is used, the location must be shown on the appropriate final plat. 53. Applicant shall have three (3) years to complete the above conditions and apply for final plat approval(s). Before discussion, Chief Deputy County Attorney Susan Swimley set parameters for the meeting, explaining to the Commission and public that the review of this preliminary plat must be considered a new submittal. A full application fee has been paid and the applicants are entitled to a full hearing. She also stated that information gathered previously is not to be ignored or discounted, but at the present a full hearing is required. Ms. Madgic stated that to date over 40 letters have been received. Also, a 101-signature petition opposing, and a 402-signature petition supporting have been submitted regarding this subdivision. She noted that the Planning Board recommended approval of this subdivision with a 5-1 vote on April 11, 2000, and with a 6-1 vote on June 13, 2000. She noted that essentially the staff report is the same, with a few parts added, and the concerns regarding the various primary criteria remains. Attempts to mitigate the impacts and problems regarding Blackwood Road have been made by way of signage and design of the egress onto the road. The Road Department continues to suggest that Blackwood Road be paved in its entirety. A contradiction remains regarding the condition defining the alignment of the access onto US 191. The Montana Department of Transportation (MDOT) has stated that they will require the access line up with the Monforton residence access across the highway, but the Monfortons have requested that the approaches be jogged. Ms. Madgic reported on other changes, additions and deletions of conditions from the first application until now. She pointed out that another unresolved issue is the Bozeman Area Transportation Master Plan Update draft regarding Blackwood Road. She stated that the Road Department does not think the proposed change is feasible or that the County would require it. Commissioner Mitchell stated that there were numerous issues addressed in the findings at the last meeting, and they haven't all been resolved. Ms. Madgic noted that there were numerous reasons for denial, and many have been addressed but some have not and problems with the subdivision do still exist. Will Brook, attorney with Moore Law Firm, spoke as a representative for Concinnity, Inc. He stated that based on the advisement of the County Attorney's office, the Commission has the authority to proceed with this hearing. He addressed the access problems and stated that the applicant has been placed in a difficult situation. Montana Department of Transportation (MDOT) has stated that US 191 can handle the total volume of traffic from the subdivision, but the

applicant is required to provide a second access, leading to problems with Blackwood Road. After denial of the previous subdivision, based partially on the access onto Blackwood Road, the applicant redesigned the egress and has mitigated the problem with design alterations and signage. In addition, a condition has been added which calls for a traffic analysis study on Blackwood Road with each phase, and if problems are discovered the applicant will be required to mitigate them. Mr. Brook stated that the applicant has also worked to mitigate concerns that Mr. Paugh will raise later in the meeting. He expressed respect for Mr. Paugh and his knowledge of agriculture and water issues, however, his request for irrigators to have veto power of subdivisions is taking the issue too far. He explained that the effect of this subdivision on water users should be nil. The crossings will carry 125% of the channel capacity and the advanced waste water plant will be monitored by the Department of Environmental Quality (DEQ) and be much safer and advanced than individual septic systems. Mr. Brook noted that it is a high-density subdivision, but the size allows the applicant to provide amenities that they wouldn't ordinarily be able to. He added that this is a subdivision the Commission could hold up as a model of how to do things correctly. Addressing Commissioner Olson's unhappiness with the fact that this subdivision is located on prime agriculture land, he stated that many people have left the family farm due to an inability to make a living. He stated that many lose twice, first because they suffer from low agriculture prices and then again when they can't sell their land for an adequate price. Ms. Swimley asked if the applicant has developed a provision for transferring water rights and Mr. Brook explained that the water user down stream has existing water rights and there will be an agreement drawn between the applicant and owner to ensure access to the water. Justin Buchanan, applicant with Fluidyne, spoke on his own behalf. He stated that three weeks ago they held a community meeting in Gallatin Gateway and presented a constraints map. He presented the map to the Commission, giving a visual picture of the development of Elk Grove. He noted that their primary goal was to avoid effect on the three existing surface waters. Mr. Buchanan also noted that they hoped to repair the riparian areas, avoid building on the 10% slopes, and avoid effect on the wetlands. The applicants showed their proposal to the DEQ and FWP. Both departments replied favorably to the proposal, with comments that the development may actually improve the quality of the habitats. The applicants also plan to preserve an old timber frame barn as a historical feature. Ms. Swimley asked Mr. Buchanan how much of the compliance with protecting the primary criteria is based on the park area. He explained that the compliance is a joint issue, encompassed in a park management plan they are developing. Ms. Swimley explained that in order to ensure they are required to abide by their own plan, it needs to be implemented into the conditions. Discussion took place about the water rights and Mr. Buchanan explained that the DNRC would ensure that the applicants don't hinder someone's water rights. Commissioner Mitchell questioned the dedication of the open space. Mr. Buchanan explained that remainder tract one and two, containing approximately 80 acres, have been labeled open space. The applicant is also considering a conservation easement or a valid deed restriction to ensure that those tracts do indeed remain open space. Ms. Swimley explained to the Commission that requiring the applicant to place the tracts in a conservation easement or dedication would eliminate them from receiving a tax benefit. The condition which addresses this space leaves it open for the developer to guarantee the open space while not losing an advantageous tax benefit. The following people spoke in favor of the proposal: Scott Doss, David Johnston, Rose Ann Penwell, Diana DeYoung, and Charles Page. Their support included statements that the proposal represents a quality project and that the developer identified constraints and mapped the subdivision around them, the need for encouraging responsible, professional growth, the support of property rights to sell, the negative traffic conditions have been exaggerated and that the problem is not amount of traffic, but the speed limit that hinders access onto Huffine Lane, and that a vast majority of the high water table is due to improper use of ditches. The following people spoke in opposition to the proposal: Frank Silva, Nancy Flikkema, Burr Blackwood, Billy Blackwood, Jim Paugh, Ted Cline, Trudy Brentz, Mark Haggerty (Greater Yellowstone Coalition), Gail Hardy, Frank and Patsy Culver, Judy Adamek, Carl Francis, Mike Monforton, and Edwin Engler. Mr. Silva submitted pictures and maps labeled Exhibit A. Their opposition included concerns related to the proposal having too high density, location in a high-water table, the proposal is leap-frog development, increased traffic, traffic onto US 191 and egress onto Blackwood Road, increased dust and washboard roads, water right concerns, underground water contamination concerns, the Commission is currently in litigation and has no jurisdiction to hear a re-submittal, and nearby farming operations would be unsuitable to new landowners within this subdivision. Justin Buchanan stated that a traffic study was done on the distance from Elk Grove to town via Blackwood Road and US 191. From Blackwood Road to the Gallatin Valley Mall was 7.7 miles and it took 12 minutes and 45 seconds to travel in that direction. Traveling on US 191 to the Gallatin Valley Mall, the distance was 7.3 miles and it took seven minutes and 50 seconds. The route on US 191 is faster, shorter, no dust, no washboards and is not a narrow road. Based on this information, the majority of people will travel on US 191 rather than Blackwood Road. Mr. Buchanan explained that working with MDOT and the Road Department, he feels certain that the pork-chop will be successful in mitigating problems. Regarding the wastewater treatment system, Mr. Buchanan stated that they would be signing a waiver of right to protest a water and sewer district. He explained that the effluent will be treated to the degree or better than what is currently being discharged

into the Gallatin River, and the sludge will be pumped off site. He explained that when designing Elk Grove, their primary concern was protecting the ground water. He concurred with Mr. Page that the flooding of the pastureland from the ditches is the main reason for high-water readings. The ground water levels on the upper lots is from 10-25 feet, the lower section levels are 4-8 feet, which is not a problem as long as the development has a central water and sewer system. Ms. Swimley stated that in order to grant a waiver of road standard, the Commission has to make a finding that the developer meet one or more criteria from the PUD section. Mr. Buchanan noted that they are asking for a waiver from the sixty foot right of way to a forty foot right of way within Block A because they don't require road side ditches and have curb and gutter instead. There would be a lot of wasted space if they added the additional right of way. Ms. Swimley asked Mr. Buchanan for him or a member of his team to come up with the exact criteria that would allow the variance. Ms. Swimley also questioned the boulevards and maintenance of them. Mr. Buchanan explained that the covenants require underground water sprinkler systems, with watering occurring only at night. The water for this purpose will come from three ground water wells located on remainder tract one. The Police and Fire Departments have submitted letters of approval, and have even stated that the subdivision could enhance fire protection. Commissioner Mitchell inquired about the purpose of the urban boulevards and how they would be maintained. Mr. Buchanan explained that in order to provide more open space, the lot size in the front area had to be smaller. The loop cul-de-sac allowed for the houses to be placed closer to road without disrupting the aesthetics. This type of street typically encourages people to drive slower, is more attractive, and the boulevards will be built with underground sprinklers, landscaped, and maintained by the homeowners association. The maintenance will be outlined in the Park Area Management Plan. Attorney Will Brook stated that this is not leapfrog development since it is located next to existing subdivisions and is in a logical, transitional area. He stated that creating a high-density area will preserve agricultural land in the end, as people will reside here, rather than on 20, 40 or 80 acre parcels. Mr. Brook also stated that creating the high-density area, providing additional facilities, parks and open space will keep people from traveling into Bozeman as much, reducing the predicted traffic on adjoining roads. Regarding the long range traffic plan, Mr. Brook commented that making Blackwood Road a main arterial will increase the traffic on this road and Gooch Hill Road. This is contrary to the wishes of those who expressed concern about additional traffic on these roads. Mr. Brook also reiterated that MDOT has stated that US 191 has been built to handle this kind of traffic, and we have nothing if we cannot trust the experts. In addition to stating that US 191 can handle the additional traffic, MDOT is insistent that it is best for the entrances onto US 191 be aligned to plan for a potential traffic light in the future. Regarding the PUD criteria that would allow for a waiver of road standard, Mr. Brook stated that the staff report speaks for itself, addressing each of the criteria and stating the developers compliance with each. Commissioner Mitchell questioned Mr. Brook about the impacts that have not been mitigated, and he replied that they can only agree to disagree because the applicants feel they have addressed each of the concerns. The Commission asked Lee Provance, Road and Bridge Superintendent, if he felt the pork chop design would truly redirect traffic to US 191 from the subdivision. Mr. Provance reported that studies show that the pork chop design reduces the number of cars going the restricted direction by 50%. He noted that he believes there will be 3-4 people who will ignore the design and signage. Discussion took place regarding the pork chop design and Mr. Provance explained that the Road Department will work with the developer through each of the phases to determine what works and what doesn't, and modify things where necessary. During board discussion, Ms. Swimley asked that the Commission consider the PUD criteria and make a finding on whether it has been met or not in order to determine whether to grant the road width design waiver. She also asked that the Commission consider the county plan and effects on primary criteria and the impacts and mitigation for these areas. Commissioner Olson restated his position on the previous submittal, that this subdivision is close knit, with parks, amenities and is close to a major highway. However, he is still concerned about the access onto Blackwood Road. He noted that even though the pork chop may deter the traffic from going to town on Blackwood Road, but will not deter the traffic from returning on Blackwood Road. Commissioner Murdock stated that he believes the Commission should require the access onto US 191 be off-set to the access from the Monforton property, and the Commission will help the developer to obtain approval from the State. Commissioner Mitchell stated that her feelings have not changed much either, she still feels like the future traffic plan has not been considered, and too few of the issues of concern have been addressed. Commissioner Mitchell also noted concern of Gallatin Valley Land Trust that the open space is not contiguous with other open space around the development, and the houses along US 191 are right next to the highway. She stated that she does not feel that the proposal is compatible with neighboring subdivisions in size or density, and density is directly related to health and safety issues. Dust pollution, water issues, road design, accesses, 2 mile distance to Four Corners and the commercial node design in the middle of nowhere are other concerns that Commissioner Mitchell stated are cause for her to be uncomfortable with the proposal. Commissioner Murdock stated that this is a difficult decision, but his has been swayed by the central sewer system, clustering, open space protection, and proximity to other subdivisions. He noted that absent a zoning effort, he draws the line at the outgrowth of development in this area at Blackwood Road. Commissioner Murdock also stated that no matter where growth occurs,

12 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

there are impacts and a need for balance. Commissioner Murdock moved to approve the request for preliminary plat approval for the Elk Grove PUD/Major subdivision, finding that it meets the criteria of the subdivision law; meets, on balance, the purposes of the Gallatin County Master plan; with the findings stated in the staff report noting that this subdivision meets the criteria for a PUD: To provide flexibility of the Design and Improvement Standards...to promote creativity in subdivision design; to provide economies in the supply of public services; to enhance and preserve open space and unique natural features; and to enable the planning of a tract for a single use or for a harmonious combination of uses, such as a mixture of residential and commercial. 1. General: The plan shall conform to the intended purposes of these regulations, the special intent of this section, and one or more of the following: a. Preserve to the maximum extent possible the natural characteristics of the land; including topography, vegetation, streams and other bodies of water. b. Preserve productive agricultural land. c. Protective important historic sites or structures or areas of important wildlife habitat. d. Provide economies in the provision of roads and public improvements. 2. Site Size: The total site size, as measured by the boundary perimeter of the PUD, shall be appropriate to the proposed area and design. 3. Open Space: Each PUD shall provide an area for dedicated park or common open space appropriate in size to the proposed development and design; however, such area shall not be less than the amount of land required to be dedicated under these regulations for the area of the subdivision, exclusive of all other dedications. 4. Landscaping: Landscaping may be required between building sites or on the PUD perimeter where the Commission deems it necessary to provide buffer screening between different land uses. 5. Parking Area: Adequate parking area shall be required for the proposed uses of the development, as determined appropriate by the Commission. 6. Roads: a. Collector roads designed to furnish access to adjacent areas are dedicated. b. Adequate responsibility for the improvement and maintenance of private roads is assumed by the property owners' association. c. Road improvement specifications are met in compliance with these regulations. 7. Other Regulations: Where there are other ordinances or regulations which require compliance to PUD or other minimum standards, this Section does not authorize the Commission to waive or modify such ordinances or regulations. In addition, all of the conditions written by staff with additions and modifications to the conditions and covenants: Under condition 8, move the last covenant to be lettered "j" and a new letter "i" which will read "Lot owners must develop park lands and trails within the subdivision in accordance with the approved plan at the time of subdivision approval." Modifying condition #27 incorporating the language suggested by staff and adding the language suggested by Mr. Monforton that stating "Primary entrance into the proposed subdivision be moved .15 miles to the south where there is already an existing entrance." (Commissioner Murdock noted that this places the developer in a difficult situation, but is not impossible. The Commission can work with the state to make it happen. In order to address Mr. Paugh's concerns, add additional language to existing condition #51, "...Approval must be received by all recognized water right holders of any changes, crossings, pipelines, ponds, roads, sewage, waste and any other changes the subdivider may wish to make." Modify condition #29 to read Phase 3 rather than Phase 4. Modify condition #23 to state Phase 2 and Phase 3. Commissioner Mitchell seconded the motion. In discussion Mr. Buchanan suggested language for condition #29, but after discussion with Ms. Swimley, it was determined that the condition should read as written, with the Phase change only. Applicant agreed with all conditions as amended. The question was called. Commissioner Olson and Murdock vote in favor of the motion. Commissioner Mitchell voted nay. Motion carried with a vote of two to one. Commissioner Olson asked that the record reflect his request to the Road Department for stringent monitoring of the road situation and impacts of this subdivision. Commissioner Murdock stated that finding that the PUD criteria for altering economies and the provisions of roads and public improvements is met with the design proposed for the loop cul-de-sacs, enables the lots to be smaller and the clustering which is in the public interest, he moved to grant the waiver from the road criteria. Commissioner Mitchell seconded the motion. Commissioners Olson and Murdock voted in favor of the motion. Commissioner Mitchell voted nay. Motion carried with a vote of two to one.

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There being no further business the meeting was adjourned at 5:31 P.M.

*Unavailable for*  
*Signature*  
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CHAIRMAN APPROVAL  
**PUBLIC MEETING**

*Shelley Vance*  
\_\_\_\_\_  
CLERK ATTEST  
**TUESDAY THE 11TH DAY OF JULY 2000**

The meeting was called to order by Chairman Phil Olson at 9:00 A.M. Also present were County Commissioners Bill Murdock and Jennifer Mitchell, Chief Deputy County Attorney Susan Swimley, and Acting Clerk to the Board Mary Miller.

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**JULY 3-4, 2000**

- The Commissioners' Office was closed in observance of Independence Day.

**JULY 5, 2000**

- A special meeting of the Commissioners was held for the purpose of approving a resolution to amend the County general fund for the County Superintendent of Schools and GIS Department budgets for FY 2000, for unanticipated revenue from State activities. In attendance were Commissioners Olson and Murdock, Fiscal Officer Ed Blackman and Executive Secretary Glenda Noyes. Both the Superintendent of Schools and GIS Departments experienced unanticipated revenues and are both in need of purchasing computers for their offices as quickly as possible. Commissioner Murdock made a motion to approve Resolution 2000-42 to amend the County General Fund for the County Superintendent of Schools and GIS Department budgets for FY 2000, for unanticipated revenue from State activities, finding that the Fiscal Officer Ed Blackman advises there is money in the 2000 budget. Commissioner Olson seconded the motion. Motion carried unanimously.
- A special meeting of the Commissioners was held for the purpose of approving hand issue requests received June 23, 2000 through June 29, 2000. In attendance were Commissioners Olson and Murdock, County Auditor Joyce Schmidt, Accounting Clerk Brenda Morris, and Executive Secretary Glenda Noyes. The claim requests were for PO #65962 for \$18,895.50, PO #57525 for \$49.00, PO #62968 for \$10,488.29, PO #66927-01 for \$250.00, PO #66927-02 for \$250.00, PO #66927-03 for \$250.00, and PO #66927-04 for \$250.00, and Batch 1 for \$17,749.82, Batch 2 for \$28,143.38, Batch 3 for \$82,770.98, Batch 4 for \$42,948.70, Batch 5 for \$62,901.92, Batch 6 for \$30,447.72, Batch 7 for \$174,602.66, and Batch 8 for \$18,670.89 for a total of \$488,668.86. Commissioner Murdock made a motion to approve the claims in the amount of \$488,668.86. Commissioner Olson seconded the motion. In discussion the Commissioners asked Auditor Schmidt if any more FY 2000 budget bills would be brought up, and she said there would be. The question was called and vote taken. Motion carried unanimously.
- A special meeting of the Commissioners was held for the purpose of approving a dust control cost share agreement policy. In attendance were Commissioners Olson and Murdock, Road and Bridge Superintendent Lee Provance and Executive Secretary Glenda Noyes. Mr. Provance prepared this policy under the direction of the Commission. Commissioner Murdock made a motion to approve the County dust control cost share agreement policy and petition as submitted and amended. Commissioner Olson seconded the motion. Motion carried unanimously.

**JULY 6-7, 2000**

- The Commissioners conducted regular County business.

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- Landfill Revenue for June 2000: \$30,880.95
- Payroll for June 2000: \$1,105,925.23.
- Clerk & Recorder's Fees Collected for June 2000: \$39,528.80.
- New Hire Report for June 2000: CLERK OF COURT – Traci Hocker; DELINQUENT TAX COLLECTOR – Arletta Derleth; DETENTION CENTER – Noah Scott, Michael Hagenlock, Ben Hess, Jeremy Johnson, Aaron Nave, Kelley Williams, Mark Murphy, Lindsey Veland, Kathleen O'Toole, Trisha Mooney, Heidi Thompson, Brian Josephson; EXTENSION – Chris Barry; GIS – Richard Wilkins; HEALTH – Tia Utzinger; PUBLIC ASSISTANCE – Angela Hammang; REST HOME – Nicole Hunt, Darin Wines, Donna Warner, Deanna Dykema; ROAD & BRIDGE – Bill Brownell, Mark Gillete; SHERIFF – Matthew Daugherty; WEED – Chris Boe, Paul Graslie, Aimee Jones, Janna Kincheloe, Ryan Limb, Steve Murray, James Olson, Jeremy Webb.
- Terminated Employees' Report for June 2000: DISTRICT COURT – Julianne Burkhardt 5/31/00; LWQD – Cyndi Crayton 5/31/00, REST HOME – Lonelle Lytle 5/31/00, Karen Knoelke 6/13/00, Danielle Dowse 6/15/00; SHERIFF – Lindsey Veland 6/11/00, Diana Dusek 6/27/00; YOUTH PROBATION – David Gates 6/14/00; 911 – Susan Franks 6/28/00; HEALTH – Angela Hammang 6/30/00; GIS – Richard Wilkins 6/23/00, Helen Motter 6/23/00.

Chairman Olson requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

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## 14 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

### The following items were on the consent agenda:

1. Approval of claims presented by the Auditor dated from June 30, 2000 through July 06, 2000 for P.O. #63861-01 for \$177.40, P.O. #63861-02 for \$63.00, P.O. #67502 for \$118,753.61 totaling \$118,994.01.
2. Consideration of the following contracts: Easement and Construction Management Agreement with Burlington Northern Railroad-Alaska Road, USDA Animal & Plant Health Inspection Service-Predator Control, Memorandum of Agreement for Continuing Transportation Planning in the Bozeman Urban Area, USFS Road Cooperative Agreement for Year 2000, Board of Crime Control Grant for Gallatin County Youth Detention Center, Board of Crime Control Grant for Southwest Regional Juvenile Detention.
3. Request for Boundary Realignment for Donovan an Allen located, in Section 34, T1N, R5E. Gallatin County Planner Jennifer Madgic reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Olson announced that the following would be removed from the consent agenda and the regular agenda and continued for one week: The Memorandum of Agreement for Continuing Transportation Planning in the Bozeman Urban Area and the Consideration of Modification #2 to Contract #1994-079 with Harvey VanDyken & Sons. Commissioner Mitchell requested that the Easement and Construction Management Agreement with Burlington Northern Railroad-Alaska Road be moved to the regular agenda. Commissioner Murdock made a motion to approve the amended consent agenda. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Mitchell commented that she pulled the Easement and Construction Management Agreement with Burlington Northern Railroad-Alaska Road due to technical reasons. It appears this may include the abandonment of a road, and she believes this is not the correct procedure for abandoning roads. Gallatin County Deputy Attorney Susan Swimley recommended that this item be continued until next weeks meeting, for further review.

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Jeff Rupp, CEO of the local HRDC introduced Karen Roberty to report on the consideration of approval of the Emergency Shelter Grant Program for HRDC. Karen Roberty reported that \$29,209.00 were needed to prevent homelessness. Moneys used for these items were matched from United Way and FEMA dollars. Thirty percent (\$8,763.) of the funds will be used to provide essential services to homeless persons. Thirty percent of the funds will be used to reimburse allowable shelter maintenance, operations and administrative costs for the HRDC Transitional Housing (\$2,193.), Battered Women's Network (\$2,190.), Mental Health Services (\$2,190.), and Youth Shelter Care (\$2,190.). The other thirty percent of the funds will be used to stop foreclosure, eviction or utility disconnects per the ESGP guidelines (\$8,763.). Ten percent of the funds will be used for program administrative costs (\$2,920.). Kristin Hamburg of HRDC who works with the homeless gave examples of helping homeless people. The funds are used to help the homeless solve their crisis, get back on their feet and stay self-sufficient. Commissioner Mitchell asked if the homeless people helped by these funds were ever required to reimburse the fund? Kristin responded, "No, they did not require it to be reimbursed." Commissioner Murdock moved to sign the proposal and to approve the Emergency Shelter Grant Program for HRDC. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Planner John Shepard reported on the Townsend Pole Barn Agricultural CUP requested by Donald W. and Evelyn M. Townsend. The CUP is to permit an oversized accessory building to be classified as an agricultural use on less than two and one-half acres in the R-S (Residential Suburban Country Estates) zone. The applicant's son and neighbor, Kevin Townsend, constructed a 33' x 40' (1320 square foot) pole-barn on his parents lot without a land use permit or a building permit, while his parents were out of state on vacation. When notified of the violation, Kevin Townsend applied for a building permit and a land use permit. It was found that the structure was too large to be classified as an accessory garage. Instead, it was suggested, and the applicants are proposing, to classify the structure as a typical principal agricultural-type structure, which on a lot smaller than 2.5 acres requires a Conditional Use Permit in the R-S zone. Mr. Shepard's question was should this building be classified as an agriculture structure on a lot smaller than 2.5 acres? The zoning regulation is vague in the terms of the size of an accessory building and also, the classification of an agricultural structure. Commissioner Murdock asked what the Planning Board thought in terms of the classification. Mr. Shepard said that on June 13<sup>th</sup>, 2000 the Planning Board recommended unanimous approval with suggested conditions. Comments from neighbors included one letter of support attached to the staff report from John H. and Betty H. Fellerhoff. All neighbors within 200 feet of the property line were notified by certified mail, a notice published in the newspaper and a notice placed on the applicant's

property at the corner of Texas Way and Gooch Hill and at the corner of Comfort Lane and Gooch Hill. Donald W. Townsend commented that he had visited with the neighbors within the 200 feet and they were unaware of any wrongdoing. They were under the impression that as long as it was in the covenants it was all right. There was no public comment. Commissioner Murdock moved to approve the CUP for the pole-barn on the Townsend's property finding that the site for the proposed use is adequate in size and, topography to accommodate such use; that the site for the proposed use relates to streets and highways adequate in width and pavement type; that the proposed use will have no adverse effect upon the abutting property; that the proposed use shall be in conformance with the Gallatin County Plan; that the conditional use shall comply with all conditions stipulated in the Zoning Regulation; and that any additional conditions stated in the approval are deemed necessary to protect the public health, safety and general welfare; with the following conditions: 1) The conditional use permit will be valid only after approval of a land use permit. 2) The structure shall be used for personal storage only, and may not be used to conduct a commercial use. 3) The right to a use and occupancy permit shall be contingent upon the fulfillment of all general and special conditions imposed by the conditional use permit procedure. 4) All of the special conditions shall constitute restrictions running with the land use, shall be binding upon the owner of the land, his successors or assigns, and shall be recorded as such with the Gallatin County Clerk and Recorder's office by the property owner prior to the issuance of any building permits, final site plan approval or commencement of the conditional use. 5) All conditions specifically stated under any conditional use listed in this title shall apply and be adhered to by the owner of the land, successors or assigns. 6) All special conditions shall be consented to in writing by the applicant. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 9:30 A.M.

*Unavailable  
For signature*  
CHAIRMAN APPROVAL

*Shelley Vance*  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 18TH DAY OF JULY 2000**

The meeting was called to order by Chairman Phil Olson at 9:00 A.M. Also present were County Commissioners Bill Murdock and Jennifer Mitchell, County Attorney Marty Lambert, and Acting Clerk to the Board Mary Miller.

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**JULY 10-11, 2000**

- The Commissioners conducted regular County business.

**JULY 12, 2000**

- A special meeting of the Commissioners was held for the purpose of approving a hand issue request received from July 7, 2000 through July 10, 2000. In attendance were Commissioners Murdock and Mitchell, County Auditor Joyce Schmidt and Executive Secretary Glenda Noyes. The claim is for a SBIR grant for PO #67010 for \$5,757.63. Commissioner Murdock made a motion to approve payment of PO #67010 for \$5,757.63 finding that Commission Olson reviewed, approved and signed the purchase order and the claim has been approved by Auditor Schmidt. Commissioner Mitchell seconded the motion. Motion carried unanimously.

**JULY 13-14, 2000**

- The Commissioners conducted regular County business.

Chairman Olson requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

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**The following items were on the consent agenda:**

1. Approval of claims presented by the Auditor dated from July 11, 2000 through July 13, 2000 for P.O. #64288 for \$3,741.83, P.O. #67119 for \$703.15, P.O. # 60460 for \$1,920.00 totaling \$6,364.98, and the following batches dated June 29, 2000: Batch 1 for \$64,502.43, Batch 2 for \$39,501.98,

## 16 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

Batch 3 \$186,503.04, Batch 4 for \$40,388.25, Batch 5 for \$30,024.83, Batch 6 for \$89,708.50 and Batch 7 for \$37,238.25 totaling \$487,867.28. Grand total \$494,232.26.

2. Consideration of the following contracts: Easement and Construction Management Agreement with Burlington Northern Railroad-Alaska Road, MOA for Continuing Transportation Planning in Bozeman Urban Area, Selbys - Xerox 2520 Service Agreement with Clerk and Recorder, Modification to Contract #2000-135 with Fire Control Sprinkler Systems, Inc., Change Order #1.
3. Request for a Boundary Realignment for Renshaw/Fort Ellis Leisure Community Inc. located, in Section 16, T2S, R6E. Gallatin County Planner Jennifer Madgic reported that the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
4. Request for a Family Transfer Exemption for Mark Theisen located, in Section 31, T1S, R7E. Gallatin County Planner Jennifer Madgic reported that the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
5. Request for a Boundary Realignment for McGrew/Catlin located, in Section 26, T2N, R4E. Gallatin County Planner Jennifer Madgic reported that the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
6. Request for Final Plat Approval for Morgan Minor Subdivision. Preliminary plat approval was granted on November 10, 1998. A staff report submitted by Gallatin County Jennifer Madgic states that the conditions for final plat approval have been met.
7. Request for Release of Funds for River Rock Major Subdivision, Phase 1 in the amount of \$42,735.00. Gallatin County Planner Jennifer Madgic recommends that the Commission approve the requested release and authorize the Chairman to sign the request documentation. All other terms and conditions of the original Improvements Agreement remain in full force and effect.

Commissioner Olson announced the following would be removed from the consent agenda for one week: Easement and Construction Management Agreement with Burlington Northern Railroad-Alaska Road. Deputy County Attorney Chris Gray requested that the Continuation of Consideration of Modification #2 to Contract #1994-079 with Harvey VanDyken & Sons be continued for one week. Commissioner Mitchell moved to approve the amended consent agenda. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Roger Curtiss, of the Gallatin County Treatment Court reviewed the final report for FY 2000 funds appropriated by the commission. Mr. Curtiss reported the \$40,815.00 was very helpful in getting the drug court through this past year. Joe Driscoll, Drug Treatment Coordinator, reported on the recent \$499,455.00 implementation grant the drug court received. Discussion took place in regards to informing the public of project goals and financial information submitted to the commission on the drug court funding. Commissioner Mitchell questioned how many years the grant would support the operations of the drug treatment center. Mr. Driscoll stated the implementation grant covers three years and is year-to-year contingent. Depending on how you use the funds year-to-year it would be extended, no longer than three years. Then they would be eligible to apply for an enhancement grant anywhere from a year to two years. This grant will supply additional resources such as staffing. They will be able to hire another case manager and extend their treatment coordinator to a full time position. Other resources would allow ancillary services for educational, vocational, mental health and other services.

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Commissioner Olson announced that the appointment to the Gallatin Airport Authority Board would be continued. Motion by Commissioner Murdock to appoint Gwen Massey to fill the remainder of Linda Erickson's term expiring 7/14/01 to the Community Corrections Board. Seconded by Commissioner Mitchell. There was no public comment. None voting nay. Motion Carried. Motion by Commissioner Mitchell to reappoint Sam Hofman to the Community Corrections Board to a four year term. Seconded by Commissioner Murdock. There was no public comment. None voting nay. Motion carried. Motion by Commissioner Murdock to appoint Steven Swinford to the Community Corrections Board to a four-year term. Seconded by Commissioner Mitchell. There was no public comment. None voting nay. Motion carried. Motion by Commissioner Mitchell to appoint Bonnie Sachatello-Sawyer to the Historic Preservation Board to a two-year term expiring 02-01-02. Seconded by Commissioner Murdock. There was no public comment. None voting nay. Motion carried. Motion by Commissioner Murdock to appoint John Costello, Martin Reardon, Captain Gary Smith and Patrik Callis to the Search and Rescue Advisory Board to a three-year term expiring 06-30-03. Seconded by Commissioner Mitchell. There was no public comment. None voting nay. Motion carried.

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Disaster and Emergency Services Coordinator Jason Schrauger presented the consideration of support for the Project Impact Grant Application. Mr. Schrauger explained the importance of making communities disaster resistant. Disasters cause structural loss, business interruption and customer loss. The community loses as a whole. National statistics say 40% of small businesses never reopen. Project Impact is about working together in groups; building partnerships; identifying risks in communities; prioritizing needs to mitigate risks and implementing long term plans to protect communities in Gallatin County. Some of the things that Project Impact takes into account is strengthening structures, examining building codes and checking if people are being allowed to build in flood plains. Project Impact is a nation wide program that has one large goal and that is to make every community in the United States a disaster resistance community. The four phases of Project Impact are building partnerships, assessing risks, prioritizing needs and communicating the benefits to the community. Commissioner Olson asked if there were any matched funds from the county for this grant. Mr. Schrauger said there were no matched funds from the county. Matched funds come from the partnership with the local businesses and industry. For every dollar raised in the community, FEMA will donate up to \$300,000.00 for the Project Impact Grant. Jack Joyner asked who was responsible for costs when a problem is identified in a building. Would the money come from the grant or the property owner? Mr. Schrauger said funds can be used as seed moneys to help build the business partnerships with the businesses in the community and help this grant grow from \$300,000.00. Once those projects are designed some of those funds will be used to help retrofit structures and to build dikes on rivers, etc. The \$300,000.00 is money to help build Project Impact as a community project and identify risks and continue to get projects done. This project is good because it involves the community to make decisions instead of the government deciding. Commissioner Murdock moved to support the grant. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Belgrade City/County Planner Jason Karp reported that Allen and Associates, on behalf of Jason Lea, has requested preliminary plat approval of a five lot minor subdivision on 9.7 acres located north of Belgrade, parcel 20.1 of COS 729B, located in the NE1/4, Sec 35, T1N, R4E, P.M.M., Gallatin County, Montana. Mr. Karp's staff report included comments addressing review of primary criteria including the effects on wildlife and wildlife habitat; public health and safety; local services; natural environment; agriculture; and agriculture water user facilities. The Commission needs to determine whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Commission finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions are recommended for preliminary plat approval, to be completed prior to final plat approval: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts, Water and Sewer Districts, and annexation into the City of Belgrade shall accompany the final plat. 5. The developer shall record covenants on the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and residents of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c. All fences bordering agricultural lands shall be maintained by the Property owners in accordance with State Law. d. The Owners of Lots 1,2,&3 shall be responsible for the maintenance of War Hawk Lane. e. A Property Owners Association shall be established. f. Plans must be submitted to the State of Montana, Building Codes Division, and the Belgrade Rural Fire District for review and approval for all commercial structures g. All structures must meet minimum fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief. h. A section addressing possible problems associated with the nearby airport's operations and affirming the airport's right to operate. The language shall state as follows: Lot owners are informed that an airport exists adjacent to the subdivision. Lot owners and users of the subdivision are aware of its proximity to the airport

and that the area is subject to frequent low level aircraft overflight and noise associated with aircraft operations and shall waive all rights to protest about aircraft and airspace use and shall affirm the aviation industry, both public and private, the right to fly. i. Building height is regulated by Gallatin County's Airport Influence Area Resolution No. 381. All buildings must conform to the provisions of Resolution No. 381. j. Residential uses are prohibited. k. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 6. Two copies of the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval. 7. Road Impact fees and Fire Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact Fee Regulations. 8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval. 9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department. 10. The developer must obtain encroachment permits from the Gallatin County Road Department for individual driveways and War Hawk Lane. 11. Road names shall be approved by the Road Office, and road name signs and STOP signs at all intersections as required by the Road Office shall be installed prior to final plat approval, or a bond covering the cost of the signs shall be deposited with the Road Office. 12. War Hawk Lane shall be a sixty-foot right-of-way, and shall be constructed to Gallatin County standards with a temporary cul-de-sac or "T" type turnaround at its west end. 13. Spooner Road is required to be paved to Gallatin County Standards from its intersection with Cruiser Lane to the North boundary of the subdivision prior to final plat approval, or a bond shall be posted in accordance with County Subdivision Regulations. 14. All roadwork will need to be inspected and certified by a licensed engineer. The inspection and certification must be provided to the County Road Office in writing prior to final plat approval. 15. 30 feet of Spooner Road west of the centerline shall be dedicated to the public along the entire length of the subdivision. 16. Airport Influence Area zoning, and notation of non-residential development shall be shown on the final plat. 17. A notice shall be placed on the final plat stating that uses of property which might interfere with aircraft flight operations such as height, lighting, and radio interference shall be prohibited. 18. An NFPA compliant fill-site or approved water supply system as shall be in place and operable prior to final plat approval. If the developer plans to use the City of Belgrade's water system to provide a fire protection water supply, permission must be requested and granted by Belgrade City Council. 19. A no access strip shall be shown on the final plat for lot 3 along Spooner Road. To reflect Road Department recommendations, which were not available at the time of the Planning Board meeting, the following conditions are recommended to be amended or added: 12. War Hawk Lane shall be a sixty-foot right-of-way, and shall be constructed to Gallatin County standards with a temporary cul-de-sac or "T" type turnaround at its west end and at least the first 75 feet off Spooner Road paved. 15. 45 feet of Spooner Road west of the centerline shall be dedicated to the public along the entire length of the subdivision. 19. A no access strip shall be shown on the final plat along lots 1,3,4,& 5 except at permitted approaches and for the first 100 feet along both sides of War Hawk Lane east of the intersection with Spooner Road 20. Prior to final plat approval, the developer's paving contractor shall provide a one-year written warranty to the Road Department for all required paving. Further modification to #15 by the Road Department was recommended as follows: 15. 30 feet of Spooner Road west of the centerline shall be dedicated to the public along the entire length of the subdivision and a 20 foot utility easement shall be shown on the final plat along the east property line of the entire of the subdivision. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. Mr. Karp reported that the Belgrade City /County Planning Board reviewed the preliminary plat for this minor subdivision and voted at their June 27, 2000 public meeting to recommend unanimous preliminary plat approval of the subdivision subject to the conditions in the staff report. Ron Allen of Allen & Associates, representing the applicant, assured the commission that the developer was in agreement with the amended conditions the road department submitted. There was no public comment. Finding that Jason Lea Subdivision is consistent with the Belgrade Master Plan and Gallatin County Subdivision Regulation, and recommended by the Belgrade City/County Planning Board, motion by Commissioner Murdock to approve the preliminary plat subject to original conditions and amended conditions as follows: 12. War Hawk Lane shall be a sixty-foot right-of-way, and shall be constructed to Gallatin County standards with a temporary cul-de-sac or "T" type turnaround at its west end and at least the first 75 feet off Spooner Road paved. 15. 30 feet of Spooner Road west of the centerline shall be dedicated to the public along the entire length of the subdivision and a 20-foot utility easement shall be shown on the final plat along the east property line of the entire of the subdivision. 19. A no access strip shall be shown on the final plat along lots 1,3,4,&5 except at permitted approaches and for the first 100 feet along both sides of War Hawk Lane east of the intersection with Spooner Road 20. Prior to final plat approval, the developer's paving contractor shall provide a one-year written warranty to the Road Department for all required paving. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Fiscal Officer Ed Blackman reported on the consideration of a resolution adopting the proposed FY 2001 preliminary operating budget for Gallatin County. Mr. Blackman explained that the Department of Revenue had not yet provided him with the taxable valuations as required by state statute. In corresponding with Mary Bryson, Director of the Department of Revenue the soonest the county could expect to receive the valuations would be next week, or at the latest being the end of the month. Mr. Blackman explained this was the proposed budget as determined by the Commission's action in June, not the final budget. Mr. Blackman explained that in adopting this resolution today it would call for a public hearing on August 1, 2000, and allows the commission to continue the public hearing up to 30 days depending on when the taxable valuation information is received from the Department of Revenue. This would allow time to prepare all special resolutions and special notices that have to occur after receiving taxable valuations. Mr. Blackman reported his concerns about valuations going down. The personal property starts the full implementation of Senate Bill 184 and also, finalizes the reduction in valuation from 6% to 3%. Discussion took place regarding what is included in the proposed budget. Commissioner Mitchell requested to postpone adopting the proposed budget for one week due to unresolved issues. Mr. Blackman said there would not be a problem to postpone for one week and the only difference would be moving the public hearing until to August 8, 2000. Mr. Blackman said that the resolution adopting the final budget would have to be adopted on or before August 14, 2000. There was no public comment. Commissioner Murdock moved to adopt Resolution #2000-43 adopting the proposed Gallatin County FY year 2001 operating budget as determined by the County Commission. Seconded by Commissioner Mitchell. Commissioner Olson and Commissioner Murdock voting aye. Commissioner Mitchell voting nay. Motion carried.

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Commissioner Olson, county representative of the South Central Regional Mental Health Board, stated this was a public hearing on the future direction of mental health services in Gallatin County. Previously, the regional board voted 6 to 8 to cease operations of the Bozeman group home due to financial hardships. This hearing is being held to see if the County Commission is willing to come up with the amount of funds needed to keep the group home open through this fiscal year, and then get a long range plan in place. If the Commission comes up with the money, Commissioner Olson would then ask the regional board to reconsider closing the home and work on getting a commitment from the region to form an executive committee to take on the task of looking into what this community needs and wants for mental health services. Commissioner Olson stated the need to take an active roll in the next legislative session and work on reimbursement for services from the state. Commissioner Olson received a call from Dan Anderson, head of the State Mental Health Department, who supports keeping the group home open. The state wants the group home open so they have a place to return people when they are released from the state hospital. Mr. Anderson gave his verbal commitment of \$15,000.00 to cover half of the deficit for this year to operate the group home and stated his willingness to work with the committee in coming up with a long-range plan. He also stated that he would work hard to keep the home 100% occupied. Bob Ross, Executive Director of the South Central Region Three Mental Health Center headquartered in Billings, was instructed by the regional board to close the group home on July 31<sup>st</sup>. Mr. Ross explained that budget figures show that there would be a \$34,000.00 shortfall if the group home remained 100% occupied for the entire year. He explained that 100% occupancy would be slim. He thought that 90% occupancy would be realistic in this community, and the shortfall would still be \$54,406.00. He stated that both he and Commissioner Olson would go to the regional board and request the decision be reversed if the \$54,406.00 shortfall could be rectified. Discussion took place concerning the expansion of the out patient services with the addition of two new therapists and three case managers and the other services provided by mental health. Tom Peluso from National Alliance for Mental Illness questioned the reimbursement paid per day by the state for a bed in the group home. Mr. Ross explained that there is both a treatment cost and a room and board cost. The state only pays for the treatment cost and the room and board cost is shifted to the patient that in most cases is written off. They discussed crisis stabilization beds versus group home beds. Stephanie Davidson, team leader of the mental health group home, stated that by admitting people to the group home they had prevented hospitalization in other out of town facilities. Deputy County Attorney Gerry Higgins gave figures on how many petitions he had filed for involuntary commitments to the Montana State Hospital. If there were a holding facility, such as a crisis stabilization unit at the group home, the county would save time and money transporting people to the Montana State Hospital. Mr. Higgins reported that the county is not statutorily obligated to contribute financially to mental health services and the state legislature has set up regions through the department of public health and human services. Gallatin County belongs to the South Central Mental Health Region along with Bighorn, Carbon, Fergus, Musselshell, Park, Stillwater, Sweet Grass, Wheatland and Yellowstone counties and is a non-profit corporation. According to Montana law, these non-profit corporations may not be considered agencies of the State of

20 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

Montana. This non-profit organization receives money from the state for services provided. Counties may participate, and Gallatin County last year funded \$46,258.00. The formula was determined 7 or 8 years ago by taking \$1.18 per person, and that was what each county's contribution was to be. If all counties contributed \$1.18 per person using MACo population estimates for this year they would have \$306,985.00 instead of having \$271,362.00. Gallatin County's contribution would be a total of \$75,379.58, which must come from the county general fund. If enough money is not raised from the general fund, then the county may levy up to an additional 1 mill for participating in the Regional Mental Health Center. Transportation for the patients was an issue and Gallatin County Attorney Marty Lambert commented they have 30 to 35 cases a year and every case requires at least two transfers based on the number of court appearances. Transportation budget for the sheriff is in excess of \$100,000.00 a year. Tens of thousands of dollars are spent on transporting the mentally ill. People speaking in support of the mental health group home and need for comprehensive services in Gallatin County were: Jacob Wagner, Julia Wirtz, Nan Rice, Gerry Higgins, George Rice, Senator Dorothy Eck, Stephanie Davison, Katie Zuguza, Rose Pratt, Diane Thompson, Jerry Johnson, Eric Szemes, Stephanie Nelson, Kathlene Brooks, Bill Kennedy, Janet Kalus-Cummins, Kattie Caddy and Tom Peluso. Letters received in support were received from Karla Mertens, Ken Glynn and Nancy Etchingham. Senator Dorothy Eck spoke of the need to establish community auxiliary programs such as the day treatment program; supported employment programs; drop in center; and housing for both adults and youth. She stated the need for a satellite board of local people that do the planning, budgeting and public relations. Bill Kennedy, Chairman of the Regional Mental Health Board, spoke of the struggle to keep mental health services in all the counties of the region. He stated that future cuts would mean more reduction unless we come together as communities in all counties and become united to increase state reimbursement. Mr. Kennedy stated that if there were assurances of a funding source, and a possibility of keeping the group home, the board would entertain the opportunity of keeping it open. Commissioners Murdock and Olson stated they would commit to come up with the funds to keep the home open for this fiscal year. Commissioner Mitchell also supports finding the funds and stated she would like to see the mental health issues for Gallatin County addressed as an overall policy. Sandy Martin, spokesperson for Bozeman Deaconess Hospital, stated that the hospital administrator has agreed to recommend the hospital board contribute, but the board has not yet committed. Commissioner Olson asked Commissioners Murdock and Mitchell if he might report to the regional mental health board that Gallatin County has committed to finding the funds for the shortfall. The Commissioners said yes. Commissioner Olson stated that he would like a group to be formed to address the mental health needs in Gallatin County and come back with a recommendation to the Commission for a long range plan in time for next years budget. He would like for the Commission to ask both Missoula and Billings Regions for proposals of comprehensive services for next year for both Gallatin and Park County. The goal would be the long-term solution for both Gallatin and Park Counties.

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There were no pending resolutions. There being no further business the meeting was adjourned at 12:50 P.M.

*Unavailable*

*For signature*  
CHAIRMAN APPROVAL

*Shelley Vance*  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 25TH DAY OF JULY 2000**

The meeting was called to order by Chairman Phil Olson at 9:00 A.M. Also present were County Commissioners Bill Murdock and Jennifer Smith Mitchell, Chief Deputy County Attorney Susan Swimley, and Acting Clerk to the Board Mary Miller.

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Chairman Olson requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**JULY 17, 2000**

- A regular office meeting of the County Commissioners was held to discuss numerous matters. In attendance were Commissioners Olson, Murdock and Mitchell, and Executive Secretaries Stacy

Johnston and Glenda Noyes. Discussion took place regarding the need for the Commission secretaries to become notaries. Commissioner Murdock made a motion to approve one or both Commission secretaries becoming notaries for the following purposes: 1) To serve the County Commissioners and 2) to serve other County functions and personnel, but not the public. Commissioner Mitchell seconded the motion. Motion carried unanimously. The secretaries were asked to draft a policy for notary use.

- A special meeting was called to order by Chairman Phil Olson at 9:30 a.m. to open bids for the paving of roads within Blue Grass Meadows RID 375. Also present were Commissioner Murdock, Gallatin County Road Engineer Roy Steiner, Brent Miller of Gaston Engineering and Mary Miller, Acting Clerk to the Board. There were three bids submitted and opened by Commissioner Olson. The bids are as follows: **KM Construction Company, Inc.** Bozeman, MT 59718, Bid amount **\$115,550.00**; **JTL Group, Inc.** Belgrade, MT 59714, Bid amount **\$76,500.00**; **Big Sky Asphalt, Inc.** Bozeman, MT 59771, Bid amount **\$102,162.00**. All of the bids contained the required 10% Bid Bond, Montana contractor licensing number and proper signature. The bids were turned over to Brent Miller, Gaston Engineering, and will be taken under advisement with Roy Steiner, Gallatin County Road Engineer. This is to be put on the agenda for the next public meeting scheduled for July 25, 2000. They are to bring recommendation to the public meeting and at that time the Commissioner will award the bid.

**JULY 18, 2000**

- The Commissioners conducted regular County business.

**JULY 19, 2000**

- A special meeting of the Commissioners was held for the purpose of approving hand issue claim requests received July 14, 2000 through July 17, 2000. In attendance were Commissioners Murdock and Mitchell, Auditor Joyce Schmidt, Accounting Clerk Brenda Morris and Executive Secretary Glenda Noyes. Also attending the meeting was Bozeman Chronicle staff writer John Miller. Ms. Schmidt stated that these claims have been reviewed and approved by Fiscal Officer Ed Blackman. Commissioner Murdock made a motion to approve PO #65987 for \$630.00, PO #67519 for \$2,000.00, PO # 67517 for \$5,000.00, PO #67557 for \$1,800.00, PO #67518 for \$1,200.00, PO #67516 for \$3,600.00, PO #67515 for \$2,500.00, PO #67514 for \$800.00, PO #67558 for \$275.00, PO #67559 75.00, PO #67560 for \$75.00, PO #67561 for \$1,000.00, totaling \$18,955.00; finding that the Fiscal Officer and Auditor have approved the claims. Commissioner Mitchell seconded the motion. Motion carried unanimously.

**JULY 20-21, 2000**

- The Commissioners conducted regular County business.

**The following items were on the consent agenda:**

1. Approval of claims presented by the Auditor dated July 14, 2000 through July 20, 2000 for P.O. #67562 for \$75.00, P.O. #57534-01 for \$74.68, P.O. # 57534-02 for \$70.81, P.O. #67013 for \$593.00, P.O. #67593 for \$1,080.00 totaling \$1,893.49. The Auditor has requested that P.O. #64385 for \$854.00 be denied.
2. Consideration of the following contract: Agreement with Dispute Resolution Center.
3. Request for Family Transfer Exemption for Nancy Long located in Section 33, T2S, R5E. Gallatin County Planner Jennifer Madgic reported that the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
4. Request for a Family Transfer Exemption for Raymond Tatarka located in Section 28, T1S, R5E. Gallatin County Planner Jennifer Madgic reported that the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
5. Request for a Boundary Relocation Exemption for Catherine Morgan Wrather/Douglas Mawhinney located in Section 11, T3N, R4E. Gallatin County Planner Jennifer Madgic reported that the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
6. Request for a Family Transfer Exemption for Valerie Otto located in Section 28, T1S, R5E. Gallatin County Planner Jennifer Madgic reported that the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
7. Request for Boundary Relocation Exemption for Keith and Constance Fairbank located, in Section 5, T1N, R4E. Gallatin County Planner Jennifer Madgic reported that the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
8. Request for Family Transfer Exemption for Duane and Geraldine Hauser located, in Section 35, T2N, R2E. Gallatin County Planner Jennifer Madgic reported that the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.

## 22 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

9. Surveyor Tom Henesh, Morrison-Maierle Inc., is requesting a boundary realignment exemption for Firelight Subdivision located in Section 2, T7S, R3E to correct a survey error. Gallatin County Planner Jennifer Madgic reported this correction appears to meet the criteria allowed under Montana Subdivision and Platting Act.
10. Verification of Soil Conservation Millage for 223 Grant Application.

Gerry Higgins requested the claim for P. O. #64385 scheduled for denial in the amount of \$854.00 be considered at another time. Commissioner Murdock requested this be removed from the consent agenda. Deputy County Attorney Susan Swimley reported County Attorney Marty Lambert requested the commission set a hearing for this claim before making a decision. Mr. Lambert had information and a legal opinion to be entered into the record. Commissioner Murdock moved to approve the consent agenda as amended. Seconded by Commissioner Olson. None voting nay. Motion carried.

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Deputy County Attorney Chris Gray reported on the Consideration of Modification #2 to Contract #1994-079 with Harvey VanDyken & Sons-Historical Waste Project. Mr. Gray stated this was an amendment to a long-standing agreement to move historical waste. The value of the contract is \$275,000.00 to be completed over a period of one year. Mr. Gray advised the Commission to put management practices in place to manage the portion of the contract that states the time frame the project is to be completed. He advised to review each month the amount of waste being moved from the old portion to the new line portion. There was no public comment. With the recommendation of Mr. Gray for approval of the modification #2, Commissioner Mitchell moved to approve the Modification #2 #1994-079 with Harvey VanDyken & Sons. Seconded by Commissioner Murdock finding that the recommendation of Mr. Gray be followed. None voting nay. Motion carried.

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Fiscal Officer Ed Blackman reported on the consideration of a resolution setting salaries for Elected Officials. Mr. Blackman read the salary increases as follows: Gallatin County Superintendent of Schools \$39,177.07; Gallatin County Sheriff \$40,777.07 (plus longevity); Gallatin County Auditor \$38,777.07; Gallatin County Commissioner (each) \$40,777.07; Justice of the Peace #1 \$38,777.07; Justice of the Peace #2 \$19,388.54 (half time); County Coroner \$25,205.10; County Attorney \$33,055.57 (plus longevity); Gallatin County Treasurer \$38,777.07; Gallatin County Clerk & Recorder \$38,777.07; and the Gallatin County Clerk of District Court \$38,777.07. Effective January 1, 2001 through June 30, 2001 the salaries for consolidated offices were increased as follows representing a 5% increase on the base salary for six months: Gallatin County Treasurer/Assessor \$969.43; Gallatin County Clerk & Recorder/Surveyor \$969.43; and the Gallatin County Clerk of District Court/Public Administrator \$969.43. There was no public comment. Commissioner Murdock moved to approve resolution #2000-45 setting salaries for the elected officials. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Treasurer Jeff Krauss introduced the resolution of setting fees for collecting personal property taxes. Mr. Krauss stated this resolution was to set a schedule of fees for the costly process and research incurred by the Treasurer and Sheriff to collect delinquent taxes. This is a statutory requirement of the Treasurer and Sheriff. In approving this resolution the burden would be on the delinquent taxpayer. There was no public comment. Commissioner Mitchell moved to approve Resolution #2000-46 setting fees for collecting personal property taxes. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Brett Miller, Gaston Engineering presented the recommendation on the construction bid award for RID #375 Blue Grass Meadows. Mr. Miller stated that after reviewing and summarizing the bids and based upon the reputation of JTL, Inc. they would recommend awarding the bid to JTL, Inc. in the amount of \$76,500.00 for the paving of roads in Blue Grass Meadows. Chief Deputy County Attorney Susan Swimley said the contracts had been reviewed. There was no public comment. Commissioner Murdock moved to award to JTL, Inc. for the bid amount of \$76,500.00 the Blue Grass Meadows paving project RID #375 with the finding that the documents have been reviewed by legal council and the recommendation that JTL, Inc., is the lowest responsible bidder by Brett Miller of Gaston Engineering.

Seconded by Commissioner Mitchell adding that the notice to proceed is contingent on the sale of bonds. None voting nay. Motion carried.

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Chief Deputy County Attorney Susan Swimley presented resolution RID-00-375-D calling for the sale of bonds in the amount of \$113,000.00. Mrs. Swimley stated the resolution outlines the Commission calling for the sale of bonds and the exhibit "A" attached is a Notice of Bond Sale. If passed the publication for the bond sale would be July 28, 2000 and August 4, 2000. Bond bids would be opened on August 8, 2000 with notice to proceed. The resolution could be passed on August 15, 2000 so the road could be paved this season. Mrs. Swimley stated that the \$113,000.00 was in excess of the \$76,500.00 because of the amount required by statute to go into the rural revolving fund, an administrative charge. If the \$113,000.00 is more than needed, the bonds would be sold and the owners credited. There was no public comment. Commissioner Mitchell moved to approve resolution RID-00-375-D calling for the sale of its rural special improvement district #375 bonds, in the principal amount of \$113,000.00. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Deputy County Attorney Gerry Higgins requested the resolution of intention to consider the election of trustees for the Clarkston Fire Service Area be continued until the end of the meeting so names on the petition could be verified by the Clerk & Records office. Commissioner Olson moved this to the end of the agenda.

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Consideration of funding for improvements on Story Mill Road. Commissioner Murdock acknowledged the last time this issue was before the Commission a decision was to be made at today's public hearing as to whether the county would participate in improvements to Story Mill Road and to what level. Tom Olivio spokesperson for the project funding the improvements of Story Mill Road, spoke on behalf of the neighborhood. He reported they had hired Morrison-Maierle to prepare costs for an RID, and after meeting with the community and discussing the costs of the RID the community agreed to increase their contribution previously agreed upon to 50%. They had originally proposed \$40,000.00 in their partnership with the county and would increase their share to \$60,000.00. The cost of an RID prepared by Morrison-Maierle would be \$492,750.00. Mr. Olivio proposed with the community's contribution of \$60,000.00 and the county's contribution of \$100,000.00 the road could be brought to outstanding standards, with the exception of 7% of the distance, for a considerable difference in the RID cost. In contrast, Mr. Olivio felt this was a practical solution to a historical problem. Mr. Olivio proposed if the road office were willing to work in kind rather than cash for the \$160,000.00 proposal it would save and lower the cost significantly. Mr. Olivio said in previous discussion with Lee Provance, Road Superintendent that Lee was open to contributing to the maintenance. Commissioner Mitchell questioned if the proposal was for a paved or gravel road and if the RID included maintenance such as snow plowing, grading and weeding. Mr. Olivio said he believed the numbers presented did not include all the maintenance. Commissioner Mitchell confirmed that RID's usually included maintenance on a yearly basis, and questioned whether the \$160,000.00 proposal included maintenance. Mr. Olivio stated that Road Superintendent Lee Provance did commit verbally to continue maintenance that he currently provides. Commissioner Mitchell stated they usually got that in writing. Commissioner Mitchell stated by using the county's labor and equipment it still cost the taxpayers money. Commissioner Olson questioned if the working in-kind would apply towards the \$100,000.00 contributed by the county. Mr. Olivio agreed it could reduce the county's cash contribution and would enable the county to insure the road standards. Chief Deputy County Attorney Susan Swimley questioned if the moving of utilities was included in the \$160,000.00. Mr. Olivio stated there were two key factors in order to keep the project cost effective, and by staying within the existing boundaries and easements, there would not be a need to move the utilities, and by excluding the 7% of the distance in the road where costs were prohibitive. This would save the project \$100,000.00 to \$130,000.00. Commissioner Mitchell questioned if the engineering costs were covered in the \$160,000.00. Commissioner Murdock stated that last February the Commission had agreed to pay the engineering costs. Commissioner Murdock asked Mr. Olivio if the Commission agreed to this, would the neighbors sign a document for the money up front for the terms of the agreement. Mr. Olivio, answering for the community, said they are a partnership and would do whatever it took to comply with the agreement. Commissioner Mitchell stated that road priorities had already been done for the year. Mr. Olivio agreed to have the project done next year if a decision could be made by the Commission at this hearing. Commissioner Olson asked what the community had planned if the total cost of the project exceeded the projected \$160,000.00. Mr. Olivio said they would strive to keep within the budget and if there was an increase possibly they could split the difference with the county. Jim Squires spoke in support of the project and said this would be more cost effective and

would met the community's needs more than the costly RID. Ron Stevens confirmed that the work in-kind was promised by the previous road superintendent Sam Gianfrancisco as a major contribution. Road Superintendent Lee Provance stated this project was worthwhile but, would greatly effect the work being done on other county roads and his budget. Working in kind would cause an impact on his crew and he hoped the project could be done when it was not so dry. Mr. Provance stated he was leery of incurring engineering costs over the projected figure. Commissioner Mitchell asked Mr. Provance what this year's budget included. Mr. Provance said there was \$225,000.00 for projects, and \$75,000.00 for dust control and cost share programs leaving \$150,000.00. Commissioner Murdock questioned a cash carry over from last year. Mr. Provance said there was a substantial amount of \$375,000.00 carry over. Commissioner Mitchell stated they wouldn't have it next year. Mr. Provance was in agreement. Commissioner Mitchell inquired if Mr. Provance had done an ADT count on Story Mill Road. He confirmed he had and it was 164. Discussion took place between Commissioner Olson and Commissioner Murdock of the long-standing need to improve this road due to the ADT count and subdivisions building up around it. Possibly one day with more development an RID could be formed and the road could be paved. Commissioner Murdock stated he had no problem contributing \$50,000.00 a year for two years with a combination of work in kind and cash from the road department and felt the county could come up with the \$50,000.00 now without impacting any existing projects. Commissioner Mitchell agreed the road does need work but, given the budget and many other roads in the county, this half-mile road is the most expensive and the ADT count was down compared to others. Commissioner Mitchell did not feel the county could afford to come up with the \$50,000.00. She stated it would really affect next years budget and could not see how the county could cover engineering costs. Commissioner Mitchell said there would have to be an adjustment to the policy to grant the county a deviation from its own standards, which needs to be done in a public hearing. Commissioner Olson stated that the community would have to have their money in the bank and the \$160,000.00 would have to include the engineering costs. The contribution of \$100,000.00 from the county would be a combination of cash and work in kind. This cap would be all that would be allocated for this road project, and costs in excess of what is allocated from the county and the contribution of the community would be the responsibility of the community. Commissioner Murdock moved that the county contribute \$50,000.00 per year for 2 years in a combination of cash, and work in kind and be done under the road superintendent's supervision and convenience. This would be contingent upon the money being contributed up front by the land owners, a signed agreement, and with the understanding that the land owners come up with the right- a-way and be responsible for fencing as previously agreed and the design be as proposed by Morrison-Maierle. Commissioner Olson confirmed the motion included the cap of the county's share was \$100,000.00 to be worked out in cash and work in kind. Lee Provance stated Staff Engineer Roy Steiner thought it would be wise for the county to require Grand View 2 to waive the right to protest for a future RID. Commissioner Olson and Commissioner Murdock did not see that as an option at this time and asked Mr. Steiner how they could legally do this. Mr. Steiner stated if the county was putting taxpayers money into improving a county road that the county could require a waiver of future protests. Mr. Steiner felt if this road got approved it would have to be paved within 10 years. Chief Deputy County Attorney Susan Swimley stated this could be made a condition of the landowners and they would have to go out and get everyone to sign a waiver. At this time this would be the only process. Commissioner Mitchell suggested adding to the motion that this project not start until the fiscal year 2002 budget and be contingent upon Story Mill Road making the list of priorities by coming up with the money. Commissioner Mitchell stated the need to figure out what public method should be used for the county to grant itself an exception from its own standards and agreed they should encourage these land owners to go out and work on the waiver of protest for future RID'S. Commissioner Mitchell stated the need to notify the schools for bus route purposes that this road would not be improved to county standards. Commissioner Murdock was in agreement to change the motion by adding the process needed to grant the county exception from its own standards. Commissioner Murdock was not in favor of putting it on a priority list and he was opposed to waiting until fiscal year 2002 budget and requiring land owners to work on the waiver of protest for future RID'S. Seconded by Commissioner Olson. Commissioners Murdock and Olson voting aye. Commissioner Mitchell voting nay. Motion carried. Chief Deputy County Attorney Susan Swimley requested that the Commission set a date for a hearing to grant the county a variance from their road standards.

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Gallatin County Planner John Shepard reported on the Edgerley CUP to change a non-conforming use requested by Mark Edgerley located in Section 6, T2S, R6E and in the Gallatin County/Bozeman Area Zoning. The CUP is to replace an existing non-conforming mobile home with a newer non-conforming mobile home in the R-S (Residential Suburban Country Estates) zone. The applicant removed the 280 sq. ft. 1958 2-bedroom mobile home with the intention of replacing it with a 960 sq. ft. 1979 2-bedroom mobile home onto a concrete pad. After removing the 1958 mobile and pouring the pad, applicant was notified that he needed to obtain a land use permit, and it was then determined that a conditional use



permit was necessary to extend the non-conforming status of the property. The 1958 mobile home may not be returned to the site. Mr. Shepard's question before the Commission is: given the circumstances involved and conditions suggested, is the proposed use appropriate for the zone and area; and is the proposed use more appropriate than the existing use. The Gallatin County Bozeman Area Zoning Regulation does permit you to replace one non-conforming use with another non-conforming use. Mr. Shepard stated the Planning Board met on June 11, 2000 and recommended unanimous approval although; they were concerned about the character of other lots in the area. A petition from neighbors given to the Planning Board in protest to the re-establishment of a non-conforming mobile home was passed along to the Commission. The neighbors concerns were about a non-conforming status of a parcel which regulations state, 1 house 1 parcel. This parcel already has two houses. Their second concern was the septic system and the Idaho Pole Super Fund. Mr. Shepard stated there was a misunderstanding in the staff report stating the applicant intends to use the existing well and septic system on site, when in fact the environmental health department has approved a new-engineered system. The applicant is waiting approval of bringing in the new mobile before having it installed. Other concerns of the neighbors were the high ground water and contamination of the Idaho Pole site. Mr. Shepard did some research on the Idaho Pole site and found the EPA was scheduled to make an updated inspection of the site and the active contaminates were out of the county side and into the city side. Commissioner Mitchell inquired as to whether there were any other mobile homes in this area. Mr. Shepard stated there were a variety of structures and was not aware of any other mobile homes. Commissioner Mitchell inquired if the newer home was a mobile or modular home. Mr. Shepard stated that the applicant said it was a HUD standard manufactured home but the zoning regulations state it can only be defined as a mobile home. Commissioner Murdock questioned if the 1958 mobile was occupied. Commissioner Olson asked for clarification on the difference of the proposed use being more appropriate than the existing use. Mr. Shepard explained this was a similar use and the applicant wanted to replace a substandard home with a HUD standard manufactured home. The zoning regulation provides specific restrictions on non-conforming uses and structures, including a provision to change one lawful non-conforming use to another through a Conditional Use Permit. Commissioner Mitchell discussed with Mr. Shepard the Yellowstone Pipeline that goes through the lot. Mr. Shepard confirmed this was discussed at the Planning Board hearing and that Yellowstone Pipeline was notified and were aware of the project. They were provided notice of the establishment of the trailer pad and given the right to protest. Commissioner Mitchell stated that the location of the pipeline was not noted on the site plan. Mr. Shepard reported he could not find this easement in the Clerk & Records office and one of the recommended conditions did state the applicant would confirm the location of the Yellowstone Pipeline. At this point it was only marked by a yellow pole and is not mapped. Mark Edgerly the applicant provided a copy of the permit for the new septic system to the Commissioners, which outlined the location of the Yellowstone Pipeline. Mr. Edgerley had been in contact with Yellowstone Pipeline and the location of the home would be approximately 15 feet from the centerline of the pipeline allowing a 30-foot easement. Yellowstone Pipeline stated there was a 50-foot easement and as long as the home was not directly on top of the pipe it would be all right. Mr. Edgerly stated that upon approval of this Conditional Use Permit all three dwellings would be on the new septic system and he planned on removing the old system. Mr. Edgerley confirmed to Commissioner Murdock that the 1958 mobile home had not been occupied recently and that there was one other manufactured home owned by John Bailey in the vicinity of where he proposed to put his manufactured home. Chief Deputy County Attorney Susan Swimley questioned if the placement of this home would have any traffic impacts and if there was any parking provided. Mr. Edgerley stated the home was for his personal use and he had established off street parking to accommodate 4 vehicles. Mrs. Swimley asked Mr. Edgerly if he thought placement of this home would cause any unsafe or hazardous conditions and if there would be any visual impact. Mr. Edgerley stated that by installing the new septic system he was improving any possible hazards the property posed to the neighborhood and the visual impact would be greatly improved. Mr. Edgerley stated that one of the recommendations for approval by the Planning Board was to construct a visual triangle in each driveway and remove a camper trailer currently located on the property. He is in the process of completing both of those requirements. Sidney H. Davis and Dan Figgins spoke in opposition of allowing Mr. Edgerley the conditional use permit. Commissioner Mitchell and Commissioner Murdock questioned Mr. Figgins if there were any covenants on this property and if there were any other lots with more than three dwellings. Mr. Figgins stated that there were no covenants and no other lots with three dwellings. Mr. Edgerley responded that by putting three dwellings on his property he hoped to help reduce the urban sprawl in this community. Commissioner Mitchell asked Mr. Edgerley if he considered making one entry for all three units and make a consolidated driveway. He responded that it would be hard to put the 825 Oak Street driveway on L Street but, he could combine the 923 & 925 L Street and move the driveway further away from the Oak Street intersection. Chief Deputy County Attorney Susan Swimley pointed out to the Commission the criteria they needed to evaluate regarding the existing non conforming use versus the proposed non conforming use and what should be established in determining if the proposed non conforming use is more appropriate than the existing non conforming use. Mrs. Swimley stated the proposed non-

conforming use should not perpetuate an unsafe or unhealthy condition. That criteria is set forth as follows: traffic impacts, both on-site and off-site; off-street parking and loading requirements; the visual impact on the surrounding area; the degree of compliance with the adopted master plan and Zoning Regulation; the level of conflict with other uses in the surrounding area; the presence of other non-conformities in the surrounding area; the degree to which any existing unsafe or hazardous conditions would be mitigated; the viability of the subject structure(s); and on-site and off-site impacts from noise, dust, smoke, surface or groundwater contamination, or other environmental impacts. Commissioner Murdock questioned whether it should be taken into consideration the five-year lapse of the non-conforming use being vacant. Mrs. Swimley stated the use had not lapsed as the structure was still in place and could have been occupied. Commissioner Murdock stated his findings based on criteria that Mrs. Swimley pointed out. Commissioner Murdock stated he was not in favor since there were mitigating factors of traffic impact but did agree the visual impact would be greatly improved. Commissioner Murdock said there did not seem to be other conformities of this same nature in the area. Commissioner Mitchell agreed Mr. Edgerley was doing his best to improve the lot appearance and her concern was the parking and traffic access to the street. In Commissioner Mitchell's findings she stated if Mr. Edgerly was willing to consolidate the driveways and parking areas to help mitigate the traffic impact that the other criteria had been met. Commissioner Olson stated his concern was the degree of compliance with the adopted master plan and Zoning regulation and the idea was if a non conforming use is eliminated it should be kept off. Commissioner Olson did agree the visual impact would be an improvement and all other criteria had been met. Mrs. Swimley stated that since there were two varying sets of findings and whoever was making the motion should refer to the findings they are considering supporting the motion. Mrs. Swimley stated if there were to be changes to the conditions it should be added. Commissioner Murdock explained his opposition was with the zoning and traffic situation, not meeting the criteria, and he could not find appropriate use. Commissioner Mitchell moved to approve the CUP finding the non conforming use is more appropriate than the existing non conforming use, and the site for the proposed use is adequate in size and, topography to accommodate such use; that the site for the proposed use relates to streets and highways adequate in width and pavement type; that the proposed use will have no adverse effect upon the abutting property; that the proposed use shall be in conformance with the Gallatin County Plan; that the conditional use shall comply with all conditions stipulated in the Zoning Regulation; and that any additional conditions stated in the approval are deemed necessary to protect the public health, safety and general welfare; with the following conditions: 1) The conditional use permit will be valid only after approval of a land use permit from the Gallatin County Planning Dept. and a building permit from the City of Bozeman. 2) Applicant shall provide documentation that the structure is certified as meeting the HUD Code. Revised condition 3) as follows: Applicant will revise parking and access on the site plan; a) to consolidate access points and be approved by the road department; b) consolidate parking as appropriate. 4) The street Vision Triangle will be cleared for all driveways on the lot. 5) The unoccupied travel trailer home will be removed from the lot prior to occupancy. 6) Applicant will confirm the location of the Yellowstone Pipeline on the lot. 7) Applicant will provide evidence that the Gallatin County Environmental Health Dept. has approved the new septic system design for all three dwellings on the site; install the new septic system as approved; and hook up the 2 existing homes on the lot prior to moving the new mobile home onto the property. 8) The right to a use and occupancy permit shall be contingent upon the fulfillment of all general and special conditions imposed by the conditional use permit procedure. 9) All of the special conditions shall constitute restrictions running with the land use, shall be binding upon the owner of the land, his successors or assigns, and shall be recorded as such with the Gallatin County Clerk and Recorder's office by the property owner prior to the issuance of any building permits, final site plan approval or commencement of the conditional use. 10) All conditions specifically stated under any conditional use listed in this title shall apply and be adhered to by the owner of the land, successors or assigns. 11) All special conditions shall be consented to in writing by the applicant. Applicant was in agreement with the conditions as amended. Seconded by Commissioner Murdock. Commissioner Mitchell and Commissioner Olson voting aye. Commissioner Murdock voting nay. Motion carried.

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Gallatin County Planner W. Randall Johnson reported that MSE-HKM Engineering, on behalf of the Ankeny Family Trust has requested preliminary plat approval of 15 residential lots within a 300 acre parcel, with an average lot size of 10.3 acres. The development also includes 146 acres of common open

space located in the NW1/4, SW1/4, SE1/4 of Section 22, T6S, R3E, PMM., Gallatin County, Montana. The applicant has requested one variance from the design standards of the Gallatin County Subdivision Regulations regarding water supply for fire protection. The staff report addressed the criteria of subdivision review pursuant to Section 76-3-608 MCA including agriculture; agricultural water user facilities; effects on local services including fire protection, law enforcement, emergency medical and schools; natural environment; wildlife and wildlife habitat; and public health and safety. If the

commission grants preliminary plat approval the planning staff recommends the following conditions be met before granting final plat approval: 1. The final plat shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates. 2. State Department of Environmental Quality approval shall be obtained for the subdivision. The subdivider shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The subdivider shall obtain the Gallatin County Health Officer's approval. 3. Interior subdivision road plans, road maintenance plans, drainage plans, lot access plans, and sign plans shall be submitted to the County Road & Bridge Department prior to the construction of the interior subdivision roads. 4. The subdivider shall obtain a Road Use permit from the U.S. Forest Service for the use and reconstruction of Forest Service Loop 166-B Roadway prior to final plat approval. 5. The primary access road (Forest Service Loop 166-B Roadway) shall lie within a 60-foot public right-of-way easement, and shall be improved to County standards. 6. The secondary access road (Forest Service Loop 166-B Roadway) shall lie within a public right-of-way easement, and shall be improved to a gravel standard acceptable to the Gallatin Canyon Fire District and the County Road & Bridge Department. 7. The interior subdivision road (Forest Service Loop 166-B Roadway) shall lie within a 60-foot public dedicated right-of-way or easement, and shall be constructed to county gravel standards prior to final plat approval. 8. A half cul-de-sac or turn out, built to county standard, will be required at the fire fill site location. 9. A written winter road maintenance agreement shall be prepared and submitted to the County Road & Bridge Department. 10. The subdivider shall enter into an agreement with all affected parties for the shared maintenance of the primary and secondary access road (Forest Service Loop 166-B Roadway). The maintenance agreement(s) shall be submitted to the County Road & Bridge Department. 11. The interior subdivision road name shall be reviewed and approved by the County Road & Bridge Department prior to final plat approval. 12. All road construction shall be inspected and certified by a registered civil engineer. The subdivider shall obtain written verification from the County Road & Bridge Department that all roads have been brought to county standards. 13. Encroachment permit(s) must be obtained from the Montana Department of Transportation for the two accesses onto Highway 64. Each approach must be paved for the first 75 feet from the north edge of Highway 64. 14. The developer shall agree to participate and equitably share in the cost of any traffic management and mitigation program authorized by the Montana Department of Transportation and participated in by Gallatin County, which concerns traffic impacts on future land use developments in the Highway 64 traffic drainage area. The developer shall be entitled to an equitable reimbursement for any disproportionate costs expended by it in connection with participation in such program. 15. Road name signs are required at the north and south subdivision boundaries, and intersections with Highway 64. Road name signs shall be installed or bonded prior to final plat approval. 16. STOP sign(s) shall be installed at all intersections with Highway 64. 17. Areas disturbed by construction shall be seeded and controlled for noxious weeds. 18. The final plat shall contain a statement requiring lot access to be built to the standards of Section 7.G.2 of the Gallatin County Subdivision Regulations. 19. All utility easements are to be shown on the final plat. Utility easements shall be centered along side and rear lot lines wherever possible, and shall be twenty (20) feet wide. Underground utilities, if placed in the road right-of-way, shall be located between the roadway and the right-of-way line. Such underground facilities shall be installed or utility culverts provided before the road is surfaced. In addition, the following statement must appear on the final plat: "The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as 'Utility Easement' to have and to hold forever". 20. The subdivision property shall either be annexed into the Gallatin Canyon Rural Fire District, or enter into a contract for fire protection services with the district prior to final plat approval. 21. A 20,000-gallon water tank shall be installed within the subdivision. The Gallatin Canyon Rural Fire District shall approve the installation and operation of the water tank prior to final plat approval. 22. The subdivider shall record on the final plat a waiver of right to protest creation of rural improvement districts and local improvement districts. 23. The subdivider shall make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. 24. The Subdivider shall make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. 25. A homeowners' association for the subdivision shall be created. 26. Covenants for the subdivision shall include the following provisions: a. All structures shall be constructed in compliance with the current Uniform Building Codes. b. The homeowners' association shall be responsible for the control of noxious weeds within the common open space parcels, and all road right-of-ways. Lot owners shall be responsible for the control of noxious weeds within their property. c. Place title to common open space property with the Homeowners' Association. d. Common open space shall be preserved and maintained for passive and active recreation, wildlife habitat, and protection of scenic, unique or important natural features. e. Membership shall be mandatory for each owner, who must be required to pay fees to the Association for taxes, insurance, and maintenance of common open space. f. As concerns common open space, the Homeowners' Association shall be responsible for liability insurance,

local taxes, and the maintenance of recreational facilities. g. As concerns common open space, assessments levied by the Association must be able to become a lien on the property. h. As concerns common open space, the Association shall be responsible to adjust the assessment to meet changed needs. i. Ownership shall be structured in such a manner that real property taxing authorities may satisfy property tax claims against the open space lands by proceeding against individual owners in the Association and the dwelling units they each own. j. The property owners' association shall be responsible for the operation and maintenance of all interior subdivision roads. k. All dwellings shall be constructed with an automatic fire sprinkler system meeting the requirements of NFPA 13D/Uniform Fire Code. The fire district shall receive a stamped set of engineered sprinkler system plans for review and approval prior to construction. Inspections shall be scheduled, with 48 hours notice, during construction and after completion. l. All structures shall be constructed in compliance with the National Fire Protection Association codes. m. All structures shall use only Class A or B fire-rated roofing materials. n. Spark arrestor screens shall be placed on all fireplace and wood stove chimneys. o. Smoke detectors shall be installed on each level of dwelling units. p. Areas within 30 feet of habitable structures shall be cleared of all flammable materials. q. Open fires shall be prohibited, except for outdoor barbecues. r. The artificial feeding of all big game wildlife shall be prohibited. s. All garbage shall be stored in animal-proof containers or be made unavailable to animals. t. Owners acknowledge that wildlife damage to landscaping will occur. Owners shall accept that risk and shall not file claims against the Owners Association or any other governing body for such damages. u. Fencing along the exterior boundaries of lots shall be prohibited. v. The taking of any wildlife species within the property is prohibited, except for the removal of problem animals which endanger human health and safety. w. Pets shall be controlled by each homeowner, and not allowed to roam within the subdivision. x. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 27. Two copies of the covenants, a copy of the preliminary approval document, improvements agreement, documents establishing the homeowners' association, public road easement documents, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants, improvements agreement, documents establishing the homeowners' association, easement documents, and certificate of title abstract prior to final plat approval. 28. The developer shall have three (3) years to complete all conditions, and apply for final plat approval for the subdivision. Commissioner Mitchell questioned the map and elevation levels where it appeared the road and building envelopes were on the ridge. Mr. Johnson stated the building envelopes did drop back and would not break the silhouette as seen from Highway 64, which meet the zoning requirements. Commissioner Murdock stated that it appeared the intent of the district to protect and preserve natural and visual features in the area were not being met, as the homes could be seen from a number of places including the ski hill. Mr. Johnson stated that some homes could be seen from Highway 64 but that portion of the highway was in the neighboring county where these regulations do not apply. Commissioner Murdock asked Mr. Johnson if this design met the definition of cluster subdivision. Mr. Johnson said the regulation defines cluster by the amount of open space, and they are providing more than the amount required and the building envelopes are close to the road minimizing the development of long driveways to remote areas. Commissioner Olson inquired how much of the secondary access road would be improved to county standards. Mr. Johnson explained that major subdivisions require two means of access, so they would have to upgrade the entire road of which some of the road does not belong to them. The primary road would have to be brought up to county standards and the secondary road would also, have to be reviewed by the fire department. Commissioner Olson questioned if the forest service letter had been addressed and Mr. Johnson said he did have the condition requiring a permit and their use and easement of the road. Joby Sabol, Attorney, representing the Ankeny Family Trust, spoke of the Ankeney Family's acknowledgment of their responsibility to improve the entire forest service road that would serve as the access road to the subdivision. He proposed the following changes and clarifications on the suggested conditions the staff made to read as follows: 3) Interior subdivision road plans, internal road maintenance plans, drainage plans, lot access plans, and sign plans shall be submitted to the County Road & Bridge Department prior to the construction of the interior subdivision roads; 6) The secondary/emergency access road (Forest Service Loop 166-B Roadway) shall lie within a public right-of-way easement, and shall be improved to a gravel standard acceptable to the Gallatin Canyon Fire District and the County Road & Bridge Department; 9) A written winter road maintenance plan for interior roads shall be prepared and submitted to the County Road & Bridge Department, this condition may be satisfied with the inclusion of such plan in the Road Maintenance Agreement described in the following condition; 10) Propose that this be modified in two respects. Presently it absolutely requires a road maintenance agreement in the absence of which final plat would not be granted. This would allow neighboring landowners the power to prohibit, obstruct or block this subdivision by refusing to enter into such an agreement. He would suggest that the condition require the Applicant to take good faith, reasonable steps to attempt to enter into such an agreement. He would suggest that a clarification be made to this condition eliminating the

phrase "all effected parties." Presently the condition requires that a road maintenance agreement be entered into with all effected parties. "All effected parties" is potentially over broad and ambiguous in terms of the context of a road maintenance agreement. He would like to see the phrase "all effected parties," be replaced with "those land owners or homeowner's associations using Loop Road 166B for access to their property"; 14) He suggest that credit be given to the Applicant such that any moneys forwarded for the traffic management and mitigation program operate as a credit against county road impact fees. 21) Concerning the 20,000 gallon water tank for fire suppression purposes, he suggests the Commission make specific findings that such a variance is reasonable and be adopted because of topographic limitations of the property and that such variance is in the best interests of the health, safety and welfare of the residents; 22) He suggests that it is dangerously over broad in requesting the Applicant to waive the right to protest the creation of RID's and local improvement districts without any specification or reference to the type or nature of such district; 26p) This requires that areas within 30 feet of habitable structures be cleared of all flammable materials, should be modified to bring it into compliance with the Fire Protection Guidelines for Wildland Residential Interface Development, the standards developed by the Department of Justice, Fire Prevention & Investigation, and the Department of State Lands, Fire Management, to minimize structure loss due to wildfires. This change will eliminate any ambiguity over the term "flammable materials." For example, is a green living tree flammable material? The pamphlet and standards set by the Department of Justice and the Department of State indicate and the recent Los Alamos fire support that structure loss from wildfire followed a chain of events where embers landed in grassy yards, spreading a fire to bushes adjacent to homes, causing homes to ignite; and 26q) Suggest that not only open fires be prohibited, but also fireworks. In addition, Mr. Sabol addressed the letter from the Road and Bridge Department concerning the design and development of the interior roads. He stated they would be built to county standards and would require the engineer to certify, prior to final plat that the roads have been constructed with less than 10% grade as designed, and these plans will have to be submitted to the road office prior to construction. Mr. Sabol also, addressed the Big Sky Owner's Associations request in having the owners of the lots within this subdivision contribute to BSOA for use of BSOA services. Mr. Sabol stated that even though this property is not within BSOA jurisdiction the Ankeny family would be in full support of the request and would not be opposed to a condition requiring a letter of agreement with BSOA obligating future lot owners to contribute to BSOA. Commissioner Olson inquired if Mr. Sabol intended this to be a condition. Mr. Sabol was affirmative to this being made a condition of the final plat. Mr. Sabol spoke of some neighboring properties concerns about the continuity of utility easements leading to the property and right-a-way for ingress and egress. He felt these concerns could be addressed by requiring as a condition of final plat, that the county attorney inspect, approve and sign off on utility easements of this subdivision. Mr. Sabol requested when the forest service representatives gave their presentation, that they comment on the relationship between the forest service access Loop Road 166B, and its use in the past as a ski trail issued under permit to Lone Mountain Ranch. Commissioner Mitchell had concerns on several issues regarding Mr. Sabol's changes to conditions. The first being the differences in secondary versus emergency roads and their standards and inquired if there had been any geological testing in the area where a number of lots were close to the landslide area. She felt some of his changes to the conditions were over broad statements to the standard conditions put on all subdivision approvals and felt they could not give credit for impact fees in lieu of the traffic study. Mr. Sabol agreed with Commissioner Mitchell in regards to the secondary versus emergency road definition, and felt they needed to be careful of the standards required. He said the project engineer would be able to answer those questions as well as the geological testing that was conducted on the property. Clint Litle, MSE-HKM Engineering, answered questions about the size of the fill pond. He stated if they did not use sprinklers in the structures the size of the fill pond would have to be 120,000 gallons versus the 20,000-gallon water source used with sprinklers. Mr. Litle stated there had not been any site-specific geotechnical work with the exception of the drain field design and nothing was done specific to landslides. They designed most of the building sites away from that line and noted a slope line of 15%. Ninety-five percent of the building sites are within the 15% and could go up to 25%. Mr. Litle stated the intent of the emergency access was to minimize the disruption to the mountainous terrain, as a 16-foot standard road could be built with much less cut and fill to the topography than a 24 foot standard road. Mr. Litle, in addressing the water and wastewater, told of the 480-foot test well drilled in January of 1999. They conducted a 24 hour well test and at the start found the static water level was 293 feet below the surface, after 24 hours of pumping it dropped down to 393 feet, leaving 85 feet of well water. Applicant has received approvals on both the soil tests and perk test done for individual drain fields, from the Montana DEQ and the local health department. Chief Deputy County Attorney Susan Swimley questioned whether they were asking for and emergency access in lieu of the secondary access. Mr. Litle explained they understood they have to have a secondary access but would like it to be built to the emergency standard. Mrs. Swimley pointed out that in order for the road to be built to a lesser standard they would have to provide information to the Commission, as to why they made the request in order for it to be considered. Mr. Litle explained the reason was based on the topography. Commissioner Mitchell inquired about the existing trail being moved and if parking was available. Mr. Litle explained this was

a trail that could be driven up to and was proposed to be maintained. Mr. Sabol stated that Loop Road 166B had been a ski trail used by Lone Mountain Ranch under special permit from the forest service. He explained that by moving the trail that heads up towards the Spanish Peaks a missing link was being added and approved by the Forest Service and would now be a pedestrian, equestrian and cross country ski trail. Mr. Sabol stated that the Forest Service will say what could and could not be done with Loop Road 166B in terms of skiing. Federal regulations and policies of the Forest Service say residential use takes precedence over recreational use and he doubted Loop Road 166B would remain as a ski trail. Commissioner Murdock inquired if they were working with the cross-country ski entities or Forest Service to substitute or replace the trail. Mr. Sabol confirmed there had been an on going discussion between the Ankeny's and the Forest Service. In recent years the Ankeny's wanted to keep the road open and the Lone Mountain Ranch wanted to continue to use it as a ski trail, of which they have a revocable use permit. In some of the discussions there was talk of relocating a portion of the trail to another area of the property but with the topography that may prove to be difficult. Commissioner Mitchell asked if there was a tie between the existing logging road and the 40-foot pedestrian trail. Mr. Sabol referred those questions to representatives from the Forest Service. Commissioner Murdock asked if the Ankeny's would accept a condition to replace trails, which Lone Mountain Ranch uses. Mr. Sabol felt with some modification to that the Ankeny's would do what was reasonable and necessary to facilitate and maintain trails. Bob Dennee, land staff officer for the Gallatin National Forest Service, stated he was here to address the status of Loop Road 166B and was not speaking for or against the subdivision. Loop Road 166B was originally developed as a logging road. It is a low standard road, extending 7 miles in a loop manner through private land, accessing adjoining national forest lands by two trails, and another spur road. The forest service manages the road primarily for recreational access to adjoining national lands. The use of the road is changing from the original intent with more residential development. The Forest Service's standard policy when developers want to improve and construct a forest service road is that they cooperate with Gallatin County, and improve the road to county standards. For longer term, the preference would be that the road be assumed by Gallatin County. The Forest Service would require that the proponent develop a home owners association, and enter into a road maintenance agreement to help carry the burden of the maintenance from the highway, up to, and through the proposed development. They would ask that the maintenance agreement be reviewed and approved by the County Road Department and the Forest Service. Mr. Dennee also requested a condition granting a 20-foot easement to the United States and sufficient parking off road at the trailhead for the relocation of the trail that is proposed to extend through lot 2. Mr. Dennee stated there was another access road from Madison County that goes into Beehive Basin and the interest in keeping Loop Road 166B is to insure access to the national forest through Gallatin County. Letters from E. Garnet Mellon, Lelia R. Mellon, and Anne Ballard Alpert were read into the record in opposition of the proposed development. People speaking in opposition to the proposed development were: William Mellon, George Hager, Robert Schaap, Russ Deremer, Brian Wadsworth, BJ Morgan, Bob Kimmel, and Butch Keyes representing John Zilmer. Attorney Bob Planalp addressed the Commission on behalf of property owners who own four tracts of land. Mr. Planalp pointed out that Certificate of Survey 1721 shows the property owners own the property to the middle of the road; it was not a public road, only an easement. Commissioner Olson confirmed the road that Mr. Planalp was referring to was the primary access to the proposed subdivision. Mr. Planalp stated there were two points to consider with the only access going over an easement. The first point being the Forest Service cannot grant any easement because they can only use the road to administer Forest Service land. Mr. Planalp had a copy of the only recorded easement, the Corcoran easement, granted to the Forest Service. It stated that the rights, privileges and authorities granted are for the use and enjoyment of the grantee, the United States government for any and all purposes deemed necessary or desirable in connection with the control, management and administration of the national forest. That is the condition for the easement and it does not allow the Forest Service to grant a right-a-way for private development. The easement was granted to the government to be used for Forest Service land, and the staff suggested the developer obtain a road permit to allow private development. Mr. Planalp told the Commission they did not have the authority to order the landowners with the easement to grant an access, nor do they have the authority to require the Forest Service to grant a road permit. He did not feel the forest service had the authority to grant a road permit that creates a greater burden than the initial easement, and that the Forest Service cannot grant an easement greater than the easement that was granted by Corcoran. Mr. Planalp stated that the proposal shows the utilities to be located in the roadway and there is nothing in the Corcoran easement that gives the Forest Service the right to put utilities on his clients land. Mr. Planalp commented that until the county assumes jurisdiction of the road there is not assurance of public access. He stated the only approval the Commission could give would be for public dedicated access, given the subdivision criteria. He stated that a permit is revocable and would not be a public dedicated easement. Mr. Planalp requested that the Commission postpone their decision and continue it for two months so the property owners could hire an engineer and go into the issues of slope, landslides, envelopes, and erosion. Mr. Planalp submitted a letter from Mrs. George Hagar into the record. Chief Deputy County Attorney Susan Swimley explained that the Commission must abide by the statutory

time requirements in reviewing subdivisions and it would be up to the developer to approve any postponement. Mr. Sabol stated his client is seeking conditional approval of this subdivision. If the conditions are met, they have demonstrated adequate access. Mr. Sabol said there was a question of the continuity of utility easements but, this was not the forum to discuss that issue, as to whether there was legal access to the property or legal easements for utilities. He stated this was to approve the subdivision conditionally so they could determine the access and that the utility corridor is there. Mr. Sabol cleared up some questions concerning the trails and said the Ankeny Family would not approve of a two-month continuation. Chief Deputy County Attorney Susan Swimley pointed out that the amendment to condition #14, would not be possible as any moneys paid have to go towards the county road system and Highway 191 and 64 are not county roads. Commissioner Murdock entered findings that this subdivision is designed and located at a place that does not meet the intent of the RS cluster development district, to conserve as permanent open space, important natural features, wildlife habitat, water resources in scenic areas for the benefit of present and future residents. He referenced Section 6.A.3. of the subdivision regulations regarding land unsuitable for subdivisions that states potential hazards and causing unreasonable burden on the general public shall not be approved. He stated they would have to find conformance with the subdivision regulations in addition to the zoning ordinance and some of the goals of the Big Sky Master Plan. He also felt the prominent ridge line and the wildlife habitat should be protected which are goals in the master plan. It is a resort recreation area and should be protected. Commissioner Murdock stated the density was too high and because of that it was a public safety concern, and the road access issue needed to be looked at as it is fundamental. Commissioner Murdock moved to deny the subdivision with these findings. Seconded by Commissioner Mitchell stating she did not believe hardship was adequately demonstrated for the variance. She had concerns about the trails, building on the ridge, the landslide area, easements of the roads, utilities easements, secondary versus the emergency road access, who grants the road improvement permit and the Big Sky Fire Report. The application does not clearly demonstrate how these impacts are being mitigated. Commissioner Mitchell stated the lack of adequately mitigating impacts to public health and safety issues to potential inhabitants. Commissioner Olson stated it would have looked more favorable had the access road been worked out differently, and he was against not having a fill point because it would be too far of distance. The Commission voted in unanimously to deny the subdivision.

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Fiscal Officer Ed Blackman presented the draft Juvenile Detention Policy for Gallatin County. Mr. Blackman addressed questions regarding gender equity and the number of cells. There are two groups of cells so they could be physically separated. Both the females and the males would have 3 cells each. The intent was to transport 2 inmates instead of 1, if left at 5 or above. If left at 3 inmates, they would be transporting every time a female came in. Mr. Blackman said he had sent the policy to the sheriff and the county attorney, but not youth probation yet. Mr. Blackman stated the policy could be changed by going through the process with the Southwest Regional Juvenile committee. Commissioner Mitchell recommended this draft be sent to all the Southwest Region youth probation officers, county commissioners, and counties that have not commented, for review. Commissioner Murdock concurred, and that it should be put on as an agenda item. This would give time for review, as there was a delay in opening the Juvenile Detention Center. Commissioner Olson stated the need to have the policies in place before the center opened. Mr. Blackman suggested they have these as working policies at this point to give the sheriff's department something to work by. There was no public comment. Commissioner Murdock moved to approve this policy in draft form, as an interim policy subject to review, comment, and possible changes by members of the Southwest Juvenile Region, Youth Probation, and other interested parties who may have input. Mr. Blackman said he would make changes as needed to reflect interim with specific language. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Consideration of a Resolution of Intention to consider the election of Trustees for the Clarkston Fire Service Area was continued by request of Chief Deputy County Attorney Susan Swimley.

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There were no pending resolutions. There being no further business the meeting was adjourned at 2:40 P.M.

*Unavailable*  
*for signature*  
 CHAIRMAN APPROVAL

*Sally Vance*  
 CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 1ST DAY OF AUGUST 2000**

The meeting was called to order by Chairman Phil Olson at 9:00 A.M. Also present were County Commissioners Bill Murdock and Jennifer Smith Mitchell, Chief Deputy County Attorney Susan Swimley, and Acting Clerk to the Board Mary Miller.

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Chairman Olson requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**JULY 24, 2000**

- The Commissioners conducted regular County business.

**JULY 25, 2000**

- An emergency meeting was called to order at 8:40 a.m. in order to consider passing an emergency burn ban resolution. In attendance were Commissioners Olson and Murdock, and Executive Secretaries Stacy Johnston and Glenda Noyes. Commissioner Olson made a motion to instigate Resolution 2000-44, closing Gallatin County to open burning. Commissioner Murdock seconded the motion, adding the findings that the County Rural Fire Chief Brett Waters has recommended the closing due to dry conditions, dry lightening strike activity, low relative humidity, low fuel moisture levels, local fire activity and general high fire danger throughout the area. The Commissioners also noted that the Governor has issued Executive Order 17-00 proclaiming an emergency in Fire Zone Three that includes Gallatin County. Motion carried unanimously.

**JULY 26, 2000**

- A special meeting was held to discuss Jackson Creek Road. In attendance was Commissioner Murdock, Road and Bridge Superintendent Lee Provance, Jim Kack and Ken Danhof. The group discussed improvements to Jackson Creek Road. Mr. Provance agreed to get an updated traffic count for Bridger Canyon Road, and gave estimates for paving portions of the road. The Commission needs to adopt a cost-share policy for paving, and place it on a priority list. The Bridger Canyon residents were asked to check back with the Commissioners in January 2001.

**JULY 27-28, 2000**

- The Commissioners conducted regular County business.

**The following items were on the consent agenda:**

1. Approval of claims presented by the Auditor dated July 14, 2000 through July 20, 2000 for P.O. #68412 for \$7,116.00, P.O.#65751 for \$559.68, P.O. #63834 for \$1,788.70 totaling \$9,464.38, and the following batches dated July 31, 2000: Batch 1 for \$17,837.55, Batch 2 for \$37,009.04, Batch 3 for \$43,773.53, Batch 4 for \$38,063.94, Batch 5 for \$77,418.17, Batch 6 for \$21,668.30 and Batch 7 for \$19,794.81 totaling \$255,565.34. Grand total \$265,029.72
2. Consideration of the following contracts: Tax Deed Real Estate Sales Agreement with Mark and Elizabeth Tomaszewski; Amendment #1 to Contract No. 2000-52 with Department of Corrections for Youth Probation's Family Assessment Program.
3. Request for Boundary Realignment for Armitage located, in Section 17, T2S, R5E. Gallatin County Planner Jennifer Madgic reported the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
4. Grant Reimbursement Agreement Between Gallatin County and West Yellowstone/Hebgen Basin Solid Waste District.

Commissioner Mitchell read the consent agenda. There was no public comment. Commissioner Mitchell moved to approve the consent agenda. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Commissioner Murdock announced the consideration of appointments to the Gallatin Airport Authority Board. Motion by Commissioner Mitchell to appoint Yvonne Jarrett to the Gallatin Airport Authority Board to a five-year term expiring June 30, 2005. Seconded by Commissioner Murdock. There was no public comment. None voting nay. Motion carried. Commissioner Mitchell announced the consideration of appointments to the Gallatin County Planning Board. Motion by Commissioner Murdock to appoint Nick Salmon, Greg Metzger, Howard Van Noy, W. Geoffrey Heath and Eugene Krebsbach, each to a two year term expiring July 31, 2002 with the finding that Clint Field did not qualify by living outside the district. Seconded by Commissioner Mitchell. There was no public comment. None voting nay. Motion carried.

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Gallatin County Planner John Shepard reported on the consideration of a Resolution Approving River Rock Sight Triangle Variances. Mr. Shepard stated that Ruben D. Schott, Valley Meadows LLC and River Rock West LLC, have requested variance from the requirements of Section 10.1 of the River Rock Zoning Regulation Visibility at Intersections as amended, to allow a 6 foot fence at the intersections of Amsterdam Road with West Shore Drive and Green Belt Drive, blocking the required Corner Sight Triangle. In April of this year the commission approved several revisions to the River Rock Zoning Regulation. Included was an amended definition for the "Corner Sight Triangle". The change in Section 10.1: measure the Sight Triangle along curb lines instead of property lines. After the amendment the developer started to build a 6-foot wood screen fence on the Amsterdam Road as required by a different section of regulations. The Planning and Zoning Commission held a public hearing regarding the application for variances and voted unanimously to recommend that the variances be approved. Mr. Shepard reviewed the findings from Resolution 2000-07 as follows: The Planning and Zoning Commission found that the proposed variances are not inconsistent with the intent of the regulation; strict compliance with the regulation would create unnecessary hardship unique to the property, due to the width of the right-of-way, installation of stop signs, and the requirement to build a screen fence; the variances will not have adverse effect on abutting properties; and conditions approved will protect public health and safety; thus meeting the requirements of Section 15 of the River Rock Zoning Regulation. Mr. Shepard pointed out to that the commission may grant variances where conditions are met, similar to the findings of the Planning and Zoning Commission. There was no public comment. Chief Deputy County Attorney Susan Swimley reminded the commission that River Rock does not require the county commission's decision on variances, however the statute does. Mrs. Swimley recommend the commission take note of the testimony they heard at the Planning and Zoning Commission hearing that supported the facts, and enter that into their findings. Commissioner Murdock moved to enter into the record all the findings in the conversation as members of the zoning committee. Commissioner Olson agreed that there was a conflict in the regulations, and there was not a safety problem with the replacement triangle as presented. Commissioner Murdock moved to accept the recommendation and approval #2000-07 passed on July 13, 2000 at the River Rock Zoning Commission, and adopt resolution #2000-50 of the Planning and Zoning Commission for the River Rock Zoning Commission with the findings as stated. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Fiscal Officer Ed Blackman stated this was a public hearing to receive comment from interested parties on the proposed FY 2001 operating budget. Mr. Blackman stated the budget did not include items still under consideration by the commission, and gave an overview of the budget and pending information needed, such as the taxable valuations from the Department of Revenue and information from personnel. Jim Moody of the Department of Revenue spoke in regards to the taxable valuations needed in order to complete the budget. He stated the Department of Revenue did recognize they were not going to meet the statutory deadline set for the second Monday in July. At that time, the Director, Mary Bryson sent out a letter with a proposed timeline of July 28, 2000. With further delay the local office was unable to meet that timeline and were now looking at August 4, 2000. Discussion took place as to the importance of receiving the valuations for the special districts and, in order to meet the statutory requirement of having the budget adopted by August 14, 2000. Mr. Blackman requested this to be continued on a daily basis pending the information needed. If the certified mills were received by August 4, 2000, Mr. Blackman stated he could have the budget finalized by August 8, 2000. Although, he would not be able to send out information on Senate Bill 184 to the special districts for their input as to whether or not they want the floating mill. Gallatin County Treasurer/Assessor Jeff Krauss expressed concern of the late notification of the taxable values from the Department of Revenue. He stated this was of extreme concern with the special districts trying to set their budgets and also, the tax bills last year reflected 3% less from what was certified and the county incurred a significant difference. He felt in the future there should be some pressure put on the Department of Revenue at the central level to get this information to the county in a timely manner. Mr. Blackman stated it was a legal issue in order to extend the time needed to adopt the budget if the valuations were not received by the statutory deadline. Commissioner Olson continued this until next week.

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Appointment of a Project Team for a New Gallatin County Detention Center Pursuant to Motion Passed in the Minutes of May 23, 2000. Commissioner Olson and Commissioner Murdock stated the motion was to appoint five citizens to the Detention Center Project Planning team. The team's mission is to carry forth recommendations to facilitate and coordinate the planning and construction of a new, Direct Supervision, Adult and Juvenile Detention Facility for Gallatin County at the present South 19<sup>th</sup> location; and to make recommendations to the Gallatin County Board of County Commissioners regarding the planning and construction of new detention facilities; and to facilitate and coordinate the opening of the new facilities, including the preparation of an operations budget and the coordination of a new facility's construction with existing and ongoing activities at the present Law and Justice center site; and to recommend hiring an Owners' Representative/Project Manager at the appropriate time in the planning process along with the County Grants Administrator, County Fiscal Officer and the County Sheriff. Joe Townsend questioned the commission on the authorities given to the citizens being appointed to the project team. He asked if there was to be a written charge given to this committee of citizens and would they have any say such as; would they have veto rights over the professionals they would be working with; internal duties and responsibilities; and a reporting process to the commissioners made available to the public. Mr. Townsend felt very strongly that this should be worked out before hand. Commissioner Murdock reiterated the mission recommendations from the motion of May 23, 2000. Commissioner Olson stated Mr. Townsend had some good points that needed to be addressed and they were not totally prepared at this time. Commissioner Murdock said there needed to be an organizational meeting with the team to address those questions and make decisions. Commissioner Mitchell replied in agreement with Mr. Townsend and felt the citizens had done everything possible up to this point with their expertise and knowledge and did not want to waste volunteer citizens time. She stated it was time for the county government to do their share in figuring out the communities needs. Commissioner Mitchell pointed out that the judges are working very hard on the coordinating policy committee for community corrections and once that committee gets going they will analyze the specific perimeters for the services needed. With that in place it could be presented to the county commission to hire a professional and design a facility that would meet the needs. Once that is done, the previous committee could be called back to adjust or modify and when they are satisfied, it could then be presented to the public. Commissioner Olson stated he was in agreement, with the exception of Commissioner Mitchell not wanting to go forward at this time, and wanting to wait for the justice process that is going through the courts. Commissioner Olson disagreed on waiting for the justice process as the judges said it would take far too long and we needed a new and larger facility now. He stated the justice process was needed and on going, possibly slowing down the prospect of another expansion in the near future. Commissioner Olson said he would not take on the liability of waiting. He agreed with Mr. Townsend the committee did need direction, a chain of command, and a reporting process. His recommendation would be to go forward and present it to the public and let them make the decision. Commissioner Murdock stated that it did not reflect in the draft minutes but, the decision was on tape that the project team would vote and the staff would not be voting, and in turn the project team would only be making recommendations to the commission. Commissioner Mitchell stated she did agree with most everything, except she would like to see the commission take some of the money set aside for the detention center and assist the judges with the coordination committee. Then within three months have some perimeters set with their professional help and get a basic policy in place. Commissioner Murdock was not in favor as the commission had already encouraged the judges and others to create a Criminal Justice Coordinating Committee and they have done so with help and funding. Commissioner Murdock stated it was prudent to move forward and design a facility while continuing the justice system control process. Commissioner Olson stated that one of the processes the courts have in place already is the Treatment Court. He felt it was imperative that the project team be established, as it would take them at least 2 to 3 months to come up with a firm direction. Commissioner Mitchell stated that she felt they needed to take a different approach and be more efficient. Commissioner Murdock stated he would like to move forward with the motion passed on May 23, 2000, to appoint the 5 citizens to the project team. There were 12 applications received. Commissioner Mitchell suggested they choose a variety of professions to fill the positions of the team that would follow the facilitation of construction, coordination for planning, budget and program needs. Commissioner Olson moved to appoint Bruce Gerlach, Darrell C. Behrent and Sam Hofman. Seconded by Commissioner Murdock. None voting nay. Motion carried. Commissioner Murdock moved to appoint Roger A. Curtiss. Seconded by Commissioner Olson. Commissioner Mitchell said there was a need for more people in construction. Commissioner Murdock and Commissioner Olson voting aye. Commissioner Mitchell abstained. Motion carried. Commissioner Murdock moved to appoint Carol Townsend. Commissioner Mitchell stated there was a need for someone with a fresh viewpoint. The motion for Carol Townsend died for lack of second. Commissioner Olson moved to appoint James T. Paugh. Seconded by Commissioner Mitchell. Commissioner Olson and

GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 35

Commissioner Mitchell voting aye. Commissioner Murdock voting nay. Motion carried. Commissioner Olson stated he expected to have an organizational meeting with the Project Team and proceed.

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Chief Deputy County Attorney Susan Swimley presented a Resolution of Intention #2000-47 for the Gallatin County Commissioners to Change the Boundaries of Rural Improvement District #316 and #322. Maintenance District for the Hebgen Lake Estates, Water and Sewer. Mrs. Swimley stated the landowners are requesting to be included in this district to access these facilities, and a public hearing will be held on August 29, 2000. Commissioner Murdock moved to pass Resolution of Intent #2000-47. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Chief Deputy County Attorney Susan Swimley presented a Resolution of Intention #2000-48 for the Gallatin County Commissioners to Change the Boundaries of Rural Improvement District #302. Maintenance District for North Western Drive. Mrs. Swimley stated an owner is requesting to be removed from that district and there will be a public hearing on August 29, 2000. If passed all property owners would receive notice this property is being removed. Commissioner Murdock moved to pass the Resolution of Intent #2000-48. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Fiscal Officer Ed Blackman presented a Resolution of Intent #2000-49 to Levy and Access a Tax on Maintenance Districts within Gallatin County. Mr. Blackman explained these are based on current boundaries of RID's and consistent with the Morrison-Maierle report that came out the end of June. Commissioner Murdock moved to pass the Resolution of Intent #2000-49. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Jack Schunke confirmed to Commissioner Olson there were no changes and it would not affect this assessment period.

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There being no further business the meeting was adjourned at 10:35 A.M.

*Unavailable*  
*For signature*  
CHAIRMAN APPROVAL

*Shelley Vance*  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 8TH DAY OF AUGUST 2000**

The meeting was called to order by Chairman Phil Olson at 9:00 A.M. Also present were County Commissioners Bill Murdock and Jennifer Smith Mitchell, Chief Deputy County Attorney Susan Swimley, and Acting Clerk to the Board Mary Miller.

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Chairman Olson requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**JULY 31, 2000**

- The Commissioners attended a regularly scheduled office meeting to discuss numerous issues. In attendance were Commissioners Olson, Murdock and Mitchell, and Executive Secretaries Stacy Johnston and Glenda Noyes. The Commissioners discussed the Big Sky Transportation Study Contract with MDT and Madison County. Madison County added a blurb to the contract before signing and the Commissioners had to determine how to handle the addition. Deputy County Attorney Chris Gray reviewed the change and suggested that the Commissioners have two alternatives for dealing with the issue; either take the position that the contract does not exist, or acquiesce in the Madison County qualification and move forward with the project. The Commissioners determined that they would like to add the same blurb before their signature lines and have the contract re-approved by the other parties. Commissioner Mitchell made a motion to add the same blurb as Madison County, stating that the contract is "Contingent upon LOCAL OFFICIALS receiving \$50,000 from developers and no cost to Gallatin County." Commissioner Olson seconded the motion. In discussion the Commissioners noted that they felt this would be the clearest way to resolve the problem and Mr. Gray agreed that this would be an acceptable,

## 36 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

reasonable solution. Motion carried unanimously. The Commissioners also discussed the final credit card policy and asked that Stacy have Auditor Joyce Schmidt review the policy for her approval. The draft notary policy, and the level of insurance coverage for the notaries was also discussed. The Commissioners agreed to adopt the notary policy and Commissioner Murdock made a motion for the executive secretaries to get the "errors and omissions" coverage when becoming notaries, and to find the money in the budget to cover this. Commissioner Mitchell seconded the motion, adding the finding that the secretaries will perform the tasks as adopted in the notary policy. Motion carried unanimously. Commissioner Olson signed the local or tribal government certificate of completion of a CTEP project, Federal Aid Project #STPE 1299(7), Federal Aid Project name Courthouse – Rehab, Bozeman. MDT was authorized to proceed with the project on April 22, 1997, the project was started on July 29, 1997, and the project was completed on July 18, 2000.

### AUGUST 1, 2000

- The Commissioners conducted regular County business.

### AUGUST 2, 2000

- A special meeting of the Commissioners was held for the purpose of opening bids for the legal advertising contract. In attendance were Commissioners Olson, Murdock and Mitchell, Clerk and Recorder Shelley Vance and Executive Secretary Glenda Noyes. Commissioner Olson opened the bids and Ms. Vance reported the contents. Ms. Vance noted that both bids were received on time per the addendum issued by the Commission calling for an extension for submittal to July 31, 2000 @ 1:00 p.m. The first bid was submitted by the High Country Independent Press on July 24, 2000. Regarding legal advertising, the bid reflected a 40% discount from the State printing rate. First insertion cost is \$5.40 (with discount) and second insertion cost is \$4.20 (with discount). For display ads, the cost for first insertion, with discount reflected, is \$16.20, and second insertion, with discount, is \$12.60. The second bid was submitted by the Bozeman Daily Chronicle on July 31, 2000. Regarding legal advertising, the bid reflected a 24% discount for the first insertion, with a cost of \$6.80, and a 27% discount for the second insertion, with a cost of \$5.10. For display ads, the cost for the first insertion, with discount reflected, is \$91.88, and second insertion, with discount reflected, is \$44.63. Ms. Vance noted that a recommendation would need to be made by a committee of people who could review the various aspects of the bids and make an educated comparison. The Commissioners asked that she team up with Fiscal Officer Ed Blackman and Executive Secretary Stacy Johnston to review the bids and make a recommendation based on cost per notice, circulation statistics, and publication dates of the newspaper. Commissioner Mitchell also requested that the Commission be given an estimate of money spent last year on advertising, in addition to the recommendation. Ms. Vance agreed.
- A special meeting of the Commissioners was held to discuss improvements to Nixon Gulch Bridge. In attendance were Commissioners Olson, Murdock and Mitchell, Road and Bridge Superintendent Lee Provance, Deputy County Attorney Chris Gray, Ken Vidar, Herb Eighmy, and Tom Langel. The Gallatin River Ranch representatives presented a proposal for repair. The proposed repairs to Nixon Gulch Bridge have been estimated at \$57,112. The developer will pay for the costs of repairs/construction. Commissioner Murdock made a motion to accept the proposal to repair Nixon Gulch Bridge back to the original design specifications as submitted by Gallatin River Ranch, as long as the bridge meets the State safety standards and is permanent. The Commission asked that the County Attorney to memorialize the agreement, and the developer confirm to the Commission the insurance as required by the County Attorney. Commissioner Mitchell seconded the motion. Motion carried unanimously.

### AUGUST 3, 2000

- The Commissioners conducted regular County business.

### AUGUST 4, 2000

- A regularly scheduled meeting of the Finance Committee was held to discuss numerous financial issues. In attendance were Commissioners Murdock and Mitchell, Treasurer Jeff Krauss and Clerk and Recorder Shelley Vance. Commissioner Olson was on vacation and Auditor Joyce Schmidt did not attend. The group discussed motor vehicle payment distribution and the creation of a fund for the Big Sky Transportation Study. The committee determined that a letter needed to be written to the Auditor regarding her attendance at Finance Committee meetings and motor vehicle distribution. It was decided that discussion with the County Attorney regarding this issue needed to take place first. The group also determined that a resolution needs to be drafted to create a fund for the Big Sky Transportation money, and Ms. Vance, the County Attorney staff and Executive Secretary Glenda Noyes would work on drafting the resolution.

An emergency meeting was called to order for the purpose of approving a resolution to close Gallatin County to open burning and open fires. In attendance were Commissioners Murdock and Mitchell, Commissioner Olson via telephone, and Executive Secretaries Stacy Johnston and Glenda Noyes. Deputy Chris Gray prepared the resolution, which rescinds Resolution 2000-44, adding the closure of "open fires" (including fireworks). Commissioner Murdock made a motion to approve Resolution 2000-51, closing Gallatin County to open burning and open fires, per Deputy County Attorney Chris Gray's recommendation. Commissioner Mitchell seconded the motion. Motion carried unanimously.

**The following items were on the consent agenda:**

1. Approval of claims presented by the Auditor dated July 28, 2000 through August 3, 2000 for P.O. #65440 for \$4,120.00, P.O. #62980 for \$615.00, P.O. #57532-01-04 for \$10,887.85, P.O. #62969 for \$15.00, P.O. #62979 for \$38,065.30, P.O. #67015 for \$5,685.17, P.O. #62985 for \$15.90, P.O. #62981 for \$28.01, P.O. #67132 for \$339.37, P.O. #67133 for \$493.25, P.O. #67134 for \$436.82 totaling \$60,701.67.
2. Consideration of the following contract: Amendment to Contract #2000-104 with Department of Commerce.
3. Request for Security for Construction Financing Exemption for Lisa & Chandler Moser.
4. Acceptance of conservation Easement from Terrance Morvay.

Commissioner Olson announced that the following would be removed indefinitely from the regular agenda: Consideration of a Request for Change of Conditions for the Ramshorn Major Subdivision. Commissioner Mitchell read the consent agenda. There was no public comment. Commissioner Murdock moved to approve the consent agenda. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Deputy County Attorney Chris Gray reported on the Consideration of Emergency Resolution Closing Gallatin County to Open Burning and Open Fires. Mr. Gray stated this was the public hearing on the emergency resolution #2000-51 on Open Burning and Open Fires, that was passed, August 4, 2000, on an emergency basis. Mr. Gray's advice was to accept public testimony and to consider a motion to affirm this resolution. There was no public comment. Commissioner Mitchell moved to reaffirm resolution #2000-51, including the clarification of fireworks to the definition of open burning, and rescinding resolution #2000-44 that did not included fireworks. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Fiscal Officer Ed Blackman explained this was a continuation of the public hearing on the FY 2001 Proposed Operating Budget. Mr. Blackman stated the county has received the Department of Revenues Certified Taxable Values, which show a decrease in actual money generated by a mill. Discussion took place concerning the accuracy of the certified mills from the Department of Revenue and the floating mill. Mr. Blackman stated the county would have to adopt the budget by August 14, 2000, so there will be action taken before the next public hearing. The special districts will have an extension on the proposed budget to work with adjustments caused by the Department of Revenues certified mills. The special districts timeline is set for August 29, 2000. There was no public comment.

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Fiscal Officer Ed Blackman explained this was a public hearing on the Use of Tax Revenue from Property on the Rolls for the First Time. Mr. Blackman stated this is a statutory provision created by the implementation of I-105 and Senate Bill 87 in 1995. The Department of Revenue has certified that new construction values are equal to \$6,591.00 countywide and \$3,681.00 for the Road/Library funds. State statues require the County to hold a public hearing whenever the Commission anticipates using taxes generated by new construction. The money generated, using FY 2000 mill levies, by new construction values for operating funds is \$376,741.00 and in Road/Library \$73,840.00. The current policy on new construction dollars is earmarked to go capital improvements. This is not included in the budget. This hearing is mandatory every year for the Commission to be able to consider using the money from new construction, no action will be taken. A determination of the utilization will be finalized at the public meeting on August 14, 2000. There was no public comment.

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Fiscal Officer Ed Blackman explained this was a public hearing on Exceeding the Department of Revenue Certified Mill Levies. Mr. Blackman stated the Department of Revenue certifies a mill levy for each jurisdiction. The certified mill levy is the department's statutory requirement to give local

jurisdictions the number of mills needed to generate the same taxes as in the previous year, using the statutory formula. The formula for calculating these mill levies is based on each taxing jurisdictions FY 2001 valuation less new construction dollars, multiplied by 95%, divided into the taxes from the previous year. Mr. Blackman stated the certified mill levy is not as important as it had been previously since Senate Bill 184. Unless millage from other funds is transferred to the General Fund, the Senate Bill 184 mill levy limitation is what the county must use. If the Commission transfers enough mills from the other county funds to exceed the 12.97 mills certified by the Department of Revenue then the Department of Revenue certified limitation would be used. Presently, the county does not anticipate exceeding the Department of Revenue's certified mill levy for county operating fund or the Road/Library Fund. The county may exceed the certified mill levies in special districts such as Zoning Districts, Fire Districts and lighting districts. This is a public hearing, no action will be taken. There was no public comment.

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Fiscal Officer Ed Blackman explained this was a public hearing on the Use of Floating Millage-Senate Bill 184. This is a public hearing not required by state statute. The floating mill levy is a statutory provision that allows local jurisdictions to increase the number of mills from previous years. The tax law is designed to maintain the jurisdictions dollars generated by tax dollars at the same level as would have been received without changes in laws. The Fiscal Office calculated that the County Commission could levy 3.37 mills for county operating funds and 1.87 mills more than last year for Road/Library to maintain FY 2000 taxes, exclusive of new construction dollars. Without the floating mill levy the reduction in taxes would be \$322,578.00 for operating funds, with the Health fund reduction of \$27,524.00, and the Road/Library reduction of \$93,437.00. Mr. Blackman recommended the Commission utilize these dollars and float the mill up to the maximum allowed. He stated this was based on the shortfall when starting the budget process and the cuts made up front of \$1.1 million. The floating mill is designed to replace revenues lost in FY 2001 that were available in FY 2000. Included in this was the motor vehicle, real property-homeowner's exemption, and reduction in state personal property tax reimbursement. It will not replace the dollars associated with the potential loss from the November election on motor vehicle flat fees. The current law says that if you do not levy the estimated 5.24 mills in FY 2001 you will not be able to levy these dollars in future years. The loss of revenues will equal approximately \$2.3 million in the next 5 years. This will be hard on the road funds and small funds. In FY 2002 and future years, the Juvenile Detention will cause the Public Safety Fund to go from \$115,000.00 to \$377,000.00 short because of new costs generated. The floating millage would offset a major portion of this shortfall, especially if both the General Fund and Public Safety levies were earmarked in FY 2001 for capital projects and earmarked for Juvenile Detention in FY 2002 to maintain it until the new one is built. The state legislature historically adjusts the amount that can be levied by freezing levies at previous year's levels and they will be meeting this Fiscal Year. The Library Fund saw a reduction of \$18,000.00 this year in the General Fund Subsidy. The utilization of the floating mill to keep them whole compared to last years tax revenues will reduce the effects in future years on individual libraries. The Health Board is on record supporting the utilization of the floating mill levy. The commission's policy and practice is the new construction revenues are dedicated to capital projects in their first year. If the floating mill levy is not used the ability to fund future capital projects will be seriously compromised. This will cause the commission to fund necessary improvements through loans and bonds. The floating mill levy increases the funds in the present and future year for the CIP. Most fire districts boards and special districts have indicated the need for maximizing the millage allowed. Discussion took place regarding the use of the floating mill, the residential homeowner benefiting from a tax reduction, and the possibility that businesses will experience an increase in their real property and not their personal property. Commissioner Olson asked where the county would be this year, had they not used the floating mill last year. Mr. Blackman explained they would not have the \$300,000.00 in cash carry over and many items approved would not have been funded. Mark Haggerty, from the Greater Yellowstone Coalition spoke in regards to the tax increases and stated he was in favor of using the floating mill. Mr. Haggerty stated the need for reducing costs and told of a study that indicated different tax uses have different impacts on the local tax base and showed that agriculture and businesses are carrying the load for residential development. Other important factors are that it is not the amount of growth, but the pattern of growth and some areas and types of development are more costly to service than others. He stated that in the future when thinking about the growth policy, approving subdivisions and allowing more commercial development, we should think of the impacts of those types of development on the tax base. Commissioner Olson asked if he was in favor of taxing the residential properties more, who do not pay their share. Mr. Haggerty's answer was affirmative, and stated he thought that the reduction of the State Legislature and residential property tax was a bad idea. He stated we should be looking for ways to reduce costs and have taxing policies at the state and local level that are fair, and reduce the burden on agriculture that is paying more than it's fair share. Mr. Haggerty stated we are taking the people that are causing the impacts on local infrastructure and

services and giving them breaks, and shifting the burden onto people that are not causing those impacts. He was in favor of fair taxing. There was no further comment.

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Commissioner Murdock stated it was time to renew, and award the Legally Required Advertising Bid. Estimates were received from High Country Independent Press and the Bozeman Daily Chronicle. The bids were compared to last year's expenses, based on the cost for sample ad and cost per paper dates of publication. In some cases it was difficult to compare. The High Country bid was \$23,111.00 and the Bozeman Daily Chronicle was \$33,476.00. Roughly a \$10,000.00 difference and, the circulation rates show the chronicle has a circulation of 13,587 and the High Country's is 3,256. The Bozeman Daily Chronicle is published daily, while the High Country is published weekly. Discussion took place regarding the differences in cost per paper and display ads. Commissioner Murdock stated the High Country has good circulation outside the Bozeman area and a longer shelf life, while the Bozeman Daily Chronicle is circulated daily and removed from the shelf daily. He felt that in order to get the word out effectively in the Bozeman area for zoning and legal matters, the money saved by choosing High Country would be spent advertising locally. Chief Deputy County Attorney Susan Swimley explained that Big Sky Zoning and Hebgen Lake Zoning regulations make requirements that it be advertised locally no matter what paper the county chooses, and the Planning Department does courtesy notices as a standard practice. Commissioner Murdock stated the fact that in the past the county has been charged for printing the weekly agenda, which is a public service announcement and the county should not be charged. He felt this was something the newspaper should do as a public service. Commissioner Mitchell stated that locally the Bozeman Daily Chronicle did have a larger circulation, but she felt that most issues and legal notices have to do with people outside the city, and the High Country focused on countywide news and all areas were treated as equal. She felt the Bozeman Daily Chronicle has the capability and has not used it to improve the service to the county. Commissioner Mitchell stated she was in favor of using the High Country because of their broader countywide circulation and spending the extra money that won't be spent on the other contract in an effort to advertise in the other papers. She said that through the countywide survey it showed a considerable number of people got their news from the radio, TV and the Internet. She proposed to consider broadening the method of notifying people of important issues in the county. For a County with a population of 63,881 she found it distressful that the Chronicle's circulation has dropped from 15,500 to 13,587, which includes the other two newspapers owned by them. Lanette Windemaker spoke on behalf of the Planning Department regarding their experience with using the High Country versus the Bozeman Daily Chronicle. She stated that by using the High Country it would cause the Planning Department to advertise more, due to the weekly issue basis, and on issues with statutory requirement time frames. She said the Planning Department would have to raise the applicant's fees in order to cover the increase in advertising. Jack Joyner spoke in favor of the commission choosing the High Country. Fiscal Officer Ed Blackman reminded the commission about the procedures and policies he is working on to set the criteria and information as to when issues will be published in other newspapers besides the official newspaper. This information on publications will not be ready until next week and he encouraged the commission to put the language in their motion about the procedures that he will be setting. Chief Deputy County Attorney Susan Swimley reminded the commission about the issue of dealing with the rural improvement districts that have publication timelines similar to planning. Past experience with using High Country has slowed down the passing of RID's because of the publication dead lines. She said it was something that can be worked with but the people that wanted their RID in place were verbally unhappy with the delays caused by publication times. Mrs. Swimley pointed out to the commission that in picking the official legal newspaper, the news that did not qualify still had to be in the newspaper they chose. Environmental Health Director Tim Roark stated that in previous years his experience with using High Country caused the City/County Health Department to increase their budget for more publications and the weekly time schedule was a burden. He stated that with the Board of Health meetings being held on Thursday, they normally put the agenda in the newspaper on Wednesdays and Sundays. This was convenient for times when there were changes to the agenda. Using the High Country would affect their ability to be flexible on notification. Commissioner Mitchell questioned if it was a statutory requirement to publish the Board of Health meetings and if the applicant's fee covered the costs of advertising. Mr. Roark stated that yes it was required to advertise the meetings and the budget is not a fee for base service. Commissioner Murdock stated that knowing it would be causing some inconvenience for the departments, the savings would be almost half of what was being paid to the Bozeman Daily Chronicle and with the extra amount of advertising needed it could still be within their budgets. Commissioner Olson stated that he would like to be fair and give all the newspapers a chance. Even though the High Country was less expensive he felt the savings would all be used by advertising in the other papers. If there was a chance the High Country could be used exclusively then there would be a savings, but with that and the inconvenience in mind he was going to choose the Bozeman Daily Chronicle but preferred the High Country. Commissioner Murdock moved to award the contract to

40 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

High Country Independent Press, as the legal paper for the county. For a term of two years based on the submittal and bid with the understanding that the fiscal officer will come up with some PSA and policy procedures to follow. Seconded by Commissioner Mitchell stating she would like to see the policy and procedures be more than PSA's. She would like a broader policy that spells out the use of the other media and made so it is not as inconvenient as it is currently. Commissioner Olson suggested the departments change their meeting dates to make it more convenient. Commissioner Murdock and Commissioner Mitchell voting aye. Commissioner Olson voting nay. Motion carried.

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Fiscal Officer Ed Blackman reported on the consideration of a resolution Establishing the Daily Rate of Incarceration at the Gallatin County Detention Center. The resolution is a yearly process the County goes through where the auditor calculates the cost per bed based on the expenses at the detention center divided by the number of beds used in the previous year. The rate was increased by 2.2 percent for last year's inflation. This is a legal requirement with two rates, one with depreciation and one without depreciation. Mr. Blackman recommended the approval of the rates as stated. Commissioner Mitchell questioned the significant increase in the cost. Mr. Blackman stated the increase was due to costs associated with medical costs, a decrease in prisoners and a decrease in normal operating costs. There was no public comment. Commissioner Mitchell moved to approve resolution #2000-52 finding the increase over the last year cost was due to medical expenses, other costs and the decrease in prisoners. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 10:30 A.M.

*Unavailable*  
*For signature*  
CHAIRMAN APPROVAL

*Shelley Vance*  
CLERK ATTEST

**PUBLIC MEETING** **TUESDAY THE 15TH DAY OF AUGUST 2000**

The meeting was called to order by Chairman Phil Olson at 9:00 A.M. Also present were County Commissioners Bill Murdock and Jennifer Smith Mitchell, County Attorney Marty Lambert, and Acting Clerk to the Board Mary Miller.

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Chairman Olson requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**AUGUST 7, 2000**

- The Commissioners conducted regular County business.

**AUGUST 8, 2000**

- A special meeting to open bid bonds for R.I.D. 375, Blue Grass Meadows, was called to order by Chairman Olson at 1:30 p.m., as advertised in the Bozeman Daily Chronicle. Also present were Commissioner Mitchell, Deputy County Attorney Chris Gray, Fiscal Officer Ed Blackman, and Clerk and Recorder Shelley Vance. Two bids were received. Deputy County Attorney Chris Gray submitted the following information for the record: DA Davidson's bid contains a bid bond check in the amount of \$2,260 and bid the following: Gross interest cost in the amount of \$57,750; premium discount in the amount of \$3,390; net interest cost in the amount of \$61,140; with a net effect rate of 5.8835%. Dr. Stephen Hample, on behalf of KMS Financial Services, bid contains a bid bond check in the amount of \$2,260 and bid the following: gross interest in the amount of \$58,047.92; no premium discount was offered; net interest cost in the amount of \$58,047.92; with a net effect rate of 5.5860%. Chairman Olson asked Fiscal Officer Ed Blackman to review the bids and make a recommendation to the Commission at their August 15, 2000 meeting. The meeting adjourned at 1:35 p.m.
- A special meeting was called to order at 2:30 p.m. for the purpose of approving a hand issue request received August 4, 2000. In attendance were Commissioners Olson and Mitchell, Auditor Joyce Schmidt and Executive Secretary Glenda Noyes. Commissioner Olson noted that the claim is for PO #67564 for \$36,501.57, and has been reviewed by Auditor Schmidt who has recommended



approval. The claim is from CL Pierson Electrical Company, who provided services for the County Fair. Commissioner Mitchell made a motion to approve the claim in the amount of \$36,501.57. Commissioner Olson seconded the motion. Motion carried unanimously.

**AUGUST 9, 2000**

- The Commissioners conducted regular County business.

**AUGUST 10, 2000**

- A special meeting was called to order at 1:15 p.m. for the purpose of discussing the construction of the Juvenile Detention Wing with Taylor Architects and other parties involved. In attendance were Commissioners Olson, Murdock and Mitchell, Detention Center Administrator Anita Shaw, Grants Administrator Larry Watson, Road and Bridge Staff Engineer Roy Steiner, Mike Christy of Christy Electric, Jim Petterson and Jerry Taylor. The group discussed ways in which the process could be sped up in order to get occupancy sooner. Mr. Christy reported that the new generator and electrical work should be completed by August 30. It was suggested that one way to speed up the process would be to move 18 inmates, and allow two workers to work over-time, with the County paying the extra half-time. The contractor and architect stated that a September 15 opening date would be a good goal. Commissioner Murdock made a motion to approve paying the extra half-time of the 1 ½ over time charge, in order to accelerate the finished product and enable the County to get occupancy as close to September 15 as possible.

**AUGUST 11, 2000**

- The Commissioners attended a regularly scheduled Facilities Monthly meeting to discuss various facility issues. In attendance were Commissioners Olson and Murdock, and Facilities Director Bob Isdahl. Mr. Isdahl reported that Will Van Dyken advised that re-wiring circuitry for the Courthouse generator at this time would be very expensive; but could possibly wire the generator for future Courthouse phases. The Commissioners asked Mr. Isdahl to obtain cost estimates for this. Commissioner Olson made a motion to approve funding the painting done in the jail due to sprinkler installation and related code repairs out of the jail code construction budget rather than facility maintenance budget. Commissioner Murdock seconded the motion. Motion carried unanimously with a vote of two to zero. The Commission also determined that once a CIP committee is appointed, Mr. Isdahl should work with them and the City of Bozeman to determine priorities and costs for the Law and Justice Center capital improvement projects; including, but not limited to, air conditioning, paving of parking lot, new boiler, and removal of the air louvers as soon as possible with funding from the jail construction budget, if available per Staff Engineer Roy Steiner.

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- Landfill Revenue for July 2000: \$92,658.01.
- Payroll for July 2000: \$1,073,698.88.
- Clerk & Recorder's Fees Collected for July 2000: \$33,544.50.
- New Hire Report for July 2000: CLERK & RECORDER – Mary Miller; FAIRGROUNDS – Michael Badolato, Joe Duperry, Paul Knoop, Mark Tarka, Jesse Zbojnowicz, Tammy Anderson, Luigi Mostefa, Richard Mayer; REST HOME – Melissa Dickenson, Lonelle Lytle, Addie Cornell, Deborah Schnell, Leslie Arnoldink, Betty Brainard; ROAD & BRIDGE – James Anderson, Timothy Connors; SUPERINTENDENT OF SCHOOLS – Deanna Bergman.
- Terminated Employees' Report for July 2000: DETENTION CENTER – Tana Frost Dutton; FAIRGROUNDS – Paul Knoop 7/14/00, Mark Tarka 7/22/00, Jesse Zbojnowicz 7/22/00, Joe Duperry 7/24/00, Tammy Anderson 7/28/00, Michael Badolato 7/28/00, Richard Mayer 7/28/00, Luigi Mostefa 7/28/00; GIS – Erin Bard 6/23/00; HEALTH – Connie Wallace 6/28/00; MOTOR VEHICLE – Daryl Bilotti 7/10/00; REST HOME – Joe Weyer 7/6/00, Nancy Johnson 7/7/00, Leslie Arnoldink 7/15/00, Erica Eckerson 7/20/00, Katrina Vaira 7/23/00; ROAD & BRIDGE – Ken Hellwinkel 7/19/00; SHERIFF – Mary Martz 6/26/00; WEED – Paul Graslie 7/27/00; YOUTH PROBATION – Della Smith 6/30/00.

**The following items were on the consent agenda:**

1. Approval of claims presented by the Auditor dated August 7, 2000 through August 10, 2000 for P.O. #62958 for \$12,695.75, P.O. #65461 for \$3,587.00, P.O. #60465-01-06 for \$1,400.55, P.O. #67633 for \$88,972.25 totaling \$106,655.00, and the following batches dated August 15, 2000: Batch 1 for \$28,620.31, Batch 2 for \$40,625.89, Batch 3 for \$118,914.56, Batch 4 for \$50,520.92, Batch 5 for \$71,874.95, Batch 6 for \$186,392.06 and Batch 7 for \$743.75 totaling \$497,692.44. Grand total \$604,347.99.

## 42 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

2. Consideration of the following contract(s): Contract with Dorsey & Whitney for Open Lands Board Bond Election, Amendment No. 2 to Contract #1998-03 with Davis Maintenance, Copier Maintenance Agreement with Stringer Business Systems, Big Sky Transportation Owner Participation Agreement.
3. Request for Family Transfer Exemption for Phillip Egbert located, in Section 6, T1S, R6E. Gallatin County Planner Jennifer Madgic reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Family Transfer Exemption for Marilyn Morgan located, in Section 19, T2N, R5E. Gallatin County Planner Jennifer Madgic reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Family Transfer Exemption for Pat & Carol Collins located in Section 16, T7S, R4E. Gallatin County Planner Jennifer Madgic reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
6. Request for Boundary Relocation Exemption for Embry/Kreitzberg, located in Section 35, T2S, R5E. Gallatin County Planner Jennifer Madgic reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
7. Request for Boundary Relocation Exemption for Serfoss/Huisenga/Wallace, located in Section 17, T1S, R7E. Gallatin County Planner Jennifer Madgic reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
8. Request for Boundary Relocation Exemption for Clotfelter/Klein, located in Section 34, T1S, R7E. Gallatin County Planner Jennifer Madgic reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
9. Request for Boundary Relocation Exemption for Piper/Morgan, located in Section 24, T1N, R4E. Gallatin County Planner Jennifer Madgic reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
10. Request for Final Plat Approval for River Rock Mobile Home Park, Phase 3 A. Preliminary plat approval was granted August 17, 1999. A staff report submitted by Gallatin County Planner Jennifer Madgic states that the conditions for final plat approval have been met.
11. Request for One-Year Extension of Preliminary Plat Approval for Belgrade Garden Subdivision.
12. Request to Release Financial Security for Belgrade Garden Subdivision, Phase 1.
13. Request to Release Financial Security for Herbster Minor Subdivision.

Commissioner Murdock read the consent agenda. Gallatin County Planner Jennifer Madgic requested that Item #5 on the consent agenda for the Collins Family Transfer be continued until next week. County Attorney Marty Lambert requested that Item #2 on the consent agenda for the Big Sky Transportation Owner Participation Agreement be continued for minor changes. Commissioner Mitchell requested that Item #4 on the consent agenda be moved to the regular agenda. There was no public comment. Commissioner Mitchell moved to approve the consent agenda as modified. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic reported on the Request for Family Transfer Exemption for Marilyn Morgan. Commissioner Mitchell questioned the age of the Morgan's son required by standard procedure to determine if he was of age or if a trust fund was needed. The question was referred to Greg Fink of Allen and Associates, a representative for the Morgans and he stated that Kevin Morgan was in his late 20's or possibly 30. Commissioner Mitchell stated she was satisfied with the answer and moved to approve the transfer. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Fiscal Officer Ed Blackman requested the Authorization for the Chairman to Sign the FY 2001 School District Budget be continued until, August 29, 2000, when the information is received. It was continued until August 29, 2000.

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County Attorney Marty Lambert presented a resolution to Award the Bond Sale for RID 375-00-E, Blue Grass Meadows Subdivision. Mr. Lambert asked the commission approve to the resolution. He stated that bond council recommended it be awarded to Montana Municipal Cooperative, Steve Hample. There were two bids received. There was no public comment. Commissioner Mitchell moved to award RID-375-00-E to the Montana Municipal Cooperative, Steve Hample of KMS Financial Services, Inc., the sale of \$113,000.00 in RID #375 Bonds and approving certain matters with respect thereto. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Belgrade City/County Planner Jason Karp reported that Gaston Engineering, on behalf of Larry Wilcox, has requested preliminary plat approval of the Cheri Major Subdivision, a 16-lot subdivision on 19.8 acres. The property is located in the SE ¼ of Section 28, T1N, R4E, P.M.M., Gallatin County, Montana. The staff report addressed the criteria of subdivision review pursuant to Section 76-3-608 MCA including the effects on wildlife and wildlife habitat; public health and safety; local services; natural environment; agriculture; agricultural water user facilities. The commission needs to determine whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA and determine whether or not to grant the requested variance. The applicant has requested one variance from Section 7-A-8 of the county subdivision regulations, which requires a second access for 6 or more lots. There are 6 lots proposed on the dead end cul-de-sac, but the cul-de-sac length is under the County's maximum 1000 feet requirement. The Planning Board voted to recommend the variance if Heidi Lane is extended to the west property line to provide future secondary access if the adjacent property is subdivided. If the Commission finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions are recommended for preliminary plat approval, to be completed prior to final plat approval:

1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates.
2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever."
3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval.
4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat.
5. The developer shall record covenants with the final plat including the following provisions.
  - a. Requiring control of county declared noxious weeds.
  - b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and tenants of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.
  - c. All fences bordering agricultural lands shall be maintained by the Homeowners in accordance with State Law.
  - d. All structures must meet the fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief.
  - e. Site plans of all lots must be submitted for review and approval by the Belgrade Rural Fire District.
  - f. A Property Owners Association shall be established and be required to maintain Heidi Lane and participate with Mission Park Subdivision for the shared maintenance of David Drive.
  - g. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County.
6. Two copies of the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval.
7. Fire and Road Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact fee regulations.
8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval.
9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department.
10. The road names must be approved by the Gallatin County Road Department. Heidi Lane and the extension of David Drive shall be 60-foot right-of-ways, dedicated to the public, and be paved to County Standards.
11. Road name signs and Stop signs shall be installed as required by the County Road Superintendent or a bond must be posted with the Gallatin County Road Office to cover the cost of the signs.
12. All required road construction shall be inspected and certified by a licensed engineer. Inspection and certification shall be provided to the County Road Department in writing, and the paving contractor shall submit a one-year written warranty to the County Road Office prior to final plat approval.
13. Encroachment permit must be obtained from the Road Department for the Heidi Lane intersection with Collins Road.
14. The developer shall submit a cash-in-lieu of parkland dedication to Gallatin County in the amount equal to 5% of the value of 17.955 acres un-subdivided, unimproved land.
15. The developer shall be responsible for paying a proportionate share of the cost of the Mission Park Subdivision fill-site to the Belgrade City-County

Planning Office, which will reimburse the entity responsible for maintaining the Mission Park Subdivision fill-site. 16. The developer shall be responsible for paying a proportionate share of the cost of the paving of Collins Road to the Belgrade City-County Planning Office, which will submit 25% to the Gallatin County Road Department and use the remainder to reimburse the record lot owners in the Mission Park Subdivision. 17. 30 feet of Collins Road west of the centerline shall be dedicated to the public along the entire width of the subdivision, and the final plat shall show a 15-foot wide utility easement along the entire eastern boundary of the subdivision. 18. Heidi Lane shall end in a cul-de-sac, built to County standards, at the eastern boundary of Tract A of C.O.S. No. 1618A. 19. A second access must be provided on the dead end cul-de-sac, or the total number of lots on the cul-de-sac must be reduced by one. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. Mr. Karp reported that the Belgrade City/County Planning Board reviewed the preliminary plat for this major subdivision and voted 4-1 to recommend preliminary plat approval of the subdivision subject to the conditions. The Planning Board expressed concern with the potential effect on bald eagles that feed on ground squirrels at this site, but it was not identified by the Fish, Wildlife & Parks as a sensitive area. There were also concerns from neighboring property owners in regards to the effect on their wells and septic systems and they too, were assured that the State DEQ is required to review and approve water supply, waste water disposal facilities, and storm drainage before final plat approval. Commissioner Olson asked how covenant #5(f) could be accomplished with Mission Park Subdivision in order to avoid conflict. Commissioner Murdock stated that the road office will approve the agreements so the adjoining subdivisions don't have veto power. Mark Fasting of Gaston Engineering spoke on behalf of Larry Wilcox stating that they were in agreement with the conditions as recommended. Commissioner Murdock asked Road Department Staff Engineer Roy Steiner about the cost share road used by the two subdivisions and if he had a problem with reviewing and approving the road. Mr. Steiner stated that the previous subdivision road is dedicated to the public and the new subdivision would be asked to help pay for maintenance, and it would be up them as to whether or not they enter into an agreement. That way no one has the veto power and he thought that possibly the wording in the condition could be changed to include a good faith agreement. Commissioner Mitchell asked if Mr. Steiner would recommend that the road go to the property line without the cul-de-sac, or have the cul-de-sac with an easement. Mr. Steiner said he would recommend the cul-de-sac with the easement. Board discussion took place concerning the variance and if Heidi Lane should be extended to the west boundary line to provide access to the un-subdivided property. Also, the Commission discussed if a condition should be imposed on the property owners in the Cheri Subdivision to waive their right to protest the use of the land to the west for any future subdivision access. There was no public comment. Commissioner Murdock voted to approve the variance request finding it would not adversely impact public safety concerns and by extending the cul-de-sac in Condition #18 to the eastern boundary of Tract A of C.O.S. 1618A to satisfy the subdivision regulations. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Murdock moved to approve the subdivision with the conditions as amended and finding it comports with the Belgrade Master Plan and complies with the subdivision regulations. The conditions will be #1 through #18 with the deletion of condition #19. Condition #5 (f) to read as follows: A Property Owners Association shall be established and be required to maintain Heidi Lane and participate with Mission Park Subdivision for the shared maintenance of David Drive, as determined by the county road office. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Planner W. Randall Johnson reported on the request for final plat approval for the Three Rivers Major Subdivision. The Three Rivers Major Subdivision was granted preliminary plat approval by the County Commission on February 15, 2000. The subdivision includes 7 residential lots located on Sourdough Road, approximately three miles south of Bozeman. Gaston Engineering, on behalf of Three Trees Development, has requested that the subdivision now be given final plat approval. Mr. Johnson stated that all conditions have been met after the planning department review of requirements with the exception of #6 and #8, which read as follows: #6. A 310 permit for the crossing of Limestone Creek shall be obtained from the DNRC. A copy of the approved permit shall be submitted to the Gallatin County Planning Department prior to final plat approval. #8. A 404 permit for construction activities with the Limestone Creek wetlands shall be obtained from the U.S. Army Corps of Engineers. A copy of the approval permit shall be submitted to the Gallatin County Planning Department prior to final plat approval. Mr. Johnson stated the reason the Commission required these conditions was because there is an approved access site encroachment on Sourdough Road and to provide encroachment to access an approved building site the commission realized that access to this road required crossing the Limestone Creek. Commissioner Murdock asked if putting a road in was a condition of approval. Mr. Johnson stated no but, obtaining the permits was a condition and the applicant stated there was no proposed crossing of Limestone Creek at this time, so therefore, they were asking for relief from these conditions. Commissioner Mitchell questioned what recourse the County

would have to make sure these permits were obtained when the applicant did decide to build. Mr. Johnson stated that there would be no recourse to require the applicant to obtain the permits once the final plat is filed. County Attorney Marty Lambert stated to the commission that they would need to either have the applicant fulfill these conditions or deem them unnecessary, and once final plat approval was given the county government would have no control over whether or not the permits were obtained. Dennis Foreman, Gaston Engineering stated there was already a culvert in place for the driveway to the proposed building site, and he had over looked it when the Commission granted a variance to request conditions #6 & #8 on the preliminary plat approval. He was under the impression the permits were needed for Brajenka Lane and they were not going to cross the creek there and already had access by way of the existing driveway. Discussion took place regarding the no access strip in relation to the existing driveway. Commissioner Murdock reminded the Commission that this subdivision was given preliminary plat approval and the variance was granted so Brajenka Lane would not have to cross the stream, finding that two stream crossings would not be in the public's best interest. Commission Murdock stated that after looking at it more closely it was one of the better thought out subdivisions. Commissioner Murdock stated that he was comfortable with the wording in regards to the access strip and would find they did not need conditions #6 & #8, as they are going to have to obtain them anyway. He did not feel a need to amend the conditions and, would find they were immaterial at this time, agreeing with the request to have them removed and finding that the subdivision meets the conditions of final plat approval. Commissioner Mitchell was concerned if the county had any assurance that the conditions would be met and the permits obtained, as after final plat approval the county would have no authority to enforce the condition. She questioned if the language in conditions #6 & #8 could be modified to require the permits be in hand when applying for a land use permit. Mr. Johnson stated this would be difficult since this would be a requirement for the final plat, but it could be put in their covenants that a 310 and 404 permit shall be obtained for any construction activities in and around Limestone Creek. Commissioner Murdock questioned if conditions could be added at this time. County Attorney Marty Lambert stated that he would not recommend adding conditions, as there was no way to enforce them and it was entirely up to the developer to obtain the permits. Commissioner Murdock stated for future use there may be a need to change the language and require it to be put in the covenants but, that was not applicable for this situation. He stated the hook to enforce this is not subdivision approval, the hook is the law. There is some basic tenancy that people obey the law, and the law requires 310 and 404 permits be obtained if and when needed. County Attorney Marty Lambert agreed with Commissioner Murdock that the finding had been made and there was no other choice but, to rely on other operations of the law, as enforced by other agencies, other than the county and without that the Commission would not be able to give final plat approval. Commissioner Murdock moved to grant final plat approval finding that all pertinent conditions have been met and that condition #6 & #8 are not relevant based on discussion and findings. Seconded by Commissioner Mitchell saying that she was not going to support it. She felt that there should have been more thought put into it by the applicant and that the county is going to end up with a problem, because the conditions are not met. Commissioner Olson stated he would support the motion and felt they had met the conditions and trying to impose anything else would be over and above the original conditions. He stated that possibly there was a need to change something for future use in stream crossings and conditions. Commissioner Murdock and Commissioner Olson voting aye. Commissioner Mitchell voting nay. Motion carried.

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Gallatin County Planner W. Randall Johnson reported that Allied Engineering Services, Inc., on behalf of Paul F. Cronin has requested preliminary plat approval for South Fork Meadows, Phase IV Major Subdivision. The proposed subdivision would divide approximately 21 acres into 41 single-family lots and 3 multi-family lots (Lot 42, 43, and 44). The multi-family lots will each include a four-plex. The total number of dwelling units proposed is 53 units. The subdivision will be serviced by community water and sewage disposal facilities. The property consists of 20.73 acres, located in the NE1/4 of Section 2, T2S, R3E, P.P.M., Gallatin County, Montana. The applicant has requested one variance from the design standards of the Gallatin County Subdivision Regulations regarding irregular shaped lots. The County Commission needs to determine whether or not the application meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act; if it complies with the provisions of the Gallatin County Subdivision Regulations; and whether or not the requested variance should be granted. According to Section 13 of the Gallatin County Subdivision Regulations, the County Commission may grant reasonable variances from the design and improvement standards of the regulations where it is found that strict compliance would result in undue hardship and is not essential to the public health, safety, and general welfare. The staff report addressed the criteria of subdivision review pursuant to Section 76-3-608 MCA including agriculture; agricultural water user facilities; effects on local services including fire protection, law enforcement, emergency medical and schools; natural environment; wildlife and wildlife habitat; and public health and safety. If the commission grants preliminary plat approval the planning staff recommends the following conditions be met before granting final plat

approval: 1. The final plat shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates. 2. The developer shall obtain an approved weed management plan from the Gallatin County Weed Control District prior to any construction projects within the site. The approved weed management plan shall be submitted to the Gallatin County Planning Department prior to final plat approval. Areas disturbed by construction shall be seeded and controlled for noxious weeds. 3. The 1.7-acre subdivision park shall be dedicated to the subdivision's property owner's association. 4. Interior subdivision road plans, road maintenance plans, drainage plans, lot access plans, and sign plans shall be submitted to the Gallatin County Road & Bridge Department prior to the construction of the interior subdivision roads. 5. The interior subdivision roads shall lie within a 60 foot dedicated public right-of-way. The interior subdivision road shall be constructed to county paved standards. 6. All road construction shall be inspected and certified by a Montana registered civil engineer. The subdivider shall obtain written verification from the County Road & Bridge Department that all roads have been brought to county gravel standards. 7. The subdivision property owner's association shall enter into an agreement with the property owner's association of South Fork Phase II, for the shared maintenance of Rainbow Trout Run; and, the property owner's association for West Fork Meadows for the shared maintenance of Cedar Drive. Any maintenance agreements shall be submitted to the County Road & Bridge Department. 8. All subdivision road names shall be reviewed and approved by the County Road & Bridge Department prior to final plat approval. 9. Road name signs are required at all intersections. Road name signs shall be installed or bonded prior to final plat approval. 10. The final plat shall contain a statement requiring lot access to be built to the standards of Section 7.G.2 of the Gallatin County Subdivision Regulations. 11. The developer shall agree to participate and equitably share in the cost of any traffic management and mitigation program authorized by the Montana Department of Transportation and participated in by Gallatin County, which concerns traffic impacts of future land use developments in the Highway 64 traffic shed. The developer shall be entitled to an equitable reimbursement for any disproportionate costs expended by it in connection with participation in such program. 12. State Department of Environmental Quality approval shall be obtained for the subdivision. The subdivider shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The subdivider shall obtain the Gallatin County Health Officer's approval. 13. The WSD 363 shall provide written verification of water supply to the subdivision prior to final plat approval. In addition, final inspection of all water service facilities (water mains, storage tanks, etc.), including as-built plans, shall be approved by WSD 363 prior to final plat approval. 14. The WSD 363 shall provide written verification of SFE capacity to the subdivision, and final installation of all sewer service facilities (sewer mains, manholes, etc.), including as-built plans, shall be approved by WSD 363 prior to final plat approval. 15. The Gallatin Canyon Rural Fire District shall approve the installation and operation of all required water and fire fighting facilities within the subdivision prior to final plat approval. 16. All utility easements are to be shown on the final plat. Utility easements shall be centered along side and rear lot lines wherever possible, and shall be twenty (20) feet wide. Underground utilities, if placed in the road right-of-way, shall be located between the roadway and the right-of-way line. Such underground facilities shall be installed or utility culverts provided before the road is surfaced. In addition, the following statement must appear on the final plat: "The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as 'Utility Easement' to have and to hold forever". 17. The subdivider record on the final plat a waiver of right to protest creation of rural improvement districts and local improvement districts. 18. The subdivider shall make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. 19. The Subdivider shall make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. 20. A property owners' association for the subdivision shall be created. 21. Covenants for the subdivision shall include the following provisions: a. All structures shall be constructed in compliance with the current Uniform Building Codes. b. All structures shall be constructed in compliance with the National Fire Protection Association codes. c. The property owners' association shall be responsible for the control of noxious weeds within the subdivision park and all road right-of-ways. Lot owners shall be responsible for the control of noxious weeds within their property. d. The property owners' association shall be responsible for the maintenance of the subdivision park. e. The property owners' association shall be responsible for the operation and maintenance of all interior subdivision roads. f. The artificial feeding of all big game wildlife shall be prohibited. g. All garbage shall be stored in animal-proof containers or be made unavailable to animals. h. Pets shall be controlled by each homeowner, and not allowed to roam within the subdivision. i. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 22. The developer shall have three (3) years to complete all conditions, and apply for final plat approval for each development phase. Commissioner Murdock questioned the staff report

recommendation by the Road Department Staff Engineer, Roy Steiner stating the access to Lot 22 is roughly one-half of a city block in length, and needs to be constructed to a full 24 foot road width with a standard 60 foot right-of-way and cul-de-sac. He asked if it was stating that it should not be a flag lot but a county dedicated road. Mr. Steiner's answer was affirmative. Mr. Johnson stated this was not an issue with the other proposed flag lots, as the neck on those lots were not as long. Commissioner Olson asked Mr. Johnson if the flag lot design was essential in this situation causing undue hardship. Mr. Johnson stated he did not see a hardship. Terry Threlkeld, Allied Engineering spoke on the history of flags lots and with the proper design how they can benefit all parties and provide a broader range of site planning and architectural solutions. Commissioner Olson questioned Mr. Threlkeld about the strict compliance that would cause undue hardship. Mr. Threlkeld responded that this was the best design and his hardship was that he had no other avenue to pursue. Commissioner Murdock asked County Attorney Marty Lambert if strict compliance resulting in both undue hardship and being non-essential to the public health, safety, and general welfare would have to be found in order to grant the variance. Mr. Lambert said that both would have to be found. Commissioner Mitchell took issue with Lot 22 saying it had to many accesses on a curved street in a congested area. She stated this would be detrimental to the public health and safety and wanted to see the area reconfigured. The applicant, Paul (Packy) Cronin explained his reason for having the driveway designed as he had would provide better access to the park. He stated he had designed the subdivision with the idea of maximizing the land and keeping the building sites square. County Attorney Marty Lambert questioned if Mr. Cronin had contributed money to the Big Sky Owners Association for his prior phases of South Fork, and if so, when and the dollar amount. Mr. Cronin did not have that information. Discussion took place concerning a letter from Russ DeRemer, Executive Administrator of the BSOA to the Gallatin County Planning office. The letter stated that previous phases of South Fork were required, and the developer agreed, to make a fair share contribution to the BSOA. It also, stated that the fees were paid for a number of years and then recently contested by the developer. The fees were revised and Mr. DeRemer sought resolution of the situation and requested it be a requirement for South Fork Subdivision, Phase IV to contribute to the BSOA as with previous phases. Mr. DeRemer stated the revised contribution request was \$32.00 per year for developed property and nothing for vacant lots. He stated this was the first request of its kind and the BSOA wanted to find out what the enforcement mechanism was for the condition imposed by the Commission. Mr. Cronin stated that in the conditions of approval for South Fork Subdivision, Phase 1 the developer was required to make a proportionate fair share payment as determined by the Planning department to the BSOA. He agreed to do so against his will and pursuant to that the BSOA started sending owners a full assessment before it was reviewed by the Planning department. They did not get to vote and he did not feel they were getting treated properly and personally he had not paid them. Since then there have been meetings to try and determine a fair share amount. Mr. Cronin felt a fair share amount would be to help cover the costs of the post office. The BSOA wanted to also, include the road maintenance, sponsoring lectures, etc. Mr. Lambert asked if the other phases were being assessed. Mr. Cronin stated that it was not a condition of approval for Phase 2 but, they were receiving assessments and Phase 3 had not yet come before the Commission. He did state that an agreement was signed with BSOA that referred to the South Fork Subdivision, but did not specify phases. Mr. Cronin stated the one thing the BSOA does to benefit the South Fork Subdivision is subsidize the post office and the BSOA has notified the USPS that they plan to close it in the next 13 to 14 months. He stated he owns a commercial subdivision in West Fork that is being looked at as a possible location for the new post office and this could be a solution. If located there it would be run without assistance from any homeowner association. Big Sky Owners Association, Executive Director, Russ DeRemer spoke in regards to the initial agreement that referred to the South Fork Subdivision, saying that he thought it referred to all phases of the subdivision. He stated BSOA once use to represent everyone who developed property in Big Sky and within a couple of years will only represent half of those properties. The services provided are now being used by a lot of areas who do not belong to the BSOA and they are making the request to have to all subdivisions join. The BSOA is currently being written into the Madison County subdivision regulations. Mr. Cronin stated he disagreed with condition #7 with regards to entering into an agreement with West Fork Meadows. He stated that a prior experience he engaged in for the share of maintenance became a hostage situation where the other subdivision wanted him to rebuild 20-year-old roads rather than maintain them. He felt each subdivision should be responsible for their own roads. Commissioner Mitchell questioned condition #21(d) with the same type of situation, only with shared park maintenance. Mr. Cronin felt that was not as contentious as shared road maintenance. Commissioner Olson asked Road Department Staff Engineer, Roy Steiner about his recommendation for the county standard road to access Lot 22. Mr. Steiner stated that it was a public safety issue and after hearing the discussion concerning the access to Lot 22, that the right of way could be reduced to 40 feet. He also, suggested that condition #7 be revised. Commissioner Murdock stated that South Fork Subdivision, Phase IV was approved in concept and all phases are consistent with the Big Sky Master Plan. Commissioner Murdock moved to approve the variance to the flag lots #31 and #11 as proposed by the developer, finding it would be an undue hardship based on creativity and design. Also, strict compliance with the cookie cutter regulations for lots are non essential to the public health

safety and welfare. Seconded by Commissioner Mitchell. Commissioner Mitchell stated she had no problem with flag lots but, did not find the hardship criteria as having been met and would not support the motion. She encouraged the engineer to pursue adjusting regulations. Commissioner Olson was in agreement and had no problem with the flag lots other than the fact they were in the regulations. The only hardship he could possibly see was the regulations were not proper. Commissioner Olson and Commissioner Murdock voting aye. Commissioner Mitchell voting nay. Motion carried. Commissioner Murdock moved to approve a variation from the design standards on flag lot #22, subject to the condition that the road office and the developer agree to an access point either on Tamarack Drive to the north, or some other arrangement with the proposed interior cul-de-sac which would abut to lot #21 and lot #23 and finding with that arrangement strict compliance would not be essential to the public health, safety and welfare. Seconded by Commissioner Mitchell. Commissioner Olson and Commissioner Murdock voting aye. Commissioner Mitchell voting nay. Motion carried. Discussion took place concerning whether or not all phases of South Fork were beholden to BSOA and if it should be made a condition of approval. County Attorney Marty Lambert stated he would have to see the agreement first and there was a secondary issue of private enforcement between the developer and the BSOA. He stated that the Commission could not require a condition of plat approval to force a developer or anyone to belong to a private organization without an extensive finding that all that money would go to the public health, safety and welfare. Commissioner Mitchell brought to Mr. Johnson's attention and error in condition #6. Commissioner Murdock moved to approve the subdivision, finding that it meets the intent and regulations of the Big Sky Master Plan and Zoning Ordinance and that it is consistent with Gallatin County Subdivision regulations with conditions presented by staff and changes to conditions #6 & #7 to read as follows: #6) All road construction shall be inspected and certified by a Montana registered civil engineer. The subdivider shall obtain written verification from the County Road & Bridge Department that all roads have been brought to county paved standards; #7) The subdivision property owner's association shall agree to share in the maintenance of Rainbow Trout Run and Cedar Drive outside of the South Fork Phase IV Subdivision. Any maintenance agreements shall be submitted to the County Road & Bridge Department. Commissioner Murdock made a motion to change condition #17 to include multi-jurisdictional districts. Mr. Lambert agreed that was a good idea but, they would have to get legislature to change the law on multi-jurisdictional service areas because it was limited to governmental entities and these are not governmental entities. They do not have taxing authority themselves and would not be enforceable now. On the advise of the County Attorney, Commissioner Murdock withdrew the proposed changes and left condition #17 as worded. Seconded by Commissioner Mitchell. Commissioner Murdock made a motion to add a condition #23 that before final plat approval is granted the condition attached to the variance for lot #22 be met, and that there were variances granted for Lots #11 and #31 regarding irregular shape. Seconded by Commissioner Mitchell. Commissioner Olson and Commissioner Murdock voting aye. Commissioner Mitchell voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic reported that Allied Engineering Services, Inc., on behalf of Paul F. Cronin has requested preliminary plat approval for the amended plat of the South Fork Subdivision, Phase II. The purpose of the amendment is to split two existing multi-family lots into 10 single-family lots. The current multi-family lots could accommodate up to 18 units per lot. The property is located in the S1/2 of the NE1/4 of Section 2, T7S, R3S, P.M.M., Gallatin County, Montana. No variances are being requested. The staff report addressed the criteria of subdivision review pursuant to Section 76-3-608 MCA including agriculture; agricultural water user facilities; effects on local services including fire protection, law enforcement, emergency medical and schools; natural environment; wildlife and wildlife habitat; and public health and safety. If the commission grants preliminary plat approval the planning staff recommends the following conditions be met before granting final plat approval: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2. Applicant shall obtain written approval from the State Department of Environmental Quality, from the Gallatin City-County Environmental Health Department and from the Big Sky Water and Sewer District for all proposed water and sewer improvements. 3. Two copies of the covenants, a copy of the conditions of preliminary approval, and the certificate of a licensed title abstractor has been submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. The Attorney's Office has reviewed and approved the covenants, and documents as required. 4. Applicant shall record on the final plat a waiver of right to protest creation of rural improvement districts and local improvement districts. 2. The final plat shall show all utility easements. Utility easements shall be centered along side and rear lot lines wherever possible, and shall be 20 feet wide. Underground utilities, if placed in the road right-of-way, shall be located between the roadway and the right-of-way line. Such underground facilities shall be installed or utility culverts provided before the road is surfaced. In addition, the following statement must appear on the final plat: The undersigned hereby



grants unto each and every person, firm or corporation, whether public or private, providing or offering telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as "Utility Easement" to have and to hold forever. 5. A Memorandum of Understanding shall be signed between the Weed Control District and applicant prior to final plat approval(s). 6. The Gallatin Canyon/Big Sky Rural Fire District shall approve the installation and operation of all required water and fire fighting facilities within the subdivision prior to final plat approval. 7. Applicant shall obtain written verification from WSD for any necessary improvements pertaining to water and sewer service. In addition, final inspection of all water service facilities (water mains, storage tanks, etc.) including as-built plans, shall be approved by WSD 363 prior to final plat approval. 8. Applicant shall agree to participate and equitably share in the cost of any traffic management and mitigation program authorized by the Montana Department of Transportation and participated in by Gallatin County, which concerns traffic impacts of future land use developments along Highway 64. Applicant shall be entitled to an equitable reimbursement for any disproportionate costs expended in connection with participation in such program. 9. The property owners' association shall agree to share in the maintenance of Rainbow Trout Run; and Spruce Drive, located outside of the South Fork Major Subdivision, Phase II. Any maintenance agreements shall be submitted to the County Road and Bridge Department for review and approval. 10. Interior subdivision road plans, road maintenance plans, drainage plans, lot access plans and sign plans shall be submitted to the Gallatin County Road and Bridge Department prior to construction of the interior subdivision roads. 11. All road construction shall be inspected and certified by a Montana registered civil engineer. Applicant shall obtain written verification from the County Road and Bridge Department that all roads meet County standards. 12. Applicant shall obtain approval from the County Road and Bridge Department for all road signs. 13. The final plat shall contain a statement requiring lot access to be built to the standards of Section 7.G.2 of the Gallatin County Subdivision Regulations. 14. Applicant shall comply with site distance triangle standards on Lot 1C and Lot 24A to be noted on the final plat and to be approved by the County Road Department. 15. Applicant shall make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. 16. Applicant shall make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. 17. Applicant shall provide for the creation of a property owners' association. 18. The following covenants shall be recorded with the proposed amended plat: a. All structures shall be constructed in compliance with current Uniform Building Codes. b. All structures shall be constructed in compliance with the National Fire Protection Association codes. c. The control of noxious weeds by the Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District. d. The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds after 10 days notice from the property owners' association, the association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment. e. The property owners' association shall be responsible for maintenance of the subdivision park. f. The property owners' association shall be responsible for the operation and maintenance of all interior subdivision roads. g. The artificial feeding of all big game wildlife shall be prohibited. h. All garbage shall be stored in animal-proof containers or be made unavailable to animals. i. Pets shall be controlled by each homeowner, and not allowed to roam within the subdivision. j. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 18. Applicant shall have three years to complete all conditions and apply for final plat approval for the proposed amended plat. Ms. Madgic stated that most of the conditions have been met and she added some conditions to coincide with the conditions of the previous South Fork Subdivision, Phase II. She suggested to the Commission that the language in condition #9 be changed to read the same as the condition imposed for South Fork Subdivision, Phase IV regarding the shared road maintenance. She stated there were some changes in the past few years with Highway 64, and improvements and agreements were being mitigated as far as that road is concerned and she added a condition regarding Highway 64. Ms. Madgic asked the Commission to add two additional conditions that read as follows: #19. Applicant shall comply with site distance triangle standards on Lots 1C & 24A to be noted on the final plat and to be approved by the County Road Department; and #20. Applicant shall record on the final plat a waiver of right to protest creation of rural improvement districts and local improvement districts. County Attorney Marty Lambert asked if there was any discussion from BSOA on this phase. Ms Madgic stated there was none. Terry Threlkeld representing the applicant stated they were in agreement with the conditions as amended. There was no public comment. Commissioner Murdock moved to enter all the same findings

as with South Fork Subdivision, Phase II when it was initially approved. He stated the only changes were reducing the total number of families based on the application submittal and it is still consistent with the zoning regulations in the area and the Big Sky Master Plan, and moved to approve the preliminary plat subject to all the conditions as amended and written by the planning staff. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Fiscal Officer Ed Blackman presented a resolution establishing the open lands board trust fund for a conservation easement between the Schaplow's and Gallatin County. This resolution is to create the funds and, to be set up by the Treasurer and Clerk & Recorder. This is for the land transfer approved by the state and to allow the donations to be accepted and processed through the county. It is a trust fund so the money does not show up as part of the counties cash balances. This sets up the fund and in the future the accounts will be created within this fund. There was no public comment. Commissioner Mitchell moved to approve Resolution #2000-055. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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There being no further business the meeting was adjourned at 12:35 P.M.

*Unavailable*  
*For signature*  
CHAIRMAN APPROVAL

*Shelley Vance*  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 22ND DAY OF AUGUST 2000**

The meeting was called to order by Chairman Phil Olson at 9:00 A.M. Also present were County Commissioners Bill Murdock and Jennifer Smith Mitchell, Chief Deputy County Attorney Susan Swimley, and Acting Clerk to the Board Mary Miller.

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Chairman Olson requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**AUGUST 14, 2000**

- The Commissioners conducted regular County business.
- A special meeting was called to order on August 14, 2000, to adopt the final operating FY 2001 budget, by Chairman Phil Olson at 4:00 P.M. In attendance were Commissioners Bill Murdock and Jennifer Smith Mitchell and Acting Clerk to the Board Mary Miller.

Fiscal Officer Ed Blackman reported The Big Sky Transportation Plan development has been agreed to. The budgetary authority was not included in the Proposed Budget. Mr. Blackman recommended the inclusion of \$100,000.00 as a donation revenue line item to the General Fund, with \$100,000.00 in expenses shown under the County Commission's budget in the General Fund. The Montana Department of Transportation is giving \$50,000.00 and the other \$50,000.00 is from donations. There was no public comment. Commissioner Mitchell moved to approve the inclusion of the \$100,000.00 as a donation revenue item to the General Fund, with \$100,000.00 in expenses shown under the County Commission's budget in the General Fund. Seconded by Commissioner Murdock. None voting nay. Motion carried.

Fiscal Officer Ed Blackman reported on the Health Fund adjustments by the City County Health Officer along with adjustments for the Grants under the Health Officer. The largest adjustment is for a reserve on the Health Board's evaluation and potential contractual adjustment for the Health Officer's salary not to be decided on until the end of August. No action was taken as this was included in the budget.

Fiscal Officer Ed Blackman reported his meeting with the personnel office and Judge Salvagni had been postponed until tomorrow regarding the Juvenile Detention Officers. He said there were adequate funds within the budget for the raises, but amounts had not been confirmed.

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**GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46     51**

Fiscal Officer Ed Blackman reported on the County Extension Agent Contract. He explained the Commission would be asked to approve this through the contract process. Commissioner Murdock stated that they were not willing to raise the amount, as previously discussed, and there would be no changes.

Discussion took place on what budget information will be on the web page after Mr. Blackman's updates on the information are verified.

Fiscal Officer Ed Blackman presented the resolution Adopting the Final Operating Budget for Gallatin County Pursuant to 7-6-2320 (2) MCA, for County Wide Milled Funds, the Road Fund, the Library Fund, Grant and Special Revenue Funds, Zoning Districts, Lighting Districts and Planning Areas. He stated this did not include the special district budgets that will be considered on August 29, 2000, and this year the floating mill was approved in the case of the zoning districts and the planning areas. Mr. Blackman asked for the Commission to consider adopting the resolution. There was no public comment. Commissioner Murdock moved to adopt resolution #2000-053. Seconded by Commissioner Mitchell. She stated she was not favor of using the floating mill levy for the budget, except for the planning, zoning and lighting districts that had not increased to keep up with the demand of services. She felt that by using the floating mill levy the county was not passing on the tax reductions intended by the legislature. Commissioner Murdock stated he was voting in favor of the motion using the floating mills for several reasons, one being that it will not be increasing individual property owners homes on average and most important is that it can not be added in future years and the county could lose \$2.3 million over the next few years if the floating mill is not used. He felt we could not keep up with the growth and demand for services in this county without using the floating mill. Commissioner Olson stated he was voting for the motion and he was in favor of using the floating mill because if it were not used now, there would be no ability to use it in the future years. Commissioner Olson and Commissioner Murdock voting aye. Commissioner Mitchell voting nay. Motion carried.

Fiscal Officer Ed Blackman presented the resolution Fixing the Tax Levy Required by the Final Budget Adopted for Gallatin County, Pursuant to 7-6-2321 (1) MCA for County Wide Milled Funds, the Road Fund, the Library Fund, Grant and Special Revenue Funds, Zoning Districts, Lighting Districts and Planning Areas. He stated that all other mill levies and fees will be set on August 29, 2000. Mr. Blackman asked for the commission to consider adopting the resolution. There was no public comment. Commissioner Murdock moved to adopt Resolution #2000-054 as follows: Whereas, this Resolution was introduced by Edward G. Blackman, Fiscal Officer, moved by Commissioner Murdock, and seconded by Commissioner Mitchell. Commissioners Olson & Murdock voted in favor of the Resolution. Whereas, the Gallatin County Commission has approved a resolution adopting the Final County Budget, for County Wide Funds, Road, Library, Grant, Special Revenue, Zoning, Lighting and Planning Funds; and, Whereas, State law 7-6-2321 MCA requires the County Commission to fix the levy for each of the stated funds at a rate which will raise the amount set out in the budget; and, Whereas, the County Commission held a public hearing on August 1<sup>st</sup> and 8<sup>th</sup> 2000, on the Proposed Gallatin County Budget; and, Whereas, the Commission held a public hearing on August 8<sup>th</sup> 2000 on budgeting of increased tax revenue derived from an increase in taxable value, as required by 15-10-203 MCA; and, Whereas, the County Commission held a public hearing on August 8<sup>th</sup> 2000 for the purpose of hearing public comment on the exceeding of the Department of Revenues Certification of Millage, as required by 15-10-204; and, Whereas, the County Commission held a public hearing on the need to use the maximum mills allowed by Senate Bill 184 as required by 15-10-420; and, Whereas, the attached spreadsheet, which is made a part of this resolution by reference, lists the millage by fund for the funds identified above, as required by 7-6-2321 (1). Now therefore be it resolved by the Gallatin County Board of County Commissioners that the mill levies shown on the attached spreadsheet are approved and fixed for the current fiscal year. Be it further resolved, that all other mill levies and fees will be set on August 29, 2000 at 9:00a.m. Dated this 14<sup>th</sup> day of August, 2000. Seconded by Commissioner Mitchell. Commissioner Olson and Commissioner Murdock voting aye. Commissioner Mitchell voting nay. Motion carried.

Fund No.	Description	Budget	Cash Reserved	Total Requirement	Cash Available	Non-Tax Revenues	Taxes Needed	Mill Value	FY 2001
									Mills
1000	General	7,012,526	685,137	7,697,663	3,165,035	3,086,093	1,446,535	117,796	12.28
1050	Employer Contributions	1,409,282	247,764	1,657,046	452,936	125,936	1,078,174	117,796	9.15
2105	Search & Rescue	211,637	7,249	218,886	143,910	7,832	67,144	117,796	0.57
2120	Public Assistance	701,894	220,500	922,394	497,366	60,329	364,699	117,796	3.10

**52 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46**

2130 Bridge	853,248	150,000	1,003,248	639,499	83,698	280,051			2.38
2140 Noxious Weed	224,038	74,000	298,038	122,620	47,000	128,418	117,796		1.09
2160 Fair	844,010	120,440	964,450	372,064	419,226	173,160	117,796		1.47
2170 Airport	644,400	18,613	663,013	68,741	570,720	23,552	117,796		0.20
2180 District Court	1,630,529	298,862	1,929,391	450,429	703,864	775,098	117,796		6.58
2280 Senior Citizens	107,508	31,430	138,938	23,937	13,315	101,686	117,796		0.86
2290 County Extension	133,534	40,066	173,600	53,686	22,845	97,069	117,796		0.82
2309 Public Safety	4,413,590	447,619	4,861,209	250,964	2,659,699	1,950,546	117,796		16.56
5020 Rest Home	<u>4,195,729</u>	<u>350,932</u>	<u>4,546,661</u>	<u>661,747</u>	<u>3,884,914</u>	-	117,796		
subtotal	22,381,925	2,692,612	25,074,537	6,902,934	11,685,471	6,486,132			55.06
2300 Rural Revolving	295,743	55,469	351,212	338,212	13,000	-	117,796		
2190 City/County Health	1,276,803	136,570	1,413,373	466,117	301,035	646,221	117,796		5.49
3020 Law & Justice Bond	-	-	-	-	-	-	117,796		
3030 Rest Home Bond	<u>130,618</u>	<u>35,650</u>	<u>166,268</u>	<u>42,448</u>	<u>14,500</u>	<u>109,320</u>	117,796		0.93
subtotal Exempt Levies	1,703,164	227,689	1,930,853	846,777	328,535	755,541			6.42
County Wide Total	24,085,089	2,920,301	27,005,390	7,749,711	12,014,006	7,241,673			61.48
2110 Road	2,484,697	340,000	2,824,697	979,686	792,877	1,052,134	65,188		16.14
2220 Library	487,400	77,066	564,466	94,082	92,946	377,438	65,188		5.79
2260 County Emergency Fund	<u>39,563</u>	-	<u>39,563</u>	<u>39,563</u>	-	-	65,188		
subtotal Special Levies	3,011,660	417,066	3,428,726	1,113,331	885,823	1,429,572			21.93
Taxing Total	27,096,749	3,337,367	30,434,116	8,863,042	12,899,829	8,671,245			83.41
less Transfers	-	-	-	-	-	-			
<b>NET BUDGET</b>	<u><b>27,096,749</b></u>	<u><b>3,337,367</b></u>	<u><b>30,434,116</b></u>	<u><b>8,863,042</b></u>	<u><b>12,899,829</b></u>	<u><b>8,671,245</b></u>			<u><b>83.41</b></u>
County Wide Value						117,796			117,796
Road/Library Value						66,247			65,188
County Planning Value						37,382			37,382
2111 Road Impact Fee	572,787	-	572,787	470,787	102,000	-			
2210 Park	64,000	20,000	84,000	71,005	12,995	-			
2225 Law Library	18,243	-	18,243	(757)	19,000	-			
2255 Open Space Lands Board	147,109	-	147,109	10,809	136,300	-			
7360 Water Quality	243,621	68,646	312,267	181,523	4,000	126,744	21,119 units	\$	6.00
2273 Maternal Child	136,635	36,170	172,805	36,170	136,635	-			
2274 DFS Partnership Grant	101,230	-	101,230	580	100,650	-			
2275 Communicable Disease	173,519	32,543	206,062	111,764	94,298	-			
2276 W.I.C.	189,314	-	189,314	-	189,314	-			
2279 Community Clinic	-	-	-	(10)	10	-			
2282 School Nursing	26,800	6,294	33,094	7,192	25,902	-			
2310 Drug Forfeiture	20,800	-	20,800	4,942	15,858	-			
2350 Alcohol Rehabilitation	73,167	-	73,167	-	73,167	-			
2384 Yellow. Prop. Judgment	803	-	803	803	-	-			
2391 Historic Preservation	10,466	-	10,466	10,466	-	-			
2392 Records Preservation	111,288	-	111,288	61,288	50,000	-			
2393 Economic Development	217,654	-	217,654	184,168	33,486	-			
2395 City County Building Reserve	181,655	14,017	195,672	154,911	40,761	-			
2398 County Fire Control Permit	19,264	-	19,264	11,764	7,500	-			
2415 D.U.I. Program	45,735	-	45,735	25,735	20,000	-			
2420 Gas Tax	484,612	-	484,612	248,712	235,900	-			
2430 Junk Vehicle	53,709	-	53,709	-	53,709	-			
2431 Junk Vehicle Cap Imp	42,219	2,246	44,465	42,219	2,246	-			
2440 County Land Planning	7,884	-	7,884	3,284	4,600	-			
2761 P.I.L.T.	816,601	-	816,601	323,101	493,500	-			
2805 Drug Court	-	-	-	(9)	9	-			

2808	Covering Kids	77,177	6,000	83,177	20,677	62,500	-	
2850	9-1-1 Emergency	169,025	34,384	203,409	38,008	165,400	-	
2870	Community Corrections	50,212	-	50,212	(59)	50,271	-	
2898	Community Lead Grant	8,100	6	8,106	6	8,100	-	
2912	Victim Witness	173,029	-	173,029	95,518	77,511	-	
2915	Freedom From Fear Grant	70,362	-	70,362	-	70,362	-	
2916	Youth Detention	7,831	-	7,831	7,831	-	-	
2917	Court of Peer Review Grant	12	-	12	12	-	-	
2918	Intensive Supervision Grant	64,177	-	64,177	0	64,177	-	
2926	Information Tech. Grant	-	-	-	(4,953)	4,953	-	
2940	CDBG - SBIR Tech Asst.	4,230	-	4,230	(5,770)	10,000	-	
2957	Coop Forestry Asst. Grant	-	-	-	-	-	-	
2968	Breast & Cervical Grant	23,580	6,510	30,090	6,510	23,580	-	
2970	Turning Point Grant	16,657	-	16,657	16,157	500	-	
2975	Aid to Dependent Children	1,500	-	1,500	1,023	477	-	
2990	Drug Enforcement Grant	506,382	-	506,382	(0)	506,382	-	
2991	Compost Imp Grants/Loans	72,377	-	72,377	32,418	39,959	-	
2992	Law Enforcement Block Gmt	20,679	-	20,679	-	20,679	-	
4010	County Buildings Cap Prjts.	2,803,920	-	2,803,920	922,384	1,881,536	-	
4310	CTEP Projects	373,531	-	373,531	-	373,531	-	
4430	CDBG - Rae Water & Sewer	334,670	-	334,670	-	334,670	-	
6050	Employee Health Insurance	1,277,311	185,000	1,462,311	(56,401)	1,518,712	-	
6060	Motor Pool	43,104	5,000	48,104	33,104	15,000	-	
6070	Facilities Budget	739,834	161,796	901,630	193,034	708,596	-	
6090	Central Communications	202,491	-	202,491	92,491	110,000	-	
6100	Joint Dispatch	1,168,437	-	1,168,437	227,543	940,894	-	
6110	Copier Revolving Fund	36,070	10,686	46,756	24,481	22,275	-	
6120	Liability Insurance Fund	265,500	50,000	315,500	66,837	248,663	-	
8040	Logan Landfill	995,772	-	995,772	12,272	983,500	-	
8041	W. Yellowstone/Hebgen Rfus	298,145	32,000	330,145	286,645	43,500	-	
<b>subtotal Grants/Ent. &amp; Misc. Funds</b>		<b>13,563,229</b>	<b>671,298</b>	<b>14,234,527</b>	<b>3,969,579</b>	<b>10,138,204</b>	<b>126,744</b>	

**SPECIAL DISTRICTS**

<b>Other Districts</b>									
2250	County Wide Planning	90,765	9,400	100,165	18,845	3,800	77,520	37,382	2.07
7220	River Rock Zoning	199	-	199	11	-	188	186	1.01
7221	S. Gallatin Zoning	470	-	470	223	-	247	228	1.08
7222	Hebgen Lake Zoning	2,587	-	2,587	1,139	-	1,448	1,348	1.07
7224	Bridger Canyon Zoning	4,947	-	4,947	2,224	-	2,723	2,534	1.07
7225	Zoning District #1	1,496	-	1,496	992	-	504	495	1.02
7226	Hyalite Zoning District	3,224	-	3,224	1,470	-	1,754	1,654	1.06
7227	Sypes Canyon #1 Zoning	233	-	233	108	-	125	120	1.04
7228	Sypes Canyon #2 Zoning	128	-	128	64	-	64	62	1.03
7229	Wheatland Hills Zoning	212	-	212	104	-	108	103	1.05
7230	Zoning District #6	151	-	151	68	-	83	76	1.09
7231	Bear Canyon Zoning	243	-	243	98	-	145	135	1.07
7232	Springhill Zoning	511	-	511	239	-	272	262	1.04
7233	Trail Creek Zoning	612	-	612	266	-	346	343	1.01
7234	Big Sky Zoning	13,241	-	13,241	5,531	-	7,710	7,210	1.07
7237	Middle Cottonwood Zoning	499	-	499	499	-	-	-	-
7348	Yellowstone/Holiday Sewer	90,485	10,000	100,485	46,749	30,339	23,397	1,767,229	0.013200
7350	Park Cons. Dist	280	-	280	-	-	280	378	0.74
7354	Big Sky Transit	230,000	-	230,000	16,782	230,000	(16,782)	-	\$
7850	Airport Authority	10,119,327	3,339,378	13,458,705	8,083,397	5,375,308	-	-	-
8010	Predatory Animal Control	2,000	450	2,450	201	-	2,249	-	\$ 0.60
8011	Bozeman Jurisdictional Area	29,903	-	29,903	-	-	29,903	14,446	2.07

**54 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46**

8012 Belgrade City/Cnty Planning	59,500	-	59,500	1,896	18,300	39,304		2.69
8013 Manhattan City Cnty Planning	142	-	142	142	-	-	14,588	-
8120 Churchill Lighting	4,000	1,023	5,023	1,584	-	3,439	1,272	\$ 53.73
8121 Logan Lighting	1,397	325	1,722	268	-	1,454	64	\$ 238.91
8122 Riverside Lighting	8,100	676	8,776	731	29	8,016	6.09	\$ 90.07
8123 Willow Creek Lighting	1,189	250	1,439	400	-	1,030	89	\$ 73.57
8140 Madison Dyke	36,350	-	36,350	30,675	-	5,675	14	27.42
8141 Three Forks Dyke	10,100	-	10,100	3,573	-	6,527	207	4.25
8205 Big Sky Sewer & Water	2,611	-	2,611	2,611	-	-	1,536	-
<b>subtotal Other Districts</b>	<b>11,123,219</b>	<b>3,402,502</b>	<b>14,525,721</b>	<b>8,457,794</b>	<b>5,668,262</b>	<b>399,656</b>		

The final budgets will be printed after August 29, 2000.

**AUGUST 15, 2000**

- A special meeting of the Commissioners was held to consider approval of an amendment to Contract #2000-132 with Morrison-Maierle for Floodplain Administration for Gallatin County. In attendance were Commissioners Murdock and Olson, and Executive Secretary Stacy Johnston. As the \$2,500 ceiling initially established in the contract had already been reached as of June 30, 2000, Senior Project Engineer Phillip Forbes requested to increase the contract ceiling by \$2,500. Commissioner Bill Murdock moved to approve the amendment as submitted; Commissioner Olson seconded the motion. All voting aye, motion carried unanimously 2-0.

**AUGUST 16, 2000**

- Deputy DES Coordinator Jason Shrauger requested an emergency meeting of the County Commission be called to order at 0900 hours. In attendance were Commissioner Murdock, Commissioner Mitchell (via telephone), Fiscal Officer Ed Blackman, Jason Shrauger and Executive Secretary Stacy Johnston; Commissioner Olson was not available. Noting that wildfires were currently burning on unprotected county land and extensive county resources were heavily committed to active fires burning in Beaver Creek and 16-mile canyon (Maudlow). Jason, on behalf of DES and by request of acting County Fire Marshal/Assistant Belgrade Fire Chief Bryan Connelley, recommended the Commission declare Gallatin County a disaster area, and asked that they consider using the two-mill emergency levy to fund expenditures related to the situation at hand. Based on Jason's recommendation and upon consideration of the information provided, Commissioner Mitchell moved to declare Gallatin County a disaster area; Commissioner Murdock seconded the motion. All voting aye, motion passed unanimously 2-0. Ed Blackman explained the Commission could opt to use the two-mill emergency levy outside the municipalities, generating approximately \$130,000 to cover expenditures related to this emergency. Expenses over the two mills may be reimbursed by the State or Federal governments provided adequate documentation is submitted. If the entire two mills are not used, the County will not be entitled to any reimbursement. Commissioner Murdock moved to impose the two-mill emergency levy finding that in all likelihood we would meet the criteria for reimbursement; Commissioner Mitchell seconded the motion. All voting aye, motion passed unanimously 2-0. A letter to the DNRC requesting State assistance will be drafted immediately. A resolution and disaster declaration will be presented at the Commissioners' public meeting at 9:00 a.m. on August 22<sup>nd</sup> to reaffirm this action.

**AUGUST 17, 2000**

- The Commissioners conducted regular County business.

**AUGUST 18, 2000**

- A special meeting was called to order at 9:25 a.m. for the purpose of discussing the Maudlow and Beaver Creek Fires and the purchase of a barricade to protect structures. In attendance were Commissioners Olson, Murdock and Mitchell, and Fiscal Officer Ed Blackman. Mr. Blackman gave an update to the fire situation, and requested authorization based on a recommendation from Aaron Holst, Jason Shrauger and the County Fire Marshal to purchase a "Barricade" to protect structures. Mr. Blackman also informed the Commission that he recommends the Maudlow fire expenses be processed through Broadwater County consistent with the August 15 tele-conference with the DNRC, who recommended that Gallatin County would not be required to expend their 2 mills under this scenario. The Commissioners approved \$11,300.00 - \$11,500.00 for the purchase of a

Barricade. Mr. Blackman agreed to notify Jason Shrauger with DES.

A special meeting was convened at 9:35 a.m. to review and consider approval of the Big Sky Property Owner Participation Agreement. In attendance were Commissioners Olson, Murdock and Mitchell, Executive Secretary Stacy Johnston, and R. Dale Beland, LLC. After a brief explanation of the details by Mr. Beland, Commissioner Murdock explained briefly that the Commissioners were reviewing and approving AS TO FORM ONLY and the original agreement would be brought forth for the Chairman's signature at a later.

**The following items were on the consent agenda:**

1. Approval of claims presented by the Auditor dated August 11, 2000 through August 17, 2000 for P.O. #67681 for \$757.55, P.O. #63593 for \$100.00, P.O. #68009 for \$10,000.00, P.O. 68337 for \$28,217.00 totaling \$39,074.55.
2. Consideration of the following contracts: Gallatin County and Montana Department of Transportation for Manhattan Town Hall Renovation and Amendment #1 to Big Sky Area Coordinated Transportation Study Funding Agreement.
3. Request for Boundary Relocation Exemption for Buckner located, in Section 30, T3S, R5E. Gallatin County Planner Jennifer Madgic reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Boundary Relocation Exemption for Walker/Schillinger located, in Section 13, T2S, R4E. Gallatin County Planner Jennifer Madgic reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Boundary Relocation Exemption for the Coldwater Group located, in Section 13 & 18, T1N, R3E/R4E. Gallatin County Planner Jennifer Madgic reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
6. Request for Boundary Relocation Exemption for Jones/Jones located, in Section 16, T2S, R6E. Gallatin County Planner Jennifer Madgic reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
7. Request for Family Transfer Exemption for Donald DeBeau located in Section 13, T1N, R3E. Gallatin County Planner Jennifer Madgic reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
8. Request for Final Plat Approval of the River Rock Major Subdivision-Phases 4 & 5. Preliminary plat approval was granted July 7, 1999. A staff report submitted by Gallatin County Planner Jennifer Madgic states that the conditions for final plat approval have been met.
9. Consideration of a Resolution Approving the Olson Variance Request located in the NE ¼ of Section 32, T6S, R4E.
10. Continuation of a Request for Family Transfer Exemption for Pat & Carol Collins located in Section 16, T7S, R4E. Gallatin County Planner Jennifer Madgic reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

The consent agenda was read by Commissioner Murdock. Scott Smith representing the Gallatin Valley home owners association requested that Item #8 on the consent agenda for the request of final plat approval for the River Rock Major Subdivision be removed from the consent agenda and placed on the regular agenda. Chief Deputy County Attorney Susan Swimley requested that the contract for Amendment #1 to the Big Sky Area Coordinated Transportation Study Funding Agreement be removed from the consent agenda and placed on the regular agenda. Commissioner Murdock moved to approve the consent agenda as amended. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin Valley Home Owners Association representative, Scott Smith stated their concern with the ground water quality of the River Rock Subdivision. Gallatin Valley Subdivision is located north of the River Rock Subdivision. He stated they were unable to confirm the conditions of approval had been met requiring River Rock to submit water samples every 6 months to the DEQ and the Gallatin City/County Health department. He had contacted both agencies as well as the engineer representing the development and found there had been no data filed in their office. It was also, a requirement that the monitoring be increased to every 3 months if they did not meet the nitrate level. He stated the Gallatin Valley homeowners association would like to know if the sampling had been taken, and if so they requested to have it given to the appropriate agencies and released to the public. Gallatin County Planner Jennifer Madgic stated she had a letter of approval from DEQ implying the applicant had obtained DEQ approval. Chief Deputy County Attorney Susan Swimley stated if they got approval from DEQ they met the condition of subdivision review. She stated that the condition required the

applicant to obtain approval from DEQ, and whatever restrictions DEQ put on that was a state enforcement issue. Jason Leep, a representative for the developers of River Rock stated they had retained several ground water specialists and had an agreement with the state to monitor every 6 months and as it got denser they would increase that monitoring. He said they are doing the ground water monitoring and they are not required to report monthly, nor were they in violation with the DEQ. The agreement was to monitor every 6 months, and in 2 years they will look at the data and evaluate the effects of the treatment system on the groundwater quality. Dave Crawford, of Thomas Dean & Hoskins Engineering reaffirmed Mr. Leep's statement. He stated they had a primary and a back up method for removal of wastewater. After the 2 year period they would discuss with DEQ about removing the back up method that consists of a 75 acre spray irrigation area, that is being held in reserve in case the ground water results show they need to do something different with waste water. Commissioner Mitchell questioned whether or not the results have been filed with the appropriate agencies. Mr. Crawford stated the DEQ requested them to monitor every 6 months and the letter did not specifically state they were to report monthly but he agreed to send the results in as they are monitored. Commissioner Mitchell and Commissioner Olson requested that they provide the information to the agencies so it was available to the public. Scott Smith entered into the record "Exhibit A" a letter from the DEQ that lined out the requirements for River Rock regarding the ground water monitoring. Jason Leep also, confirmed that the results would be provided to the agencies and available to Mr. Smith and the public. Tony Prothero spoke in support of the Gallatin Valley homeowners association stating the importance of the results being submitted. Commissioner Mitchell asked Mrs. Swimley if the county would have any legal authority once final plat approval was given, and if not granting final plat approval was another option for the Commission. Mrs. Swimley stated that not granting final plat approval at this time would not be an option as they had met their condition by getting DEQ approval to satisfy the subdivision regulations. Commissioner Murdock stated there is a proposed legislation that would give local control options to those departments of environmental health that have the capacity to review these and receive the samples. He stated the local board of health is very actively pursuing that legislative change and thought that it would be retroactive. Commissioner Murdock moved to accept final plat approval for the River Rock Major Subdivision, Phases 4 & 5 finding that all the conditions are met. Seconded by Commissioner Mitchell adding that the applicant has agreed to provide the results of the required monitoring to the local health department for public viewing. None voting nay. Motion carried.

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Chief Deputy County Attorney Susan Swimley stated to the Commission they had before them a Coordinated Transportation Study for the Big Sky area and it was a request for proposal and scope of work, not an amendment to the Transportation Study Funding Agreement itself. She recommended approval with the deletion of the first sentence on page 11, (This RFP has been issued in accordance with 18-8, Part 1, Montana Code Annotated and 2.5.602 Administrative Rules of Montana) because that law has been repealed. There was no public comment. Commissioner Mitchell moved to approve the coordinated transportation study for Big Sky area request for proposal and scope of work, as amended. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Scott Bell, representative for Morrison-& Maierle reported they received two bids for the Gallatin County airport at Pogreba Field in Three Forks. The bids are as follows: JTL Group, Inc., Belgrade, Montana. The total for schedule #1 was \$391,614.40, #2 for \$231,193.80, #3 for \$56,970.50 and #4 for \$46,931.00. Total of all four schedules was \$726,709.70; and Blahnik Construction, Hamilton, Montana. The total for schedule #1 was \$474,895.10, #2 for \$212,832.80, #3 for \$68,301.75 and #4 for \$46,860.80. Total of all four schedules was \$802,890.45. Both bid proposals were signed, included a bid bond and acknowledged addendum #1. Commissioner Olson asked Mr. Bell to bring back a recommendation next week after meeting with the board and the county attorney. Mr. Bell requested a motion to allow the chairman of the Commission to sign the FAA grant application, as the project is funded in part by an airport improvement program grant in the amount of 90% federal dollars and 10% local dollars. Due to their fiscal year the FAA is trying to get the grant applications in as soon as possible. Commissioner Murdock moved to approve the signing of the grant. Seconded by Commissioner Mitchell. Commissioner Olson requested when Mr. Bell came back with the recommendation to make sure the matching money is within the budget for the county airport. None voting nay. Motion carried.

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Fiscal Officer Ed Blackman presented an affirmation of emergency resolution pursuant to 7-6-2341 and 10-3-402, MCA, declaring Gallatin County a disaster area based on current wildland fire activity. Mr.



Blackman explained this was to reaffirm action taken on August 16, 2000 by Commissioner Murdock and Commissioner Mitchell at the request of the acting county fire marshal, DES Coordinators Jason Schrauger and Aaron Holst declaring a serious emergency. Mr. Blackman read the resolution as follows: Whereas, Section 7-6-2341. MCA, allows the county commissioners to incur liabilities in case of serious emergencies, "upon adoption by unanimous vote of all members present at any meeting (time and place of which all members shall have had reasonable notice) of a resolution stating the facts constituting the emergency..." and Whereas, Section 10-3-402 (1), MCA, states, "A local emergency proclamation or disaster may be issued only by the principal executive officer of a political subdivision." Commissioner Mitchell moved to approve Resolution #2000-056. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Fiscal Officer Ed Blackman presented a consideration of a resolution to levy two mills on property outside the municipalities for the purpose of funding emergency fire expenditures pursuant to 10-3-405, MCA. Mr. Blackman explained this was a statutory provision the legislature has given to the Commission to levy up to two mills only on property outside the city limits. As a part of the emergency declaration the counties are required to contribute the equivalent dollar amount of two mills towards any emergencies within the county. The dollars for these fire expenditures are to go through the county of origin. Commissioner Murdock asked Gallatin County Auditor Joyce Schmidt if the Commission would still have to impose the mill levy if the sheriff department's on going investigation into the Toston Maudlow fire confirmed the origin of the fire was in Broadwater County. She was uncertain at this point. Commissioner Mitchell moved to approve Resolution #2000-057. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Clerk & Recorder Shelley Vance reported on the receipt of a petition to annex property in Gallatin Canyon Consolidated Rural Fire District. The petition consists of 5020 acres located in all of Sections 4, 9, 10, 15, 16, 21, 22 and a portion of Section 3, T7S, R3E. The petition does contain the signatures of 50% or more of the area of privately owned lands; who constitute a majority of the taxpayers who are freeholders; and whose names appeared on the last completed assessment roll. The tracts of land for which the annexation is being requested, are adjacent to the Gallatin Canyon Consolidated Rural Fire District. Mrs. Vance said a letter was received from fire chief Bob Stover, stating that on August 1, 2000, the board of trustees voted to annex the Spanish Peaks Estates property into the fire district. Mrs. Vance requested this to be put on the agenda for September 19, 2000 to allow notices to be published and at that time the commission can hold a public hearing to consider the annexation. Based on the Clerk & Reorders recommendation Commissioner Murdock moved to accept the petition and place it on the agenda for September 19, 2000. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Chief Deputy County Attorney Susan Swimley presented a consideration of a resolution fixing the form of bonds for RID #375. Mrs. Swimley stated the sale of the bonds was awarded to the Montana Municipal Corporation and the next step in the process is to set the form of the bonds. Bond counsel has prepared the resolution and the closing is set for September 1, 2000. Mrs. Swimley recommended they approve the resolution so they could publish the bonds. Commissioner Mitchell moved to approve Resolution RID- 00-375F. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 10:30 A.M.

Unavailable  
For signature  
\_\_\_\_\_  
CHAIRMAN APPROVAL

Shelley Vance  
\_\_\_\_\_  
CLERK ATTEST

## 58 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

The meeting was called to order by Chairman Phil Olson at 9:00 A.M. Also present were County Commissioners Bill Murdock and Jennifer Smith Mitchell, Chief Deputy County Attorney Susan Swimley, and Acting Clerk to the Board Mary Miller.

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Chairman Olson requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

### AUGUST 21, 2000

- The Commissioners attended a regularly scheduled office meeting to discuss numerous items of importance. In attendance were Commissioners Olson, Murdock and Mitchell, and Executive Secretaries Stacy Johnston and Glenda Noyes. Deputy County Attorney Chris Gray also attended the discussion regarding the consideration of approval of the Yellowstone Club Law Enforcement Access Agreement. Mr. Gray explained that the agreement had previously been signed by the other entities involved, but the Gallatin County Sheriff and Attorney were not satisfied with all of the language. Changes have been made by Mr. Gray to address the concerns of the Sheriff and County Attorney. Commissioner Murdock made a motion to sign the agreement regarding the Yellowstone Club Law Enforcement Access based on the advise of Deputy County Attorney Chris Gray. Commissioner Mitchell seconded the motion. Motion carried unanimously. Commissioner Olson presented new expenditures and claims for the Logan Landfill for approval by the Commission as a whole. He noted that the expenses stemmed from the sump inspection by Mr. Underhill, the setting of aerial flight control points at the landfill by Mr. David Wilson, and survey work to stake the historical waste area and portions of the Phase 2 liner area to assist in monitoring excavation quantities during the historical waste removal by Dave Van Dyken. Also included are the reporting costs associated with the monitoring of Methane Gas Wells and Vents at the landfill. Commissioner Murdock made a motion to approve the landfill bills presented by Commissioner Olson. Commissioner Mitchell seconded the motion. Motion carried unanimously. Ms. Johnston presented the maintenance agreement with Terrell's Office Equipment for the Commission's copier. The Commission approved the chairman to sign the agreement.

### AUGUST 22-24, 2000

- The Commissioners conducted regular County business.

### AUGUST 25, 2000

- A special meeting of the Commissioners was held to discuss the Three Forks/Montana Department of Transportation land exchange. In attendance were Commissioner Murdock, Commissioner Mitchell (via telephone), Deputy County Attorney Chris Gray and Ron Olson. Commissioner Mitchell made a motion to approve the MDOT/County land exchange regarding the Three Forks Airport land. The exchange consists of approximately five acres for access control at Shedd's bridge and other considerations. This agreement is pending County Attorney (Chris Gray's) approval for review and approval. The three contingencies consist of: an agreement to language changes; the difference in value on exchange to be covered by FAA; and the final survey of property. Commissioner Murdock seconded the motion. Motion passed with a vote of two to zero.

### **The following items were on the consent agenda:**

1. Approval of claims presented by Auditor dated August 18, 2000 through August 24, 2000, for P.O. #60470 for \$222.48, P.O. #66097 & #67151 for \$61,009.00 and P.O. #67666 for \$36,000.00 totaling \$97,231.48.
2. Consideration of the following contract(s): Budget Agreement between Gallatin County and MSU Extension Services.
3. Request for a Family Transfer Exemption for Carol McGinley Voegele located in Section 22, T1S, R5E. Gallatin County Planner Jennifer Madgic reported that the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
4. Request for a Final Plat Approval of the Sierra View Subdivision. At the request of the developer, the Commission voted at their June 13, 2000 public hearing to rename Gallatin Valley Homesteads Subdivision Phase 3 to Sierra View Subdivision. Preliminary plat approval was granted with a 1 year extension on June 23, 1998. A staff report submitted by Gallatin County Planner Jason Karp states that the conditions for final plat approval have been met.
5. Request for a Family Transfer Exemption for Jay & Patricia Hansen located in Section 6, T1S, R4E. Gallatin County Planner Jennifer Madgic reported that the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.

Commissioner Mitchell read the consent agenda. There was no public comment. Commissioner Mitchell moved to approval the consent agenda. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Commissioner Murdock announced the consideration of appointments to the West Yellowstone/Hebgen Basin Refuse District Advisory Board. There was no public comment. Commissioner Murdock moved to reappoint Clyde Seely and Vernetta Steele to a three-year term expiring June 30, 2003. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Chief Deputy County Attorney Susan Swimley presented the consideration of a resolution amending the boundaries in RID #302, North Western Drive. Mrs. Swimley stated that on August 1, 2000 the Commission passed a Resolution of Intention #2000-48 with regard to considering a request to remove one lot being, Lot 3 Block 1, in RID #302. She stated that notice of this public hearing was published in the Bozeman Daily Chronicle on August 13 and 20, 2000, pursuant to 7-1-2121 M.C.A. Notice of this public hearing was mailed to the owners of real property as indicated on the last completed assessment roll, and to such other persons known to the Clerk and Recorder to have an ownership interest in the property pursuant to 7-12-2159(1)(b) and (c) M.C.A. on August 15, 2000. Jack Schunke, Morrison & Maierle stated he was concerned with removing only the one lot, as it would be unfair to adjacent lot owners. He stated the assessment is \$27.00 and he believed that they are receiving other benefits by utilizing the streets that were originally paved through the RID. Mr. Schunke recommended not approving this request, and reviewing for one year to determine if all 11 of the lots fronting North 25<sup>th</sup> Avenue should be removed, or none at all. Commissioner Mitchell stated the Commission received a letter from Walter T. Wendall, Jr., requesting removal of Lot 4 Block 1. Mr. Schunke stated that the lots within the RID are within Zoning District #1, outside the city limits and none of the lots are paying the city street or tree tax. Gerald Walker the owner of Lot 3 in Block 1 urged the Commission to pass the resolution and remove his lot from the RID. He was in support of Mr. Schunke's statement that in order to be fair to all the residents on North 25<sup>th</sup> Avenue the Commission should consider removing all of them from the RID. Mr. Walker stated the RID was specific to North Western Drive, which is how they had accessed their homes until last fall when North 25<sup>th</sup> Avenue was completed to Durston and Babcock. Commissioner Mitchell asked Mr. Walker if he would be opposed to the Commission reviewing this for one year and possibly remove them all at one time. Mr. Walker was not opposed but, he felt since he initiated the action he should be removed now and if after the review it was determined he should be a part of the RID, he could be put back in. Mrs. Swimley confirmed with the Commission that lots could be added or deleted once a year, with notice being given before the first Monday in September, and at this time the Commission could only act on Lot 3. Commissioner Murdock made a motion that Mr. Walker be the only one to benefit this year and the Commission would direct Mr. Schunke to prepare a resolution for next year to have the remaining lots removed, adding a finding that the 11 lots facing North 25<sup>th</sup> Avenue would no longer be benefited by participating in the RID #302. Board discussion took place regarding the advantages and disadvantages of waiting to remove all the lot owners at one time and how this will impact the RID. Commissioner Murdock moved to approve Resolution #2000-60. Seconded by Commissioner Olson. None voting nay. Motion carried.

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Chief Deputy County Attorney Susan Swimley presented the consideration of a resolution amending the boundaries of RID #316 and #322, Hebgen Lake Estates Water and Sewer. Chief Deputy Clerk and Recorder, Eric Semerad stated that notice of this public hearing was published in the Bozeman Daily Chronicle on August 13 and 20, 2000 pursuant to 7-1-2121 M.C.A. Notice of this public hearing was mailed to the owners of real property as indicated on the last completed assessment roll, and to such other persons known to the Clerk and Recorder to have an ownership interest in the property pursuant to 7-12-2159(1)(b) and (c) M.C.A. on August 15, 2000. Jack Schunke, Morrison-Maierle stated Gene Cook submitted a request to be annexed into RID #316 and #322, by proposing a 5 lot minor subdivision. Mr. Cook understands this does not give him the right to connect as he would first have to go through the DEQ and show that the system has adequate capacity to service this area and show there was no impact to existing lots within the district. If included in the district he would be required to pay the assessment regardless if he was approved by the DEQ or not. Mr. Cook cannot apply to DEQ for review until he has approval of the district to be part of the system. If DEQ turns him down he would have to wait until the following year to request removal from the RID. Mr. Schunke stated he received calls from concerned individuals in the district, regarding Mr. Cook not paying for the original improvements. Mr. Schunke suggested that Mr. Cook could make a voluntary contribution in

proportion to the original improvements costs for the district, and the advantage to bringing more users into the district would offset some of the future anticipated maintenance costs. Also, adding more users would help the slow flow problem this system has experienced. Lewis Robinson an area landowner spoke in support of the request. He did however, state his concerns, and concerns of others regarding an equitable way to handle Mr. Cook's contribution for the capital improvements, and questioned if these proposed 5 lots would be included in the existing covenants. He added that the system was over designed, as it was designed to handle 239 units and has far less which, contributes to the slow flow problem. Mr. Robinson entered into the record a faxed letter "Exhibit A" from Jim Cummings, Thomas, Dean & Hoskins, Inc., stating his view. Letters from Dee Rothschilder and Christi Charles were received in opposition of the request. Mrs. Swimley answered the concerns of recouping the capital improvement costs referred to in Mr. Cumming's letter. She stated that at the time the district is formed the boundaries are drawn and those areas inside the boundaries are the ones that pay for the capital improvements. The legislature gave the Commission the ability to expand or decrease the maintenance district, but they cannot change the district boundaries. Therefore, since Mr. Cook is requesting to be added after the district has been formed and the bonds paid off, the Commission does not have the authority to charge a hook up fee, impact fee or require him in any way to contribute to the original capital improvements. Mrs. Swimley and Mr. Schnunke discussed that a voluntary contribution from Mr. Cook would be an acceptable solution, adding that the systems useful life has depreciated so a reduced amount would be suggested. Mrs. Swimley addressed the issue of covenants saying that it was not an RID issue. She stated that when and if Mr. Cook came before the Commission for approval of his minor subdivision they should take that into consideration and require him to join the other homeowners association or apply for the same covenants, so they are compatible with the neighboring subdivision. This can be addressed through both the zoning and the subdivision act. Mrs. Swimley stated that what the Commission had before them was one parcel of land that is asking to be annexed, and whether they are to be assessed in the maintenance district or develop a subdivision, is imminent. The Commission cannot make any subdivision requirements at this time. Commissioner Mitchell asked if Mr. Cook's application to DEQ found the system could not handle the additional lots, could he pay to have the system improved. Mrs. Swimley stated he could and the costs would not be added to the maintenance district for shared cost by anyone else. Commissioner Mitchell moved to approve Resolution #2000-061, adding a finding that Mr. Cook makes sure this system will handle his additional lots and he will pay the assessment regardless, and that there are mechanisms to resolve the questions brought up by the public and in the public's interest. Seconded by Commissioner Murdock. Commissioner Mitchell and Commissioner Olson voting aye. Commissioner Murdock voting nay. Motion carried.

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Fiscal Officer Ed Blackman presented the consideration of a resolution to set fire service area per unit rates. Mr. Blackman stated this resolution was to confirm and change the rates for fire service areas as follows: Clarkston Fire Service Area \$66.60, with no increase; Fort Ellis \$78.00, increasing to \$80.00; Rae Fire Service Area \$83.00, increasing to \$96.00; Reese Creek Fire Service Area \$77.00, increasing to \$80.00; Springhill Fire Service Area \$53.10, with no increase. Mr. Blackman explained this was a change from the past process where the Commission approved fire service unit rates during the budget process. He stated the County Attorney recommended a separate formal resolution for the fire service rates. Board discussion took place on how units are determined by the fire service areas. David Lucas, President, of the Rae Fire Service Area stated the fire service area has asked for the increase to cover additional operating costs incurred throughout the years. He stated they have kept the same budget amount for five years and initially they had not planned to ask for the increase but, after a meeting it was determined they would have been taking away from their apparatus fund to sustain the operating fund. So they concurred to raise the operations fund and maintain the apparatus fund. Mr. Lucas submitted "Exhibit A" a copy of the Rae Volunteer Fire Company Fiscal Year 2001 Budget notes. Mr. Lucas stated part of the impact the area experienced was the loss of units due to the city annexing within the district, and they were anticipating a \$10,000.00 expense due to OSHA requirements. Commissioner Mitchell moved to approve Resolution #2000-062. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Fiscal Officer Ed Blackman presented consideration of a resolution levying and assessing tax on all rural improvement maintenance districts. Mr. Blackman stated this was the request submitted by Morrison-Maierle in June for the resolution and levying on rural improvement districts. The actions taken by the Commission on RID #302 and #316/ #322 do not take affect until the next fiscal year. Chief Deputy Clerk and Recorder, Eric Semerad stated that notice of this public hearing was published in the Bozeman Daily Chronicle on August 13 and 20, 2000 pursuant to 7-1-2121 M.C.A. Notice of this

public hearing was mailed to the owners of real property as indicated on the last completed assessment roll, and to such other persons known to the Clerk and Recorder to have an ownership interest in the property pursuant to 7-12-2159(1)(b) and (c) M.C.A. on August 15, 2000. Jack Schunke, Morrison-Maierle stated that along with the county they are responsible to provide for a maintenance assessment for RID's created through the years to keep roads serviceable and in some cases water and sewer. The road maintenance is provided with over lays; crack sealing, fog seal and weed or vegetation control. Sam Kaisler questioned the 82.30% increase for Riverside Water & Sewer RID #310. He stated that they had not received any information before receiving the assessment as to why the increase and was asking the Commission for answers. Mr. Blackman stated when Gallatin County Clerk and Recorder Shelley Vance was researching the information she found that RID #310 had not been created as a water and sewer district but, through the RID process, and RID #310 was put in this year for the first time. So in the process of giving notice they did not have the previous years information and he thought that was why it showed such a high increase. He stated he would have to check with Mrs. Vance but thought that she got the information from the water & sewer trustees. Commissioner Olson asked Mrs. Swimley what options the Commission had regarding the resolution and if it could be continued. Mrs. Swimley stated that the Commission could not continue this and if they wanted to obtain more information, their option would be to assess RID #310 at the fiscal year 2000 rate and address it next year. Mrs. Swimley stated that Morrison & Maierle did not provide maintenance for this RID, so she did not have any information available. Mr. Blackman recommended that the Commission consider the advise of Mrs. Swimley so staff could further clarify the information as to the increase. Don Norem and Morris Klare spoke of their concerns on the increase and the lack of communication with the trustees and within the district. It was noted the need for some type of financial disclosure to keep the people in the district informed. Richard Geer spoke in reference to the 18.19% increase of RID #358. His concern was that a number of landowners have exclusive use of Sypes Canyon, yet they are not included in the maintenance district. Mr. Geer submitted a letter "Exhibit A" with names of landowners that he felt should be included in the district. He stated they were not a subdivision so they did not have a home owners association and they were experiencing the same communication problem as some of the other RID's and had not received information regarding the increase. He stated that the previous Commission had promised that as the area expanded they would be automatically added into the district, and it had not happened in the last 10 years. Mrs. Swimley told Mr. Geer that the Commission has to make the determination if the property is benefited before they can be added into the district. Commissioner Olson asked if there was a way of notifying the districts in a timelier manner and provide more information. Mrs. Swimley stated they were bound by the statutory requirements for the notice process. They cannot send notice more than 21 days before the hearing. Commissioner Murdock asked Mr. Schunke to take "Exhibit A" submitted by Mr. Geer and make a recommendation next year to add lots being benefited by the use of the road. He suggested that the notices reference Mr. Schunke, the contact people, and other pertinent information so the individuals stay informed. Mrs. Swimley suggested adding to the notice that the assessment schedule is available at the Clerk and Recorder's office. Commissioner Murdock moved to pass Resolution #2000-063, altering RID #310 to use the fiscal year 2000 rate, and with the finding that Mr. Semerad will work on modifying the assessment notice to provide a contact person for more detail and Mr. Schunke will work on RID #358 for next year. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Fiscal Officer Ed Blackman presented the consideration of a resolution adopting the final operating budget and setting mill levies and fees for fire districts, conservation districts, cemetery districts and all other special districts. Mr. Blackman stated these special districts were not included in the budget that was approved August 14, 2000. He stated he would make the change from .016 to .0085 on RID #310 to correlate with the Commissions action on the resolution levying and assessing tax on rural improvement maintenance districts. Mr. Blackman stated that only 5 of the districts did not get back to him confirming the use of the floating mill. To ensure those districts did not get left out he adjusted them down to the maximum the levy would allow. He stated he did not hear back from the Clarkston Fire Service Area, and based on the recommendation of the Chief Deputy County Attorney Susan Swimley it was set at the same level as last year. There was no public comment. Based on the Fiscal Officer's comments Commissioner Murdock moved to approve Resolution #2000-064, with the change to RID #310. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

Fund	Description	Budget	Cash	Total	Cash	Non-Tax	Taxes	Mill	FY 2001
[REDACTED]									

62 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

No.	Reserved	Requirement	Available	Revenues	Needed	Value	Mills
<b>SPECIAL DISTRICTS</b>							
<i>Fire Districts and Areas:</i>							
7200 Belgrade	898,558	102,453	1,001,011	233,353	276,579	491,079	16,058 30.58
7201 Reese Creek	28,568	-	28,568	16,608	400	11,560	144.50 \$ 80.00
7202 Rae	167,670	36,384	204,054	36,383	-	167,671	1754.52 \$ 96.00
7203 Springhill	9,664	66	9,730	5,681	-	4,049	76.25 units \$ 53.10
7204 Fort Ellis	112,285	6,910	119,195	5,959	40,000	73,236	915.5 units \$ 80.00
7205 Sourdough	108,385	15,376	123,761	51,272	-	72,489	6,342 11.43
7206 Manhattan	155,819	1,989	157,808	91,377	8,287	58,144	1,320 44.05
7207 Sedan	44,312	4,605	48,917	47,081	-	1,836	270 6.80
7208 Three Forks	38,505	4,464	42,969	25,077	1,150	16,742	3,616 4.63
7209 Willow Creek	37,131	-	37,131	12,059	1,747	23,325	1,267 18.41
7210 Story Mill	15,873	-	15,873	328	1,390	14,155	342 41.39
7211 Storm Castle	10	-	10	10	-	-	-
7212 Middle Creek	3,321	-	3,321	3,321	-	-	-
7213 Gallatin Canyon	1,492,428	30,385	1,522,813	233,748	1,074,300	214,765	12,966 16.56
7214 Northside Rural Fire Dist.	63,745	-	63,745	230	-	63,515	1,331 47.72
7215 Gallatin Gateway	116,732	3,968	120,700	22,843	13,500	84,357	4,017 21.00
7216 Bridger	101,371	22,345	123,716	50,545	12,000	61,171	2,235 27.37
Gallatin River Ranch	25,000	-	25,000	-	-	25,000	210 119.05
7235 Amsterdam	81,750	21,776	103,526	38,719	13,220	51,587	2,535 20.35
7236 Clarkston	15,500	4,189	19,689	9,699	-	9,990	150 Units \$ 66.60
<b>subtotal fire</b>	<b>3,516,627</b>	<b>254,910</b>	<b>3,771,537</b>	<b>884,294</b>	<b>1,442,573</b>	<b>1,444,670</b>	
<i>Other Districts</i>							
7217 West Yellowstone TV	32,348	-	32,348	14,034	-	18,314	3,570 Units \$ 5.13
7218 Mount Green Cemetery	9,311	-	9,311	1,003	2,420	5,888	1,460 4.03
7219 Meadowview Cemetery	21,100	5,632	26,632	9,644	-	16,988	3.69 2.37
7223 Fairview Cemetery	66,195	-	66,195	38,225	6,566	21,404	4,197 5.10
8020 Conservation District	206,853	43,000	249,853	150,665	1,500	97,688	79,740 1.23
8152 Mosquito	47,800	-	47,800	18,658	-	29,142	4,711 6.19
<b>Cost per</b>							
<i>RID Maintenance Districts:</i>							
						<u>SQ. FT.</u>	<u>SQ. FT.</u>
8202 Northwestern Drive	24,495	-	24,495	14,034	-	2,097	1,498,211 0.0014
8208 Riverside	77,225	-	77,225	71,639	-	5,586	1,241,243 0.0045
8209 Hitching Post	41,015	-	41,015	36,832	-	4,183	2,987,850 0.0014
8210 Riverside S / W 310	20,214	-	20,214	9,781	-	10,433	1,227,449 0.0085
8214 Middle Creek #3	31,250	-	31,250	26,700	-	4,550	858,568 0.0053
8215 Hyalite Heights	150,429	-	150,429	142,401	-	8,028	5,351,912 0.0015
8216 Hebgen Lake Estates	56,163	-	56,163	46,806	-	9,357	2,282,279 0.0041
8217 Gardner Park Subdivision	59,524	-	59,524	50,469	-	9,055	4,115,924 0.0022
8218 Big Sky Meadow Village	245,402	-	245,402	229,302	-	16,100	5,750,013 0.0028
8221 El Dorado	59,008	-	59,008	52,613	-	6,395	3,996,978 0.0016
8222 Hebgen Lake S/W	79,329	2,000	81,329	45,725	-	35,604	2,282,279 0.0156
8223 Middle Creek #2	24,756	-	24,756	22,640	-	2,116	1,113,485 0.0019
8224 Glacier Condo Parking Lot	22,844	-	22,844	20,324	-	2,520	193,810 0.0130
8226 Sourdough Creek	73,189	-	73,189	69,770	-	3,419	2,849,101 0.0012
8227 Silverbow Condo #1	15,776	-	15,776	14,697	-	1,079	215,895 0.0050
8228 Silverbow Condo #2	8,822	-	8,822	8,244	-	578	87,599 0.0066
8232 Rae Subdivision	23,829	-	23,829	20,690	-	3,139	435,985 0.0072
8236 Sunset Heights	19,279	-	19,279	17,063	-	2,216	714,936 0.0031
8238 Mountain View 338	43,351	-	43,351	38,931	-	4,420	1,104,895 0.0040
8239 Mountain View 339	163,476	-	163,476	144,797	-	18,679	6,025,344 0.0031
8240 Sourdough Ridge	78,033	-	78,033	61,933	-	16,100	2,874,960 0.0056
8241 Rocky Creek	8,718	-	8,718	7,011	-	1,707	1,067,040 0.0016
8242 Wheatland Hills	85,443	-	85,443	75,564	-	9,879	3,659,040 0.0027
8243 Pineview Subdivision	54,672	-	54,672	46,775	-	7,897	2,134,440 0.0037
8244 Clover Meadows	49,779	-	49,779	39,429	-	10,350	3,136,320 0.0033
8246 Riverside Water Tower	31,045	-	31,045	27,300	-	3,745	1,208,151 0.0031
8249 Mount View Thorpe Road	29,202	-	29,202	25,190	-	4,012	1,180,000 0.0034
8250 Mystic Heights	21,696	-	21,696	19,376	-	2,320	800,000 0.0029
8251 Baxter Creek #2	53,693	-	53,693	47,487	-	6,206	2,140,000 0.0029
8252 Baxter Creek #1	27,864	-	27,864	23,042	-	4,822	1,785,960 0.0027

8253 Sweetgrass Hills	102,574	-	102,574	86,287	-	16,287	2,670,000	0.0061
8254 Buckskin Williams Park	8,092	-	8,092	3,808	-	4,284	1,260,000	0.0034
8255 Gardner Simmental	20,138	-	20,138	15,961	-	4,177	3,480,763	0.0012
8256 Springvale	32,575	-	32,575	28,671	-	3,904	1,220,000	0.0032
8257 Hyalite Foothills	95,713	-	95,713	79,404	-	16,309	6,795,360	0.0024
8258 Sypes Canyon	76,130	-	76,130	45,944	-	30,186	7,740,000	0.0039
8259 Wildflower	14,551	-	14,551	11,284	-	3,267	1,306,800	0.0025
8260 Mystic Heights 2 & 3	51,936	-	51,936	43,877	-	8,059	3,223,440	0.0025
8261 Ranch	55,572	-	55,572	47,644	-	7,928	2,831,400	0.0028
8262 Arrowleaf	17,793	-	17,793	14,471	-	3,322	1,107,315	0.0030
8265 Cimmaron	8,950	-	8,950	6,924	-	2,026	1,350,360	0.0015
8266 Middle Creek 1 & 3	19,182	-	19,182	15,654	-	3,528	2,352,240	0.0015
8267 Royal / Thorpe Road	53,449	-	53,449	43,875	-	9,574	13,677,840	0.0007
8268 Godfrey Canyon	8,382	-	8,382	6,188	-	2,194	477,000	0.0046
8270 Outlaw South	11,094	-	11,094	6,272	-	4,822	6,028,093	0.0008
8271 Wheatland Hills	2,516	-	2,516	1,366	-	1,150	1,045,440	0.0011
8272 Harvest Hills	4,591	-	4,591	(458)	-	5,049	2,657,160	0.0019
<b>subtotal Maintenance</b>	<b>2,262,760</b>	<b>2,000</b>	<b>2,264,760</b>	<b>1,921,859</b>	<b>242</b>	<b>342,659</b>		
<b>RID BOND</b>								
8608 Riverside Water & Sewer	-	-	-	-	-	-	-	-
8614 Middle Creek Meadows	-	-	-	(96)	96	-	-	-
8615 Hyalite Heights	6,074	-	6,074	6,074	-	-	-	-
8616 Hebggen Lake Estates	32,878	-	32,878	32,878	-	-	-	-
8617 Gardner Park Subdivision	-	-	-	(2,020)	2,020	-	-	-
8621 El Dorado	12,194	-	12,194	12,194	-	-	-	-
8622 Hebggen Lake S/W	27,990	-	27,990	16,432	-	11,558	-	-
8626 Sourdough Creek	588	-	588	588	-	-	-	-
8631 Middle Creek Meadows Indust.	795	-	795	795	-	-	-	-
8632 Rae Subdivision	4,396	-	4,396	3,541	-	855	-	-
8638 Mountain View 338	10,000	-	10,000	6,303	-	3,697	-	-
8639 Mountain View 339	24,000	-	24,000	6,713	-	17,287	-	-
8640 Sourdough Ridge	14,532	-	14,532	2,971	-	11,561	-	-
8641 Rocky Creek Rd/Wheatland/Pir	36,000	-	36,000	2,215	-	33,785	-	-
8644 Clover Meadows	13,000	-	13,000	1,236	-	11,764	-	-
8646 Riverside Water Tower	35,000	-	35,000	6,674	-	28,326	-	-
8649 RID 349-352	50,209	-	50,209	1,310	-	48,899	-	-
8653 Sweetgrass Hills	153,045	-	153,045	(57,086)	-	210,131	-	-
8654 Buckskin Hills	4,383	-	4,383	330	-	4,053	-	-
8655 RID 355-357	84,441	-	84,441	84,441	-	-	-	-
8656 Springvale	2,006	-	2,006	-	-	2,006	-	-
8657 Hyalite Foothills	9,393	-	9,393	-	-	9,393	-	-
8658 Sypes Canyon & Wildflower	42,035	-	42,035	487	690	40,858	-	-
8660 Mystic Heights & Arrowleaf	44,300	-	44,300	11,547	7,375	25,378	-	-
8661 Ranch	20,800	-	20,800	1,355	200	19,245	-	-
8662 Arrowleaf	6,019	-	6,019	-	-	6,019	-	-
8665 Cimarron	3,125	-	3,125	(6,817)	-	9,942	-	-
8666 Middle Creek 1 & 3	15,442	-	15,442	310	-	15,132	-	-
8667 Royal/Thorpe	21,830	-	21,830	1,649	-	20,181	-	-
8668 Godfrey	12,228	-	12,228	2,712	-	9,516	-	-
8670 Outlaw South	26,592	-	26,592	3,184	-	23,408	-	-
8671 Wheatland Hills #2	5,336	-	5,336	(2,228)	-	7,564	-	-
8672 Harvest Hills	19,445	-	19,445	1,163	-	18,282	-	-
<b>subtotal RID Bonds</b>	<b>738,076</b>	<b>-</b>	<b>738,076</b>	<b>138,855</b>	<b>10,381</b>	<b>588,840</b>		

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Gallatin County Planner Jennifer Madgic presented the request for change of conditions of preliminary plat approval of the Ramshorn Major Subdivision, Phases #3 & #4, regarding phasing and building codes. The Ramshorn Major Subdivision was granted preliminary plat approval on May 5, 1998. The development is located in Section 8, T7S, R4E, P.M.M., Gallatin County, Montana. Ms. Madgic explained there were two separate issues being proposed by the applicant Tim Howard of Homeland Development Corporation to change conditions. First, addressing the building codes she stated that the planning department requires applicants and subdivisions to comply with Uniform Building Codes

particularly in Big Sky to meet the seismic requirements as a standard covenant. Homeland Development Corporation requested a condition modification, which would affect the covenants. The covenant concerns compliance with the Uniform Building Codes and the applicant wishes to revise language to incorporate applicable state building codes. The required condition includes the following: All structures shall be constructed in compliance with the Uniform Building Codes, including codes for Seismic Zone 3, and the National Fire Protection Association Codes. It was brought to the attention of the planning department that UBC does not apply to single-family residences in the State of Montana. Ms. Madgic did confirm this with the state building department. If the Commission decides to approve the condition modification, Condition #5c would be changed as follows: All structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for Seismic Zone 3, and the National Fire Protection Codes. This would cover UBC in the event that they do something aside from a single-family residence. In that case UBC applies to triplexes and anything larger. This code is a CABO One and Two Dwelling Code. The revised language would provide for compliance with the appropriate state code in all phases pertaining to the Ramshorn Major Subdivision. Board discussion took place regarding the need for this change to be made in the future on all standard conditions. There was no public comment. Commissioner Murdock moved to approve changing the condition determining it would be necessary and beyond the control of the subdivider, which would render the condition unnecessary, impossible and maybe illegal. This would modify condition #5c as recommended by staff. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Ms. Madgic stated that the second modification affects conditions #42 and #56, which refers to lots and blocks in Phases #3 and #4 within Ramshorn Subdivision. Phases #1 and #2 have received final plat approval. The applicant is proposing to continue the same number of lots originally platted in phases #3 and #4, with the change being, a swap of 10 lots within each phase into the other phase and come up with sub phases. There would be 7 sub-phases within Phase #3 and #4. This change is to accommodate the central sewer system. In addition, the applicant is requesting that the phases and sub-phases be finalized out of sequence. Ms Madgic stated when these phases go through preliminary plat approval the planning department makes sure each one can stand alone and the phases happen subsequently because, sometimes improvements depend on a previous phase. Mr. Howard prepared a phasing schedule that shows each sub-phase can stand-alone. Ms. Madgic confirmed to Chief Deputy County Attorney Susan Swimley that if the Commission removed the sequential phasing requirement she was confident that each phase could stand-alone. She also, stated that the secondary access requirement and public health and safety requirement would still be met. Tim Howard, representing Homelands Development Corporation reaffirmed to the Commission that from an engineering stand point this new proposal made more sense to deal with the sewer problem and, in reference to each phase standing on their own he stated there was a cul-de-sac for each street and they served no other purpose than to serve the sub phases on their own. He stated the sub phasing and the removal of sequential phasing was caused by the necessity to put the back bone infrastructure up front. He stated that two years ago as a concession to property owners at the end of River View Lane they agreed to make that area the first phase and put in the entire infrastructure. Mr. Howard stated from a development standpoint that is the complete opposite of how you would do a successful project and that is why they are requesting the modification. There was no public comment. Commissioner Murdock moved to approve the suggested action as presented by the staff, adding the finding, that the condition that they do the phases **sequentially** is unnecessary and with the condition modifications as presented by staff. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 11:15 A.M.

*Unavailable  
For signature*  
CHAIRMAN APPROVAL

*Jelley Vance*  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 12TH DAY OF SEPTEMBER 2000**

The meeting was called to order by Chairman Phil Olson at 9:00 A.M. Also present were County Commissioners Bill Murdock and Jennifer Smith Mitchell, Chief Deputy County Attorney Susan Swimley, and Acting Clerk to the Board Mary Miller.

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Chairman Olson requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:



**AUGUST 28, 2000**

- A regularly scheduled office meeting was called to order at 10:06 a.m. to discuss numerous items. In attendance were Commissioners Olson, Murdock and Mitchell, and Executive Secretaries Stacy Johnston and Glenda Noyes. Commissioner Olson presented a claim from the Logan Landfill. The claim is a change order to Kathy Gallagher's contract, adding \$2,469.80 to pay for her expenses in preparing for a DEQ - required Public Meeting presentation of corrective measures for a leakage. Discussion took place regarding the funding of this claim, and Fiscal Officer Ed Blackman reported that there are funds to pay, and the work has to take place since the DEQ has required it. Commissioner Murdock made a motion to pay the addition to the scope of work for Kathy Gallagher. Commissioner Mitchell seconded the motion. Discussion took place regarding the use of Commission cell phones. The Commissioners unanimously agreed that it is permissible for any Commissioner to take their cell phone with them while on vacation and that it can be used for personal use as long as the County is reimbursed for any expenses that are not work-related (roaming fees, additional minutes).

**AUGUST 29, 2000**

- The Commissioners conducted regular County business.

**AUGUST 30, 2000**

- The Commissioners attended a meeting with representatives from the U.S. Forest Service to discuss forest related updates, and traveled to Bear Canyon Road to view the road situation. In attendance were Commissioners Olson and Murdock, Jan Lerum and Nancy Halstrom from the U.S. Forest Service. Commissioner Mitchell was on vacation. A preliminary discussion took place regarding the location of a 50" restriction, a gate and cattle guard at the trailhead, and possibly the installation of a gate and cattle guard at the Forest Service boundary. The group also discussed the need for State Lands agreement on the location of the County road and stream crossing approval from any agency with authority to prohibit access – that are essential before starting the process. Commissioner Murdock agreed to begin with the State Lands, followed by any other agency demanding compliance. The Forest Service will help if permits are required. The Forest Service also agreed to provide a preliminary list of project steps to follow unless other agencies throw a roadblock in the way.

**AUGUST 31, 2000**

- As a quorum was not present and the original document unavailable, Commissioner Olson called to order and continued a special meeting to discuss the Articles of Incorporation for the Clean Cities Coalition.
- At 8:45 a.m., Commissioner Olson called to order a special meeting to approve claims. As County Auditor Joyce Schmidt was not present, the meeting was continued until 9:45 a.m.
- A special meeting was called to order at 9:42 a.m. for the purpose of approving claims received August 25, 2000 through August 28, 2000. In attendance were Commissioners Olson and Murdock, County Auditor Joyce Schmidt and Executive Secretary Glenda Noyes. Commissioner Murdock stated that finding that the claims submitted August 25 – 28, 2000 for PO #67020 for \$3,000.00 and PO #66517 for \$150.00, for a total of \$3,150.00 have been approved by Auditor Joyce Schmidt and recommended for approval, he moved to approve them. Commissioner Olson seconded the motion. Motion carried with a vote of two to zero.

**SEPTEMBER 1, 2000**

- The Commissioners conducted regular County business.

**SEPTEMBER 4, 2000**

- The Commissioners' Office was closed in observance of Labor Day.

**SEPTEMBER 5, 2000**

- An office meeting was called to order at 10:04 a.m. for the purpose of discussing numerous items. In attendance were Commissioners Olson and Murdock, and Executive Secretaries Stacy Johnston and Glenda Noyes. Commissioner Mitchell is on vacation until 9/12. A discussion took place regarding a request for signature on the Articles of Incorporation for Clean Cities. This discussion was continued from August 31, 2000. This document is a means to accept, expend and disburse acquired grant monies. Commissioner Murdock made a motion to enter into the Articles of Incorporation with Clean Cities. Commissioner Olson seconded the motion, adding the finding that

no funds will be expended on the County's part, only a means of spending grant funds. All aye. Motion carried with a vote of 2-0. The Commissioners also discussed a claim submitted by Dale Beland for contract work for the Big Sky Transportation Study. Commissioner Murdock made a motion to approve the claim from Mr. Beland, finding that Deputy County Attorney Chris Gray has verified that the claim has been submitted in accordance with the contract. Commissioner Olson seconded the motion. All aye. Motion carried with a vote of 2-0. Commissioner Olson requested that he be allowed to attend a leadership conference at the University of Missoula, spending \$199.00 from the conference fund. Commissioner Murdock made a motion to allow Commissioner Olson to attend the U of M conference, provided that there are funds available in the budget. Commissioner Olson seconded the motion. Commissioner Olson offered to abstain from the vote, but at the urging of Commissioner Murdock, a vote was taken. Motion carried with a vote of 2-0. The Commissioners also discussed changes to the office meeting agenda, and asked Ms. Johnston to remove the item entitled "New Business" and add "reminders" to the "Old Business" item on a weekly basis.

**SEPTEMBER 6, 2000**

- A special meeting was called to order by Chairman Phil Olson at 8:45 A.M. Also present were Commissioner Bill Murdock and Acting Clerk to the Board Mary Miller. Gallatin County Auditor Joyce Schmidt presented claims dated, August 25, 2000 through August 31, 2000, for P.O. #62997 for \$15,314.91, P.O. #68428 for \$285.00 totaling \$15,599.91, and the following batches dated August 31, 2000: Batch 1 for \$10,041.68, Batch 2 for \$73,399.50, Batch 3 for \$20,427.93, Batch 4 \$25,110.24, Batch 5 \$60,773.29, Batch 6 for \$32,476.08 and Batch 7 for \$1,018.85 totaling \$223,247.57. Grand total \$238,847.48. Mrs. Schmidt recommended approval of the claims. There was no public comment. Commissioner Murdock moved to approve the claims as presented. Seconded by Commissioner Olson. None voting nay. Motion carried.
- Gallatin County Planner Jennifer Madgic presented two boundary relocation exemption requests for Leelynn Inc./Wiley MT. Boundary relocation #1 is located, in Section 9 & 10, T7S, R3E and boundary relocation #2 is located in Section 3 & 4, T7S, R3E. Gallatin County Planner Jennifer Madgic reported the exemptions appeared to meet the criteria allowed under Montana Subdivision and Platting Act. Joseph Sabol, Attorney, representing Leelynn Inc./Wiley MT Inc., explained these were to aggregate existing aliquot parts and relocate boundary lines to form new tracts. Mr. Sabol explained that boundary relocation #1 would reduce 64 aliquot parts into five tracts and boundary relocation #2 would reduce approximately 50 aliquot parts into four tracts. Board discussion took place with Mr. Sabol regarding Ousel Falls Park, Tract 5 in boundary re-location #1. Mr. Sabol confirmed he would be recording the deed today granting Ousel Falls Park to The Big Sky Community Corporation, a qualified 501(c)(3) organization. Commissioner Olson stated with this being a 501(c)(3) organization the park would be protected and not fall into private hands. Commissioner Murdock moved to approve the boundary relocation's based on the recommendation of staff. Seconded by Commissioner Olson. None voting nay. Motion carried. There being no further business the meeting was adjourned at 8:57 A.M.

**SEPTEMBER 7, 2000**

- A special meeting was called to order for the purpose of consideration of a contract with the Teamsters Union Local #2. In attendance were Commissioners Olson and Murdock, Personnel Director Kathy Nowierski and Executive Secretary Glenda Noyes. Commissioner Mitchell was on vacation. Ms. Nowierski assured the Commissioners that Deputy County Attorney Chris Gray and Fiscal Officer Ed Blackman have approved the contract. Commissioner Murdock made a motion to approve the contract with the Teamsters Union Local #2. Commissioner Olson seconded the motion. Motion carried with a vote of two to zero.

**SEPTEMBER 8, 2000**

- The Commissioners attended a special meeting for the purpose of considering entering into a mutual aid agreement with Park County. In attendance were Commissioners Olson and Murdock, Jason Shrauger of DES and Deputy County Attorney Chris Gray. The group agreed to continue to work with Park County to find a workable agreement.

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- Landfill Revenue for August 2000: \$77,306.74.
- A101's for August 2000: \$25,115.42.
- Payroll for August 2000: \$1,071,098.28.
- Clerk & Recorder's Fees Collected for August 2000: \$40,374.75.

- New Hire Report for August 2000: ATTORNEY – Eric Kitzmiller; AUDITOR – Jeanine Fillinger; DETENTION CENTER – Gregory Johnson, Laura Heisel; MOTOR VEHICLE – Deborah Schulz, Joni Brooks; REST HOME – Laura Johnson, Terry Newman, Dawn Fingerson, Wade Jacobson.
- Terminated Employees' Report for August 2000: AUDITOR – Morgen Bergman 8/16/00; DETENTION CENTER – Noah Scott 7/25/00; DISTRICT COURT – Kristina Mull-Core 7/1/00; FAIRGROUNDS – Tammy Anderson 7/21/00, Michael Badolato 7/28/00, Richard Mayer 7/28/00, Luigi Mostafa 7/28/00, Donna Morgan 8/11/00, HEALTH – Tia Utzinger 8/1/00; 911 – Nicole Hoppert 8/16/00; REST HOME – Katrina Vaira 7/26/00, Melissa Dickenson 8/3/00, Darin Wines 8/4/00, Betty Ann Brainard 8/6/00, Addie Cornell 8/15/00, Deannea Dykema 8/16/00, Coreen Rooney 8/14/00, Terry Newman 8/14/00, Danielle Rassler 8/22/00, Sheila Wooldrige 8/24/00; WEED – Paul Grasic 7/27/00, Brian Engle 8/3/00, Chris Boe 8/16/00, Jeremy Webb 8/17/00.

**The following items were on the consent agenda:**

1. Minutes
2. Approval of claims presented by Auditor dated from September 1, 2000 through September 7, 2000 for P.O. #67023 for \$695.84, P.O. #67026 for \$700.00, P.O. #67024 for \$427.00, P.O. #67025 \$167.00, P.O. #57532-05-08 for \$9,962.40, P.O. #69304 for \$1,058.17, P.O. #68338 for \$420.00 totaling \$13,430.41.
3. Consideration of the following contracts: Conservation Easement Agreement with Milton & Peggy Schaplow, MOA with Touch America/AT &T for Underground Duct System, Amendment to Contract #2000-01 with Nook & Cranny Cleaning Services.

Commissioner Murdock read the consent agenda. There were no minutes. There was no public comment. Commissioner Olson requested to pull the contract for MOA with Touch America/AT&T for Underground Duct System and put it on the regular agenda. Commissioner Mitchell moved to approve the consent agenda as amended. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Commissioner Olson addressed his concerns on the contract for the MOA with Touch America/AT&T for Underground Duct System. He stated that as a utility they normally go in the county road right of ways, and in looking at the contract there seemed to be no mechanism for them to go back and take care of the grounds afterwards to weed and re-seed. There was also, no reimbursement to the county for being in the right of ways. Commissioner Mitchell and Commissioner Murdock concurred. Deputy County Attorney Chris Gray was unavailable. There was no public comment. This will be continued until next week.

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Commissioner Mitchell announced the consideration of appointments to the Gallatin River Ranch Rural Fire District. Commissioner Murdock moved to appoint Thomas Andrews. In accordance with Section 7-33-21-6, MCA this would be the fifth trustee initially appointed by the Commission. The initial terms of office must be drawn by lot at their first meeting and include: 1 trustee to serve 3 years; 2 trustees to serve 2 years; and 2 trustees will serve 1 year. Upon expiration of these initial terms, each trustee shall serve a three-year term. Seconded by Commissioner Mitchell. There was no public comment. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance presented the receipt and continuation of consideration of a resolution of intention to consider changing the election of trustees for the Clarkston Fire Service Area. Mrs. Vance reported she received and examined the petition pursuant to 7-33-2401 MCA. She stated there are at least 30 qualified signatures of owners of real property within the Clarkston Fire Service Area. The petition states that the following persons owning real property within the area comprising of the Clarkston Rural Fire Service Area, petition the Gallatin County Board of Commissioners to alter the method of fire board member selection. They wish to be allowed to select the members of the trustee board through the election process as provided within Montana code. Mrs. Vance stated that if the resolution of intention were passed it would move the process forward for a public hearing proposed on November 21, 2000, to allow for sufficient notice requirements to be published and mailed. Commissioner Olson read the draft resolution into the record. Les Rate, Wilbert Van Straaten, Joyce Painter, Alice LaCotta, Mimi Van Straaten and Ellen Palmer spoke in support of the resolution. They all expressed their concern that the electors not be members of both the Ponderosa Pines homeowners' association board and the Clarkston Rural Fire Service Area board of trustees, as there was a conflict of interest. Mrs. Vance the elections administrator stated that if the Commission passed the resolution, it would allow all the people who qualify as a register voter of the Clarkston Fire Service Area boundary, or those who own real property within that boundary to file for an office and run

as electors in the election. Board discussion took place concerning the election process. Commissioner Murdock moved to pass Resolution #2000-065. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Chief Deputy County Attorney Susan Swimley presented for consideration a resolution appointing the Three Forks Rural Fire District Trustees. Mrs. Swimley stated this was a joint resolution between the Broadwater County Commission and Gallatin County Commission for the consolidated fire district. She stated that a draft copy of the resolution was sent to the Broadwater County Commission for them to consider at their public meeting. No one filed for the 2000 election trustee positions, so the resolution was appointing the following trustees: Dennis Rahn, Jack Jorgensen, Jay Hankin, Henry Hecker and Ralph Wilcox. Mrs. Swimley stated that at the time of the consolidation the Gallatin County Trustee terms were not properly synchronized and this resolution would correct that situation. There was no public comment. Commissioner Murdock moved to pass Resolution #2000-066. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance presented the petition to abandon a portion of the Cimmeron Drive in Wheatland Hills and Spirit Hills Subdivisions. The petition was received on March 24, 2000. Notice of the public hearing was published in the High Country Independent Press on August 31, 2000. Notice was mailed to all of the signers of the petition, landowner's names on the petition, the individuals named in the petition that could be affected by the petition, the postmaster of the area, and the Public Lands Access Association. Mrs. Vance reported that the Commission received a similar petition the end of 1995 to abandon this portion of Cimmeron Drive in Wheatland Hills Subdivision. On December 31, 1996, the Commission passed Resolution #1996-71 regarding their decision on that petition. This viewing committee was appointed on May 2, 2000, and consisted of County Surveyor Shelley Vance, Road Superintendent Lee Provance and Commissioner Mitchell. Mrs. Vance summarized the Viewing Committee Report explaining the committee viewed the road and located the monument surveyor pins, noted where homes were located and where landscaping had occurred. She stated that nothing is constructed in the easements. Mrs. Vance reported she received a copy of a memorandum from Belgrade Fire Chief/Fire Marshall Brett Waters to Wheatland Hills, dated December 7, 2000, stating the Belgrade Rural Fire District is not opposed to the closure of this portion of road. Commissioner Olson reported the Commission received letters from Stephen L. and Meredith E. Lewis, Randy and Tammy Crone, Lorrie Hansen, and a phone call from Carol Sutton supporting the abandonment. A letter received from Mr. and Mrs. Darrel Rhine stated they would like to see the road paved and maintained by the Spirit Hills Subdivision. Transportation Coordinator Kristi White wrote a letter to the parents of Spirit Hills students outlining the bus stop schedule within Spirit Hills Subdivision. Tom W. Stonecipher spoke on behalf of Wheatland Hills Subdivision homeowners regarding the safety and financial issue if this portion of Cimmeron Drive were to stay open. He entered Exhibit "A" a plat of Spirit Hills and Exhibit "B" a plat of Wheatland Hills to show the visual placement of the spur adjoining the subdivisions. He sighted that when this road was first petitioned for abandonment in 1995, it was to be used as a secondary access for Spirit Hills and the two subdivisions were to enter in an agreement for the cost share of maintaining roads within Wheatland Hills Subdivision. There was a breakdown in that agreement and the developer decided not to use the spur, and instead provided two additional accesses in Spirit Hills Subdivision. Mr. Stonecipher stated with the additional accesses this spur was no longer needed as a primary or convenience access, and keeping it open would cause great concern for people in Wheatland Hills because of increased traffic on Cimmeron Drive that is steep and narrow. If this portion of road continues to be used by Spirit Hills it would increase maintenance costs for Wheatland Hills. Chief Deputy County Attorney Susan Swimley asked if there were plans for this property if the road was abandoned. Mr. Stonecipher stated that they spoke with the four adjoining property owners and have a general consensus but nothing in writing to form a 10-foot wide pedestrian access. Mrs. Swimley stated the remaining 50 feet would go to the parcels on the north and south of each side of the road. She asked if there had been any discussion with the homeowners associations in regards to filing amended plats so this strip of land could be reallocated. Mr. Stonecipher stated there had been discussion but no agreement. Larry Sterne, Tom Stonecipher, George Stanislaw, Stan Rosenberg, Tammy Walker, Lorin Sanden, Roper Green, Bill Fudge, Gail Richardson, Denise Malloy, Mary Maifeld, Norman Bishop, Steve Ollestad, Jim Sutton, Karen Kirk, Jeff Walker and Brian Capdeville spoke in favor of abandoning the portion of road. Ken Walker stated he was neither for nor against abandonment. Commissioner Murdock stated he did not see it as a convenience versus safety issue. It was clear that the road should be abandoned and the easement put in, and he did not see it as a public necessity with the secondary access issue. He stated he was in agreement and would vote in favor of abandonment. Commissioner Mitchell stated that her concerns were if the road were abandoned there would be no tie between Wheatland Hills and Spirit Hills Subdivision and it would be hard to get around. She stated it would create closed neighborhoods, and by finishing Cimmeron Drive it would improve those situations. She stated she did not see the safety

issue as a product of Cimмерon Drive, but the speed of cars and traffic, which could be taken care of by other methods. Commissioner Olson stated he was not in favor of the subdivision regulation that requires one subdivision to allow traffic from another subdivision. Since the road was designed as an access and it is no longer needed for that purpose he did not have a problem of people wanting a closed area where no one can drive through. He was in opposition for one reason, and that was the question of what if it were needed 20 or 30 years from now and it was abandoned. Commissioner Olson asked Road Department Staff Engineer Roy Steiner if it were a possibility to close the road rather than abandon it. Mr. Steiner stated no, that Spirit Hills Subdivision would be in violation of the county subdivision standards because, the loop that serves this road and Spirit Hills has more than 6 residences and by county subdivision standards for health, public safety and welfare it requires a second access. He stated they could address the safety issue by having stop signs installed and bus stops moved. Commissioner Olson stated that by abandoning this road the Commission would be violating their own policies. Mr. Steiner stated that was true and they would have to grant a variance. Mrs. Swimley stated that roads can only be closed in emergency situations and leaving the road without abandoning it did not mean it had to be built. Commissioner Olson asked if they could put a restriction on the road. Mrs. Swimley stated that would depend on how it was built, what the restriction was and why it was being restricted. Commissioner Murdock stated that the regulations for the secondary access was to plan for adjacent subdivided lands, and the development pattern for Spirit Hills was set and he did not think the future would dictate an arterial street through Cimмерon Drive. He stated he was satisfied with the development pattern is set and they would not need that road. He did feel the public access for pedestrians should be looked into and assured. Mr. Steiner stated the road could be made to emergency access standard and not built to county road standard if the decision was not to abandon. Commissioner Mitchell asked if there was any other way out for people living on Little Wolf and Swift Water Drive if something were to happen on Sentinel Drive. Mr. Steiner stated no that was the only access. Commissioner Mitchell suggested an option would be do nothing for now and put another access at a different point. Mrs. Swimley stated that was a possibility but there was no way of knowing if the property to the north would ever develop. Commissioner Murdock moved to abandon the portion of road as petitioned, adding a finding that improving this road would not add to the public safety it would detract from it, based on the testimony. He stated he was making the motion with the understanding the Commission will have the opportunity to look at a public easement for pedestrians. Mrs. Swimley stated the Commission could not conditionally abandon it on a condition there is a public easement, however, if the agreement between the four adjacent property owners is to leave a 10 foot strip, then they could agree to do that. She stated that could be dealt with at a later date if this motion were to pass. Mrs. Swimley stated that after the Commission makes the initial decision with a platted subdivision it is referred to the County Attorney's office to do research and the facts are then presented back to the Commission to make a decision about where the property goes. Commissioner Murdock stated that would be his intention in the motion, also, finding that the 10-foot easement could serve in an emergency condition in the rare event where the 50 lots would need a second access. He stated it would cost too much money to put the road through and a problem getting the Spirit Hills owners to cost share for added maintenance needed in Wheatland Hills for that road. Seconded by Commissioner Mitchell. She stated she was not in favor of abandonment and could not support it, because there were 62 lots that would not have secondary access if something should happen to Sentinel Drive. Commissioner Olson stated he was going to support the motion to abandon but, felt at some point someone may wish they still had the road. Commissioner Murdock and Olson voting aye. Commissioner Mitchell voting nay. Motion carried. Commissioner Olson stated distribution of the land would be determined at a later date.

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Belgrade City/County Planner Jason Karp reported that C & H Engineering, on behalf of Bruce and Virginia Sorenson, has requested preliminary plat approval of a two lot minor subdivision on 10.9 acres. Located west of Belgrade off Old Highway 10 (MT 205), located in the E1/2 of Section 34, T1N, R4E, P.M.M., Gallatin County, Montana. Mr. Karp's staff report included comments addressing review of primary criteria including the effects on wildlife and wildlife habitat; public health and safety; local services; natural environment; agriculture; and agriculture water user facilities. The Commission needs to determine whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Commission finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions are recommended for preliminary plat approval, to be completed prior to final plat approval: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and

removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat. 5. The developer shall record covenants on the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and residents of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c. All fences bordering agricultural lands shall be maintained by the Property Owners in accordance with State Law. d. Plans must be submitted to the State of Montana, Building Codes Division, and the Belgrade Rural Fire District for review and approval for all commercial structures. e. All structures must meet minimum fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief. h. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 6. Two copies of the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval. 7. Road Impact fees and Fire Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact Fee Regulations. 8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval. 9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department. 10. The developer must obtain an encroachment permits from the Montana Department of Transportation for the Lot A-1 access to MT 205 and from Gallatin County for the access to Bolinger Road. 11. A NFPA compliant fill site as approved by the Belgrade Fire Department must be available to provide water for fire protection. If the City of Belgrade water supply is determined suitable by the Fire Department for this subdivision and is utilized as the protection water supply, the developer must obtain permission from the Belgrade City Council to utilize the City of Belgrade water system. 12. The final plat shall show an 8-foot trail easement along the front of Lot A-1, to be used if adjacent properties extend the easement. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. Mr. Karp reported the applicant requested one variance, from the subdivision regulations that requires all roads within the development site be constructed to Gallatin County Standards and be dedicated to the public. Lot A-2 will be served by Bolinger Road, an existing County maintained gravel road, that has over 100 ADT'S and would be required to be paved to the north boundary of the subdivision unless a variance is granted. The Road Department indicated that they would support the variance and the Planning Board voted at the August 30, 2000, meeting to recommend preliminary plat approval and to grant the variance. Mr. Karp stated the original lot was created by Agricultural Exemption with a covenant that prohibited buildings or structures requiring water or sewer facilities. Parcels created by agriculture exemption must be located outside of a platted subdivision. If the Commission approves this minor subdivision the agriculture exemption should no longer apply as per Section 14-D-1a of the Gallatin County Subdivision Regulations. Mr. Karp recommended making changes to the following conditions, to read as follows: #4) A waiver of right to protest creation of Rural Improvement Districts, Water and Sewer Districts and annexation to the city of Belgrade shall accompany the final plat; #10) The developer must obtain encroachment permits from the Montana Department of Transportation for the Lot A-1 access to MT 205 and from Gallatin County for the access to Bolinger Road. If MDOT denies an approach off MT 205, the developer shall construct a County standard access road to Lot A-1 off Bolinger Road. He recommended adding the following conditions: #13) The final plat shall show a 60 foot wide road easement along the south boundary of Lot A-2 to accommodate an access road to Lot A-1 if MDOT restricts access from MT 205. #14) Irrigation ditch maintenance easements shall be shown on the final plat as shown on the preliminary plat. Board discussion took place concerning the change to condition #10 and the addition of condition #13. These requirements are due to the safety concern regarding the growing number of encroachments off MT 205. Mr. Karp stated that the Highway Department can pull driveway permits anytime and these added requirements were a way of assuring an access. Mark Chandler, C & H Engineering stated the project became necessary when Mr. Sorensen decided to put a septic system on the property, and during that time it was found out that an agricultural covenant had been placed on the property. It was determined they would have to go through the minor subdivision review to remove the covenant. He stated the

applicant was requesting the Commission to consider a waiver from paying the road impact fee on lot A-1 that fronts MT 205. Mrs. Swimley stated that the subdivision regulations allow for the determination of impact fees prior to filing a final plat and if they wanted to claim an exemption or apply for a waiver for that lot they would need to follow the administrative procedures in the subdivision regulations. There was no public comment. Commissioner Murdock asked the applicant Bruce Sorensen if he had any objection to adding the requirement to condition #10, that if MDOT denies an approach off MT 205, he shall construct a County standard access road to Lot A-1 off Bolinger Road. Mr. Sorensen stated he would rather have the highway approach and had the permit in hand and plans to have it built after clarifying with the Department of Transportation. Commissioner Murdock moved to approve the variance to waive the paving requirement, as that is consistent with how it has been done on other minor subdivisions finding that it is taken care of with condition #4 where they will waive the right to protest a future RID. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Murdock moved to approve the subdivision as proposed with conditions as amended, adding the finding that it is consistent with the Belgrade Master Plan and the Gallatin County Subdivision Regulations with the condition changes prepared by staff to read as follows: #4) A waiver of right to protest creation of Rural Improvement Districts, Water and Sewer Districts and annexation to the city of Belgrade shall accompany the final plat; and, #10) The developer must obtain encroachment permits from the Montana Department of Transportation for the Lot A-1 access to MT 205 and from Gallatin County for the access to Bolinger Road. If MDOT denies an approach off MT 205, the developer shall construct a County standard access road to Lot A-1 off Bolinger Road. Add conditions #13) The final plat shall show a 60 foot wide road easement along the south boundary of Lot A-2 to accommodate an access road to Lot A-1 if MDOT restricts access from MT 205; and, #14) Irrigation ditch maintenance easements shall be shown on the final plat as shown on the preliminary plat. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Disaster and Emergency Services Coordinator Jason Schrauger presented the Local Emergency Planning Committee Plan for approval. Mr. Schrauger stated this plan was required since 1986 and they have the County Attorney's approval after making some requested changes. There was no public comment. Commissioner Mitchell moved to approve Resolution #2000-067. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Steve Malmberg, of Morrison-Maierle stated there were two bids submitted for the rural improvement district road maintenance overlay program. The bids are as follows: Big Sky Asphalt, of Bozeman for \$74,920.00; and JTL Group of Bozeman for \$93,057.57. Both bid proposals were signed and included a bid bond. Commissioner Olson asked Mr. Malmberg to review and take them under advisement and come back next week with a recommendation. Chief Deputy County Attorney Susan Swimley stated the County Attorney's office is not involved in any aspect of this letting the bids. Commissioner Olson asked Mr. Malmberg to confer with the County Attorney's office.

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Phil Forbes, of Morrison-Maierle reported they opened two bids for Progreba Field in Three Forks, on August 22, 2000. The bids were reviewed and the recommendation was to accept the bid from JTL Group in the amount of \$726,709.70. He further recommended this award be contingent upon Gallatin County taking possession of the land necessary for the project from the Montana Department of Transportation. There was no public comment. Based on the engineers recommendation Commissioner Murdock moved to award the bid to JTL Group, and that it be contingent on Gallatin County taking possession of the land necessary for the project from the Montana Department of Transportation. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson presented for consideration a resolution to adopt fair housing. Mr. Watson stated this resolution would require Gallatin County to take 5 steps in assuring that by adopting fair housing law practice's, it is illegal to deny housing to anyone because of race, sex, religion, color, age, physical or mental handicap or national origin. It specifically requires Gallatin County to take the following steps: to display a Fair Housing Law Poster which contains the "Equal Housing Opportunity" logo in the Gallatin County Courthouse; inform all county employees of the county's commitment to fair housing; post the resolution in County buildings and public places to publicize it; direct all county employees to make the Commission immediately aware of any reports received of housing discrimination; and if complaints are received the chair of the Commission is required to forward them to the Montana Human Rights Commission, within 10 days of receiving the

claim. There was no public comment. Commissioner Olson moved to adopt Resolution #2000-068. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 11:45 A.M.

*Unavailable*

*For signature*  
CHAIRMAN APPROVAL

*Shelley Vance*  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 19TH DAY OF SEPTEMBER 2000**

The meeting was called to order by Chairman Phil Olson at 9:00 A.M. Also present were County Commissioners Bill Murdock and Jennifer Smith Mitchell, Chief Deputy County Attorney Susan Swimley, and Acting Clerk to the Board Mary Miller.

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Chairman Olson requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**SEPTEMBER 11, 2000**

- A regularly scheduled office meeting was called to order at 10:55 a.m. to discuss numerous issues. In attendance were Commissioners Olson and Murdock, and Executive Secretaries Stacy Johnston and Glenda Noyes. Commissioner Mitchell was on vacation. The Commissioners discussed an invoice received from Dale R. Beland for contracted services, in the amount of \$2,457.28. Commissioner Murdock stated that he reviewed Mr. Beland's contract with Deputy County Attorney Chris Gray and the invoice abides with the contract. Commissioner Murdock made a motion to approve payment of the invoice from Mr. Dale Beland for services provided in conjunction with the Big Sky Transportation Study, finding Mr. Gray has been approved the payment. Commissioner Olson seconded the motion. Motion carried unanimously. The Commissioners also reviewed two contracts, the first being a negotiated agreement between Gallatin County and the Gallatin Rest Home Unit. Ms. Johnston explained to the Commission that this document was agreed upon in negotiations. Commissioner Murdock made a motion to approve the negotiated agreement between Gallatin County and the Gallatin Rest Home Unit with the understanding that it has been negotiated and recommended for approval by the Personnel Director and County Attorney. Commissioner Olson seconded the motion, adding the finding that Ms. Johnston has verified the approval from appropriate departments. Motion carried unanimously. The second contract discussed was an agreement between Gallatin County and VRI for the Employee Assistance Program. Ms. Johnston noted that Fiscal Officer Ed Blackman has not signed off on the contract, but Personnel Director Kathy Nowierski did assure her that the contract was approved within the budget process. Commissioner Murdock made a motion to approve the agreement between Gallatin County and VRI for the Employee Assistance Program with the understanding that the contract has been approved by the Personnel Director and County Attorney, and was agreed to during the budget process. Commissioner Olson seconded the motion, with the condition that the contract will not be signed by the Commission until the Fiscal Officer has signed off on it. Motion carried unanimously. The Commissioners also discussed a request from homeowners on Yadon Road for the County to reimburse them the cost of the dust control measures they paid for, that were negated when the road was graded. An agreement could not be met, so the Commissioners agreed to leave the decision up to Road and Bridge Superintendent Lee Provance.
- The Commissioners attended a special meeting for the purpose of discussing Assistant DES Coordinator Jason Shrauger's Statement of Work plan for FY 2001. Commissioner Murdock made a motion to approve the Statement of Work plan presented by Mr. Shrauger. Commissioner Olson seconded the motion. Motion carried with a vote of two to zero.

**SEPTEMBER 12, 2000**

- A special meeting was called to order at 2:30 p.m. for the purpose of consideration of a contract extension with DNRC for the West Yellowstone Composting Facility. In attendance were Commissioners Olson and Murdock, Grants Administrator Larry Watson and Executive Secretary Glenda Noyes. Commissioner Mitchell was not available. Mr. Watson explained that this document extends the contract through December 31, 2001. The original contract, #2001-004, ends at the end of September 2000. Commissioner Murdock made a motion to approve the extension of the contract



with DNRC for the West Yellowstone Composting Facility. Commissioner Olson seconded the motion, and added in discussion that without this extension, the composting facility is in dire jeopardy. Motion carried with a vote of two to zero.

- The Commissioners attended a regularly scheduled County Attorney semi-monthly meeting to discuss numerous legal matters. In attendance were Commissioners Olson, Murdock and Mitchell, County Attorney Marty Lambert, Chief Deputy County Attorney Susan Swimley, Deputy County Attorney Chris Gray and Rick Weaver and Bill Wilke from the Bozeman Daily Chronicle. The Chronicle representatives attended the meeting hoping to discuss the details surrounding the decision made regarding the County's legal newspaper. It was determined that this issue would need 48 hour notice and a meeting was set for the following week. The Commission also discussed a report from Ron Allen regarding the Gateway Foothills. Commissioner Murdock made a motion to accept Ron Allen's report on Gateway Foothills as appropriate and well done. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

#### **SEPTEMBER 13-14, 2000**

- The Commissioners conducted regular County business.
- A special meeting was called by Chairman Phil Olson at 10:00 A.M. Also present were Commissioners Bill Murdock and Jennifer Mitchell, Chief Deputy County Attorney Susan Swimley, and Acting Clerk to the Board Mary Miller.

Chief Deputy County Attorney Susan Swimley stated that on June 13, 2000, the Commission considered a request from landowners who live northeast of Story Mill Road to improve a section of that road. The matter was taken under advisement and continued until July 25, 2000, and on that date the Commission voted to improve Story Mill Road to county road standard with the exception of 7+% of the distance of the road. At that time Commissioner Murdock's motion included that the county contribute \$50,000.00 per year for 2 years in a combination of cash, work in-kind, and to be done under the road superintendent's supervision and convenience. The project would be contingent upon the communities contribution of \$60,000.00 being in the bank, a signed agreement with the understanding that the land owners provide the right-of-way and being responsible for fencing as previously agreed, and as designed in the Morrison-Maierle proposal. Commissioner Olson confirmed that the motion also, included the cap of the county's share was \$100,000.00 to be worked out in cash and work in-kind and the total of \$160,000.00 would include the engineering costs. By not improving the 7+% distance of the road to county standard, the process required the Commission to grant themselves a variance from their own standards. Mrs. Swimley stated that this meeting was for the Commission to grant themselves a variance from their road standards, clarify the maintenance and engineering cost issues that were not clear, the language of the signed agreement, and to give the Road Department some direction so the project could proceed. She stated that there was discussion regarding the engineering costs and it was determined those costs were not included. Mrs. Swimley stated the \$160,000.00 was for labor and materials and if engineering was to be included they would be coming up short. The landowners spokesperson, Mr. Olivio stated on July 25, 2000, that he believed the \$160,000.00 did not include any maintenance, and when questioned about the moving of utilities being included in that total, he replied that by staying between the existing boundaries and easements there was no need to move utilities. He commented that by excluding the 7+% distance of the road that would be cost prohibitive, the rest could be improved to county road standard. Mrs. Swimley stated the Commission needed to give their reasons for granting the variance on the 7+% total distance of road that would not be improved to the county road standard. Commissioner Olson was opposed to granting a variance and, preferred to have road policies that would allow for different standards of roads for different places and various concerns. Commissioner Murdock did not disagree but stated that it would not solve the problem of the existing regulations and this situation. Mrs. Swimley noted that the Commission did not have a process to grant themselves a variance, as county roads are normally built to subdivision standards and in this case, based on the money being contributed that is not possible. Commissioner Murdock stated it was his understanding that the road could not be improved for this amount of money if they did not vary from the road standard. Commissioner Murdock moved to give the County a deviation from the road standard, as it would cost \$130,000.00 more in just utility relocations alone if they did not vary from the 7+% distance of road. Seconded by Commissioner Olson. Commissioner Mitchell stated she was concerned with setting a dangerous precedence for future roads, and expressed the need to have guidelines for the Road Department and the Commission to follow. Commissioner Olson stated he preferred a policy rather than a variance. He stated the criteria for that policy could be for landowners, who are willing to cost share improvements on roads that the County is not willing to upgrade to full County standard, because bringing it to full County standard would be a hardship to both the County and the landowners. Commissioner Murdock stated he was committed to honor the agreement the Commission reached on July 25, 2000. He stated there had been some

resistance from the staff in building this road and asked Road Superintendent Lee Provance what he needed for engineering in addition to what has already been done. Mr. Provance stated they could do anything the Commission directed them to do but there was 7+% of the road where they cannot meet the width grade and more that does not meet the back slope or grade standard. He did not advocate this being improved to less than County standard and did not feel it would be in the best interest of the County. He stated his understanding of the meeting was they were going to do the minimal improvement work to get traffic flowing, by putting on 8 to 9 inches of pit run and cap it off 4 inches across on the existing road without doing a lot of cuts, fills and back sloping. He stated that material and cash wise it could be easily done within the \$160,000.00 but, factoring in manpower and equipment time, it would be nip and tuck. He did not think there was a need for an engineer, although there were some complicating issues with back slopes, slope of the road and bad visibility. Mr. Provance stated there was an outstanding bill with Morrison-Maierle for engineering done in the past that he did not want the Road Department to incur. He commented that the road was already at a 26-foot width in most areas. Commissioner Olson stated that he did not see any resistance from the road department and understood their concern with improving it to meet the county road standards. Mr. Provance commented that the City had annexed another 200 acres, and if they develop that as a dump site and start using that portion of road with large trash trucks it would further complicate matters, and it would be a real issue in the winter. He stated there are portions of the back slope that are so steep that snow removal is impossible and they only provide seasonal maintenance on the road and none in the winter. Commissioner Mitchell questioned if the City annexed in the road, and if there was an opportunity to lessen the length of road to reduce the cost and give some responsibility to the City. Mr. Provance stated that they never do, and the County had no grounds to make the City include the road in the annexation. Mrs. Swimley concurred. Mr. Provance added that they could ask, as it would reduce the distance by about a quarter mile. He stated that portion could be called mountainous terrain and could not be brought to county standard. Commissioner Mitchell noted that the County could do more work with the money if the City was asked to take the portion of road adjacent to their annexed piece of property. Commissioner Murdock withdrew his motion and Commissioner Olson withdrew his second. Board discussion took place and together the Commission made a motion read by Commissioner Mitchell, that the Gallatin County Commission acknowledges that the intent of the Story Mill Road discussion from the public meeting on July 25, 2000, was that Story Mill Road will not be developed to county road standards because it can not be done within the \$160,000.00. Seconded by Commissioner Murdock. Commissioner Olson and Murdock voting aye. Commissioner Mitchell voted nay. Motion carried. Commissioner Murdock stated he thought that Exhibit "A", the cost estimate from Morrison-Maierle should be included in the agreement. Commissioner Mitchell stated that all the things not included in the \$160,000.00 should be acknowledged in the agreement. Board discussion took place regarding who the signed agreement would be with, the language and concerns of obtaining future right-of-way and utilities. The Commission was in consensus that the signed agreement would be between the County and the landowners of Grand View 2 who requested this improvement of Story Mill Road. Board discussion took place regarding the responsibilities of the landowners and the conditions for this improvement that would be included in the agreement as follows: removal and replacement of fencing for this improvement; the right-of-way for this improvement and any in the future; weed control; utilities; engineering; and costs over the cap of \$160,000.00. The \$60,000.00 community contribution is to be in the bank and obtainable by the County to use for this improvement project. The agreement will be signed by the landowners requesting the improvement and it will state that the road is being improved from dirt to gravel with no additional maintenance above and beyond what has been previously provided. Mrs. Swimley stated she would request in the cover letter to the landowners that if they have any documents granting right-of-way, the County would like them for future use, but they could not be forced to turn them over.

#### SEPTEMBER 15, 2000

- A special meeting was called to order at 10:00 a.m. for the purpose of approving a hand issued claim received in the Auditor's Office on September 13, 2000. In attendance were Commissioners Olson and Mitchell, the Auditor's Accounting Clerks Jackie Lamke and Jeanine Fillingner, and Executive Secretary Glenda Noyes. The claim is a return of funds to the U.S. Department of Justice for money not used from a grant. Commissioner Mitchell made a motion to approve PO #66886 for \$183.00, understanding that this is a return of unused funds to the U.S. Department of Justice, from a grant for the Sheriff's Department. Commissioner Olson seconded the motion, adding that the Auditor and Grants Administrator have approved the claim. All voted aye. Motion carried with a vote of two to zero.

A special meeting was called to order @ 10:05 a.m. for the purpose of considering signing a Youth Probation Pilot Project Contract. In attendance were Commissioners Olson and Mitchell, Acting Youth Probation Officer Vicky Nelson, and Executive Secretary Glenda Noyes. Ms. Nelson

explained that Gallatin County has signed up with 6 other counties for a pilot project through the Department of Corrections. Each County was allotted a "pot" of money from which to develop programs to aid in youth rehabilitation, and keep them out of facilities. Proposals were written by the Youth Probation Department in the amount of \$94,920. On August 28 the funds were released to the County, and contracts are beginning to be finalized so that the programs can begin. Deputy County Attorney Chris Gray, Grants Administrator Larry Watson, and Fiscal Officer Ed Blackman have approved the three items from the pilot project that on the table today, all from CorpsLINK. After discussion and explanation of the various aspects of the pilot project, the Commissioners determined that they prefer to approve all of the pending contracts, rather than only the ones presented today. Commissioner Olson made a motion to approve all of the vendor contracts for the Youth Probation Pilot Project, subject to approval from the Judges, Grants Administrator, Fiscal Officer and Youth Probation Office and vendor approval and signature. Commissioner Mitchell seconded the motion, finding that this contingency approval will save time in the future. In discussion, Commissioner Mitchell added that Youth Probation will have to go through the proper processes as required by State law. All voted aye. Motion carried with a vote of two to zero.

**The following items were on the consent agenda:**

1. Approval of claims presented by the Auditor dated from September 08, 2000 through September 14, 2000 for P.O. #62983 for \$491.51, P.O. #68441 for \$40.00, P.O. # 68442 for \$160.00 totaling \$691.51, and the following batches dated September 19, 2000 Batch 1 for \$36,672.82, Batch 2 for \$32,027.43, Batch 3 \$355,953.71, Batch 4 for \$59,029.33 Batch 5 for \$87,638.99, Batch 6 \$35,754.92, Batch 7 for \$108,271.36, Batch 8 for \$27,693.88 and Batch 9 for \$2,205.23 totaling \$745,247.67. Grand total \$745,939.18.
2. Consideration of the following contracts: Agreement with Jill Abbott-Stolzfus for Dietician Services at the Rest Home, Agreement with Dr. Pam Hiebert for Medical Director Services at the Rest Home
3. Request for a Final Plat Approval of the Sleeping Bear Minor Subdivision. Preliminary plat approval was granted on April 25, 2000. A staff report submitted by Gallatin County Planner W. Randall Johnson states that the conditions for final plat approval have been met.
4. Request for a Final Plat Approval of the Burrows Minor Subdivision. Preliminary plat approval was granted on May 30, 2000. A staff report submitted by Gallatin County Planner Jennifer Koozer states that the conditions for final plat approval have been met.

The consent agenda was read by Commissioner Murdock. There was no public comment. Commissioner Murdock requested that Item #4 on the consent agenda for the final plat approval of the Burrows Minor Subdivision be removed and placed on the regular agenda. Commissioner Mitchell requested that Item #3 on the consent agenda for the final plat approval of the Sleeping Bear Minor Subdivision be removed and placed on the regular agenda. There was no public comment. Commissioner Mitchell moved to approve the consent agenda as amended. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the request for final plat approval for the Burrows Subsequent Minor Subdivision. Commissioner Murdock question if everything was is order. Ms. Koozer stated it was in order. There was no public comment. Commissioner Murdock moved to approve the final plat, adding the finding it is all in order. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Planner W. Randall Johnson reported on the request for final plat approval for the Sleeping Bear Minor Subdivision. Commissioner Mitchell questioned if the Sleeping Bear Minor was going to participate in the traffic study being done in Big Sky. Mr. Johnson stated that it was not a required condition at the time of preliminary plat approval. There was no public comment. Commissioner Mitchell moved to approve final plat. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Commissioner Murdock announced the consideration for appointments to the CIP Committee. There was no public comment. Commissioner Murdock made a motion to appoint James Monger. Board discussion took place with regard to whether Mr. Monger was applying to represent the financial or the construction industry. It was decided that two of the three applications needed clarification and Commissioner Mitchell requested the appointment be continued until they received those clarifications. Commissioner Murdock withdrew his motion. Commissioner Olson stated it would be continued for

two weeks. Commissioner Murdock announced the consideration of appointments for the County's Representative to the Bozeman City Planning Board. Mark Haggerty one of the applicants spoke to the Commission about his interest in county issues. Commissioner Murdock moved to appoint Mark Haggerty as the County's representative for. Mr. Haggerty will fill the remaining two-year term, expiring on January 31, 2002. Seconded by Commissioner Mitchell. Commissioner Murdock and Commissioner Mitchell voting aye. Commissioner Olson voting nay. Motion carried.

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Deputy County Attorney Chris Gray reported on the continuation of consideration of a MOA with Touch America & AT&T for an underground duct system. The Commission had concerns with the reconstruction and reimbursement for the use of the right-of-way by the utilities. Commissioner Olson questioned what could be done now and in the future to utilize these agreements. Mr. Gray stated that the County could utilize their presence in the right-of-way and charge them for the use. Gallatin County Road Superintendent Lee Provance suggested the encroachment permits could be modified to include re-vegetation and weed control and have all contractors bond for work done in the right-of-ways. The exception to that, unless they sub contracted, would be essential services such as: power; gas; water; and sewer. Board discussion took place regarding what charges could be charged and to whom. Mr. Provance stated the County should keep their options open and research this legally for future agreements. Commissioner Murdock moved to approve the MOA contract. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Chief Deputy County Attorney Susan Swimley stated that notice of this public hearing to consider annexation of property into the Gallatin Canyon Consolidated Rural Fire District was published in the High Country Independent Press on September 7 and 14, 2000. Mrs. Swimley also stated that the Clerk and Recorder's Office did not receive any written protests regarding this annexation. There was no public comment. Commissioner Murdock moved to approve Resolution #2000-069. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Planner John Shepard reported on the Eagle Mount CUP to expand a non-conforming use. The property is described as Tract 1 of COS 1431, a portion of the NW1/4 of Section 25, T2S, R5E, in the Gallatin County/Bozeman Area Zoning. The CUP is to expand the existing non-conforming use with a therapeutic swimming pool addition in the A-S (Agricultural Suburban) zone. The applicant owns a 10-acre parcel in the A-S zone with an Educational/Recreational Therapy Center; consisting of an office/multi-purpose building, horse arena building (barn), stables, pasture and parking. The current Eagle Mount building is 5,316 square feet with 15 parking spaces. The proposed therapeutic swimming pool addition is 9,310 square feet with 36 additional parking spaces. Eagle Mount was granted a CUP by the City of Bozeman in 1986. The use is considered non-conforming since this is not a permitted use in the A-S district. Mr. Shepard's question before the Commission is: given the circumstances, is the proposed use appropriate for this zone and area and are additional conditions necessary, or is the use inappropriate given any conditions? Mr. Shepard stated the Planning Board met on August 22, 2000 and recommended unanimous approval. One neighbor spoke in support of the project. If the Commission determines that the request meets the criteria of the Zoning Regulation, the following conditions are suggested: 1. The conditional use permit will be valid only after approval of a land use permit from the Gallatin County Planning Department and a building permit from the City of Bozeman. 2. Installation of the septic system for the pool addition shall be completed prior to occupancy. 3. The gas pipeline location and easement shall be confirmed and delineated prior to final site plan approval. 4. The Middle Creek Ditch easement and any other ditch easement shall be delineated prior to final site plan approval. 5. Improvement detail information (garbage enclosure elevation; typical parking space, typical handicapped parking space, handicapped signage; bike rack; freestanding light fixtures; curb; and pavement cross-section) shall be provided prior to final site plan approval. 6. A landscaping plan for the artificial lot, which meets the requirements of 50.100, shall be provided prior to final site plan approval. 7. Applicant shall propose measures to ensure that the area adjacent of Goldenstein Lane is not used for parking. The measures shall be evaluated for one year from approval. If the measures are not effective, the applicant shall install no parking signs and/or barriers in the area. 8. The 35-foot right-of-way for the west half of South 11<sup>th</sup> Street shall be dedicated to the public. 9. The 45-foot right-of-way for the north half of Goldenstein Lane shall be dedicated to the public. 10. Applicant shall work with the Gallatin County Planning Board Trails Advisory Committee to determine if the trail indicated on the site plan is an appropriate alignment, a 25' easement shall be created for public trail access, along the 11<sup>th</sup> Avenue Right-of-Way. 11. New construction shall meet the Uniform Fire Code and its Appendix material, or an alternative fire protection plan approved by the Sourdough Fire District. Conditions

required by the Gallatin County/Bozeman Area Zoning Regulation (Section 53.030.B) are as follows: 12. The right to a use and occupancy permit shall be contingent upon the fulfillment of all general and special conditions imposed by the conditional use permit procedure. 13. All of the special conditions shall constitute restrictions running with the land use, shall be binding upon the owner of the land, his successors or assigns, and shall be recorded as such with the Gallatin County Clerk and Recorder's office by the property owner prior to the issuance of any building permits, final site plan approval or commencement of the conditional use. 14. All conditions specifically stated under any conditional use listed in this title shall apply and be adhered to by the owner of the land, successors or assigns. 15. All special conditions shall be consented to in writing by the applicant. Linda Griffith, Executive Director of Eagle Mount explained to the Commission the advantages of having the therapeutic pool for the center. Architect Jamie Lenon, Prugh and Lenon Architects and Board member of Eagle Mount reported on the following criteria: a. Traffic impacts, both on-site and off site; b. Off-street parking and loading requirements; c. The visual impact on the surrounding area; d. The degree of compliance with the adopted master plan and Zoning Regulations; e. The level of conflict with other uses in the surrounding area; g. The degree to which any existing unsafe or hazardous conditions would be mitigated; h. The viability of the subject structure(s); and i. On-site and off-site impacts from noise, dust, smoke, surface or groundwater contamination, or other environmental impacts. Mr. Lenon stated that he did not see any negative impacts, and based on the criteria this use would be reasonable, natural and incidental to the growth and use of an existing business. There was no public comment. Commissioner Murdock moved to approve the expansion of the use with the conditions as presented by the staff, adding the finding that it meets the criteria. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Planner John Shepard presented the consideration of a request for approval of improvements agreement for Mountain West Bank Temporary Use. Mr. Shepard stated this agreement was for a special temporary use permit in the Walker Center PUD B-1 zone in the Gallatin County/Bozeman Area Zoning District, as approved by Commissioner Murdock on August 4, 2000. He stated that a bank was not a permitted use in this zone. Under Section 50.140 of the Zoning Regulation, a special temporary use permit may be issued for those temporary uses, which are required for the proper function of the community or are temporarily required in the process of establishing a permitted use. Mr. Shepard stated that pending approval, the applicant would receive a Temporary Occupancy Permit with cleanup or removal of the temporary use and restoration of improvements guaranteed under this agreement. The Special Temporary Use Permit is valid until September 4, 2001. He stated the agreement for security was reviewed and approved by the County Attorney's office. Mr. Shepard stated there were some minor text changes that needed to be initialed in the agreement. On page 3 in Section 7 the words Certificate of Deposit should be inserted and on page 2 in Section 2 the word Back, should read Bank. Chief Deputy County Attorney Susan Swimley recommended to the Commission to approve the agreement with the corrections as presented by Mr. Shepard. Bret Haggerty the managing partner of 19<sup>th</sup> Street Properties asked the Commission to approve temporary use for the one year as stipulated in the agreement. There was no public comment. Commissioner Mitchell moved to approve the zoning improvements agreement for the special temporary use permit, pending corrections by Mr. Shepard. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Planner W. Randall Johnson stated that Joseph W. Sabol, on behalf of Leelynn, Inc. & Wiley Mt, Inc., has a requested two modifications to the conditions of preliminary plat approval for the Spanish Peaks Estates Subdivision, Phase 1-4. The proposed Spanish Peaks Estates Phase 1-4 Major Subdivision includes 102 single-family residential lots, ranging in size from 2.01 to 6.7 acres. The property is located in a portion of Sections 3, 9 and 10, T7S, R3E, PMM, Gallatin County, Montana. The Commission granted preliminary plat approval on August 24, 1999, for these phases. On April 25, 2000, at the request of the developer, the Commission modified the conditions of preliminary plat approval allowing geotechnical studies to be prepared in conjunction with land use permits, not as a condition of final plat approval. On June 20, 2000, at the request of the developer, the Commission modified the conditions of preliminary plat approval by eliminating the requirement that the proposed Ousel Falls park be dedicated to Gallatin County. Mr. Johnson stated the applicant was now requesting modifications to Condition #1 to allow Phases 1 through 4 to be completed in any sequence, that guarantees the protection of the public health, safety and welfare, including, but not limited to, the provision primary and secondary access. In addition, the applicant has submitted a modified preliminary plat, which creates two additional phases by dividing Phases 1 and 2 into Phase 1, 1A, 2, and 2A. The number of lots within the modified Phase 1 boundary will be reduced from 39 to 36; open space will be increased from 112.52 acres to 119.25 acres. The number of lots within the modified

Phase 2 boundary will remain at 40; open space will increase by .33 acre. He stated the requested amendment is to allow flexibility in the final plat filing sequence yet guarantee installation of required improvements, particularly secondary access that will be needed by all phases. Mr. Johnson stated the applicants reason for requesting the changes were because they were having difficulty obtaining DEQ approval for certain areas within the subdivision. Mr. Johnson stated the Commission has to determine whether or not to approve the proposed change of conditions. The Commission may change conditions where it is found that errors or changes beyond the control of the subdivider have rendered a condition unnecessary, impossible or illegal. If the Commission approves the modification requests, the conditions of final plat approval for all phases of the Spanish Peaks Estates Subdivision shall be re-structured as follows (additional language is shown as underline): If the County Commission approves the modification requests, the conditions of final plat approval for all phases of the Spanish Peaks Estates Subdivision shall be re-structured as follows (additional language is shown as underline): 1. The developer shall have three (3) years from the date of preliminary plat approval (August 24, 1999) to complete all conditions, and apply for final plat approval for each development phase. Required conditions to be completed prior to final plat approval for the first development phase: 1. All subdivision road names shall be reviewed and approved by the County Road & Bridge Department prior to final plat approval. 2. Interior subdivision road plans, road maintenance plans, drainage plans, lot access plans, and sign plans shall be submitted to the County Road & Bridge Department prior to the construction of the interior subdivision roads. 3. The primary access road (Ousel Falls Road) to the subdivision shall lie within a sixty (60) foot public right-of-way easement. 4. The subdivider shall be responsible for the shared maintenance of the primary and secondary access roads with all affected parties. Any maintenance agreements shall be submitted to the County Road & Bridge Department. 5. The developer shall agree to participate and equitably share in the cost of any traffic management and mitigation program authorized by the Montana Department of Transportation and participated in by Gallatin County, which concerns traffic impacts of future land use developments in the Highway 64 traffic shed. The developer shall be entitled to an equitable reimbursement for any disproportionate costs expended by it in connection with participation in such program. 6. The subdivision shall be annexed into the Gallatin Canyon Rural Fire District. 7. An NFPA standard fill site shall be provided. Plans for the fill site shall be submitted to the Gallatin Canyon Rural Fire District for review and approval. The Gallatin Canyon Rural Fire District shall approve the final installation and operation of the fill site. 8. A property owners' association for the subdivision shall be created. 9. Covenants for the subdivision shall include the following provisions: a. All structures shall be constructed in compliance with the current Uniform Building Codes. b. The property owners' association shall be responsible for the control of noxious weeds within the common open space parcels, and all road right-of-ways. Lot owners shall be responsible for the control of noxious weeds within their property. c. Place title to common open space property with the property owners' association. d. Common open space shall be preserved and maintained for passive and active recreation, wildlife habitat, and protection of scenic, unique or important natural features. e. Membership shall be mandatory for each owner, who must be required to pay fees to the Association for taxes, insurance, and maintenance of common open space. f. As concerns common open space; the property owners' association shall be responsible for liability insurance, local taxes, and the maintenance of recreational facilities. g. As concerns common open space; assessments levied by the association must be able to become a lien on the property. h. As concerns common open space; the property owners' association shall be responsible to adjust the assessment to meet changed needs. i. Ownership shall be structured in such a manner that real property taxing authorities may satisfy property tax claims against the common open space lands by proceeding against individual owners in the association and the dwelling units they each own. j. The property owners' association shall be responsible for the operation and maintenance of all interior subdivision roads. k. All dwellings shall be constructed with an automatic fire sprinkler system meeting the requirements of NFPA 13D/Uniform Fire Code. The fire district shall receive a stamped set of engineered sprinkler system plans for review and approval prior to construction. Inspections shall be scheduled, with 48 hours notice, during construction and after completion. l. All structures shall be constructed in compliance with the National Fire Protection Association codes. m. Class A or B fire-rated roofing materials shall be used. n. Spark arrestor screens shall be placed on all fireplace and woodstove chimneys. o. Smoke detectors shall be installed on each level of dwelling units. p. The vegetation reduction and clearance guidelines of the *Fire Protection Guidelines for Wildland Residential Interface Development* shall be used. q. The artificial feeding of all big game wildlife shall be prohibited. r. All garbage shall be stored in animal-proof containers or be made unavailable to animals. s. Owners acknowledge that wildlife damage to landscaping will occur. Owners shall accept that risk and shall not file claims against the Owners Association or any other governing body for such damages. t. Fencing along the exterior boundaries of lots shall be prohibited. u. Pets shall be controlled by each homeowner, and not allowed to roam within the subdivision. v. The planting of wildlife attracting vegetation shall be prohibited. w. A site-specific analysis and geotechnical study, prepared by a licensed professional engineer, shall be required in connection with proposed construction of any single-family residence. This covenant cannot be revoked. x. Any covenant which is included herein as a condition of preliminary plat approval and required by the

County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. Required conditions for each Phase final plat recordation: 1. The final plat shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates. 2. State Department of Environmental Quality approval shall be obtained. The subdivider shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The subdivider shall obtain the Gallatin County Health Officer's approval. 3. All road construction shall be inspected and certified by a Montana registered civil engineer. The subdivider shall obtain written verification from the County Road & Bridge Department that all roads have been brought to county standards. 4. The final plat shall contain a statement requiring lot access to be built to the standards of Section 7.G.2 of the Gallatin County Subdivision Regulations. 5. Street signs shall be installed or bonded prior to final plat approval. 6. Areas disturbed by construction shall be seeded and controlled for noxious weeds. 7. All utility easements are to be shown on the final plat. Utility easements shall be centered along side and rear lot lines wherever possible, and shall be twenty (20) feet wide. Underground utilities, if placed in the road right-of-way, shall be located between the roadway and the right-of-way line. Such underground facilities shall be installed or utility culverts provided before the road is surfaced. In addition, the following statement must appear on the final plat: "The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as 'Utility Easement' to have and to hold forever". 8. The subdivider record on the final plat a waiver of right to protest creation of rural improvement districts and local improvement districts. 9. The subdivider shall make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. 10. The Subdivider shall make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation.

Required conditions for Phase 1 final plat recordation: 1. Secondary access shall be provided by South Fork Road and the construction of Puff's Way within Section 3, and connecting to Puff's Way within the Aspen Groves Subdivision. South Fork Road and Puff's Way within Section 3 shall lie within a 60 foot public right-of-way easement, and be constructed to county standards. The subdivider shall either: a) construct the Puff's Way prior to final plat approval, or; b) enter into an improvements agreement with the County for the completion of the construction of the road. The improvements agreement shall comply with all requirements of the Gallatin County Subdivision Regulations. 2. The interior subdivision roads (Ousel Falls Road, Galena Court, Falls View Road, and South Fork Road) shall lie within a 60 foot public dedicated right-of-way or public easement. A temporary cul-de-sac shall be located at the end of Ousel Falls Road. The interior subdivision roads shall be constructed to county standards for paved roads. The subdivider shall either: a) complete the paving of the interior subdivision roads prior to final plat approval, or b) enter into an improvements agreement with the County for the completion of the paving of the interior subdivision roads. The improvements agreement shall comply with all requirements of the Gallatin County Subdivision Regulations. Required conditions for Phase 1A final plat recordation: 1. The primary access road and interior lot access road shall be provided by an extension of Ousel Falls Road. Ousel Falls Road shall lie within a 60 foot public dedicated right-of-way easement or public easement, and be constructed to county standards. The subdivider shall either: a) construct the Ousel Falls Road prior to final plat approval, or; b) enter into an improvements agreement with the County for the completion of the construction of the road. The improvements agreement shall comply with all requirements of the Gallatin County Subdivision Regulations.

Required conditions for Phase 2 final plat recordation: 1. Primary access shall be provided by South Fork Road. South Fork Road shall lie within a 60 foot public dedicated right-of-way easement or public easement. 2. Secondary access shall be provided by connection to Puff's Way within the Aspen Groves Subdivision. 3. The interior subdivision roads (Puff's Way and Cinnabar Drive) shall lie within a 60-foot public dedicated right-of-way. The interior subdivision roads shall be constructed to county standards for paved roads. The subdivider shall either: a) complete the paving of the interior subdivision roads prior to final plat approval, or b) enter into an improvements agreement with the County for the completion of the paving of the interior subdivision roads. The improvements agreement shall comply with all requirements of the Gallatin County Subdivision Regulations.

Required conditions for Phase 2A final plat recordation: 1. Primary access shall be provided by South Fork Road and Puff's Way. South Fork Road and Puff's Way shall lie within a 60 foot public dedicated right-of-way easement or public easement, and be constructed to county standards for paved roads. The subdivider shall either: a) complete the paving of the interior subdivision roads prior to final plat approval, or b) enter into an improvements agreement with the County for the completion of the paving of the interior subdivision roads. The improvements agreement shall comply with all requirements of the Gallatin County Subdivision Regulations. 2. Secondary access shall be provided by connection to Puff's Way within the Aspen Groves Subdivision. 3. The interior subdivision roads (Dolomite Drive and Diamond Drive) shall lie within a 60 foot public dedicated right-of-way, and be constructed to

county standards for paved roads. The subdivider shall either: a) complete the paving of the interior subdivision roads prior to final plat approval, or b) enter into an improvements agreement with the County for the completion of the paving of the interior subdivision roads. The improvements agreement shall comply with all requirements of the Gallatin County Subdivision Regulations. Required conditions for Phase 3 final plat recordation: 1. Secondary access shall be provided by South Fork Road and the construction of Puff's Way within Section 3, and connecting to Puff's Way within the Aspen Groves Subdivision. South Fork Road and Puff's Way within Section 3 shall lie within a 60 foot public right-of-way easement, and be constructed to county standards. The subdivider shall either: a) construct the Puff's Way prior to final plat approval, or; b) enter into an improvements agreement with the County for the completion of the construction of the road. The improvements agreement shall comply with all requirements of the Gallatin County Subdivision Regulations. 2. The interior subdivision roads (South Fork Road, Biotite Road, Agate Way, and Crown Butte Road) shall lie within a 60-foot public dedicated right-of-way. A temporary cul-de-sac shall be located at the end of Crown Butte Road. The interior subdivision roads shall be constructed to county standards for paved roads. The subdivider shall either: a) complete the paving of the interior subdivision roads prior to final plat approval, or b) enter into an improvements agreement with the County for the completion of the paving of the interior subdivision roads. The improvements agreement shall comply with all requirements of the Gallatin County Subdivision Regulations. Required conditions for Phase 4 final plat recordation: 1. The primary access road and interior subdivision road (South Fork Road and Crown Butte Road) shall lie within a 60-foot public dedicated right-of-way or public easement. The interior subdivision road shall be constructed to county standards for paved roads. The subdivider shall either: a) complete the paving of the interior subdivision road prior to final plat approval, or b) enter into an improvements agreement with the County for the completion of the paving of the interior subdivision road. The improvements agreement shall comply with all requirements of the Gallatin County Subdivision Regulations. 2. Secondary access shall be provided by connecting Crown Butte Road to the Ousel Falls Subdivision. Mr. Johnson stated he was confident that each phase could stand-alone. Bob Lee, Morrison-Maierle speaking on behalf of the applicant stated the change beyond the control of the subdivider was due to the State Department of Health's implementation of a new "cumulative impact review process" targeting areas of the state, with Big Sky being one of those areas. With this new review process they analyze the impact at hand, potential projects in the area and existing development based on back ground levels of critical components in the ground water or surface water. He stated that when they submitted nearly a year ago, there was no mathematical model in place to take care of the process, and subsequent to the submittal DEQ began the process of analyzing the cumulative impact of this subdivision along with all other subdivisions in West Fork Basin on water quality of the West Fork. It took DEQ approximately a year to notify the applicant that this project would be subjected to the cumulative review process and another 8 months to arbitrate the mathematical model on how to analyze the cumulative impact. He stated this process has affected development activities throughout Big Sky. Mr. Lee stated there were questions of stability in the areas of Phase 1A and 2A because of old land slide masses, and the time frame to give DEQ the answers they need to allow approval may take as long as two years. These areas are holding the whole project hostage and this is why the applicant wants to sever these two portions. Without taking those portions out to allow for the long term monitoring it would be impossible to complete all the conditions required for final plat approve in three years. Jack Schunke, Morrison-Maierle stated that all the roads within Phases 1, 2, 3, & 4 have been constructed to county road standards. He stated that an amended plan was submitted and DEQ was supportive of this process. There was no public comment. Commissioner Murdock moved to approve the subsequent modification with conditions approved by staff, adding the finding it would be impossible for Leelynn to meet the DEQ conditions. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic stated that Norman F. Mueller requested to amend the final plat for Lazy TH Estates major subdivision located in the NW1/4 and the NE1/4 of Section 35, T2S, R5E, PMM Gallatin County, Montana. The subdivision, consisting of 68 lots on approximately 127 acres, was originally approved in 1994. The purpose of the amendment is to change the name of a road originally platted as Rodeao Court to Rodeo Court. She stated that the correction is being requested to alleviate confusion. Ms. Madgic stated the Commission had to make the determination whether to approve the proposed correction. She stated that corrections of errors in the Commission's opinion will not materially alter the plat and may be made by the submission of a corrected final plat for the Commission's approval. If the Commission decides to approve the correction request, the following conditions are recommended: 1. Applicant shall obtain approval from the County Road Department for the new road name; and 2. Applicant shall file an amended plat with the Clerk and Recorder's Office with the corrected road name. There was no public comment. Commissioner Mitchell moved to approve the proposed correction, adding the finding that the applicants' letter states the problem and the road



department has approved the change, and also finding that the correction of error will not materially alter the plat. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 10:40 A.M.

*Unavailable  
for signature*  
CHAIRMAN APPROVAL

*Shelley Vance*  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 3RD DAY OF OCTOBER 2000**

The meeting was called to order by Acting Chairman Bill Murdock at 9:00 A.M. Also present were County Commissioner Jennifer Smith Mitchell, Chief Deputy County Attorney Susan Swimley, and Acting Clerk to the Board Mary Miller.

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Acting Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**SEPTEMBER 18, 2000**

- The Commissioners conducted regular County business.
- A special meeting was called to order on September 18, 2000, to consider the Sidder's Floodplain Appeal, by Chairman Phil Olson at 8:44 A.M. Also, present were Commissioners Bill Murdock and Jennifer Mitchell, Chief Deputy County Attorney Susan Swimley, and Acting Clerk to the Board Mary Miller.

The property is owned by Mike & Lisa Sidders and Larry & Sharon Sidders located in the SE1/4SW1/4 of Section 10, T1S, R5E. Chief Deputy County Attorney Susan Swimley stated that notice was given and published in the High Country Independent Press during the week of August 31, 2000, for one week. Deputy County Attorney Chris Gray stated to the Commission that in a pre-conference meeting it was decided that there would also, be the consideration of a variance issue. Testimony was taken from Mike Sidders, Marty Klotovich, Environmental Health Specialist Jeff Jorgenson, Gallatin County Planner John Shepard, Mark Chandler and Floodplain Administrator Phil Forbes to answer questions with regard to the Sidder's two home sites being built in Zone A or Zone B of the Floodplain, and the July 12, 2000, decision of Floodplain Administrator Phil Forbes. Greg Calvert was excused, as his testimony was not needed. Exhibits 1 through 20 were entered by Bill Hansen, the Sidder's attorney. Exhibits 101, 102 & 103 were entered by Deputy County Attorney Chris Gray. The exhibits are filed in the Clerk and Recorder's office under Floodplain Appeal, Sidder. The Commission was asked to take all the facts under advisement and render a decision. Mrs. Swimley requested the amended facts of finding be submitted to the Commission by September 22, 2000, as a decision needed to be made in writing within a reasonable amount of time.

**SEPTEMBER 19, 2000**

- The Commissioners attended a special meeting to discuss potential legislative issues with Lobbyist Mona Jamison. In attendance were Commissioners Olson, Murdock and Mitchell, County Attorney Marty Lambert and Mona Jamison. The Commissioners presented Ms. Jamison with potential issues, and she in turn responded with her opinion regarding the feasibility of each item. The outcome is as follows:

**OPINION**

**SUGGESTED STATUTE CHANGE**

YES (proven track record)  
YES (Appeals to all)  
YES (Feel good & creative)  
  
NO (Legal arena)  
NO (wasted effort – too late)  
NO (challenge to water rights)  
NO (diff. concept, lots of effort)

Victim Witness  
Reduce Mill Levies if County doesn't need them  
(w/o permanent loss of ability to raise again)  
Conservation License Plate (for preserving ag)  
  
Impact Fees (one local government charging  
another local government)  
Cluster/Open Lands Bill  
Water from Ditches for County Roads work  
Super Majority Issue on Bond Resolutions

## 82 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

may not win much for it)

MAYBE (get AG opinion)	Multi-Jurisdictional Mill Levy (for 911)
MAYBE (Att'y Office to work on)	Family Transfer Exemption
MACo	2 year limit on Voted Mill Levies
MACo	County Roads to be annexed by City
MACo	State Secondary Roads "paving" definition
MACo	County setting speed limits on State Highways
MACo	Alternative Fuel Incentives
MACo	Enforcement authority in 101 Zoning Districts
MACo	Membership on 101 Zoning Commissions (Add a "Resident of District")
Of Interest/"Me, too"	Mental Health (support or opposition per various items)
Of Interest/"Me, too"	DEQ Bill & Health Dept Restaurant Inspection Fees
Of Interest/"Me, too"	MACo Bills (Gallatin County supported ones)
Of Interest/"Me, too"	DOR Bill on Special Dist. Boundaries (OPPOSE)

NOTE: All above bills noted for MACo presentation, we would support as a "me, too" effort. Concept benefits all counties, so MACo should present the item.

In order for Mona to proceed, she needs 1) Phrase-ology of the Resolution. 2) Contact person at the County and phone number for details on each resolution, and 3) Rough draft of what the Commission wants to achieve. Gallatin County needs to limit the list to four or five priorities to pursue, while supporting "others" on the rest of the issues. The Commission agreed to finalize their list of priorities.

### SEPTEMBER 20, 2000

- The Commissioners conducted regular County business.

### SEPTEMBER 21, 2000

- The Commissioners held an office meeting for the purpose of discussing numerous items of importance. In attendance were Commissioners Olson, Murdock and Mitchell, and Executive Secretaries Stacy Johnston and Glenda Noyes. Road and Bridge Staff Engineer Roy Steiner and Fiscal Officer Ed Blackman attended during various portions of the meeting, when their input was needed. After receiving rain fall and a drop in temperature, the Commissioners agreed that the Emergency Burn Ban could be lifted. Commissioner Murdock made a motion to lift the burn ban, based on the recommendation of Rural Fire Chief Brett Waters. Commissioner Mitchell seconded the motion. In discussion Commissioner Olson noted that Mr. Waters did explain that if an Indian-Summer situation occurs, they might be back to request another ban. All voted aye. Motion carried. The Commission considered an amendment to Contract #2001-002 with Edsall Construction, C.O. #1. This is a change order necessary because the City of Bozeman has required work to be completed in Phase II that was originally scheduled to be completed in Phase III. The money to fund this work will come from the Phase I contingency fund. The amount of the change order is \$23,338.12. Mr. Steiner recommends approval of the contract and work, stating that if it is not approved, the whole building will have to have a sprinkler system installed. The Commissioners questioned Mr. Steiner whether the design work costs from the architect are included in the cost of this amendment. He stated that it is not, and that this contract will come later, and he anticipates the cost being approximately \$9,000.00. Commissioner Murdock made a motion to approve the amendment to Contract #2001-002 with Edsall Construction, C.O. #1. Commissioner Mitchell seconded the motion, adding that in the future the Commission prefers to have the design costs included in the change order for the work, so that additional costs are not dropped on the Commission later. All voted aye. Motion carried. The Commission considered signing a contract regarding HB 223 Grant Application for Gallatin Conservation District, which verifies that the district is levying the maximum county mills allowed. Fiscal Officer Ed Blackman explained that per the agreement under the grant, this process has to take place. He also noted that this hasn't been done in the past, but is required now due to SB 184. Commissioner Murdock made a motion to approve signing the HB 223 Grant Application for Gallatin Conservation District. Commissioner Mitchell seconded the motion. All voted aye. Motion carried. The Commissioners considered signing a non-disclosure/confidentiality agreement with Western Wireless for 911. A contract is to follow, and this is a simply a step to assure that any discussions or negotiations regarding the contract will be confidential. Fiscal Officer Ed Blackman and Deputy County Attorney Chris Gray have both given their approval of the agreement. Commissioner Murdock made a motion to sign the

non-disclosure/confidentiality agreement with Western Wireless for 911. Commissioner Mitchell seconded the motion. All voted aye. Motion carried. The Commissioners considered an agreement for engineering services with MSE-HKM for Story Mill Bridge. The memo attached to the agreement, prepared by Deputy County Attorney Chris Gray was dated August 1999. The work has been completed and the company has been paid. The Commission noted that the Lee Provance, Road and Bridge Superintendent, has been unhappy with the work that was done. Commissioner Olson made a motion to hold off on signing the agreement until further discussion with Mr. Provance and other parties involved takes place. Commissioner Murdock seconded the motion. In discussion the Commissioners also agreed to discuss the payment made to MSE-HKM with Auditor Joyce Schmidt, due to the lack of a signed contract. All voted aye. Motion carried. The Commissioners considered approval of Invoice #BS.918 from R. Dale Beland for \$306.53. In discussion, the Commissioners noted that they would like Mr. Beland to provide a running total of payments and/or invoices accrued with each bill. Commissioner Murdock made a motion to approve Invoice #BS.918 for \$306.53 for professional services provided for the Big Sky Transportation Study. Commissioner Mitchell seconded the motion. All voted aye. Motion carried.

- The Commissioners continued their meeting to include the noticed bid recommendation for the RID overlay program, for RID 315, Hyalite Heights. Also attending this meeting was Steve Malmberg of Morrison-Maierle. The bids for this project were opened on September 21, 2000 at the public meeting. Morrison-Maierle took the bids under advisement. There were two bids submitted, from JTL and Big Sky Asphalt. There were no errors found in either bid. Big Sky Asphalt's bid came in at \$74,920, which was lower than the JTL bid, and within \$2,000 of the estimated cost. Commissioner Murdock made a motion to accept the bid submitted by Big Sky Asphalt for the overlay program for RID 315, Hyalite Heights, based on the recommendation of Mr. Malmberg and MSE-HKM. Commissioner Mitchell seconded the motion. In discussion, Commissioner Olson asked about any warranties included in the bid, and Mr. Malmberg explained that the bid contains the standard public works warranty of one year. He also noted that they have found the material bid for to be very sound, and that the contracts are being reviewed by Deputy County Attorney Chris Gray. Discussion took place regarding the quality of work provided by Big Sky Asphalt in the past, and Mr. Malmberg reported that they have found the quality of work between JTL and Big Sky Asphalt to be leveling out. Commissioner Olson inquired about the security of the contract, regarding the bond amount, and Mr. Malmberg reported that there was a 10% bid bond included, which is sufficient. Commissioner Murdock amended his motion to include approval pending Deputy County Attorney Chris Gray's approval of the contract. Commissioner Mitchell amended her second of the motion. All voted aye. Motion carried.
- The Commissioners attended a special meeting to consider an East Willson School Proposal. In attendance were Commissioners Olson, Murdock and Mitchell, Derek Strahn with the City of Bozeman Historic Preservation and Rob Pertzborn of Prugh and Lenon. Commissioner Murdock made a motion to send the proposal to Bozeman School District, re: moving specific funding language, adding the CIP committee's role, and not obligating the County (at this point) to any specific funds or participation other than the County pursuing this as feasible and as long as it is in the County's long range plans and best interest. Commissioner Mitchell seconded the motion. All voted aye. Motion carried.
- The Commissioners attended a regularly scheduled Extension bi-monthly meeting. In attendance were Commissioners Murdock and Mitchell, and Extension agents Ron Carlstrom and Todd Kesner. The group discussed the fire rehabilitation money request form from Baccus's office; 4-H camp and congress; personnel evaluations; after school programs; and other 4-H activities. They also discussed extension activities and the loss of primary timber due to the fires. Mr. Carlstrom also inquired about a vehicle for the extension agents, and it was recommended that he contact Fiscal Officer Ed Blackman and Dave Fowler at Road and Bridge for information on acquiring a vehicle. The Commissioners support Mr. Carlstrom's request for a vehicle, pending cost, and would prefer a Compressed Natural Gas vehicle.
- The Commissioners attended a meeting with Dirk Visser regarding the County's health insurance coverage with Intermountain Administrators. In attendance were Commissioners Olson, Murdock and Mitchell, Personnel Director Kathy Nowierski, Personnel Specialist Cynde Hertzog and Dirk Visser of Intermountain Administrators. Mr. Visser explained to the Commission that Montana Comprehensive Health Association will pick up health plan coverage if employees are either denied coverage or have exceeded the County's present stop loss coverage. The Commissioner requested that he provide a legal opinion and recommendation if Gallatin County decides to take this route. Commissioner Murdock made a motion to continue with the existing retiree/Cobra health benefits coverage, as described by Mr. Visser and the Personnel Department pending a decision on prescription coverage policy. Commissioner Olson seconded the motion. All voted aye. Motion

## 84 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

carried unanimously. Commissioner Murdock made a motion to amend the insurance plan to cover concerns raised in a July 31, 2000 Intermountain Administration letter regarding HIPPA special enrollment period and loss of Medicaid. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

### SEPTEMBER 22, 2000

- A special meeting of the Commissioners was held for the purpose of considering approval of an FAA Grant Agreement for the Pogreba/Three Forks Airport. In attendance were Commissioners Olson and Murdock, Phil Forbes of Morrison-Maierle, Chairman of the Airport Board Bill Fairhurst, Deputy County Attorney Chris Gray, Grants Administrator Larry Watson, Fiscal Officer Ed Blackman, and Dave Miller. Mr. Gray explained that the Commissioners approved the signing of the grant on August 22, 2000, but because it hadn't been reviewed for legal form and the consideration of this item had not been properly noticed, the signing didn't take place. The grant required signature by September 18, and with approval of the Commission today, the grant will be signed and dated retroactive to that date. Discussion took place regarding the bid coming in higher than anticipated. The representatives from the airport board spoke with Mr. Blackman and he reported to the group that while the budget will be tight, there are sufficient funds to proceed. He noted that he will do a budget amendment in order to transfer funds. Commissioner Murdock made a motion to sign the FAA grant agreement based on discussion that determined with a budget amendment, there are sufficient funds available. Commissioner Olson seconded the motion. In discussion, Mr. Watson expressed concern that he has not reviewed any of the documents and wants the Commission to be certain that an appropriate chain of command has been specified regarding who will administer the grant and contract. It was determined that Mr. Watson would be responsible for the reconciliation of the grant, but not for the administration of the funds. Therefore, he would need to receive the 1% reconciliation fee. Mr. Gray asked Mr. Fairhurst if they would be willing to sign an agreement with the county if a problem were to arise regarding administration issues. Mr. Fairhurst agreed that the board would be open to such agreement. Commissioner Murdock amended his motion to state that the grant was being awarded with the understanding that the proper contractual language is in place to ensure the County is properly compensated for the reconciliation of the grant. Commissioner Olson amended his second of the motion. Motion carried with a vote of two to zero.

### SEPTEMBER 25, 2000

- A special meeting was called to order at 2:30 p.m. for the purpose of approving hand issue claims received by the Auditor's Office from September 15, 2000 through September 20, 2000. In attendance were Commissioner Murdock, Commissioners Olson and Mitchell via telephone, Auditor Joyce Schmidt and Executive Secretary Glenda Noyes. Commissioner Murdock made a motion to approve PO #67385 and PO #66356 for a total of \$1,155.00, finding that it has been reviewed and approved by the Auditor. Commissioner Mitchell seconded the motion, and in discussion asked about the nature of the claims. Auditor Schmidt explained that one is for a tool allotment for Bruce Marcott and one is for the registration fees for Environmental Health staff attendance to the Montana Environmental Health Association conference. All voted aye. Motion carried unanimously.
- A special meeting was called to order at 2:35 p.m. for the purpose of considering signing an engagement letter to Veltkamp, Stannebein and Bateson for review of the Motor Vehicle Distribution of funds. In attendance were Commissioner Murdock, Commissioners Olson and Mitchell via telephone, Auditor Joyce Schmidt, Treasurer Jeff Krauss, Superintendent of Schools Executive Secretary Linda Skelton and County Commission Executive Secretary Glenda Noyes. Discussion took place regarding the intent of the letter, which is to invite Veltkamp, Stannebein and Bateson to come and review the distribution of the motor vehicle funds for accuracy. It was noted that Fiscal Officer Ed Blackman is aware of the need to do so, and has approved the letter. Also, Deputy County Attorney Chris Gray has reviewed and approved the letter. Commissioner Murdock made a motion to sign the letter of engagement, to engage the services of Veltkamp, Stannebein and Bateson for review of Motor Vehicle fund distribution, to be approved by Deputy County Attorney Chris Gray. Commissioner Mitchell seconded the motion. In discussion, Commissioner Mitchell inquired about a maximum amount being placed on the contract, and Treasurer Krauss and Commissioner Murdock both noted that the maximum amount to be spent will be \$3,000.00. Mr. Krauss stated that he does not expect the amount to reach the maximum as Deputy Treasurer Kim Buchanan, and a member of the engaged firm will be participating in the set-up. Mr. Krauss also reiterated that Mr. Gray has reviewed the letter and has approved it and the contract to follow. All voted aye. Motion carried unanimously.

### SEPTEMBER 26-27, 2000

- The Commissioners conducted regular County business.

**SEPTEMBER 28, 2000**

- A special meeting was called to order at 10:30 a.m. for the purpose of approving hand issued claims received September 22, 2000 through September 25, 2000. In attendance were Commissioners Olson and Murdock, Commissioner Mitchell via conference call, Auditor Joyce Schmidt and Executive Secretary Glenda Noyes. Commissioner Murdock made a motion to approve PO #68954 for \$132,512.65 for Edsall Construction, and PO # 68329 for \$33,371.41 for Fire Control Sprinkler Systems, for a total of \$165,884.06. Commissioner Mitchell seconded the motion. In discussion, Commissioner Mitchell noted that the Fire Control Sprinkler Systems is for work at the Detention Center. All voted aye. Motion carried unanimously.

**SEPTEMBER 29, 2000**

- The Commissioners conducted regular County business.

**The following items were on the consent agenda:**

1. Approval of claims presented by the Auditor dated September 26, 2000 through September 28, 2000 for P.O. #68380 for \$47,221.65, P.O. #70203 for \$13,692.34, P.O. #70205 for \$7.50 totaling \$60,921.49, and the following batches dated September 30, 2000: Batch 1 for \$17,701.69, Batch 2 for \$43,477.58, Batch 3 for \$43,966.19, Batch 4 for \$65,823.11, Batch 5 for \$67,358.10, Batch 6 for \$22,199.17 and Batch 7 for \$5,563.22 totaling \$266,089.06. Grand total \$327,010.55.
2. Consideration of the following contract(s): Lease Agreement with Bozeman Area Hockey Association (BAHA) for Haynes Pavilion; Administrative Services Agreement with Intermountain Administrators; Amendment to Contract #2000-071 with Terrell's Office Machines for Justice Court; Public Defender Contract with Watson & Watson for Gallatin County Treatment Court; Public Defender Contract with Todd Hillier for Guardian Ad Litem, District Court No. 1; Public Defender Contracts for District Court No. 1: William A. Bartlett, Brock Ablin, R. Stan Peeler, and Thomas A. Sabo; Public Defender Contracts for District Court No. 2: Gordon Williams, Jennifer Bordy, Christopher Williams, and Edward Guza

The consent agenda was read by Commissioner Mitchell. Deputy County Attorney Chris Gray requested that the lease agreement with the Bozeman Area Hockey Association (BAHA) for Haynes Pavilion be removed and placed on the regular agenda. Commissioner Mitchell moved to approve the consent agenda as amended. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Deputy County Attorney Chris Gray stated that the lease agreement with the Bozeman Area Hockey Association (BAHA) for Haynes Pavilion was not fully negotiated and the figures that provide the basis for the rent needed to be refined. He recommended they approve it contingent upon signature of the agreement by BAHA and the approval of the rent basis figures with the fairgrounds manager and the Fiscal Officer Ed Blackman. Mr. Gray stated the County owns the land and therefore the Commission was looking at this lease agreement rather than the Fair Board. He stated that BAHA is getting ten (6) month leases and their rent is providing the ice surface and maintaining that surface. Commissioner Mitchell made the motion to authorize the agreement contingent on the County Attorney, the Fiscal Officer and the Fair Board working out the details for the lease agreement in the best interest of both parties and in a fair and equitable manner. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Planning Director Bill Arnold presented the "Hammer" Award Certificates to the NSDI Community Demonstration Project Team that participated and contributed. Mr. Arnold stated that over the past 2 years Gallatin County has been participating in a National Spatial Data Infrastructure community demonstration project, using GIS data and federal resources to support local decision making in the growth policy planning process. Gallatin County was a recipient of the "Hammer" award that recognizes six demonstration projects for their excellence in government. The "Hammer" Award recognizes the efforts of federal employee teams and their partners who have successfully reinvented a process or program in order to make government work better, cost less and get results. Each team receives a hammer and for those individuals who made a significant contribution to each team receive a personal note from Vice President Gore and a lapel pin. The following each received the award: (Local recipients) Commissioner Olson; Commissioner Mitchell; Commissioner Murdock; Chairman of the Gallatin County Planning Board Steve Forrest; Dale Beland; Gallatin County Planner Lanette Windemaker; Gallatin County GIS Coordinator Allen Armstrong; (Federal representatives and team members) Paul Dressler; Ted Milesnick; Allyson Woods; Peggy Harwood;

(Representing MSU) Richard Aspinall; Gretchen Burton; Steve Custer; Bob Garrott; (USGS) Lee Agger; Lance Clampitt; Jim Jancaitis; (Forest Service) Jim Devitt; Steve Swain; Jan Lerum; (Yellowstone National Park) Ann Rodman; Marvin Jensen; (NRCS) Gordon Hill; (BLM) Merle Goode; (Fish, Wildlife & Parks) Kurt Alt; (MACO) Jane Jelinski; (ESRI and other non governmental organizations) Catherine McCoy; Dale Brooks; Lisa Fastnaught; Fred Gifford; (Prescott College) Wil Orr; Hoyt Johnson; Howard Ward. Mr. Arnold stated that one of the most successful aspects of the program was the production of the digital ariel photography for the County, which will be a valuable tool in long range planning and a resource to the citizens of the community. He recognized Patty Treverso in the Gallatin Conservation District for her contribution to the project.

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Commissioner Mitchell announced the consideration for appointments to the CIP Committee. James Monger an applicant for this position spoke to the Commission of his experience and interest for the position. Commissioner Mitchell moved to appoint George Stanislaio as the construction representative and James Monger as the financial representative. The members will serve for two-year staggered terms, to be established at their first meeting. Seconded by Commissioner Murdock. None voting nay. Motion carried. Commissioner Mitchell announced the consideration for appointment to the Clarkston Fire Service Area. Two of the applicants Wilbert Vanstratten and Patrick McCall spoke to the Commission in support of Lester Rate. Patrick McCall withdrew his application. Commissioner Murdock moved to appoint Lester Rate. This term will expire on April 1, 2003. However, the Commission will be considering a resolution on November 21, 2000, calling for elections of Clarkston Fire Service Area trustees. Passage of that resolution may alter the length of this term. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Commissioner Murdock stated this was to reaffirm Resolution #2000-070 lifting restrictions on burning in Gallatin County, passed on September 21, 2000. Belgrade Fire trustee Gilbert Moore thanked the Commission for their support in establishing the ban. Commissioner Murdock stated there would be a meeting with all the fire agencies the following Friday at 10:00 a.m. at the Fish, Wildlife & Parks Building to establish an organizational plan regarding incident command, information and commutations for any future occurrence. Commissioner Mitchell moved to reaffirm Resolution #2000-070. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the receipt of two petitions to annex property into the Gallatin Canyon Consolidated Rural Fire District. The first petition was received on September 14, 2000, and consists of Tract C of COS 1732A located in Section 34, T6S, R3E. The second petition was received on September 22, 2000, and consists of all Section 1, T7S, R3E. Ms. Vance stated the petitions contain the signatures of 50% or more of the area of privately owned lands; who constitute a majority of the taxpayers who are freeholders; and whose names appeared on the last completed assessment roll. The tracts of land for which the annexations are being requested, are adjacent to the Gallatin Canyon Consolidated Rural Fire District. Ms. Vance requested the Commission to set these for a public hearing on October 31, 2000, to consider annexation and to allow time for notices to be published. Commissioner Mitchell moved to accept the Clerk & Records recommendation to accept the petitions and for them to be placed on the agenda for October 31, 2000. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the receipt of a petition to re hear abandonment of Cimameron Drive, between Wheatland Hills Subdivision and Spirit Hills Subdivision was received on September 22, 2000. The petition contained the following reasons: 1. Lots 1 through 62 in Spirit Hills are faced with a health and safety issue due to only having one access in and out of the subdivision, which clearly disregards subdivision regulations. This limits access for fire protection, ambulance, and police. Blocking this access creates an unsafe and burdensome situation for school bus transportation, mail carriers, delivery, and ingress and egress out of the Spirit Hills subdivision in the event of a catastrophic unknown; and 2. Failure to notify all parties concerned, resulting in a lack of representation by Spirit Hills residents. Board discussion took place regarding the legal notice required to notify landowners of the abandonment. Ms. Vance stated that notice was published on August 31, 2000, in the High Country Independent Press and that is the only requirement of the state statute. In addition to that the County Commission has a road abandonment procedure policy that states the notice

of a public hearing shall be mailed by the Clerk to all landowners named in the petition, to the petitioners and notice is to be made by publication in the newspaper and this procedure was followed. Ms. Vance stated the onus is on the petitioner to complete the petition, not the County. Chief Deputy County Attorney Susan Swimley stated that Gallatin County actually exceeds the statutory requirements in abandoning roads. She stated the Commission made their decision and they had no jurisdiction to reconsider the abandonment. Ms. Swimley stated they had not signed the resolution yet, as there was another Montana Code requiring the Commission to make other findings with regard to dispersing the land. She stated if the Commission received a valid petition to reestablish the road, then they would start the process in reverse. Ms. Swimley stated this was not a public hearing, although it was within the Commission's discretion to accept public testimony. Glenn Buss, Greg Holdeman, Rich Ockford, Sue Olson, Glenn Colclough, Pat Nagy, Bill Muhs, James Russell, and Ginger Holdeman representing Spirit Hills Subdivision spoke to the Commission with their concerns regarding access and the need to re-open the abandoned portion of Cimmeron Drive. Roper Green and Mike San Souci stated their reasons for keeping the road abandoned. Commissioner Murdock stated there were processes to be followed in regards to reestablishing the road and options of working it out with the Wheatland Hills Subdivision. Commissioner Mitchell stated the decision was made contrary to the subdivision regulations and she had concerns with public health and safety issues regarding the 62 lots left without a secondary access. She stated the procedures are deficient and encouraged the County Attorney to refine the process so it is fair to everyone and notifies those who are affected by this type of decision in a public health and safety matter. She encouraged those who spoke in opposition to proceed with the petition procedure.

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Gallatin County Fiscal Officer Ed Blackman presented the resolution of intent to amend the juvenile probation budget for the Department of Corrections pilot project grant. Mr. Blackman stated this was scheduled for a public hearing on October 10, 2000. Commissioner Mitchell moved to approve the Resolution of Intention #2000-071. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman presented the resolution of intent to amend the Sheriff law enforcement department's public safety fund and amending the law enforcement block grant fund for FY 2001 budget. Mr. Blackman stated this was scheduled for a public hearing October 10, 2000. Commissioner Mitchell moved to approve the Resolution of Intention #2000-072. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman presented the resolution of intent to amend the DFS partnership grant and the breast and cervical grant funds for changes in grant revenues in FY 2001 budget. Mr. Blackman stated this was scheduled for a public hearing October 10, 2000. Commissioner Mitchell moved to approve the Resolution of Intention #2000-073. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported this was a public hearing and consideration of a resolution to amend the County Superintendent of Schools grant fund for FY 2001, for unanticipated revenue from the Columbia Education Conference. There was no public comment. Commissioner Mitchell moved to approve Resolution #2000-074. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Attorney Marty Lambert presented the resolution of intent to amend the 911 budget regarding dispatcher positions. He stated this was scheduled for a public hearing October 10, 2000. Mr. Lambert requested the Commission's support and stated that the Bozeman City Commission supported the resolution to come up with their share of the \$42,000.00. Commissioner Mitchell moved to approve the Resolution of Intention #2000-075. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Attorney Marty Lambert presented the resolution of intent to amend the County Attorney's budget regarding computer hardware and software. He stated this was scheduled for a public hearing October 10, 2000. Commissioner Mitchell moved to approve the Resolution of Intention #2000-076. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Attorney Marty Lambert stated this was a public hearing and consideration of a resolution establishing the weekly submission and approval of county claims. He stated this resolution was at the request of the Commission and the Finance Committee. Mr. Lambert read the resolution. Commissioner Murdock read a letter from Gallatin County Auditor Joyce Schmidt stating that with the current staffing of the Auditor's Office she could not support the resolution. Ms. Schmidt spoke to the Commission to reiterate that without adequate staffing, for which she has requested and been denied she could not support the process. She stated that the processes required in completing a claims run would overlap too much causing confusion with the proposed schedule and it would require her and her staff to complete reviewing the next run before the Commission has approved the previous run. Ms. Schmidt stated that the current software does not catch double requests and she has received a considerable number of them. She stated that last year when Allen Armstrong filled in as the ITS Director he did not support weekly processing of claims. She stated if the departments filed claims in a timelier manner and if forms were filled out adequately that the vendors would be paid on time. She stated that emergency hand written warrants were usually due to the lack of planning. She stated there is enough stress in the existing calendar and morale would deteriorate if the weekly run is adopted and the redundancy of checking claims would generate boredom, carelessness and errors. Ms. Schmidt stated when this issue was brought up last year she checked with some departments and they claimed they would still process their claims twice a month. Commissioner Murdock asked Ms. Schmidt why she had not attended the finance committee meetings in the last year so they could have addressed these concerns. Ms. Schmidt stated there has to be a level of trust amongst the members of a committee and over the last 3 years that trust had diminished from her stand point and the committee had deteriorated and was not of value for her to attend. She stated she made the decision not to attend and had plenty of other things to fill her day, given her other responsibilities. Discussion took place regarding whether there would be an increase or decrease in the amount of claims. Ms. Schmidt asked the Commission to wait until a new software package was in place and to look at this again to see if the new system would serve as a safety net to catch the opportunity of double requests. Commissioner Mitchell stated that Ms. Schmidt's testimony was contrary to the comments she received from various departments and the total intent of this resolution is to provide better service to public. Ms. Schmidt stated that somebody was lying to one of them. Commissioner Mitchell stated to Ms. Schmidt the importance of attending the finance committee meetings. Jackie Lamke and Jeanine Fillingner both clerks in the Auditor's office spoke in support of Ms. Schmidt statements. Gallatin County Treasurer Jeff Krauss chairman of the finance group stated this group is made up of all three Commissioners, the Treasurer, the Clerk and Recorder and the Auditor. He stated that on the May 5, 2000, meeting the finance group that was in attendance voted unanimously to recommend this resolution. Mr. Krauss stated this does not require all departments to process claims each week and would allow flexibility. He encouraged the Commission to approve the resolution to increase service to the public and vendors. Gallatin County Clerk and Recorder Shelley Vance stated this resolution would give the flexibility needed by some departments. Ms. Vance stated she was concerned that if the resolution were adopted without the willingness of all County employees that it would fail. Gallatin County Grants Administrator Larry Watson stated there are many claims he processes that would be impossible to do on a weekly basis. He stated they are addressed in contract language, which specifically utilizes the structure in place on the payment schedule to communicate to the vendors when and how they will be paid. They also, require a third party in reviewing the claims. Mr. Watson stated there was a great disparity between the complexities of the invoices going through the Auditor's office. He stated that they are making sure they are charged to the correct fund account and making sure these expenditures are legal under the terms of the contract agreements signed with the vendors. He stated he was not opposed; yet he wanted to express that the maintenance of the integrity of the review process should out-weigh the importance of a timely payment and not remove the structure to gain flexibility. Mr. Lambert stated there was a crucial need for everyone involved in the finance committee to attend the meetings and be responsible to the public. Mr. Lambert recommended the Commission pass the resolution. Gallatin County Fiscal Officer Ed Blackman encouraged the Commission to pass the resolution with the following changes on the second page to read: Claims should be due in the Auditor's office no later than Friday at 9 a.m. for examination and approval, and that such approval be made and claims delivered to the accounting department with sufficient time to allow the claims be entered and returned to the Auditor, such that the Auditor delivers the claims to the Commission office the following Friday by 9 a.m. Commissioner Mitchell suggested with a motion that this issue be continued for 1 to 2 weeks, given the statements of the Fiscal Officer and Grants Administrator. This would also, give time for suggestions from other departments and the



Auditor. Commissioner Murdock asked Ms. Vance and Mr. Krauss if they were in agreement to continue this item. Ms. Vance stated she was not in opposition to continuing the issue and asked the Commission to notify those being affected as soon as possible so they could all be prepared. Board discussion took place and Mr. Krauss suggested this be placed on the finance committee agenda for the meeting scheduled on October 20, 2000. It was decided that comments would be submitted in writing to Mr. Krauss by October 16, 2000, and those submitting comments attend the meeting to work on the process. Commissioner Murdock continued this until the finance committee meeting on October 20, 2000, and will revisit the issue in a public hearing at a later date.

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Gallatin County Planner W. Randall Johnson presented the consideration of application for the disbursement of County Park Funds. Mr. Johnson stated the purpose of this hearing was for the Commission to consider park applications for disbursement of park fund moneys, which the county collects through cash in lieu of park dedication through the subdivision review process. There were 6 applications submitted to the Commission for consideration. He stated that according to the Gallatin County Fiscal Officer Ed Blackman the park fund has a balance of \$35,118.02. County policy provides that the park fund should be kept at a minimum balance of \$20,000.00. This leaves \$15,118.02 available for disbursement and there was a request of \$125,068.00. Mr. Johnson stated that the planning department staff prepared a point rating system based on the County recreation plan to help assist the Commission in the allocation of county park funds, and all of the applicants qualified. Roseanne Nash spokesperson for the Wylie Creek Estates Subdivision Park stated they were requesting funds in the amount of \$29,000.00 used to complete sprinkler systems and grass in the remaining park land as well as start the landscaping with trees and shrubs. Tom Gelder a member of the Gallatin County 4H Skatepark-Kirk Park, City of Bozeman stated the Skatepark Project was requesting \$5,000.00. Dan Swanson representing the Bozeman Amateur Hockey Association- County Fairgrounds stated they were requesting \$15,000.00 to be used towards the construction of restroom facilities at the new Haynes Pavilion. Scott Bell representing the Belgrade Babe Ruth Baseball-Lions Park, City of Belgrade stated they were requesting \$53,000.00 towards improvements to the baseball fields and parking facilities. Russ Tuckerman representing the Sundance Springs Open Space Parkland-City of Bozeman stated they were requesting \$20,000.00 towards the purchase of 10 acres of open space within the Sundance Springs Subdivision. Executive Director of the Gallatin Valley Land Trust Debbie Deagen commented on the trail that will adjoin the soon to be Sundance Springs Park. She stated that thousands of residents are using this trail yearly. Parkland would greatly enhance the trails system and will add to a complex of parks in that area. Belgrade City/County Planner Jason Karp gave his support to the Wylie Creek Estate Subdivision and the Belgrade Babe Ruth Baseball-Lions Park. There was no one to speak for Baxter Creek II Subdivision Park. Commissioner Mitchell made a proposal to distribute the funds to all the projects and keep some money in the account. She stated her proposal was based on the desire to continue an incentive method from the County to encourage homeowners and residents to improve their parks. Commissioner Mitchell made the proposal to fund Baxter Creek II Subdivision Park in the amount of \$2,738.00 as it is part of their phased program; Bozeman Amateur Hockey Association-County Fairgrounds in the amount of \$5,000.00, because of the lump sums of capital being put into the Fairgrounds; Gallatin County 4-H Skatepark-Kirk Park, City of Bozeman \$5,000.00, because the County does fund 4-H; Wylie Creek Estates Subdivision in the amount of \$5,000.00, because their request was rather large and not a clear phased program, and they could use the help, and she would like to see them work on some adjoining efforts with Baxter Creek; Babe Ruth Baseball-Lions Park, City of Belgrade in the amount of \$5,000.00, because they also benefit County residents; and Sundance Springs Open Space Park Land-City of Bozeman in the amount \$10,000.00. That would leave the County \$2,380.02 to keep the account open for further incentives and for any contingency. Commissioner Murdock stated he would make a finding that all of the County is a benefit area and therefore, are meeting the requirements of the law to spend the money in benefited areas. Commissioner Murdock stated the following letters were received urging funds for the Sundance Springs Open Space Park Land: Mayor Marcia Youngman, Russ Tuckerman, David King and the Bozeman Recreation Parks Advisory Board. There was one letter from Sue Shockley of the Fair Board urging funds for BAHA. Commissioner Murdock made the suggestion to fund Wylie Creek \$6,000.00 and Sundance Springs \$9,000.00. He stated the reasoning was that Wylie Creek is a subdivision-dedicated park and that is where these funds came from. Commissioner Mitchell moved to divide up the \$15,118.02 accordingly: \$2,738.00 for Baxter Creek II; \$5,000.00 for BAHA; \$5,000.00 4-H Skatepark; \$6,000.00 Wylie Creek; \$5,000.00 for Babe Ruth Baseball; and \$9,000.00 for Sundance Springs. Seconded by Commissioner Murdock. Mr. Johnson recommended adding a staff suggestion that the recipients use the awarded funds with 18 months. Commissioner Mitchell added that to the motion. Commissioner Murdock amended his second to include Mr. Johnson's suggestion adding that when money is spent that invoices have to be produced to show the money has been expended properly.

He asked Mr. Johnson to work with the Gallatin County Fiscal Officer Ed Blackman in updating the process. None voting nay. Motion carried.

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Belgrade City/County Planner Jason Karp reported that Fluidyne on behalf of Richard Thomson has request preliminary plat approval of a 6 lot subdivision, on 27.6 acres located in the NW1/4 of Section 29, T1S, R5E, P.M.M., Gallatin County, Montana. Mr. Karp's staff report included comments addressing review of primary criteria including the effects on wildlife and wildlife habitat; public health and safety; local services; natural environment; agriculture; and agriculture water user facilities. The Commission needs to determine whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Commission finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions are recommended for preliminary plat approval, to be completed prior to final plat approval: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts, Water and Sewer Districts, and Trail and Park Maintenance Districts shall accompany the final plat. 5. The developer shall record covenants with the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and tenants of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c. All fences bordering agricultural lands shall be maintained by the Homeowners in accordance with State Law. d All structures must meet the fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief. e. Site plans of all lots must be submitted for review and approval by the Belgrade Rural Fire District. f. A Homeowners Association shall be established. g. The developer shall file covenants entering into maintenance agreements with the Wylie Creek Estates Homeowners Association for the joint maintenance of Creekside Drive, Candlelight Drive and other primary access roads, the joint maintenance of the fire protection water supply (fill-site and hydrant system), and joint maintenance of parks in the Wylie Creek complex (see also condition No. 16). h. No lot owner may remove water or cause to be removed water from irrigation ditches without deeded water rights, and before any maintenance or improvements are performed on any of the ditches, the owner of the waterway must give written permission for the work to be done. i. Individual lot driveway access to Valley Center Road or Love Lane is prohibited. j. Further subdivision of Lots with the Wylie Creek Ranch 2 Subdivision is prohibited. k. The "should" language in the developer's proposed horse management plan submitted with the Environmental Assessment must be changed to "shall" and the plan shall be made part of the covenants. l. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 6. Two copies of the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval. 7. Fire and Road Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact fee regulations. 8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval. 9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department. 10. The road names must be approved by the Gallatin County Road Department. All roads within the subdivision shall be 60-foot right-of-ways, dedicated to the public, and be paved to County Standards with cul-de-sacs constructed to County Standards. 11. Road name signs and Stop signs shall be installed as required by the County Road Superintendent or a bond must be posted with the Gallatin County Road Office to cover the cost of the signs. 12. All required road construction shall be inspected and certified by a licensed engineer. Inspection

and certification shall be provided to the County Road Department in writing, and the paving contractor shall submit a one-year written warranty to the County Road Office prior to final plat approval, 13. 50 feet of Love Lane east of the centerline and 50 feet of Valley Center Road south of the centerline shall be dedicated to the public along the entire width and length of the subdivision. 14. The final plat shall contain a statement that includes the following language: Lots abutting irrigation ditches may have water rights as described in deeds. No owner may remove water or cause to be removed water without deeded water rights. 15. The final plat(s) shall show a maintenance easement of a minimum of 15 feet on one side, and 5 feet on the other side of the irrigation ditches and the pond outlet ditch or as required by the ditch owner consistent with subdivision regulations, and before any maintenance or improvements are performed on any the ditches, the owner of the waterways must give written permission for the work to be done. 16. If the developer cannot agree to terms with the Wylie Creek Estates Homeowners Association for a maintenance agreement for the joint maintenance of the roads, fire protection water supply, and parks with the Wylie Creek Estates subdivision, the developer must provide written proof to the County Commission that a good faith effort was made to enter into the required maintenance agreements. The County Commission will then determine if the developer's good faith effort was satisfactory prior to granting final plat approval. 17. The parkland shall be dedicated to the public on the final plat. 18. The final plat shall show a no access strip for vehicles on Creekside Drive for lots 1 and 2. 19. The final plat shall show a linear park trail easement dedicated to the Homeowners Association or a 50-foot wide building setback along the east boundary of the subdivision. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. Mr. Karp reported that the Belgrade City/County Planning Board voted unanimously at their September 20, 2000, public hearing to recommend preliminary plat approval of the subdivision subject to the conditions recommended by staff. Mr. Karp stated the Fish, Wildlife, and Parks expressed concerns regarding the subdivision's impact on McDonald Creek, which provides habitat for brown, brook, and rainbow trout among other species. They stated that horses confined to small acreages are likely to overgraze riparian vegetation and trample banks and there were also, concerns about concentration of septic systems and wells in close proximity to the stream. Mr. Karp stated the Environmental Assessment has a horse management plan included in it that addresses stream bank problems and the Planning Board recommended it be made part of the covenants. Mr. Karp stated there was a small diversion ditch off of McDonald Creek and leading through the Wylie Creek Estates Subdivision pond and back to McDonald Creek that is not sealed as required by a non-consumptive water use permit issued by the DNRC. The diversion ditch was installed by the developer as an amenity to the Wylie Creek Estates Subdivision, and as a supplemental water supply to the pond. The pond also serves as fire-fill site for fire protection for the Wylie Creek Subdivisions. He stated that Belgrade Fire Chief Bryan Connelley confirmed this pond was not relied on. Mr. Karp reported that according to Scott Compton of DNRC, the ditch is not properly sealed and water is seeping into the ground in violation of the non-consumptive permit. The DNRC has requested that the diversion be closed and that the use permit may be revoked in the future if the ditch is not properly sealed. The Wylie Creek Estates Subdivision Homeowners have requested that the ditch be properly sealed prior to final plat approval of the Wylie Creek Ranch 2 Subdivision. The Planning Board found that the ditch was not required as part of the Wylie Creek Estates Subdivision and was installed by the developer as an additional amenity. The Board found that the required fire protection water supply in the pond is maintained by a well and does not rely on water from the diversion ditch. Therefore, the Planning Board found that the issue of sealing the ditch was between the developer, DNRC, and the Homeowner's Association and that the issue should not be addressed by the Commission as part of the subdivision review process for Wylie Creek Ranch 2 Subdivision. Mr. Karp stated the Planning Board was able to address most of the concerns of the Wylie Creek Estates Homeowners Association to their satisfaction with the exception of the DNRC water use permit and the Wylie Creek Ranch 1 Subdivision joint maintenance. Board discussion took place in regards to the channel sealing due to excessive seepage losses from the diversion ditch. Justin Buchanan representing the applicant stated they have done some channel sealing and in working with the DNRC they are committed to completing the remaining 25% this fall. He stated that he was confident the other issue of the maintenance agreements with Wylie Creek Ranch 1 and Wylie Creek Ranch 2 could be worked out as they see this as all one project and it needs to be addressed. Mr. Buchanan stated the applicant was in agreement with the Commission making a condition to sealing the ditch. Marise Rowell president of the Wylie Creek Estates Homeowners Association Board stated there were 9 concerns submitted to the Belgrade Planning Board. The Planning Board did act on many of the concerns but were unable to provide a remedy for all the concerns. She read the letter of concerns from the Board of Directors to the Commission. Commissioner Murdock suggested adding Wylie Creek Ranch 2 Subdivision to the Wylie Creek Estates Homeowners Association. Ms. Rowell stated they could do a survey because as it is now one allows livestock and the other does not. Board discussion took place regarding the processes to pursue in asking the developer of this proposed subdivision to join their homeowners association, park development and condition enforcement's. Rusty Roberts representing the homeowners association asked questions with regards to correcting past oversights of Wylie Creek Ranch 1 Subdivision. Chief Deputy County Attorney Susan Swimley stated the Commission is precluded by law to address any issues raised with regard to Wylie Creek Ranch 1 Subdivision. Ms. Swimley suggested they inquire at the Planning Department to see if a plan was filed with

regard to the parks. Commissioner Murdock asked Mr. Buchanan if he was in agreement to adding a condition requiring Wylie Creek Ranch 2 to make application to join the Wylie Creek Estates homeowners association. Mr. Buchanan stated he was in agreement and would do what he could to combine them into one homeowners association. Commissioner Murdock asked if the applicant would agree to continue this until these conditions were drafted to include these issues. Ms. Swimley suggested an alteration of condition 16 to be if an agreement could not be made, then they could come back to the Commission for a determination of good faith and at that point the Commission may be able to set perimeters for the agreement. Mr. Buchanan agreed to a continuance and asked not to set a time frame to allow for flexibility to work together with the other homeowners. Ms. Swimley stated the developer would have to consent to the continuance in writing to the Planning Department. Commissioner Murdock continued this indefinitely.

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Chief Deputy County Attorney Susan Swimley presented the pending resolution of intent to amend the Gallatin County FY2001 budget for the adult drug treatment court fund. Commissioner Mitchell moved to approve Resolution #2000-077. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Chief Deputy County Attorney Susan Swimley presented the pending resolution of intent to amend the Gallatin County Community Development block grant fund FY 2001 budget to include unanticipated grant revenues for the Grants Administration Department to conduct small business innovation research technical assistance activities. Commissioner Mitchell moved to approve Resolution #2000-078. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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There being no further business the meeting was adjourned at 2:42 P.M.

*unavailable*  
*for signature*  
CHAIRMAN APPROVAL

*Judley Vance*  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 10TH DAY OF OCTOBER 2000**

The meeting was called to order by Chairman Phil Olson at 9:00 A.M. Also present were County Commissioners Bill Murdock and Jennifer Smith Mitchell, Chief Deputy County Attorney Marty Lambert, and Acting Clerk to the Board Mary Miller.

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Chairman Olson requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**The following items were on the consent agenda:**

1. Approval of claims presented by the Auditor dated September 29, 2000 through October 05, 2000 for P.O. #68731-01 for \$131.04, P.O. #68731-02 for \$184.20, P.O. # 68731-03 for \$88.00, P.O. #57532-09-12 for \$8,514.56, P.O. #69258 for \$36.40, P.O. #69259 for \$343.45, P.O. #70207 for \$26.57, P.O. #69804 for \$1,500.00, P.O. #65147 for \$1,700.00. P.O. #56500-9 for \$1,700.00, P.O. #56499-9 for \$1,801.28. P.O. #56497-9 for \$1,709.34, P.O. #65148 for \$1,700.00, P.O. #56498-9 for \$1,700.00, P.O. #65151 for \$2,470.00, P.O. #65146 for \$2,643.20, and P.O. #67413 for \$1,700.00 totaling \$27,948.04.
2. Consideration of the following contract(s): Amendment II to the Bozeman Area Transportation Plan Update Funding Agreement between the City of Bozeman, Gallatin County and MDOT; Contract between Gallatin County and the U.S. Office of Justice Programs for Funding of the Gallatin County Adult Drug Treatment Court; Grant Reimbursement Agreement between Gallatin County and Alcohol and Drug Services of Gallatin County for Distribution of Funds from Office of Justice Programs for the Operation of the Gallatin County Adult Drug Treatment Court; Amendment to Contract #1999-021 with DPHHS, Task Order 00-07-5-21-168-0; and Amendment to Contract #1999-021 with DPHHS, Task Order 01-07-5-01-001-0.

3. Release of Zoning Improvements Agreement for Right Now Technology Office Buildings 1 & 2. Gallatin County Planner John Shepard recommends that the Commission approve the requested release.
4. Request for a Family Transfer Exemption for Jonathon Ensign located as Tract 16 of COS 617, in SE1/4 of Section 35, T2N, R4E. Gallatin County Planner Jennifer Koozer reported that the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
5. Request for a Family Transfer Exemption for Helen L. Cox located in the SW1/4 Section 19, T2N, R5E. Gallatin County Planner Jennifer Koozer reported that the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
6. Request for a Family Transfer Exemption for Gerald Rosema, Jr. located in COS 2169, in NE1/4 Section 3, T1N, R5E. Gallatin County Planner Jennifer Koozer reported that the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
7. Request for a Family Transfer for Billie Ann Smith located in NE1/4 Section 3, T1N, R4E. Gallatin County Planner Jennifer Koozer reported that the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
8. Request for a Family Transfer Exemption for Jeffrey W. Todd located in NW1/4 Section 18, T2S, R4E. Gallatin County Planner Jennifer Koozer reported that the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.

Commissioner Olson stated that Item #2 on the regular agenda had been removed as the application was withdrawn and Item #8, #11 and #12 were removed as they were duplicates. Commissioner Mitchell read the consent agenda. Gallatin County Grants Administrator Larry Watson requested to remove the following contracts and continue until next week: Contract between Gallatin County and the U.S. Office of Justice Programs for funding of the Gallatin County adult drug treatment court; and Grant reimbursement agreement between Gallatin County and Alcohol and Drug Services of Gallatin County for distribution of funds from Office of Justice Programs of the operation of the Gallatin County adult drug treatment court. Commissioner Murdock moved to approve the consent agenda as amended. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Department of Transportation-Butte District represented by Jason Girard presented the consideration of safety improvements to Frontage Road/Highway 205 from North 7<sup>th</sup> Avenue, Bozeman to Gallatin Field Airport, Belgrade. Mr. Girard reported the safety project they are working on would be to install left turn bays at Nelson Road and Valley Center Drive where it goes underneath the interstate. Another project is to flatten out the S curves between Belgrade and Manhattan similar to the curves flattened out between Bozeman and Belgrade. Mr. Girard stated there were no other plans. He stated the temporary speed limit is set at 65 mph and with recent discussion of lowering again, the traffic engineer made a decision to collect traffic data and come up with a final speed zone recommendation. He stated they would be conducting that speed zone study to collect data in the next month, so it could be given to the Transportation Committee in January. Commissioner Mitchell inquired about a letter that was sent to the Commission for agreement by the MDOT asking if they wanted to lower the speed limit to 55. Mr. Girard stated they could do that but it would still have to be approved by the Transportation Committee, which would not meet until December in Billings. He stated it would be best not to go back and forth with the speed limit, as the speed zone study would make a final determination. Mr. Girard reported the Transportation Coordinating Committee is working on an overall improvements schedule and master plan for the Bozeman area. One of the planned projects is to widen Secondary 205 to 4 or 5 lanes, making it more of a major route coming into Bozeman. They were thinking of putting another interchange on the interstate and the Federal Highway Administration told MDOT they would not allow any new interchanges putting local traffic on, as it is for through interstate traffic and connections to regional traffic needs. It is a possibility they will allow an interchange to the airport because it can be called a regional traffic generator. He stated that Secondary 205 really needs a turn median in the middle and a lot of safety items fixed. Bozeman Daily Chronicle, Assistant Managing Editor Ray Ring stated they are involved in helping lead a petition drive to gather signatures from people who drive the Frontage Road and live in the County. This petition is aiming to improve the safety of the road by two different means; lowering the speed limit; and making road improvements. He noted in doing some research it was discovered this road is the most dangerous in terms of fatalities this year. Mr. Ring stated the road is very deceptive and with the increased traffic the design has become outdated with turn lanes that are pieced together and not systematic and the shoulders are non-existent. He stated the people who mainly use this road have no choice, as it is their primary access. Mr. Ring stated this should be high priority and the citizens of this County are coming forward by circulating this petition. The publicity for this petition has been very low key and they have gathered roughly 520 signatures to lower the speed limit from 65 to 45, and 650 signatures for making road improvements such as: turn lanes that make sense; wider shoulders; and stop lights or a flashing yellow light at the main intersections. Before

the Chronicle got involved the neighbors had gathered 300 or more signatures for lowering the speed limit. Mr. Ring stated he would like to see the State engineer do more and make the process unified. He encouraged the Commission to move forward on this issue. He commented that the Counties are becoming more urbanized, Montana the land of wide open spaces and unlimited speed limit is becoming a thing of the past, yet the mentality of the old days still linger. Commissioner Olson stated that he did not deny the road needs improvement and contributes some of these issues to bad driving habits. He asked if the newspaper was going to help address bad driving habits. Mr. Ring stated they have been doing that with front-page stories reporting on recent tragedies in the area. Ray Pierson, Senator Jack Wells, Rebecca Huntsman, Brenda Lewis, Jeff Tong, Jeff Brennan, Betty Cure, Richard Allison, State Representative Bob Davies, and Brian Leland spoke to the Commission of their concerns for making this an emergency situation rather than routine. They expressed the need for short-term immediate action until more long-term needs could be met. Their suggestions for improvements were as follows: reduced unified speed limits for both cars and trucks; increased law enforcement; turn bays; removal of irrigation abutments; removal of vegetation growth; interchange from I90 to the airport; school bus stop signs; narrow road or no shoulder signs; do not pass signs; no bike signs; and the closing of the extra entrance to the Blue Basket. Another concern was the widening of the road because 4 lanes would not allow for north bound turning and 3 or 5 lanes would be more feasible. Betty Cure gave the Commission a letter of correspondence she had with Jason Girard, Exhibit "A". She read the petition, Exhibit "B", which she initiated for the Mountain View Subdivision Community, petitioning to lower the speed limit to 45. Since then the signers of the petition were willing to change that speed limit to 55. Tracy Velazquez suggested to the Commission that Governor Racicot had a variety of emergency powers and it might be a good time to consider how his administration could be responsive to the needs of this community. She asked if the Commission, with the support of the people present, would consider a letter or a call to Governor Racicot stating that they feel the MDOT's answer to the current problem is not timely. Sheriff Bill Slaughter stated there would be more traffic concerns as the airport expands. He stated that law enforcement was not the total answer and his recommendation for the Commission was to consider all the concerns. Mr. Girard commented in response to the following requests: speed limits are always the same for cars and trucks when under 60 mph; narrow shoulder signs could be installed; do not pass signs are being looked at all over the state; mowing of the vegetation is in the process; he was in agreement with a 3 or 5 lanes, versus the 4 lane; and school bus stop signs are usually installed where there is limited site distance and possibly something could be worked out to load and unload children off the roadway. He had suggestions for the parents to ride the bus and videotape the passing vehicles with the cameras provided by the MDOT. He stated there are several groups working on a bike path from Bozeman to Belgrade between the railroad and the interstate. Mr. Girard stated that the MDOT requires a traffic study for new subdivisions and where there are left turns, the subdivisions are required to install their own turn bays. He stated that the money is set by state law and Secondary 205 is under the jurisdiction of the County on picking priorities for roads they want improved and MDOT maintains it. Other options might be that the County could do a bond issue or rural improvement to improve the road and because it is a secondary highway the funding is limited. Some of the immediate things that could be worked on next Spring would be left turn bays, flattening of the slopes and working with the irrigation companies to remove or change the irrigation abutments. Commissioner Murdock stated there were three tiers of things that could be done such as: immediate; short-term; and long-term. He stated they should be responsive to the public and put together a letter to ask for immediate temporary reduction of the speed limit to 55 MPH for both cars and trucks. Also, included in the letter would be support for the things mentioned that could be done within a year such as the flattening of the S curves, signage and stripping, turn lanes, irrigation abutment removal, and requesting the Sheriff to increase enforcement. He stated long-term efforts are being worked on with the Transportation Coordinating Committee on the airport interchange. Discussion took place regarding a prior letter sent to the Commission from MDOT requesting a speed reduction, and if another letter was needed. Mr. Girard stated they still had the letter and it would have to go before the transportation committee in December. The Commission stated they would like to see this done before December if at all possible. Commissioner Mitchell asked what could be done in an emergency sense to lower the speed limit. Mr. Girard stated there was nothing they could do. Commissioner Murdock moved to send another letter reaffirming the request for an immediate emergency reduction of the speed limit to 55 MPH and to include all the ideas listed by the adjacent land owners as follows: same speed limit for trucks and cars; signage (caution narrow road do not pass); west bound turn lanes; center turn lanes defined for out of town travelers; stripping (double line and no passing); removal of irrigation abutments; and flattening out some of the grades and S curves. These would be short term within one-year recommendations. The ideas mentioned that would not be included would be the closing of the extra entrance to the Blue Basket and no bike signs. Mr. Girard asked the County to commit to participate in some of the funding for those improvements. Commissioner Murdock stated with the percentage and amount to be determined, they would commit to do that. Commissioner Mitchell requested to exclude the monetary portion because that would be a separate issue. Commissioner Murdock said he would remove the funds from the motion for further discussion by the Commission. Seconded by Commissioner Olson.

Commissioner Mitchell was in support of the motion and suggested adding all other ideas presented that were not mentioned in the adjacent landowners letter. Commissioner Murdock amended his motion to include the things mentioned but not limited to. Commissioner Olson amended his second. None voting nay. Motion carried.

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Gallatin County Health Officer Stephanie Nelson reported this was a public hearing and consideration of a resolution to amend the Gallatin County final operating budget for the City/County health fund and the communicable disease fund for FY 2001. Ms. Nelson stated this was approved by the City/County Health Board. She stated the requests are funded through the capital reserves and are well within the health mills the Commission reviewed and does not require new tax revenues. There was no public comment. Commissioner Mitchell moved to approve Resolution #2000-080. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Health Officer Stephanie Nelson reported this was a public hearing and consideration of a resolution to amend the DFS Partnership grant and the breast and cervical grant funds for changes in grant revenues in FY 2001 budget. Ms. Nelson stated this was approved by the City/County Health Board. There was no public comment. Commissioner Murdock moved to approve Resolution #2000-081. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Attorney Marty Lambert requested to continue the public hearing and consideration of a resolution to amend the 911 budget regarding dispatcher positions. Mr. Lambert's reasons for the continuance were directed toward a memo from the Gallatin County Fiscal Officer Ed Blackman detailing the needs for the staffing of the 911 center. He stated 911 Director Jenny Hanson had not been consulted for input to the details outlined in the memo regarding the staffing needs of the 911 center. The other reason was there were now two versions of the resolution and the new one was not based on the resolution of intent passed last week. He stated the continuance would give time for Mr. Blackman to contact Ms. Hanson for her input to the staffing needs and the Commission to decide which resolution to act on. If they chose to act on the newly drafted resolution there would have to be a resolution of intent first. The Commission choose to hear public testimony. City Commissioner Jarvis Brown stated this was a joint effort with the City and the County in funding the 911 center. Mr. Brown stated the City Commission agreed to fund 2 additional positions. He stated that Ms. Hanson had not been instructed to collect data and had more to do than she could get done. He stated that Bill Jamison an engineer teaching at MSU wrote a letter to the editor on how complicated it is to determine staffing levels for 911 centers. Mr. Jamison is in the process of recruiting volunteers that will sit in the control room to collect detailed information. Mr. Jarvis recommended the Commission fund the 2 additional positions. DES Coordinator Aaron Holst and Jeff Tong were both in support of adding 2 additional dispatchers and declined to comment until the next public hearing. Brian Leland stated the data research being used to determine staffing needs was incomplete and inconclusive data. He stated he was in support of funding the two additional positions so they could get the cad system up and running to collect the data necessary to determine future needs. Mr. Lambert advised the Commission to continue the hearing and Commissioner Mitchell agreed stating there were many issues that needed to be addressed. Board discussion took place regarding the two resolutions and the conditions that were to be included. A decision was made to meet with Ms. Hanson and Mr. Blackman and decide which resolution would be acted on. The Commission was in agreement to continue for one week.

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Gallatin County Attorney Marty Lambert reported this was a public hearing and consideration of a resolution to amend the County Attorney budget regarding computer hardware and software. There was no public comment. Commissioner Murdock moved to approve Resolution #2000-082. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported this was a public hearing and consideration of a resolution to amend the juvenile probation budget for the Department of Corrections Pilot Project Grant. There was no public comment. Commissioner Mitchell moved to approve Resolution #2000-083. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported this was a public hearing and consideration of a resolution amending the Sheriff Law Enforcement department's public safety fund FY 2001. There was no public comment. Commissioner Murdock moved to approve Resolution #2000-084. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported this was a public hearing and consideration of a resolution to amend the Gallatin County FY 2001 budget for the adult drug treatment court fund. Mr. Watson stated the match required was being provided in-kind through other departments. There was no public comment. Commissioner Mitchell moved to approve Resolution #2000-085, finding that no additional moneys are required and the other departments will be matching the funds. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported this was a public hearing and consideration of a resolution to amend the Gallatin County community development block grant fund FY 2001 budget to include unanticipated grant revenues for the grants administration department to conduct small business innovation research technical assistance activities. Mr. Watson stated he adjusted the contract language so they can not ask for any more draw downs more frequently than 30 days. There was no public comment. Commissioner Mitchell moved to approve Resolution #2000-086. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Attorney Marty Lambert presented a pending resolution of intent to amend the Gallatin County Planning board FY 2001 budget for transportation plan support payment & update to the Gallatin Plan. There was no public comment. Commissioner Murdock moved to approve Resolution of Intent #2000-087. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Attorney Marty Lambert presented a pending resolution of intent to amend the Gallatin County final operating budgets for receipt of unanticipated moneys and to balance expenditures for FY 2000. There was no public comment. Commissioner Murdock moved to approve Resolution of Intent #2000-088. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Planner John Shepard reported on the conditional use permit for the Kenneth J. Rozema non-conforming barn. The CUP is under the Gallatin County/Bozeman Area Zoning Regulation, to allow for expansion of a non-conforming barn, less than 50' from a property line and less than 100' from a public road (Wessley Way), in the R-S (Residential Suburban Country Estates) zone. The applicant's 4.387+-acre parcel is Lot 18 of Aspen Basin Subdivision in Section 20, T2S, R5E, PMM, Gallatin County, Montana. Earlier this year, the applicant constructed a 30' x 30' addition and a 30' x 12' covered shed extending an existing barn, without required permits. When notified of the violation, the applicant applied for a building permit and began the process to apply for a land use permit. The applicant intends to use the barn for agriculture (horse barn—a permitted principal use in the R-S zone on a lot larger than 2.5 acres); however, the existing structure is too close to the property line on Wessley Way(which is fenced off across the lot), and is therefore considered non-conforming. Mr. Shepard stated the R-S zone requires a 25' setback for side yards and a 35' setback for front yards. He stated the barn existed before July 1999, and is 15' from the Wessley Way (front yard) right of way and the required setback is 35'. The addition is at the same 15' front setback, but would keep a 30' side yard setback. There is also, an additional setback in the R-S zone for all pens, coops, barns, stables or permanent corrals that shall be setback not less than 100' from any residence or public road, and not less than 50' from any property line. The existing barn is 150' from the residence. The existing barn, corral, and addition are neither 100' from Wessley Way nor 50' from the north or west property lines. Mr. Shepard stated another issue was a section in the R-S zone pertaining to home occupations and among this, storage of contractor's equipment is specifically prohibited. Mr. Shepard stated the applicant does have a home occupation that was in place before July 1999, and is not proposing to expand that use.



The storage will stay in the existing barn and the addition will be used for agriculture. He stated the Donut zone regulation has a provision where you can expand non-conforming use through the conditional use procedure. Mr. Shepard stated the Commission needs to determine if the expansion is reasonable, natural and incidental to the use of the lot, and shall weigh the criteria as follows: a. traffic impacts, both on-site and off-site; b. off-street parking and loading requirements; the visual impact on the surrounding area; d. the degree of compliance with the adopted master plan and Zoning Regulation; e. the level of conflict with other uses in the surrounding area; f. the presence of other non-conformities in the surrounding area; g. the degree to which any existing unsafe or hazardous conditions would be mitigated; h. the viability of the subject structure(s); and i. on-site and off-site impacts from noise, dust, smoke, surface or groundwater contamination, or other environmental impacts. He stated written comment was received from the Gallatin County Road & Bridge Department, Rae Rural Fire Department, and one opposing letter from a neighbor. The Planning Board voted unanimously to approve the CUP at their meeting on September 26, 2000. Mr. Shepard stated if the Commission concurs with the recommendation of the Planning Board, and determines that the request as proposed by the applicant is in the public interest and meets the criteria of the Zoning Regulation, and in approving the request, the following conditions are suggested: 1. The conditional use permit will be valid only after approval of a land use permit; 2. The barn addition shall be used for a permitted agricultural use only, with no more than two (2) large animals on site. If this use is discontinued for more than 90 days, the site must come into compliance with requirements of the zoning regulation; 3. The non-conforming commercial use of the existing barn shall not be expanded; 4. Applicant must remove the fence across the Wesley Way right of way; and 5. Applicant shall work with the Rae Fire Department to plan and build a roadway turnaround directly connected to Wesley Way. The plan for the turnaround shall be completed and approved by Rae Fire Department not later than 60 days from CUP approval. Construction of the turnaround shall be completed in compliance with these plans not later than June 30, 2001. The following conditions are required by the Zoning Regulations: 6. The right to a use and occupancy permit shall be contingent upon the fulfillment of all general and special conditions imposed by the conditional use permit procedure; 7. All of the special conditions shall constitute restrictions running with the land use, shall be binding upon the owner of the land, his successors or assigns, and shall be recorded as such with the Gallatin County Clerk and Recorder's office by the property owner prior to the issuance of any building permits, final site plan approval or commencement of the conditional use; 8. All conditions specifically stated under any conditional use listed in this title shall apply and be adhered to by the owner of the land, successors or assigns; and 9. All special conditions shall be consented to in writing by the applicant. Mr. Shepard stated the applicant has already removed the fence requested in condition #4. He stated Wesley Way originally was a long driveway and was now a dead end road designated for the fire department turnaround. The applicant Kenneth Rozema stated when the barn was built he was told he needed to be 45' off the north property line and in thinking he owned up to the middle of the road rather than up to the road he measured from the middle of the 60' easement and added 15 feet. He explained when the subdivision was created the road only gave access to that lot and stopped at the northeast corner. Mr. Rozema had the road built the rest of the way down the easement and curved into his house and at the curve he fenced it off. He stated he was in agreement with the conditions. There is no public comment. Commissioner Murdock moved to approve the request for the expansion of the non-conforming use as being reasonable, natural and incidental to the use of the lot with the conditions recommended by staff, adding that the findings are based on the criteria for the approval of conditional use are met. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson presented a resolution of intent to amend the Gallatin County FY 2001 budget to include unanticipated grant revenues for the adult treatment court. Mr. Watson stated there was no match required. There was no public comment. Commissioner Mitchell moved to approve Resolution of Intent #2000-089. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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There being no further business the meeting was adjourned at 2:40 P.M.

*Unavailable*  
~~For signature~~  
 CHAIRMAN APPROVAL

*Shelley Vance*  
 CLERK ATTEST

The meeting was called to order by Chairman Phil Olson at 9:00 A.M. Also present were County Commissioners Bill Murdock and Jennifer Smith Mitchell, Chief Deputy County Attorney Susan Swimley, and Acting Clerk to the Board Mary Miller.

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Chairman Olson requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

#### OCTOBER 2, 2000

- The Commissioners attended an office meeting to discuss numerous issues. In attendance were Commissioners Murdock and Mitchell, Executive Secretaries Stacy Johnston and Glenda Noyes, Grants Administrator Larry Watson, Lieutenant Carolyn Robinson, and Community Corrections Board member Gwen Massey. Ms. Massey reported that the Community Corrections Board submitted a grant application to the Montana Board of Crime Control (MBOCC), and were denied. The board then came to the Commission for additional monies in their budget, and the Commission granted them the additional funds. MBOCC contacted the Board after the County's budget was finalized and informed them that they could receive the grant. The Board cannot give back the money allotted to them in the budget, as it would be an illegal act called supplanting. However, the Board would like to accept the grant, and use the money for an administrator for the project funded by the funds allotted in the budget. Mr. Watson explained that the Board is not asking for more money, simply action to support the grant proposal that would be matched with the designated county funds and used to hire an administrator for the board's new program. He also noted that the scope of work and budget for both will be re-written. Commissioner Mitchell made a motion to accept the \$30,051 grant award from the Montana Board of Crime Control, that will be matched with \$12,878 from County funds, finding that any proposals, budgets and signature sheets will come back to the County Commission for signature at a later date. Commissioner Murdock seconded the motion, adding that the grant will be used to hire a temporary Administrator, and stating that if the MBOCC doesn't re-up their grant next year, this position may not be funded again. In discussion, Ms. Massey and Lt. Robinson noted that they anticipate the administrator position will only be needed for a year. Commissioner Mitchell asked if the person hired will be a county employee and they responded that the coordinator will be, but it has not been determined whether or not the administrator will be or not. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered signing a change to signature page for a grant allowing the purchase of a urinalysis machine for Alcohol and Drug Services of Gallatin County. It was determined that Alcohol and Drug Services was not eligible to receive the grant, however Gallatin County could in their place. Commissioner Mitchell made a motion to allow Gallatin County to act as a pass through for the urinalysis equipment, from a grant in the amount of \$5,000. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered the continuation of an agreement for engineering services with MSE-HKM for Story Mill Bridge. They had deferred signing the contract pending approval from Road and Bridge Superintendent Lee Provance. Mr. Provance recommended the signing of the contract. Commissioner Mitchell made a motion to approve the agreement for engineering services with MSE-HKM for Story Mill Bridge. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered signing the verification of a 223 Grant application for the Montana Youth Range Camp. In discussion it was determined that this is not an actual grant application, but a verification that the program is using the maximum mills allowed in their budget.

Commissioner Mitchell made a motion to sign the 223 Grant application for the Montana Youth Range Camp, verifying that they are using the maximum mills allowed by law. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of an amendment to the Gallatin County Local Water Quality District Groundwater Evaluation/Monitoring Project. Ms. Johnston stated that this amendment is a grant extension for the groundwater evaluation and monitoring project between DNRC and LWQD. Commissioner Mitchell made a motion to approve the grant extension as an amendment to the Gallatin County LWQD Groundwater Evaluation/Monitoring Project.

Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered signing a lease agreement with Three Forks Cable TV for office space for the Gallatin County Sheriff's Office. The Sheriff has vacated their Manhattan office due to a raise in rent. The Three Forks space will cost \$200 a month. Commissioner Mitchell made a motion to approve the lease agreement with Three Forks Cable TV for office space for the Gallatin County Sheriff's office, on the condition that there is money in the budget for this expenditure. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered signing the Second Memorandum of Understanding for the Composting Feasibility and Implementation Project. This annual agreement is made and entered into by and among Gallatin, Park, Jefferson and Madison County, the City of Bozeman and the City of Big Timber, the West Yellowstone/Hebgen Basin Solid Waste District, and the United States Park Service, Yellowstone National Park; collectively known as the Southwest Montana Composting Project. Commissioner Mitchell made a motion to approve the Second Memorandum of Understanding for the Composting Feasibility and Implementation Project. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered signing a payroll authorization forms for the Montana Disaster and Emergency Services Division for D.E.S. Coordinator Aaron Holst and D.E.S. Secretary Phyllis Woods. This form needs to be submitted to the state for reimbursement to the County. Eligibility for the Emergency Management Assistance Grant Program is contingent on the submittal of this form. Commissioner Murdock made a motion to sign the payroll authorization forms for the Montana Disaster and Emergency Services Division for Aaron Holst and Phyllis Woods.

Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

Commissioner Mitchell requested that she be allowed to attend a Public Road and Federal Access Law conference. The conference will be held in Bozeman on October 26, 2000 and the cost is \$225.00. Commissioner Murdock made a motion to expend monies from the conference budget to enable Commissioner Mitchell to attend the Public Road and Federal Access Law conference.

Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

#### OCTOBER 3, 2000

- The Commissioners held a special meeting for the purpose of considering a resolution authorizing the levying of one mill on property outside of the incorporated cities for payment of estimated expenses caused by the wild land fires, and considering a resolution adopting the final operating budget for the rural improvement district bond payment funds (RID) and setting the first years payment for the Blue Grass Meadows bond repayment pursuant to state law. In attendance were Commissioners Murdock and Mitchell, Clerk and Recorder Shelley Vance, Fiscal Officer Ed Blackman, Auditor Joyce Schmidt, Treasurer Jeff Krauss, Chief Deputy Treasurer Anna Rosenberry, and Acting Clerk to the Board Glenda Noyes. Mr. Blackman explained his recommendation that the Commissioners authorize one mill to cover expenses incurred due to the wild land fires. He explained that most of the expenses that were incurred on the Toston-Maudlow fire will be reimbursed by the State, less 10% and those items that are disallowed. Any funds the County receives that are not used by the emergency, will go into a special fund for the next emergency. The levying of this one mill would result in approximately \$65,188. Discussion took place regarding imposing the mill in the current fiscal year or waiting until next fiscal year, and the issue of payments that need to be made promptly. Commissioner Murdock stated that he does not want to impose the mill this year. He asked if we could reimburse the necessary parties without having the money now and impose 1 mil on next year's budget. Mr. Blackman explained that the potential problems are that payments have to go out this year, interest will be charged on any negative cash, and if there is an emergency next year and two mills are necessary to cover expenses, one will already have been used for this year's fires. It was noted that the \$30,000 claim submitted from the Sheriff and Detention Center, includes some costs that would have been incurred for day-to-day expenses that wouldn't be paid out of the emergency money but from the department's regular budget. Clerk and Recorder Shelley Vance asked if there was money still available in the emergency account, remaining from the flooding emergency. Mr. Blackman replied that there is approximately \$30,000 in that fund at this time. Treasurer Jeff Krauss stated that he is concerned about the fact that the Commission has closed their budget, mills have been certified, and on an administrative level if the Commission decides to levy an additional mill, the Clerk and Recorder will have to re-certify the mills and the Treasurer's office will have to re-do tax billing, resulting in an additional three week delay in sending out tax bills. Mr. Krauss stressed that it is not impossible to re-do the bills, but that he is concerned about the legality of re-opening a budget that has been finalized. Mr. Blackman reported that he has consulted the County Attorney regarding this issue, and was told that since the revising of the budget would be due to an emergency, it would not be illegal to re-open a finalized budget. Auditor Schmidt and Clerk and Recorder Vance both requested that this opinion be given in writing from the County Attorney. Mrs. Vance also noted that if the County Attorney can find it in statute that this would be a legal way to proceed, she respects the County Attorney's opinion, but requests the opinion in writing before she completes the mill certifications for the tax bills. Mr. Blackman noted that if the mill isn't levied now, it will need to wait until next year, or the last day of this fiscal year. Discussion took place regarding the funds available in the emergency fund, the regular time expenses incurred, and state reimbursement for the Toston-Maudlow fire. Mrs. Schmidt reported that to date the expenses for the Toston-Maudlow fire

## 100 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

are estimated at \$160,000, most of which should be reimbursed by the state, and over \$20,000 was incurred on the Beaver Creek fire. Chief Deputy Treasurer Anna Rosenberry stated that she was under the impression that you have to levy the mills in the year the emergency occurred; however, Mr. Blackman explained that there is no law specifying that. Commissioner Murdock stated that since levying the additional mill would cost the Treasurer's Department additional money, we don't want to burden the taxpayers unnecessarily, the \$30,000 in expenses submitted by the Sheriff's Department isn't all actual emergency expenses, and we do not have an actual total of expenses, he will not support levying the additional mill at this time. Commissioner Mitchell made a motion to defer a decision regarding authorizing the levying of one mill on property outside of the incorporated cities for payment of estimated expenses caused by the wild land fires until all of the information and expenses are available, including but not limited to written County Attorney opinion regarding the ability to levy in the next fiscal year, and pending reimbursement from other state agencies. Deferment may be as late as June 30, 2001. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

- Mr. Blackman presented the resolution adopting the final operating budget for the rural improvement district bonds repayment funds (RID) and the levying the first payment for the Blue Grass Meadows bond payment, pursuant to state law. He explained that the Clerk and Recorder requested confirmation from the Commission their approval of the RID Bond payments. Commissioner Mitchell made a motion to approve Resolution 2000-79, adopting the final operating budget for the Rural Improvement District bonds repayment funds (RID) and setting the payment for the Blue Grass Meadows bond repayment for the first time pursuant to state law. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

### OCTOBER 4, 2000

- The Commissioners conducted regular County business.

### OCTOBER 5, 2000

- A special meeting was held to discuss the Sidders Floodplain appeal. In attendance were Commissioners Murdock and Mitchell and Chief Deputy County Attorney Susan Swimley. Prior to this meeting, each Commission member filled out a work sheet regarding a proposed decision. Commissioner Murdock and Mitchell agreed that the location of the foundation is in Zone A. The decision focused on the variance from the permit. The Commission agreed to grant a variance from requiring the permit. Attorney Swimley will draft the proposed findings. The Commission also agreed the building site is in Zone A of the floodplain. The Commission further agreed to grant the variance from the floodplain permit requirement.

- The Commissioners attended a regularly scheduled Road monthly meeting. In attendance were Commissioners Murdock and Mitchell, Road and Bridge Superintendent Lee Provance, Staff Engineer Roy Steiner, and Road and Bridge Secretary Anita Monroe. Discussion took place regarding the Cost-Share Improvement District Policy. It was determined that the policy would be reviewed by the County Attorney's Office and placed on a public meeting agenda for consideration. Mr. Provance asked the Commissioners if the department could purchase logo jackets for staff, trucks and equipment. The Commissioners stated that if the department could find the money within their budget, they would approve a budget transfer for this purchase. The Commission also authorized the purchase of another pup trailer pending the Fiscal Officer's approval.

### OCTOBER 6, 2000

- The Commissioners conducted regular County business.

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- Landfill Revenue for September 2000: \$56,501.90.
- A101's for September 2000: \$10,000.
- Payroll for September 2000: \$1,110,810.21.
- Clerk & Recorder's Fees Collected for September 2000: \$36,225.75.
- New Hire Report for September 2000: 911 – Janet Malcott, Kilynn Sharp, Bruce Cunningham; LWQD – Tammera Crone, Virjeanna Brown; MOTOR VEHICLE – Laura McKnight, Ana Burroughs; PLANNING – William Arnold, Jennifer Koozer; REST HOME – Misty Massey, Joseph Duperry, Erin Arnst, Nancy Johnson, Claudia Culver, Betty Brainard, George Greenwood, Thomas Brown; ROAD & BRIDGE – Halcy Angell.

Terminated Employees' Report for September 2000: 911 – Velma Rewitz 9/8/00; DETENTION CENTER – Kathleen O'Toole 9/7/00; MOTOR VEHICLE – Nancy Day 9/1/00; REST HOME –

## GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 101

Sarah Wolley 8/25/00, Sheila Arthur 8/29/00, Julie Grensten 8/30/00, Sadie James 9/7/00; ROAD & BRIDGE – J.R. Bohleen 9/15/00; SHERIFF – Patrick Walters 9/11/00; WEED – Janna Kinchelo 8/10/00, Aimee Jones 8/10/00, James Olson 9/14/00.

### The following items were on the consent agenda:

1. Approval of claims presented by the Auditor dated from October 06, 2000 through October 12, 2000 for P.O. #68467 for \$700.00 and \$5,354.85 totaling \$6,054.85, and the following batches dated October 17, 2000: Batch 1 for \$18,771.10, Batch 2 for \$174,762.04, Batch 3 for \$121,009.99, Batch 4 for \$43,098.22, Batch 5 for \$76,606.27, Batch 6 for \$38,828.24 and Batch 7 for \$1,289.90 totaling \$474,365.76. Grand total \$480,420.61.
2. Consideration of the following contracts: Grant Award from the Montana Board of Crime Control for Urinalysis Testing Equipment for the Gallatin County Adult Drug Treatment Court; Contract between Gallatin County and the U.S. Office of Justice Programs for Funding of the Gallatin County Adult Drug Treatment Court; Grant Reimbursement Agreement between Gallatin County and Alcohol and Drug Services of Gallatin County for Distribution of Funds from Office of Justice Programs for the Operation of the Gallatin County Adult Drug Treatment Court; and Between Gallatin County and Montana Department of Commerce for the FY 2001 Small Business and Innovation Research Technical Assistance Program.
3. Request for Family Transfer Exemption for Michael Prester located as Tract 1-B of COS 1104-B in the SW1/4 of Section 34, T1N, R5E. Belgrade City-County Planner Jason Karp reported that the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
4. Request for Family Transfer Exemption for Ardyce DeVries located as Tract A-1 of COS 1277A in the SW1/4 of Section 12, T1S, R4E. Belgrade City-County Planner Jason Karp reported that the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
5. Request for Family Transfer Exemption for John DeVries located as Tract 3 of COS 78 in SW1/4 of Section 12, T1S, R4E. Belgrade City-County Planner Jason Karp reported that the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.

Commissioner Murdock read the consent agenda. Gallatin County Grants Administrator Larry Watson requested the grant reimbursement agreement between Gallatin County and Alcohol and Drug Services of Gallatin County for distribution of funds from Office of Justice Programs for the operation of the Gallatin County Adult Drug Treatment Court be postponed until the Commission office meeting October 18, 2000. Commissioner Murdock moved to approve the consent agenda as amended. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Executive Director of Alcohol and Drug Services Roger Curtis stated this was the annual presentation by students and the Alcohol and Drug Services for the proclamation of "Red Ribbon Week". Alcohol and Drug Services Prevention Specialist Dave Douglas announced Autumn Pavey, a senior at Belgrade High School, was to read a poem and Shawn Eveland and Tom Bogen of Monforton School were to do a presentation. Mr. Douglas read a proclamation stating the Gallatin County Commissioners were joining in, and recognizing, October 23, 2000 through October 31, 2000, National Red Ribbon Week. Commissioner Mitchell moved to proclaim October 23, 2000 through October 31, 2000 "Red Ribbon Week" in Gallatin County. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Library Board of Trustees and the Library Directors from Belgrade, Manhattan, Three Forks, West Yellowstone, and Bozeman Libraries gave their annual report on the services provided to the residents of Gallatin County. Belgrade Community Library Director Ilene Casey reported an increase in circulation and use by patrons in the last year. Ms. Casey reported the library has tripled their children story time opportunities and they have added two adult programs. She reported some of the accomplishments they have made in the past year was the completion of the automation project, electronic card catalog with Bridgernet, courier service through Galavan for exchanging books and finishing their 501c3 for non-profit status for the foundation of the library, which will give them the opportunity to expand their fund raising efforts. They also, received the gift of 5 computers with training from the Bill and Melinda Gates Foundation. She stated these computers have greatly enhanced their services. She also noted they hired an architect to move forward with plans to expand and this coming year they will be working on that project. Bozeman Public Library Director Alice Meister reported they have been working on the building committee and looking at a new building site. She stated they hired a library consultant who recommended the need to build a 49,000 square foot library to replace the current 21,000 square foot library. She stated they were considering the CMC site on East Main. She noted the City Commission gave their approval for a 4 million dollar bonding referendum to go on the ballot for next year and they are hoping for some support from the County Commissioners.

They too, received computers from the Gates Foundation and now have 10 Internet ready computers. The library is offering classes on how to use these electronic resources and also have classes on genealogy and consumer health. Ms. Meister stated they have increased their circulation by 2% and the greatest increase came in the number of reference questions from calls and by emailing their website [www.bozemanlibrary.org](http://www.bozemanlibrary.org) which has their Bridgernet automated card catalog. They will be adding West Yellowstone to their courier service. Manhattan Library Director Colet Bartow reported an increase in circulation and the usage of the computer systems. They received 2 computers from the Gates Foundation and they have helped to expand the available services. They offer 6 Internet stations, a summer reading program for students, a weekly reading program, and baby-sitting classes. Three Forks Library Director Maggie Clark stated she had just replaced the former director after 28 years. Ms. Clark stated they were looking to the future to expand the facility that is very crowded with outdated books and would like to start automating and expanding the hours. West Yellowstone Library Director Liz Kearney reported a large increase in circulation and patron usage, related in part to Internet access for tourists. She stated that the summer reading program and sharing the automated system with the Bozeman and Belgrade library was going well. They received 2 new computers from the Gates Foundation and were able to get one in Spanish. Commissioner Murdock asked if there was hope in providing the electronic exchange with Manhattan and Three Forks. Ms. Meister stated that was possible with grant moneys available for automation projects through a federation called Broad Valleys. The Commissioners noted they were happy to see the cooperation-taking place between the libraries, and thanked them for their reports.

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Gallatin County Manager of Subdivision and Zoning Review W. Randall Johnson reported that Gallatin Peaks Land & Development, LLC, has requested a preliminary plat approval for the Town Center major subdivision at Big Sky. He stated the proposed subdivision occupies 153.423 acres, and consists of commercial, retail, office, residential and open space uses. Commercial uses include retail, food and beverage, office, overnight lodging, public and quasi-public, and fitness/health. Residential uses include apartments, multi-family housing (townhouses, triplexes, duplexes), and single-family units. Open space uses include a town square, linear park, neighborhood park, multi-family common open space, stormwater storage, and wildlands. The subdivision will be served by central water supply and wastewater treatment facilities. The proposed subdivision is located within two parcels: Parcel 1 (148.423 acres) is located in Section 1, T7S, R3E, PMM, Gallatin County, Montana; and Parcel 2 (5 acres) is a tract of land in the S1/2 of the NE1/4 of Section 2, T7S, R3E, PMM, Gallatin County, Montana. Mr. Johnson stated the proposed subdivision has been designed and submitted as a Planned Unit Development (PUD). The PUD review process is applicable to development proposals, which include a mixture of residential, commercial and open space uses, which promotes creativity in subdivision design. No variances were requested with this application; however, a series of "waivers and modifications" were requested. On February 29, 2000, the Gallatin Canyon/Big Sky Planning and Zoning Commission approved a Master Planned Unit Development (MPUD) submitted by Gallatin Peaks Land and Development, LLC. The approved MPUD incorporates 664.81 acres, consisting of a town center, resort lodge, and uplands residential development area. The Town Center PUD was approved for the following uses: 222,422 sq. ft. of commercial/retail space; 69,276 sq. ft. of office space; 36,078 sq. ft. of public and quasi-public space; 43,420 sq. ft. recreational facility space; 150 lodging rooms; 368 single-family and multi-family residential dwelling units; 119 second floor residential apartment units; and 42.16 acres of open space. The staff report addressed the criteria of subdivision review pursuant to Section 76-3-608 MCA including agriculture; agricultural water user facilities; effects on local services including fire protection, law enforcement, emergency medical and schools; natural environment; wildlife and wildlife habitat; and public health and safety. Mr. Johnson reported the proposed subdivision was designed and submitted as a Planned Unit Development (PUD), in accordance with Section 11 of the Gallatin County Subdivision Regulations. The intent of a Planned Unit Development is: to provide flexibility of the Design and Improvement Standards... to promote creativity in subdivision design; to provide economies in the supply of public services; to enhance and preserve open space and unique natural features; and to enable the planning of a tract for a single use or for a harmonious combination of uses, such as a mixture of residential and commercial. In accordance with the PUD regulations, the applicant requested eight (8) waivers or modifications from the Design and Improvement Standards set forth in Section 6: Design and Improvement Standards, General, and Section 7: Design and Improvement Standards, Roads. They are as follows: 1. Lot Dimensions and Orientation (6.B.1) : Lot sizes, widths, shapes, and orientation within the Town Center Commercial District are designed for zero-lot-line, continuous commercial building frontage, for efficient, easily accessible parking lots, and to meet existing conditions along the western boundary of the area. As a result, there are irregular shapes, narrow necks, and other irregularities that area function of efficient land use and development appropriate to a small town commercial core. The Town Center Residential District contains some lots with irregular configurations and lots with width-to-length ratios designed to accommodate multifamily units. Lot 9, Block 4, is configured as a flag lot due to the irregular

configuration of the buildable land area. Following the completion of the borrow pit/Section 31 land exchange between Wetland/TM and BSWSD, this lot and the northern end of Rim Road will be reconfigured in order to provide standard road access prior to filing a final plat. If for some reason the land exchange fails to materialize, the northern end of Rim Road and this lot will be adjusted to achieve standard road access within the current northern property line; 2. Lot Double Frontage (5.B.3): Due to the scale and configuration of commercial parking lots, some such lots extend from block to block and thus constitute double frontage, a desirable configuration for access and parking efficiency. 3. Frontage on Public Roads (6.B.8): Lot 8, Block 4, is shown with non-standard access in the northeastern corner to the subdivision due to the irregular configuration of the buildable land area. Access to this lot is shown as a 30-foot easement on the Preliminary Plat. Upon completion of the borrow pit/Section 31 land exchange between Wetland/TM and BSWSD, this lot and the northern end of Rim Road will be expanded and reconfigured in order to provide standard road access prior to filing a final plat. If for some reason the land exchange fails to materialize, the northern end of Rim Road and lots 8 and 9 will be reconfigured to achieve standard road access within the current northern property line. 4. Block length (6.C.2.): In order to create a small-town pedestrian-friendly scale of development, minimum block length in the Town Center Commercial Area and the Town Center Residential Area is 252 feet. 5. Utility Easements (6.D.2.a-d): Utility easements along lot lines as shown on the preliminary plat reflect town/urban utility locations that are appropriate to zero-lot-line commercial development. 6. Paving Requirements (7.H): To avoid damage to paved streets, sidewalks, and parking lots during construction of commercial buildings with the Town Center Commercial District, variation in the timing of final paving is requested. Streets, sidewalks and parking lots will be gravel surfaced until construction is completed for of the last building on a block front, at which time abutting streets, sidewalks, and parking lots will be paved. This variation in timing will facilitate placement of high quality, cost-effective circulation and parking improvements and avoid unnecessary, costly, and time-consuming rework and repairs. 7. Road improvement Standards (7.J): Modest variations in the width of road improvement standards is requested for road segments within some residential neighborhoods in order to create a more pedestrian-friendly environment and to achieve a better scale relationship between the street and the residential units served. 8. Road Sign Standards (7.J.5): Inasmuch as the Town Center is intended to have a specific thematic identity that may be reflected in a particular style of signage, variation in road sign standards is hereby requested. All fire and public safety considerations will be met under any such variation. Sign designs will be submitted to and subject to approval by the County Road and Bridge Department. According to Section 11.C., the Commission may approve a PUD and waive or modify the Design and Improvement Standards for lots, block, roads, and parks if the following criteria are met or exceeded. 1. General: The plan shall conform to the intended purposes of these regulations, the special intent of this Section, and one or more of the following: a. Preserve to the maximum extent possible the natural characteristics of the land; including topography, vegetation, streams and other bodies of water. b. Preserve productive agricultural land. c. Protect important historic sites or structures or areas of important wildlife habitat. d. Provide economies in the provision of roads and public improvements. 2. Site Size: the total site size, as measured by the boundary perimeter of the PUD, shall be appropriate to the proposed area and design. 3. Open Space: Each PUD shall provide an area for dedicated park or common open space appropriate in size to the proposed development and design; however, such area shall not be less than the amount of land required to be dedicated under these Regulations for the area of the subdivision, exclusive of all other dedications. 4. Landscaping: Landscaping may be required between building sites or on the PUD perimeter where the Commission deems it necessary to provide buffer screening between different land uses. 5. Parking Area: Adequate parking area shall be required for the proposed uses of the development, as determined appropriate by the Commission. a. Collector roads designed to furnish access to adjacent areas are dedicated. b. Adequate responsibility for the improvement and maintenance of private roads is assumed by the property owners' association. c. Road improvement specifications are met in compliance with these Regulations. 6. Other Regulations: Where there are other ordinances or regulations which require compliance to PUD or other minimum standards, this Section does not authorize the Commission to waive or modify such ordinances or regulations. The Commission needs to make a determination: as to whether the eight (8) requested waivers or modifications from the Design and Improvement Standards found in Sections 6 and 7 of the Gallatin County Subdivision Regulations comply with the criteria of the Planned Unit Development section of the Subdivision Regulations; a determination as to whether or not the application meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act; and a determination as to whether or not the application complies with the provisions of the Gallatin County Subdivision Regulations. If the County Commission approves the subdivision and the requested waivers, the following conditions are suggested: 1. The developer shall have three (3) years from the date of preliminary plat approval (October 17, 2000) to complete all conditions, and apply for final plat approval for each development phase. Required conditions to be completed prior to final plat approval for the first development phase: 1. The flood hazard evaluation/study for the South Fork Tributary shall be approved by the Montana Department of Natural Resources and Conservation. A copy of the approved study shall be submitted to the Gallatin County Planning Department. 2. All

subdivision road names shall be reviewed and approved by the County Road & Bridge Department prior to final plat approval. 3. The primary access road (Ousel Falls Road) to the subdivision shall lie within a sixty (60) foot minimum public dedicated right-of-way or public right-of-way easement. 4. After the Big Sky Coordinated Transportation Study, or a successor study in the absence of the named study, has been adopted by the County Commission, determination of mitigation required of the developer for traffic impacts caused by this subdivision shall be made by the County Commission at a hearing specifically conducted for that purpose in accordance with applicable subdivision regulations governing preliminary plat approval. If the study is not completed or adopted by the County Commission prior to the developer seeking approval of a final subdivision plat, after first obtaining a detailed technical review of traffic impacts from the Montana Department of Transportation, determination of mitigation required of the developer for traffic impacts caused by this subdivision shall be made by the County Commission at a hearing specifically conducted for that purpose in accordance with applicable subdivision regulations governing preliminary plat approval. 5. The subdivision shall be annexed into the Gallatin Canyon Rural Fire District. 6. The developer shall obtain an approved weed management plan from the Gallatin County Weed Control District prior to any construction projects within the site. The approved weed management plan shall be submitted to the Gallatin County Planning Department prior to final plat approval. Areas disturbed by construction shall be seeded and controlled for noxious weeds. 7. A property owners' association for the subdivision shall be created. 8. Covenants for the subdivision shall include the following provisions: a. All structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for Seismic Zone 3, and the National Fire Protection Association Codes. b. The property owners' association shall be responsible for the control of noxious weeds within park areas, common open space parcels, and all road right-of-ways. Lot owners shall be responsible for the control of noxious weeds within their property. c. Place title to common open space property with the property owners' association. d. Common open space shall be preserved and maintained for passive and active recreation, wildlife habitat, and protection of scenic, unique or important natural features. e. Membership shall be mandatory for each owner, who must be required to pay fees to the Association for taxes, insurance, and maintenance of common open space. f. As concerns common open space; the property owners' association shall be responsible for liability insurance, local taxes, and the maintenance of recreational facilities. g. As concerns common open space; assessments levied by the association must be able to become a lien on the property. h. As concerns common open space; the property owners' association shall be responsible to adjust the assessment to meet changed needs. i. Ownership shall be structured in such a manner that real property taxing authorities may satisfy property tax claims against the common open space lands by proceeding against individual owners in the association and the dwelling units they each own. j. The property owners' association shall be responsible for the operation and maintenance of all interior subdivision roads, parks, and open space. k. All garbage shall be stored in animal-proof containers or be made unavailable to animals. l. Pets shall be controlled by each homeowner, and not allowed to roam within the subdivision. m. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County.

**Required conditions to be completed for each Phase final plat recordation:** 1. The final plat shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates. 2. All parks and open space shall be provided as shown on the preliminary plat. All parks and open space shall be conveyed to the property owners association. 3. Interior subdivision road plans, bridge plans, road maintenance plans, drainage plans, lot access plans, and sign plans shall be submitted to the County Road & Bridge Department prior to the construction of the interior subdivision roads. 4. Primary and secondary road access shall be provided. The primary and secondary access roads shall lie within a 60 foot public dedicated right-of-way or public easement, and, except as otherwise provided under approved waivers or modifications No. 6 and 7, shall be constructed to county standards for paved roads. If the primary or secondary access road requires a new approach onto Highway 64, an approved encroachment permit from the Montana Department of Transportation shall be obtained prior to final plat approval. 5. Interior subdivision roads shall lie within a 60-foot public dedicated right-of-way or public easement. Except as otherwise provided under approved waivers or modifications No. 6 and 7, the interior subdivision roads shall be constructed to county standards for paved roads. 6. Where required, temporary cul-de-sacs, constructed to county standards, shall be provided. 7. All road construction shall be inspected and certified by a Montana registered civil engineer. The subdivider shall obtain written verification from the County Road & Bridge Department that all roads have been brought to county standards, as modified by the approved waivers or modifications. 8. The subdivider shall be responsible for the shared maintenance of the primary and secondary access roads with all affected parties. Any maintenance agreements shall be submitted to the County Road & Bridge Department. 9. The final plat shall contain a statement requiring lot access to be built to the standards of Section 7.G.2 of the Gallatin County Subdivision Regulations. 10. Road name signs shall be required at all intersections, and be installed as modified by approved waiver or modification No. 8. Road name signs shall be installed or bonded prior to final plat approval. 11. State



Department of Environmental Quality approval shall be obtained. The subdivider shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The subdivider shall obtain the Gallatin County Health Officer's approval. 12. Installation of all sewer service facilities (sewer mains, manholes, etc.), including as-built plans, shall be approved by the Big Sky Water and Sewer District 363 prior to undertaking any construction. 13. All required infrastructure improvement (roads, water and sewer facilities) shall be installed for each development phase. The subdivider shall either: a) complete the infrastructure installations prior to final plat approval of each phase, or b) enter into an improvements agreement with the County for the completion of the infrastructure installations. The improvements agreement shall comply with all requirements of the Gallatin County Subdivision Regulations. 14. The subdivider shall provide water supply for fire protection in accordance with the Gallatin County Subdivision Regulations. The Gallatin Canyon Rural Fire District shall approve all hydrant locations, installation and operation prior to undertaking any construction within each development phase. The subdivider shall also obtain written verification from the Fire District that the required fire protection measures have been provided. 15. Areas disturbed by construction shall be seeded and controlled for noxious weeds. 16. All utility easements are to be shown on the final plat. Utility easements shall conform to Section 6.D.2 of the Gallatin County Subdivision Regulations, and as modified by width and location permitted by approved waiver or modification No. 6, and shall be shown on the final plat. In addition, the following statement must appear on the final plat: *"The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as 'Utility Easement' to have and to hold forever"*. 17. The subdivider shall record on the final plat a waiver of right to protest creation of rural improvement districts and local improvement districts. 18. The subdivider shall make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. 19. The Subdivider shall make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. **Required condition for the Residential Northeast Phase final plat recordation:** 1. Proposed Lots 8, 9, and 10, as shown in the Residential Northeast Phase of the preliminary plat, shall be combined as one lot on the final plat for this phase. Mr. Johnson stated the development of the subdivision and the installation of required infrastructure is planned in 7 phases. The applicant has requested flexibility in the sequence of completion of the phases and he stated the conditions were structured to accommodate that flexibility. Mr. Johnson assured the Commission that each phase could stand-alone. Mr. Johnson stated the proposed subdivision is located within the drainage basin of the South Fork Tributary of the West Fork of the West Gallatin River. He stated the applicant has prepared a flood hazard evaluation of the South Fork Tributary. He stated at one point Bridge Road will cross the river and at that time the applicable 310 and 410 permits will have to be obtained. He stated that Lots 8 & 9 in the northeast corner of the subdivision do not have county standard interior road access and they are agreeable to consolidating Lots 8, 9, & 10 until adequate access can be obtained for Lots 8 and 9. Mr. Johnson reported that he received a letter from Gallatin Canyon Consolidated Rural Fire Department Chief Bob Stover stating the town center meets all fire department requirements and gave his recommendation of approval. Mr. Johnson noted a letter from Sheriff Bill Slaughter was submitted that stated the Sheriff's Office could no longer continue to promise an acceptable level of service to any new major subdivision. He explained in response to the Sheriff's concerns, the applicant has initiated and agreed to participate in a study to identify police protection needs for the Big Sky area, and develop techniques to mitigate impacts by all new developments. Mr. Johnson reported that the Sheriff has agreed to a draft condition to be included in the subdivision regulations, very similar to the traffic mitigation conditions process. Mr. Johnson recommended the condition to read as follows: The developer shall agree to participate and equitably share in the cost of any Law Enforcement Study that may be approved by the Gallatin County Commission that concerns law enforcement needs and impacts of future land use developments on law enforcement services in the Big Sky area. The developer shall be entitled to an equitable reimbursement for any disproportionate costs expended by it in connection with participation in such Study. Commissioner Murdock asked if the developer had given thought to a waiver of right to create a multi-jurisdiction district or some other form of entity. Mr. Johnson stated they had not. Deborah McAtee principal for Gallatin Peaks spoke to the Commission with regard to the town center and introduced their planner Jim Pepper. Mr. Pepper reported this was integral part of the process. He stated in August of 1998, and March of 2000, the Master PUD was approved and when it was re-approved the developer pledged that the Aspen Drive extension (also referred to as Bridge Road) would take place this year so the A & B residential cluster could be served in response to the Fire Light Homeowners. Mr. Pepper submitted Exhibits "A", "B", "C" & "D", showing this construction process taking place. He anticipated the bridge would be constructed soon, unless there were some unforeseen circumstances. He stated this town center was rezoned in January 2000, and then in June 2000 the town center PUD was approved. He explained this was a PUD Subdivision and noted the key item was a provision of waivers and modifications. Mr.

Pepper noted that subdivision regulations are primarily designed for suburban development, and not suited to the requirements of town-based development. He reported there were only 7 waivers, as one of the waivers was to permit them to have flag lots. He stated they have received their DNRC 310 permit and the DNRC has promised to respond to the flood plain study that was forwarded to them over a year ago. Mr. Pepper reported on the roads serving the town center and stated that by developing the town center it would decrease the traffic on Highway 191. He stated their traffic impact study showed that the traffic generated from this subdivision was a rather modest contribution to the overall growth of Big Sky and both access roads to Highway 64 have been approved by MDOT. Mr. Pepper responded to Commissioner Murdock's question regarding the creation of a multi-jurisdictional district by explaining they have their CCNR's and planning documents configured to make such arrangements. He said they know that at sometime a form of consolidation will take place. Mr. Pepper stated they were confident they have met all of the review criteria and are eligible for the waivers and modifications. He stated they planned to commence with one or two phases next summer followed by a phase or two in each successive year. He stated in this endeavor they have been faithful to the Gallatin Canyon Big Sky Plan and sought to meet all requirements set forth in the zoning and subdivision regulations. The applicant's counsel Bill Madden addressed the sewage hookups, transportation study and law enforcement. He stated the developer has been in negotiations with the Big Sky Water & Sewer District to exchange 12 acres to enable them to add to their facility and provide a nutrient treatment facility. He noted the agreement is completely drafted and being considered. He stated they were confident there would be adequate capacity for sewage treatment for the town center as it develops. Mr. Madden stated the developer has made the required contributions to the Big Sky Area Coordinated Traffic Study. He stated the MDOT and the developers met to discuss the traffic impacts of this development and reached an agreement that it would be best to address each subdivision development rather than addressing each new development proposal through the Big Sky Area Coordinated Study. Mr. Madden stated that on October 11, 2000, the MDOT wrote a letter to Mr. Johnson requesting that the Commission approve a resolution adopting that format for handling traffic mitigation impacts in the Big Sky area as a plat condition. Mr. Madden stated the developer was in agreement with the condition and urged the Commission to adopt it as a standard plat condition. He reported they met with Sheriff Bill Slaughter after receiving his letter that he could no longer continue to promise an acceptable level of service to any new major subdivision. Mr. Madden stated the meeting with the Sheriff found his concerns were not being capable to serve the growth, not knowing what the magnitude of that growth might be and how the sources of being able to meet those demands by way of funding would be met. He suggested that the Big Sky Transportation Study be a model for meeting the Sheriff's needs. Mr. Madden stated they discussed the purpose of the Law Enforcement Study that would determine future needs for additional law enforcement staff and services in the Big Sky Area caused by existing and future property development; to determine the costs of providing such additional staffing and services; to determine the timing or triggering mechanism for providing such additional staffing or services; and to determine a legal and equitable means of paying for such additional staffing and services to Big Sky property owners. He stated the Sheriff was very supportive and indicated his concerns could be met through this study. Mr. Madden wrote a letter to the Sheriff requesting that he confirm the study as a satisfactory way of mitigating his concerns for the ability of providing law enforcement services in the Big Sky area and attached a proposed plat condition that closely mirrors the plat condition regarding the Big Sky Transportation Study. He stated the Sheriff affixed his signature to a statement withdrawing his letter that stated his concern over the ability to provide adequate law enforcement services to this subdivision, on the condition that approval of the preliminary subdivision plat for this development, and other developments in the Big Sky area within Gallatin County. This is to be conditioned upon the developer's cost participation in the Law Enforcement Study in accordance with the Proposed Law Enforcement Plat Condition. Commissioner Mitchell questioned who was going set up the Law Enforcement Study and when. Mr. Madden stated the Sheriff is searching for money to fund the study and the developer is going to participate by a cost participation and as this condition is attached to other developments they will come on line. Project Coordinator for the Big Sky Transportation Committee Dale Beland reported that the advisory committee consisting of six properties owners in Big Sky reached a very effective level of participation. He stated the advisory committee recommended, and the Counties have approved the selection of a consultant, BRW, based in Helena. They have reviewed and are in the process of putting together a contract package, which, will be given to the Commission for consideration. The contract documents have been reviewed by Deputy County Attorney Chris Gray. Mr. Beland is waiting to hear from the corporate headquarters in Minneapolis and will then be conferring with Madison County. He stated he looked forward to solving this long standing issue in Big Sky and reported the current schedule was to finish the study by mid-March. With this contractual review the schedule would be adjusted to early Spring. Eric Ossorio a resident of Big Sky spoke in support of the town center. Mr. Johnson reported there were four letters in support of this application. Those letters were received from William J. Olson, Chairman of the Westfork Meadows Homeowners Association Tom M. Kuka, , Manager of Pioneer Development Company LLC Chris Coyle, and Executive Director of the Gallatin Valley Land Trust Debbie Deagan. Commissioner Murdock stated

this was consistent with the zoning regulations and the original intent of Big Sky. Commissioner Mitchell stated this development was well thought out and planned and she was very impressed how developer worked with the people in Big Sky. Commissioner Olson stated he was surprised there were no public concerns with a subdivision of this magnitude. Commissioner Murdock moved to approve the 7 requested waivers based on the criteria found in Section 11, with the findings that it would provide compact concentrated development that would serve as an urban core for the greater Big Sky area. Therefore, the pattern is necessarily intensive and that would apply to some of the consolidation and narrower streets, etc, that are outlined in the 7 waivers. He stated there is no productive agricultural land so that doesn't apply and no known important historic sites. He stated this would provide economies of a scale far greater than the existing suburban or ex-urban pattern development at Big Sky. The lot sizes are appropriate to the proposed subdivision area and design, configuration, and the circulation system lot patterns are all consistent and relate well to adjoining land uses. The open space is greater than required in the subdivision regulations. Based on the berms, tree planting and screening of parking areas, and their strong town center image would all provide more than adequate visual buffering and screening between the different land uses and the parking has been calculated using ratios for shared parking in an urban land institute and would find they are meeting the parking requirements. The collector roads are non-exclusive public right of way easements for unrestricted ingress and egress. Their Master Plan Association comprised of developers and affiliate property owners will take care of adequate responsibility for improvement and maintenance of roads. Seconded by Commissioner Mitchell, adding the finding that the County will be involved in all waivers and the paving will meet the standards set forth in the subdivision regulations. None voting nay. Motion carried. Commissioner Murdock stated he would find the town center and subdivision with all phases meets the requirements in Section 76-3-608 MCA of the Montana Subdivision and Platting Act. Also, finding that the application complies with the provisions of the County Subdivision Regulations and complies with the Gallatin Canyon/Big Sky Zoning District and has had the approval of the advisory committee and the public with more than adequate hearings. Commissioner Murdock stated that the condition meets all those requirements and he moved to approve the development with the conditions presented by staff, with the addition of the proposed law enforcement plat condition as being condition #9. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Chief Deputy County Attorney Susan Swimley requested continuation of the public hearing and consideration of resolution to amend the 911 budget regarding dispatcher positions. She stated the Gallatin County Fiscal Officer Ed Blackman and the 911 Director Jenny Hansen had not met to discuss staffing details of the 911 center. Commissioner Mitchell concurred because the Grants Administrator was asked to find out the status of a \$420,000 grant for 911. Commissioner Murdock was in favor of continuation. Commissioner Olson continued this indefinitely.

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Chief Deputy County Attorney Susan Swimley presented to the County Commission findings and a resolution abandoning a portion of Cimmaron Drive. Ms. Swimley stated that on September 12, 2000, the Commission took action on a vote to abandon the portion of Cimmaron Drive between Little Wolf Road and Itana Circle and today they would determine what to do with the vacated road property. Ms. Swimley stated any plat prepared and recorded as provided in this section, may be vacated either in whole or in part as provided in 7-5-2501, 7-5-2502, 7-14-2502, 7-14-2616(1) and (2), 7-14-2617, 7-14-4114(1) and 7-14-4115. Upon vacation, the governing body shall determine to which properties the title to the streets and alleys of the vacated portions must revert. She stated the governing body shall take into consideration: a. previous platting; *Wheatland Hills Subdivision was platted in 1975 and the Spirit Hills Subdivision was platted in 1997.* b. manner in which the right-of-way was originally dedicated, granted, or conveyed; *Wheatland Hills plat dedicated the roads to the use of the public forever and the Spirit Hills Subdivision plat dedicated the roads for public however, the County accepts no responsibility for maintaining the same.* c. the reasons stated in the petition requesting vacation; *No road constructed. The right of way is undeveloped. It is not used. The fire department does not oppose this abandonment. The abandonment is in the best interests of promoting safety and general welfare of Gallatin County Citizens.* and d. any agreement between adjacent property owners regarding the use of the vacated area; *The property owners fronting the abandoned road will split the area 50-50".* Ms. Swimley reported the names of the adjacent property owners are Spirit Hills, Inc. c/o Ken Walker, Bill & Jeannie Fudge, Dave & Karen Kirk and Charles & Corrine Hoenig. She reported she had three of the four signed easements and the only one left was the one from Ken Walker and she was of the understanding he was willing to sign the easement. Ms. Swimley stated the owners originally agreed to grant 5 feet on each side of the line to create a 10-foot pedestrian easement for the public. On October 3, 2000, drafts of the easements were provided to Tom Stonecipher, representative of Wheatland Hills. The owners then decided that they did not want to dedicate the easement to the public and the pursuit of the pedestrian easement. With the issues of liability and maintenance of the easement the homeowners

of Wheatland Hills desired not to have the easement dedicated to the public and instead have it dedicated for the pedestrian use of the residents of Spirit Hills and Wheatland Hills. She stated all the easements are going to the Wheatland Hills Homeowners Association for a non-motorized pedestrian use only during the hours of daylight for the purposes of pedestrian ingress and egress over the property. Wheatland Hills Homeowners Association is willing to accept the responsibility and the easements so it will remain as a pedestrian easement and be covered by a homeowners association. Wheatland Hills has a non-profit setup and insurance so if anything should happen the homeowners would be protected. She stated this was done in perpetuity so it will always remain a pedestrian easement if the Commission abandons the property as requested. Commissioner Mitchell questioned if once the resolution were approved would there be an opportunity to get it back should a secondary access be needed. Ms. Swimley stated that absent this resolution there is still no opportunity to get the property back and did not believe they could create an individual tract of land to the County, as it would have to go before subdivision review. Ms. Swimley stated the roadway has been abandoned and any process to look at another roadway would have to go through the establishment process. Tom Stonecipher a member of Wheatland Hills Homeowners Association Board stated he had been in contact with all four of the property owners and they have agreed they would like the property transferred to them with an even split of the right of way. Mr. Stonecipher reported he spoke with Ken Walker and sent him a copy. He did not know if he had any concerns and expected him to sign the easement. He stated if approved and the land is transferred to the Wheatland Hills Homeowners for maintenance of the easement it is their plan to then transfer that portion of the easement in Spirit Hills to the Spirit Hills Homeowners Association once they have been incorporated as a non profit corporation. Representing members of the Spirit Hills Subdivision Greg Holdeman stated they have brought forth a petition to reestablish the portion of road that was abandoned. He spoke to the Commission concerning the legalities of the petition of which adjacent landowners are to be notified. He stated there had been confrontations between Wheatland Hills and Spirit Hills residents and from that they knew the residents in Spirit Hills would be affected yet they did not choose to have them notified. Mr. Holdeman stated he talked with the Road Department and they wrote a letter stating that closing Cimmeron Drive would be a violation of the subdivision regulations. He stated there would be 62 lots isolated with the closure, leaving one single access. He asked the Commission to reconsider and not take any action until they had equal consideration. Glenn Buss the original developer of Wheatland Hills stated he gave the access to the County for that purpose and not to enlarge remaining lots. He felt strongly it should have stayed that way, and if not the property should be returned to Kenny Walker and himself. He too, felt there was not proper notification of the abandonment. Gilbert Moore a Wheatland Hills resident urged the Commissions continued support of the action taken on the abandonment and not to get caught up in a personal vendetta. Karin Kirk a resident of Spirit Hills stated she was in support of the abandonment of the road and in support of a pedestrian walkway. She felt there were plenty of people in Spirit Hills that were in support of the abandonment and walkway. Jim Russell Sr. a resident of Spirit Hills asked the Commission to consider delaying their decision until the petition for reestablishment is heard and to look into the access problem. Commissioner Mitchell reported the resolution did not mention that the viewing committee did not recommend abandonment, nor did the petition consider all the residents that would be impacted. She stated it was not taken into consideration and those lots are not being served in the best interest of public health, safety and welfare by not providing a secondary access. She stated that the pedestrian walkway was admirable but they needed a road width and an allowance for an emergency vehicle access. She felt that all people impacted were not contacted to protect their public health, safety and welfare. Commissioner Mitchell preferred not to take action and was not in support of the resolution. Commissioner Olson reported that normally the viewing committee does not make a recommendation and only presents the facts. Ms. Swimley confirmed the County Commission and the Counties obligations with regard to the statutory notice and the notice in the policy were met for the notification process. Commissioner Murdock stated the decision was made to abandon and proper notice was followed. He stated this matter was not clear when the Spirit Hills Subdivision was approved by the previous Commission. There is not a road there now and the decision was not clear if there was to be one when the subdivision was approved. Commissioner Murdock stated he would work with them to obtain a second access but it would not be through Wheatland Hills. Commissioner Murdock moved to approve Resolution #2000-092, with the findings as prepared by Ms. Swimley and with those finding that she made satisfying the considerations needed as far as how the land is apportioned between the 4 adjacent land owners. Commissioner Olson asked Ms. Swimley if they would go back to discussion if the motion died for a lack of second. Ms. Swimley confirmed. Ms. Swimley stated if the motion is seconded and it doesn't pass then a decision has not be made for the distribution of land. Ms. Swimley stated she drafted the resolution on the premise that it was what the adjacent landowners agreed to and the Commission was not bound by it. Commissioner Olson did not want to take action that would prohibit them from coming back to this resolution. Commissioner Olson inquired about the property going back to the developer. Ms. Swimley stated they would have the same problem as in creating a lot, they would have to go through subdivision review for both subdivisions. Commissioner Murdock asked Commissioner Olson if he had an alternate proposal. Commissioner Olson stated he did not and noted if

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**GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 109**

they took this action that it would be permanent. He stated they may come back to it. Resolution #2000-092 was presented under a motion and died for lack of a second. It was not approved.

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Gallatin County Fiscal Officer Ed Blackman stated this was a public hearing and consideration of a resolution to amend the Gallatin County Planning Board budget for FY 2001 to include transfer of funds from the operating reserve. Commissioner Olson noted an error on the resolution in the fifth Whereas. The remaining balance was changed from \$4,000 to \$4,400. There was no public comment. Commissioner Murdock moved to approve Resolution #2000-093 as amended. Seconded by Commissioner Olson. None voting any. Motion carried.

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Gallatin County Grants Administrator Larry Watson stated this was a public hearing and consideration of a resolution to amend the Gallatin County FY 2001 budget to include unanticipated grant revenues for the adult drug treatment court activities. There was no public comment. Commissioner Mitchell moved to approve Resolution #2000-094. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman requested continuation of this public hearing and consideration of a resolution to amend the Gallatin County final operating budgets for receipt of unanticipated moneys and to balance expenditures for FY 2000. It was on the agenda in error and was scheduled for next week's agenda. There was no public comment. Commissioner Olson continued this until next week.

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The Commission presented a resolution of the Gallatin County Commission changing the location of the public meeting on October 24, 2000. The meeting will be held in Three Forks. There was no public comment. Commissioner Mitchell moved to approve Resolution #2000-095 noting this was a legal requirement and will be standard operating procedure whenever public meetings are relocated. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 11:45 A.M.

*Unavailable  
For signature*  
\_\_\_\_\_  
CHAIRMAN APPROVAL

*Shelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 24TH DAY OF OCTOBER 2000**

The meeting was called to order by Chairman Phil Olson at 9:00 A.M., in Three Forks, Montana. Also present were County Commissioners Bill Murdock and Jennifer Smith Mitchell, Chief Deputy County Attorney Susan Swimley, and Acting Clerk to the Board Mary Miller.

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Chairman Olson requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**OCTOBER 16, 2000**

- The Commissioners attended a regularly scheduled office meeting to discuss numerous issues. In attendance were Commissioners Olson, Murdock and Mitchell, and Executive Secretaries Stacy Johnston and Glenda Noyes. The Road Department requested two budget transfers. Neither is an amendment to the budget, but rather a transferring of funds. Commissioner Mitchell made a motion to allow the transfer of \$2,500 from the Road Department Capital Outlay-Equipment account to a new account, Uniforms. Commissioner Murdock seconded the motion. All vote aye. Motion carried unanimously. Commissioner Murdock made a motion to transfer \$75,000 from the Road Department Miscellaneous Road Projects account to the Dust Control Cost Shares account, for dust control. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously. The Planning Department requested a budget transfer in order to purchase four new computers for the department. Commissioner Murdock explained that the department had been denied new

computers in their FY 2001 budget requests, however he had told them that if they could find the funds in their budget, and ITS Director Ed Kawa approved the purchase of new computers, the Commission would consider approving the transfer and resulting computer purchases. Commissioner Murdock made a motion to approve the Planning Department's request to transfer funds from the Personnel salaries account to the Capital Outlay account for the purchase of four new computers, contingent on ITS Director Ed Kawa's approval. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously. The Commissioners discussed a request for signature on a Memorandum of Understanding for Fire Services Reimbursement for Fire Season 2000. Due to a clause stating that the emergency 2 mills would have to be invoked before reimbursement could take place, the Commissioners decided to get more information before proceeding with signing the document. Invoice #110 BS.107, submitted by Dale Beland for professional services rendered per County contract 2000-148, in the amount of \$3,282.91. Commissioner Mitchell made a motion to pay invoice #110 BS.107 to Dale Beland for \$3,282.91. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously. Discussion took place regarding the request for deputy pay raise for the consolidated offices of the Treasurer, Clerk of District Court and Clerk and Recorder. Fiscal Officer Ed Blackman assured the Commission that the pay raises have been figured into to the FY 2001 budget, and recommended that approval should be made in the form of a resolution at a public meeting. Commissioner Murdock made a motion to proceed with the preparation of such resolution, and place it on the agenda for consideration. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously. A claim was presented to the board for reimbursement to Clerk and Recorder Shelley Vance for a conference she attended. She did not provide the Auditor with original documentation, and the claim was therefore denied. Commissioner Murdock made a motion to approve PO #65784 for \$371.85, finding that a copy of the invoice was adequate documentation from the County Commissions' point of view, the Clerk and Recorder has this legitimate expense in her budget, and the Personnel Policy does not state "original." Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously. A discussion took place regarding a request from the Montana-Wyoming Association of Railroad Passengers (MTWYarp) for consideration of a resolution promoting a train between the Spokane and Denver corridor. Commissioner Mitchell made a motion to approve the drafting of a resolution in support of MTWYarp's request. Commissioner Olson seconded the motion. In discussion the Commission asked Secretary Glenda Noyes to check with Deputy County Attorney Chris Gray on the legalities of this resolution. Question was called. Commissioner Olson and Mitchell voted in favor of the motion; Commissioner Murdock abstained. Motion passed with a vote of two to zero. The Commission considered a budget transfer request from Extension agent Todd Kesner to purchase a new computer for their office. Commissioner Olson made a motion to approve the budget transfer for the Extension Department, contingent approval from Fiscal Officer Ed Blackman and ITS Director Ed Kawa. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously. The Commission discussed the Park Fund allocations and the need for contracts to be drafted in order to send payment to the various applicants. Commissioner Murdock made a motion to direct the planning staff, through the direction of Planning Director Bill Arnold, to work with the County Attorney's office to draft the appropriate contracts, with Fiscal Officer review. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

- The Commissioners attended a regularly scheduled County Attorney Semi-Monthly meeting to discuss numerous legal issues. In attendance were Commissioners Olson and Murdock, County Attorney Marty Lambert and Chief Deputy County Attorney Susan Swimley. Chief Deputy County Attorney Susan Swimley presented a resolution to the Commission regarding the Big Sky Coordinated Transportation Study. The resolution would require an additional condition for Big Sky Area subdivisions. Commissioner Murdock made a motion to approve Resolution 2000-091 regarding the Big Sky Coordinated Transportation Study subdivision conditions. Commissioner Olson seconded the motion. All voted aye. Motion carried with a vote of two to zero.

#### **OCTOBER 17, 2000**

- The Commission met to discuss the continued item from the October 16, 2000 office meeting regarding the Memorandum of Understanding for Fire Services Reimbursement. Commissioner Murdock made a motion to sign and approve the Memorandum of Understanding for Fire Services Reimbursement, Fire Season 2000, after discussion with Montana DES representatives Jim Smith and Robert MacDonald. Mr. Smith and Mr. MacDonald were able to answer the Commissions' questions to their satisfaction regarding the 2 mill emergency levy. Commissioner Olson seconded the motion. All voted aye. Motion carried with a vote of two to zero. In a related action, Commissioner Murdock made a motion to designate Auditor Joyce Schmidt as the applicant's local agent for all Fire Season 2000 emergency, State financial assistance matters, per Resolution 2000-96. Commissioner Olson seconded the motion. All voted aye. Motion carried with a vote of two to zero.

**OCTOBER 18, 2000**

- The Commission attended a special meeting to discuss the grant program for the Drug Court, and an agreement to funnel Federal monies to the Drug Court. The group also discussed a contract/proposal with Bob Glass to come and speak to the Detention Center Project Team. In attendance were Commissioners Olson, Murdock and Mitchell, Grants Administrator Larry Watson, and Joe Driskell, Treatment Court Coordinator. Commissioner Murdock made a motion to approve the agreement to funnel Federal monies to Drug Court for a grant program, pending Deputy County Attorney Chris Gray's review. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously. Commissioner Mitchell made a motion to approve Robert Glass's presentation to the Detention Center Project Team, contingent on Chris Gray's review, not to exceed \$2,200. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

**OCTOBER 19, 2000**

- The Commission attended a special meeting for the purpose of considering a grant application proposal for the Local Water Quality District. In attendance were Commissioners Olson and Mitchell, Grants Administrator Larry Watson, Fiscal Officer Ed Blackman, LWQD Director Alan English, and Executive Secretary Glenda Noyes. Mr. English explained that this is an opportunity for educational outreach. The Department of Environmental Quality has money that they want to give to Gallatin County. The grant is for one year, and written into it is 8% for administration, 4% for Grants Administration, and 4% for County Administration. The funding will go to research, a compilation of historical wetlands, and to work towards gathering information for the National wetlands inventory. The match will come from the Planning Board (anticipated \$5,000.) with in-kind services coming from Bozeman Watershed Council, the Conservation District, and LWQD. Commissioner Mitchell made a motion to approve the grant application proposal for the wetland resource assessment of the Gallatin Valley and Bozeman Creek watershed. Commissioner Olson seconded the motion. All vote aye. Motion carried with a vote of two to zero.

**OCTOBER 20, 2000**

- The Commissioners attended a meeting of the Finance Committee. In attendance were Commissioners Murdock and Mitchell, Clerk and Recorder Shelley Vance, Treasurer Jeff Krauss, Auditor Joyce Schmidt, Fiscal Officer Ed Blackman, ITS Director Ed Kawa, County Attorney Marty Lambert, Grants Administrator Larry Watson, Anna Rosenberry, Susan Lang, Brenda Morris, Diane Steffan, Kim Buchanan, Jennifer Blossom, Don Carlson, Linda Skelton, and John Miller. Commissioner Mitchell made a motion to continue using Veltkamp-Stannebein to test and audit FY 1999 Motor Vehicle distributions, and those in January 2001, per the earlier letter of engagement terms. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously. Clerk and Recorder Shelley Vance made a motion to recommend to the Commissioners that the weekly claims resolution be passed, with one change, that the claims will be due no later than Friday @ 9:00 a.m. in the Auditor's Office. Treasurer Jeff Krauss seconded the motion. Commissioners Murdock and Mitchell, Clerk and Recorder Shelley Vance, and Treasurer Jeff Krauss voted in favor of the motion. Auditor Joyce Schmidt voted against. Motion carried with a vote of four to one. The Commissioners were asked to proceed with adopting a claims policy per Fiscal Officer Ed Blackman's memo.

The Commissioners attended a special meeting for the purpose of approving a hand issue request for Alcohol and Drug Services of Gallatin County. In attendance were Commissioner Olson and Murdock, Auditor Joyce Schmidt, Grants Administrator Larry Watson, Accounting Clerk Brenda Morris and Executive Secretary Glenda Noyes. Commissioner Murdock made a motion to approve PO #67046 for \$24,464.99 for Alcohol and Drug Services of Gallatin County finding that Auditor Joyce Schmidt, Fiscal Officer Ed Blackman, and Deputy County Attorney Chris Gray have reviewed and recommended payment. Commissioner Olson seconded the motion. All voted aye. Motion carried with a vote of two to zero.

**The following items were on the consent agenda:**

1. Approval of claims presented by the Auditor dated October 13, 2000 through October 19, 2000 for P.O. #69232 for \$263.70, P.O. #65784 for \$371.85, P.O. # 61039 for \$283.92 totaling \$919.47.
2. Consideration of the following contract: Contract between U.S. Office of Justice Programs and Gallatin County for a Local Law Enforcement Block Grant (LLEBG) for FY 2000; Contract and Change Order with PhotoScan NorthWest for Surveillance Equipment at Detention Center; Grant Reimbursement Agreement between Gallatin County and ADSGC for Distribution of Funds from the MBCC for Urinalysis Testing Equipment for the Adult Drug Treatment Court; Library Services Contract with the City of Manhattan for FY 2001; Library Services Contract with the City of Three Forks for FY 2001; Task Order #01-07-3-01-010-0 to Contract #1999-021 with DPHHS for Breast

## 112 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

& Cervical Program; Task Order #01-07-5-21-012-0 to Contract #1999-021 with DPHHS for WIC Program.

3. Request for a Common Boundary Relocation Exemption for John & Lois Hunziker/Lois F. Braham located, in Section 6, T2S, R5E. Gallatin County Planner Jennifer Koozer reported that the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
4. Request for a Common Boundary Relocation Exemption for Ruby E. Enders located, in Section 32, T2S, R5E and Section 5 & 8, T3S, R5E. Gallatin County Planner Jennifer Koozer reported that the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
5. Request for a Common Boundary Relocation Exemption for Donald & Bill DuBeau/M. Dudley Lutton located, in Section 13, T1N, R3E and Section 18, T1N, R4E. Gallatin County Planner Jennifer Koozer reported that the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
6. Request for Family Transfer Exemption for Dick & Martha Vanderby located, in Section 18, T1N, R3E. Gallatin County Planner Jennifer Koozer reported that the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
7. Request for Family Transfer Exemption for Bruce & Susan Bradford located, in Section 15, T2S, R3E. Gallatin County Planner Jennifer Koozer reported that the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
8. Request for Mortgage Exemption for Kenneth R. White located, in Section 18, T2S, R5E. Gallatin County Planner Jennifer Koozer reported this exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.

Commissioner Olson stated that Item #7 on the regular agenda was a duplicate to Item #8. Commissioner Murdock read the consent agenda. There was no public comment. Commissioner Murdock moved to approve the consent agenda. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Open Lands Board member Mike Lane presented an informational update on the Open Lands Board. Mr. Lane addressed some concerns and questions previously raised regarding misconceptions about conservation easements. He stated that over the years the Gallatin Valley Land Trust has tried to make information available. One concern was that some farms presently surrounded by subdivisions are experiencing problems with neighbors. He explained the Open Space Bond would not directly address that problem although, he hoped with having the bond issue that problem would discontinue. He stated that bond issue money could not be used for maintenance costs for open space, and the monitoring that occurs yearly is paid for by the landowners when the easement is signed. Mr. Lane noted land with conservation easements remain in private hands with taxes still being paid so there is not a loss of revenue to the County government that has to be made up by other property owners. The land remains agricultural and would be taxed accordingly. He stated that change of use is prohibited when a piece of property is put in an easement. There would be no commercial, residential or mining and all other operations would continue depending on the easement that the landowner drafts, such as hunting and timber harvest. He explained crop rotation would remain the same and the farmer or rancher would continue to run the day-to-day operations with neither the Land Trust or the Open Lands Board being involved in micro management. The Open Lands Board job is not to manage they are just to look at projects that want to be funded with the bond money. Mr. Lane stated that the 8 members of the Open Lands Board do not expect to benefit directly as they are not going to sell any land or their development rights. The benefits they expect will be indirect such as if the bond issue passes there is a possibility taxes will not rise as much or as fast. He explained when land is taken out of agriculture production and put into residential use, there is more demand for services from the government than they pay for. Mr. Lane explained that agricultural interest pays \$1.00 and they get back .45 in services, commercial and real estate pay \$1.00 and get back .18 cents. Another indirect benefit would keep farmers and ranchers as neighbors and they would not be surrounded by subdivisions. He stated that land developers benefit from the present system and the biggest beneficiary is the federal government. If the bond issue passes he stated that Montana farmers and ranchers would be the primary beneficiaries of an Open Space Bond Issue.

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Chief Deputy County Attorney Susan Swimley reported this was a public hearing and consideration of a resolution for Jenkins Garage Wrecking Facility Application. Ms. Swimley reported that in July the Department of Environmental Quality sent the Jenkins Garage Wrecking Facility application to the Commission and statute 75-10-516 allowed the Commission to hold a public hearing within 30 days of receipt. Had the Commission conducted a hearing at that time and adopted a resolution in opposition to the wrecking facility DEQ would not have approved the application. She explained however, 30 days



lapsed and the Commission does not have that authority and DEQ has requested the Commission to hold a public hearing. The purpose of this hearing is to determine whether the proposed facility will significantly affect the quality of life of adjoining landowners in the surrounding community. She stated the Commission could take no action or determine if they were in support or opposition to the facility. If the Commission took either stance, then a resolution would need to be adopted and a copy forwarded to DEQ. Ms. Swimley explained if the Commission were in opposition they would have no authority to block the facility, as that is only an issue for DEQ. Gallatin County Clerk of Court and Public Administrator Lorraine VanAusdol stated that as Public Administrator the court appointed her as the executor of the Jenkins estate. Ms. VanAusdol stated that their daughter Susie Jenkins Smith was appointed by her mother to be the executor and some things required of an executor were not being handled properly so the family requested she be removed and the court appointed Ms. VanAusdol. She explained that in order to settle this estate there would have to be a sale of property. In order to find out the true value of the property involved she had to know whether it was going to be permitted for a wrecking facility or if the garage can be in operation. She explained she had been working with DEQ for a year and a half. She stated there were a number of people from Three Forks contacting her and the DEQ in opposition of this facility. Ms. VanAusdol stated the permit application to DEQ was filled out in the names of Jim and Susie Smith, not in the estate which, is not legal as the property is in the estate not the Smith's. Ms. VanAusdol read a letter Exhibit "A" to the Commission dated Oct 21, 2000, from Connie Jenkins Bertagnolli and Charlotte Jenkins Muri heirs of the estate requesting denial of the permit. Ms. VanAusdol noted she did not have the right to request denial and her only involvement is seeing to it that something is done to settle the estate. Rodney Frick, Roger Stratton, Larry Clark, Anna Blevins, Roberta Stratton, and Clair Logerstedt adjoining and adjacent landowners spoke in opposition of the wrecking facility. Family member Tanya Tally Jenkins spoke in opposition to the wrecking yard facility. Susie Smith stated they did not plan to operate a wrecking yard nor did they plan on hauling in cars. It would be used as an impound lot. She stated they were only trying to maintain the property until the estate was settled. She submitted a letter Exhibit "B" to the High Country Independent Press dated October 19, 2000. James Smith stated that DEQ directed him to make out the application in his name and the wrecking yard license would belong to the estate. He was hoping if the wrecking yard license were issued to the estate it would cease once the estate was settled. Commissioner Mitchell asked if he was expecting the state to pay for the removal of the vehicles on the property. He replied that he hoped the crusher price would pay any bills for the disposal. Ms. VanAusdol questioned Mr. Smith whether or not he wanted to run a garage. Mr. Smith stated he wanted to run a garage, not a wrecking facility. Mr. Smith stated the Jenkins's always had a wrecking facility license for the impound lot and he too, applied for the wrecking facility license thinking that was what he needed until the cars were removed. Ms. VanAusdol reported that DEQ demanded it be cleaned up because of the environmental impact and nothing was done to clean up the property so DEQ again, demanded if the cars were going to remain they would have to have a license and that is why the license was requested. Commissioner Mitchell asked if a license was needed to dispose of the vehicles. Ms. VanAusdol said it was not, but if the vehicles were not disposed of they would be fined. Mr. Smith stated he was in agreement of not obtaining a license if the vehicles were disposed of without accruing any costs. Commissioner Murdock stated he would not recommend supporting a wrecking facility as it was very clear it was not consistent with the City Zoning and would be an attracted nuisance and bring noise, dust, smoke, and offensive activities to adjoining property owners and it would adversely affect their property values. He stated as described by Ms. VanAusdol they did not need a wrecking facility license to haul the vehicles away. Commissioner Murdock stated if a wrecking facility license were issued it would permit it to continue being offensive. Commissioner Murdock recommended writing a letter in opposition of permitting a wrecking facility on this property. Commissioner Mitchell stated she was not going to support the wrecking facility. She agreed a person has the right to do business and they have a responsibility to do business in a timely fashion that does not impact their neighbors. She stated the appearance, health hazards, noise and debris has been a concern for years and those problems have not been mitigated. She stated the applicant does not need a wrecking facility license to dispose of the vehicles or for the work he wants to do. Commissioner Olson stated he would not support the wrecking facility and it is not the proper place and should be in a commercial area not residential. Commissioner Murdock made the motion to agree to adopting a resolution opposing the location of the wrecking facility for all the reasons stated and write a letter illustrating that opposition to DEQ, the Three Forks Town Council and the applicant. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Ralph Denoski gave a progress report on the Trident Road Pedestrian/Bicycle Path. Mr. Denoski stated he was an interested party in the trail along the Headwaters Park, as an overall program for trails both within the state and the country. He stated it was very important to our heritage to sponsor and support them. Mr. Denoski reported they are in the process of working on the next step and need funding for engineering. Commissioner Mitchell asked what kind of trails they were talking about. Mr. Denoski

replied it would be an extension of the bike and foot trails like the ones already in existence in Three Forks and other communities. Commissioner Murdock questioned if there was a safety issue with trucks from the Holnam Plant. Mr. Denoski stated it was an issue because of heavy truck traffic and visitors to the park. Commissioner Murdock stated they talked to one engineering firm about volunteering their services and they didn't know if they could proceed further without some reimbursement. Discussion took place and it was decided that Fish, Wildlife & Parks, Holnam, and the City of Three Forks should meet and put together a formal request to ask the County to contribute money for engineering costs.

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Marcia Fairhurst reported Bill Fairhurst was unable to attend this public hearing to discuss and comment regarding Pogreba/Three Forks Airport Zoning. Morrison-Maierle Engineer Scott Bell stated that currently they have a grant through Gallatin County with the FAA to purchase some additional land from MDOT and construct some additional hangar taxiways, as well as rehabilitate the existing runway and taxi ways. The main driving force behind the project was the Three Forks Airport was running out of hangar space. He explained that currently an owner would like to build another 8 unit T hanger when the project is completed. Two years ago they met with the County Attorney, the Commission and the Three Forks City Council to discuss and prepare for the airport board a draft-zoning ordinance to limit the height of objects around the Three Forks airport. He stated in the MCA Title 67, Chapters 4, 5, & 6 the City as the governing body is allowed to create an airport influence area which is 10,000 feet off the end of each runway and one mile wide limiting height restrictions. He stated that Mr. Fairhurst and the Three Forks Airport Board wanted to bring the Commission and the City of Three Forks together to review zoning around the airport. He stated about a year ago this issue was discussed at a City Council meeting for the processes needed to set up a zoning district around the airport and it was never pursued. He would like to see a joint informational meeting with the City and the County Commission where the public would be involved to determine how big of an area to include and if the City and County should have separate zoning areas. Chief Deputy County Attorney Susan Swimley stated that they could not take any direction until the two governing bodies get together and tell them what they are planning. City Zoning Commissioner Ray Noble stated the hesitance was a contingency with the rural not dealing with the City and that was why there was no direction. Board discussion took place with regards to how this project could get under way. Rodney Frick stated he took exception to line three on page one in the current drafted zoning ordinance. Three Forks Zoning and Planning Board Chairman Jim Sitton stated there was discussions on what roll the City would take and if the airport was inside or outside of the city limits. He stated the Zoning and Planning board would like input from the public and they would be more than happy to help. Three Forks City Council Member Megan Higgins stated she would be interested to know if this was really a City issue where they would be concerned with height restrictions. She thought for the most part it was county land. Ms. Swimley stated airport zoning districts are different and because the influence area is both in the City and County it takes a joint process to create the board and regulations. Board discussion took place trying to clarify the influence area of the airport and how much of the airport is in the city limits and how much in the county. Ray Tocci was concerned it would be a partial taking of property from landowners and they should be compensated. The Commissioners agreed they would get together with the airport board and the Three Forks City Council to move forward and decide if there should be zoning or not.

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Holnam Plant Manager Ralph Denoski presented the proposal for rubber tire burning at the Holnam Plant. Mr. Denoski reported they have produced Portland cement for 90 years and a contributing member of the community. He reported as with all businesses they are faced with competition and a global economy. He stated they are looking at ways to reduce costs and in order to produce Portland cement they have to use fuel to produce temperatures of 3100 degrees Fahrenheit in the kiln. They have been burning cin coal (processed) and petroleum coke. He noted that tires are more energy efficient than the other products. Financially they are looking into burning whole rubber tires as a fuel source. He stated Holnam has 12 facilities and 8 of them are presently burning tires and in the United States 31 plants are burning tires. He reported there are over 278 million tires wasted per year in the U.S. and the biggest use is fuel the second is road construction as shredded bases. He noted the EPA is on the verge of stating tires as simply a fuel with nothing else attached. He said he has gone all over talking to regulatory people, government officials, environmental groups and community and business leaders and the support has been very good. They have not made a commitment as there is permitting that has to take place and presently they are working on the solid waste permit and next will be the air permit. The biggest determining factor is whether or not it is financially feasible for the plant. It may not make it because of transportation charges, as they would have to have the tires at the plant at zero cost in order to be feasible. The State of Montana has no legislation that creates incentives for this and he thought they could on a private basis. He said it was definitely a winner for the environment and the people of Montana by keeping the tires out of the landfills. Commissioner Murdock asked if he had visited with

local environmental groups. Mr. Denoski stated he has spent a lot of time with the groups. They have a Trident Holnam Community Advisory Board and have had two meetings with one coming up in November. On that board are two members of the Yellowstone Coalition. He noted he had recently given a presentation at the Sustainability and Development Conference in Missoula and many local environmental groups were present. He invited the public to view the facility and see the process they are considering. He has scientific data to support his statements and any fuel they chose to use has to comply with regulations. They are heavily regulated by EPA and the state, and monitor for certain emissions. They are reviewed on a monthly basis by the state and yearly by EPA. Commissioner Olson thanked Holnam for taking recycled glass as a substitute for raw material. Mr. Denoski stated in September they received an award from the National Recycling Coalition for their efforts. Through the partnership with the County and the recycling community they take glass from 5 counties. Ray Noble questioned if there would be black smoke and stink and he was assured that would not occur, as in a cement kiln a tire would be totally combusted within 3 seconds. Commissioner Murdock asked what it would smell and taste like. Mr. Denoski said there would be no difference from what it is now. Three Forks City Council Member Megan Higgins questioned if the plant would be letting out additional chemicals with those they are currently releasing. He stated there would be no new emissions it would remain the same. Ms. Higgins asked if they would have to increase their heat capacity to burn the tires and would they have any additional fire response needs. He stated they would conduct a program for the community through the scrap tire waste council for fire fighting. Their plan was not to store them so they would not touch the ground. They would come in trailers and be dumped into a bin and fed directly into the kiln. Rod Frick owner of a tire store in town stated tires are a big problem and it would be cheaper to take them to the plant instead of the landfill.

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The Commission reported this was a public hearing and consideration of a resolution changing the Gallatin County Airport Authority Board. Commissioner Olson stated in the past there was one member that served on both the Gallatin Airport Board and the Gallatin Airport Authority Board, and this resolution was to change that so the same member would no longer serve on both boards. Chief Deputy County Attorney Susan Swimley reported that on August 15, 2000, the Commission asked her to draft a resolution that removed the cross over of both boards. Ms. Swimley stated she returned the resolution on August 24, 2000, leaving the remaining 5-member board consisting of two members from the City of Three Forks and three members from the inhabitants of Gallatin County to be appointed by the Board of County Commissioners. She noted that was her input and if the make up of the board was not what the Commission desired she recommended not approving this resolution and drafting a new one. Commissioner Mitchell clarified the purpose of the change was to expand representation. She stated in the interest of increasing public representation the Commission decided this would allow more citizens to serve as board members rather than doubling them up. Morrison-Maierle Engineer Scott Bell reported on the history of the boards. He stated in 1985 Commissioners Jane Jelinski, Ray White and Wilbur Visser created the Gallatin County Airport Board to carry out the first project at the Three Forks Airport. The thought at that time was that the Airport Authority dealt with the FAA and airport improvement program grants on an annual basis, and that individual would bring a bit of knowledge from the FAA. The Commissioners thought there was an importance in tying the two airports together. The original project on the Three Forks Airport Board was funded through a 90% grant from FAA and 10% local share from Gallatin County. He stated it was more of an informational tie and a sharing of equipment to do maintenance. Mr. Bell felt there was some benefit for a member to serve on both boards and could also, understand broadening it out. Mr. Bell said he could still see the two boards working together and sharing equipment if the change took place. Commissioner Mitchell stated that having one member vote on both sides seemed outdated. Commissioner Olson stated he could see the benefit when Three Forks started its initial expansion and noted when he was on the board there was definitely a dominate persuasion factor with the person from Gallatin Field. Commissioner Murdock stated he was going to vote against the resolution. He understood the effort to expand citizen involvement yet he did not think that out weighed the benefits explained by Mr. Bell. He felt the informational benefit of having a shared member would be worth keeping. Commissioner Mitchell moved to approve Resolution #2000-097, finding the expanded representation is something she has heard from the public over the past two years. She stated that both airports are able to stand on their own and there are cross over pilots that are involved in both airports and the communication is there. Seconded by Commissioner Olson. Commissioner Mitchell and Olson voting aye. Commissioner Murdock voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported this was a continuation of a public hearing and consideration of a resolution to amend the Gallatin County final operating budgets for receipt of unanticipated moneys and to balance expenditures for FY 2000. Mr. Blackman reported this takes into

**116 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46**

consideration the items that were over expended through grant expenses and changes. He stated this resolution will increase the budget for last fiscal year and without the changes recommended the unqualified opinion could be affected as this is part of an audit compliance. He noted this is not new money; it came in last fiscal year and was being documented. There was no public comment. Commissioner Mitchell moved to approve Resolution #2000-098. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Bruce Schendel Board member of the Three Forks Fairview Cemetery stated he was also, in charge of the Ridge View Subdivision asked the Commission to convey their appreciation to the superintendent of roads for doing a great job the past few years.

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There were no pending resolutions. There being no further business the meeting was adjourned at 11:00 A.M.

*Unavailable*  
*For signature*  
CHAIRMAN APPROVAL

*Shelley Vance*  
CLERK ATTEST

**PUBLIC MEETING TUESDAY THE 31<sup>ST</sup> DAY OF OCTOBER 2000**

The meeting was called to order by Chairman Phil Olson at 9:00 A.M. Also present were County Commissioners Bill Murdock and Jennifer Smith Mitchell, Chief Deputy County Attorney Susan Swimley, and Acting Clerk to the Board Mary Miller.

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Chairman Olson requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**OCTOBER 23, 2000**

- The Commissioners attended a regularly scheduled Office Meeting to discuss numerous items of importance. In attendance were Commissioners Olson, Murdock and Mitchell, and Executive Secretaries Stacy Johnston and Glenda Noyes. An agreement with Westlaw Subscriber and the County Attorney's Office for law journals was discussed. Commissioner Murdock made a motion to approve the agreement for the purchase of the law journals, understanding that Deputy County Attorney Chris Gray and Fiscal Officer Ed Blackman has reviewed and approved the agreement. Commissioner Mitchell seconded the motion, adding the finding that the budget transfer would occur at a public meeting, and noting that this is an expense of \$330.00 per month. All voted aye. Motion carried unanimously. Discussion took place regarding the County appointments to the CIP Committee. It was stated that per the by-laws, the committee must contain one elected official, one department head and one Commissioner. Those on the committee must not have a pending project that exceeds \$50,000, and they must reside in different buildings. The Commission asked Ms. Johnston to draft a letter to all elected officials and department heads asking them to apply to the committee. Commissioner Murdock made a motion to appoint Commissioner Mitchell to the CIP Committee for the next calendar year. Commissioner Olson seconded the motion. All voted aye. Motion carried unanimously. Health & Human Services submitted a request for approval of an FY 2001 equipment (not outlay) 235 expenditure in the amount of \$663.00. Commissioner Murdock made a motion to approve the FY 2001 equipment 235 expenditure in the amount of \$663.00 for an activity table for Health & Human Services. Commissioner Mitchell seconded the motion. Commissioner Olson noted that he feels this is too much to be spending on the item that will be purchased. Commissioners Olson and Murdock voted in favor of the motion. Commissioner Mitchell voted against. Motion carried with a vote of two to one. The approval/signature of Amended Exhibit A of the second Memorandum of Understanding for the Composting Feasibility and Implementation Project was discussed. Commissioner Murdock made a motion to approve Amended Exhibit A to the Memorandum of Understanding for the Composting Feasibility and Implementation Project. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously. The Commissioners discussed Frontage Road and the motion made at the October 10 public meeting to write a letter to MDOT regarding speed reduction and other safety improvements. It was determined that the letter requesting a speed reduction may not have been sufficient to cover the motion. Commissioner Mitchell made a motion to write a letter to MDOT regarding the items stated in the motion, and setting a meeting to discuss the items. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously. Superintendent Jill

Richards submitted a memo to the Commission requesting parking permits due to the lack of spaces available resulting from construction. This issue was discussed at length, and it was determined that a permanent change would not be the desired plan. Commissioner Murdock made a motion to direct Facilities Director Bob Isdahl to devise a temporary parking scheme, for the duration of Courthouse construction, for elected officials and county employees to be able to come and go; and make a recommendation to the Commission. Commissioner Olson seconded the motion, adding that notice needs to be sent to Mrs. Richards of the action taken. In discussion, Commissioner Mitchell stated that the parking problems are due to the construction and that Staff Engineer Roy Steiner has been taking care of the problems. Commissioners Olson and Murdock voted in favor of the motion. Commissioner Mitchell voted against the motion, stating that after further consideration, she thinks this will create more problems than it will resolve. Motion carried with a vote of two to one. The Commissioners discussed the continued item regarding WalMart credit cards approval. Auditor Joyce Schmidt explained that this is due to a change in WalMart policy to no longer allow in-store charges, and would be handled much like the Staples card many offices hold. Commissioner Murdock made a motion to approve the WalMart credit cards for various departments. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

**OCTOBER 24-26, 2000**

- The Commissioner conducted regular County business.

**OCTOBER 27, 2000**

- The Commissioners attended a special meeting for the purpose of considering a hand issue request from the Open Lands Board. In attendance were Commissioners Murdock and Mitchell, Auditor Joyce Schmidt and Executive Secretary Glenda Noyes. Commissioner Mitchell made a motion to pay PO #64439 for \$800.00 for the Open Lands Board insert into the Bozeman Daily Chronicle. Commissioner Murdock seconded the motion, finding that Auditor Joyce Schmidt and Fiscal Officer Ed Blackman have reviewed the claim and recommend approval. All voted aye. Motion carried with a vote of two to zero.

The Commissioners attended a special meeting for the purpose of considering a request from Treasurer Jeff Krauss to increase his deputy Treasurer's pay to 90% of his total salary. In attendance were Commissioners Murdock and Mitchell and Treasurer Jeff Krauss. Mr. Krauss explained that this is due to a job position evaluation and need to pay Ms. Rosenberry for her "professional" expertise. Commissioner Murdock made a motion to approve Treasurer Jeff Krauss's request to increase deputy Treasurer raise to 90% of the Treasurer's salary, finding that his budget has the funds pending County Attorney approval of the raise per statute requirements. If approved, the raise will start January 1, 2001. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

**The following items were on the consent agenda:**

1. Approval of claims presented by the Auditor dated from October 19, 2000 through October 26, 2000 for P.O. #69286 for \$65.00, P.O. #70214 for \$15,524.33, P.O. #66514 for \$18.50 totaling \$15,607.83, and the following batches dated October 27, 2000: Batch 1 for \$89,815.78. Grand total \$105,423.61.
2. Consideration of the following contract(s): Negotiated Agreement by and between Gallatin Co. and the Deputy Sheriff's Association; Agreement with Cory & Racquel Klumb for Caretaker Services at the Junk and Abandoned Vehicle Lot; Agreement with BRW Inc. for Consultant Services for Big Sky Transportation Study; and Licensing Agreement with Eden Systems Inc. for Financial Software Package.
3. Request for Common Boundaries Relocation Exemption for Walstrom/Douma/Schmidt.
4. Request for Common Boundary Relocation Exemption for Faith Malpeli & Leo & Violet Robbins located in SE1/4 Section 32, T6S, R4E. Gallatin County Planner Jennifer Koozer reported that the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
5. Resolution Amending the Hyalite Zoning Map, Hyalite Zoning Regulation and Hyalite Plan.
6. Request for Final Plat Approval for the Hardin Major Subdivision located as Tract B of COS No. 1137-C in the NE1/4 of Section 35, T2S, R5E. A staff report submitted by Gallatin County Planner Jennifer Madgic states that the conditions for final plat approval have been met.
7. Request for Final Plat Approval for the Christy Subdivision located in SW1/4 of Section 34, T1N, R4E. A staff report submitted by Belgrade City-County Planner Jason Karp states that the conditions for final plat approval have been met.

Commissioner Olson stated Item #7 on the regular agenda was pulled and continued indefinitely.

## 118 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

Commissioner Mitchell read the consent agenda and reported Item #3 was being removed. Chief Deputy County Attorney Susan Swimley pulled Item #5 to be placed on the regular agenda. Commissioner Murdock moved to approve the consent as amended. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Chief Deputy County Attorney Susan Swimley stated Hardin Major Subdivision is posting an improvements agreement. She noted the County Attorney's office has reviewed and approved the improvements agreement as to form. Ms. Swimley explained that once the Commission approves the improvements agreement they will have met all the conditions of final plat. Commissioner Murdock moved to approve the improvements agreement finding the County Attorney's office has approved it. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Consideration of board appointments for the Bozeman Area Zoning District Board of Adjustments was continued for lack of applicants.

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Chief Deputy Clerk and Recorder Eric Semerad reported this was a public hearing to consider annexation of Section 1, T7S, R3E, into the Gallatin Canyon Consolidated Rural Fire District. Mr. Semerad noted on October 3, 2000, the Commission received the petition for annexation. Notice of this hearing was published on October 12 and 19, in the High Country Independent Press. There was no public comment. Commissioner Murdock moved to approve the annexation, with the finding that the Clerk and Recorder has found the petition is in order. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Murdock moved to approve Resolution #2000-099 to memorialize the annexation. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Chief Deputy Clerk and Recorder Eric Semerad reported this was a public hearing to consider annexation of Tract C of COS 1732A in Section 34, T6S, R3E, into the Gallatin Canyon Rural Fire District. Mr. Semerad noted on October 3, 2000, the Commission received the petition for annexation. Notice of this hearing was published on October 12<sup>th</sup> and 19<sup>th</sup>, 2000 in the High Country Independent Press. There was no public comment. Commissioner Mitchell moved to approve the annexation and Resolution #2000-100, with the finding the Clerk and Recorder has found the petition is in order. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Chief Deputy Clerk and Recorder Eric Semerad presented a receipt of petition to re-establish a portion of Cimneron Drive in Wheatland Hills and Spirit Hills Subdivisions. Mr. Semerad noted the petition was received on October 10, 2000. Commissioner Murdock moved to accept the petition with the finding the Clerk and Recorder has found the petition is in order. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Olson stated the viewing committee will be the Gallatin County Surveyor Shelley Vance, Commissioner Mitchell and the Road Superintendent Lee Provance.

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Gallatin County Planner Jennifer Koozer presented the consideration of a request for family transfer exemption for the James William Clore III family. Ms. Koozer stated this was a 160 acre tract located in the NW1/4 of Section 3, T1N, R5E and is not zoned. She stated the proposal is to divide it into five tracts, and one track would remain the claimants and the others would be transferred to the claimant's son, daughter, mother and wife. She stated generally, the application meets the requirements for the subdivision exemption for a family transfer. However, because of the history of the tract the Planning Department requested this be viewed as a potential evasion because on April 26, 2000, the claimant submitted an application for a minor subdivision on this parcel. The subdivision proposal showed a different configuration of lots than the proposed family transfer exemption. The Planning Board raised some concerns about road grade/design; ridgeline development; leapfrog development; preservation of agricultural land; open space; and wildlife habitat. She stated in response to those concerns the application for minor subdivision was not pursued, and on September 5, 2000, the Planning Department received the current exemption application. The current application indicates that all lots are intended to be used for residences and retained by the recipients for personal use. Applicants representative Rusty

Collyer of Allied Engineering reported that originally the applicants were going to create salable lots as a means of having a source of revenue to develop a minor subdivision on the property. He stated they put together a proposal and presented it to the Planning Board. The Planning Board had several concerns, which the applicants felt were insurmountable and at that point they decided to withdraw the application. They asked if there were other options and Mr. Collyer explained there was the family transfer exemption, however, based on the history of the project with the minor subdivision application it could be a rocky road. They decided to pursue that option. Commissioner Murdock asked if he thought the Clore's intention was to evade the act. Mr. Collyer stated he did not. He stated they wanted to transfer property to their children and this was the legal means to do so. James Clore read a letter explaining his original intent was to subdivide parcels for his family and thought the process for that was to go through subdivision review. He stated the idea was to create one extra lot to pay the expenses and when it became apparent the creation of 4 lots was going to be too expensive they were told of the family transfer exemption. Mr. Clore noted this was important for their estate planning and a way to help their children get started and it was not his intention to sell any of these lots in the immediate future. Marie Clore stated that both their children live on the property at this time however, their homes are not long term homes, one is a mobile and the other an old farm house. There was no public comment. Commissioner Murdock stated there has been problems in the past with family transfers, and based on the adopted evasion criteria and the information presented he did not think the Clore's were trying to evade the act. Commissioner Murdock moved to approve the family transfer as a proper use of the exemption. Seconded by Commissioner Mitchell. Commissioner Mitchell urged the Clore's to keep in mind the Planning Board concerns. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic reported this was a consideration of change of condition for the Huffine Lane Business Park Minor Subdivision. Ms. Madgic stated the proposed 5-lot subdivision consists of a 20.7 acre parcel located in the SW1/4, SE1/4 of Section 12, T2S, R4E, PMM, Gallatin County, Montana. She reported that Gaston Engineering, on behalf of Betty Adams, has requested to revise the preliminary plat for Huffine Lane Business Park Minor Subdivision and add an open space parcel to accommodate a fire fill site in order to meet the conditions of approval and meet the requirements of the fire district. Ms. Madgic stated the Commission had one determination to make with the application. A determination as to whether to approve the proposed change of condition. The Commission may change conditions where it is found that errors or changes beyond the control of the subdivider have rendered a condition unnecessary, impossible or illegal. Ms. Madgic explained if the Commission decides to approve the condition(s) modification request, the following amendment for final plat approval is suggested: 1. Final plat shall contain an open space tract to accommodate a fire fill site. Dennis Foreman of Gaston Engineering on behalf of the applicant stated several prospective buyers had a concern for the liability of the pond. Therefore, the applicant would like to place it within a common open space parcel deeded to the property owners' association who will have the responsibility for its maintenance and operation. Commissioner Murdock questioned if the extension of the bike path for the Monforton School has been completed as it would have had to cross the applicants property. Betty Adams stated the bike path has been completed. Commissioner Murdock moved to approve the change as presented by staff. Seconded by Commissioner Mitchell, adding the finding that there are errors or changes beyond the control of the subdivider that have rendered a condition unnecessary, impossible or illegal. Also, adding the condition recommended by staff. None voting nay. Motion carried.

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Commissioner Murdock read the first reading of an ordinance reducing the speeds in the Triple Tree Ranch Subdivision. Triple Tree Homeowners Association President Albert Wagner spoke on behalf of the association, expressing concern with the current speed limit of 70 mph. He stated there was a real safety issue with the significant amount of vehicle and pedestrian traffic in the subdivision. He noted there are many blind intersections, which also create hazardous situations. On behalf of the residents he urged the Commission to approve the ordinance. Chief Deputy County Attorney Susan Swimley asked to change the word are to roads in the first sentence in Section 2. Commissioner Mitchell moved to approve the first reading of Ordinance #2000-04. Seconded by Commissioner Murdock as amended. None voting nay. Motion carried. The second reading will be on November 14, 2000, and it will become effective on December 14, 2000.

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Chief Deputy County Attorney Susan Swimley presented the pending resolution regarding Jenkins Garage wrecking facility permit. Ms. Swimley stated that on October 24, 2000, the Commission voted to oppose the Jenkins Garage wrecking facility permit, finding that a wrecking yard would inversely impact the neighborhood due to noise, visual impacts and it is an attracted nuisance to neighborhood

children. Ms. Swimley stated she also, drafted a letter to the DEQ informing them of the opposition. Commissioner Olson read the resolution. There was no public comment. Commissioner Mitchell moved to approve Resolution #2000-101, finding a public hearing has been held and the public overwhelmingly reported on the impacts. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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The meeting was adjourned at 10:00 A.M. and reopened at 10:10 A.M.

Commissioner Olson reported on a pending resolution establishing the weekly submission and approval of county claims. Gallatin County Treasurer Jeff Krauss stated this resolution was previously before the Commission for a public hearing and after hearing comments and evidence the finance committee considered that information and again, voted 4-1 to recommend approval of this resolution. He stated the only change in the resolution was the time that the claims are due in the auditor's office. The time was changed to no later than Friday at 9:00 A.M. rather than 4:00 P.M. Gallatin County Auditor Joyce Schmidt stated she attended the finance committee meeting and was the dissenting vote. Ms. Schmidt read a letter written by her counsel Mark Bryan, stating the County Commissioners have the duty to adequately fund the County Auditor in the performance of her statutory duties and any additional duties they may impose. The letter also, stated it was the duty of the County Commissioners to provide the additional funding needed to process claims weekly, as the current equipment and personnel would not be sufficient to perform at the increased rate. Ms. Schmidt stated as a result of the finance committee's decision and her attorney's opinion she proposed the following options: 1. Leave the present claims policy procedure as currently written, with claims being processed twice a month with the Auditors recommendation and presented to the board on or before the first and third Tuesday of each month; 2. Submit the claims to the Auditors office weekly to be put into batches and sent to the accounting department for input. The accounting department would be responsible to check for the following: assuring the payment is being made to the correct vendor; the accurate invoice claim form and totals match; check for duplicate requests; and the fiscal departments approval of 235's and 900's as required by the board be done. The accounting department would then send the batch edits and corresponding claims to the Auditor's office to be audited. This would decrease the workload of the Auditor's department. After being audited the edits would be returned to accounting for corrections and once corrected they would be submitted to the board; and 3. Supply the Auditor's office with the additional equipment and staff needed to meet the weekly processing of claims. She noted that she checked with other Auditors and the ones that were processing claims weekly reported that without a good software package they would not be able to process the claims weekly. She suggested the Commission wait until the new software is online. Commissioner Murdock stated he wanted to work with Ms. Schmidt through the finance committee to provide the extra help in order for her to process weekly claims. Ms. Schmidt reported the Auditor in Yellowstone County conferred with their data processor and noted it was far simpler to get the software first and then change the procedure. Gallatin County Clerk and Recorder Shelley Vance stated if the Commission was interested in incorporating one of the Auditor's proposals to process claims that involved the Clerk and Recorder's accounting department she would ask that prior to approving she would like to review it. Ms. Vance stated the weekly claims process was a very simple formality. Commissioner Olson stated he was inclined to continue with the current claims process until the new software is in place and also, he stated they should look at the needs of Ms. Schmidt now so that things are in place when the change is made. Commissioner Mitchell stated the finance committee has worked hard to provide better service by improving the way business is done to save the taxpayer dollar. She stated the Auditor's options should be discussed at the finance meeting and be worked out in the committee process. Commissioner Mitchell stated she felt it would be best to get the process in place first and then the software. She was in support of the resolution. Commissioner Murdock stated he was in support of the weekly claims process and that he would help the Auditor's office within reason to accomplish the change along with the finance committee. Commissioner Murdock moved to approve Resolution #2000-103 with the amendment changing it to read Friday at 9 A.M., finding it was put together by the finance committee and he hoped the finance committee continued to work on refining the process. Seconded by Commissioner Mitchell. Commissioner Olson questioned when the weekly claims process would start. Board discussion took place with regard to when the weekly process would start and how long the procedure took to complete by both the Accounting Department and the Auditor. Ms. Vance stated that nothing really changes, only that it would give the department heads the opportunity to submit a claim with more flexibility. They agreed it did put a time limit on the processing of the claims. She noted that it is a cooperated effort between the two departments and together they both have a combined week. Ms. Vance stated if it does not work then that is one of the things the finance committee would have to discuss. Commissioner Murdock commented that his interpretation was it would start immediately. Commissioner Olson stated that this resolution changes the processing date and time to submit and puts a deadline on the processing date. Commissioner Mitchell stated that the resolution clearly sums it up and puts the burden on finance committee to come up with a workable process, whether it be more staff or software. Chief Deputy



GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 121

County Attorney Susan Swimley suggested they send a letter out to all the departments to notify them of the change. None voting nay. Motion carried.

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There being no further business the meeting was adjourned at 10:50 A.M.

Unavailable  
For Signature  
CHAIRMAN APPROVAL

Shelley Vance  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 14th DAY OF NOVEMBER 2000**

The meeting was called to order by Chairman Phil Olson at 9:00 A.M. Also present were County Commissioners Bill Murdock and Jennifer Smith Mitchell, Chief Deputy County Attorney Susan Swimley, and Acting Clerk to the Board Mary Miller.

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Chairman Olson requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**OCTOBER 30, 2000**

- A regularly scheduled office meeting was called to order at 10:15 a.m. In attendance were Commissioners Olson and Murdock, and Executive Secretaries Stacy Johnston and Glenda Noyes. Commissioner Mitchell joined the meeting at 10:35 a.m. A request for a transfer of budget authority by Don Hanson for the Freedom of Fear grant in the amount of \$12,023.00 was considered. Commissioner Murdock made a motion to approve the transfer of budget authority for the Freedom of Fear grant in the amount of \$12,023.00. Commissioner Olson seconded the motion. In discussion it was noted that Fiscal Officer Ed Blackman has recommended approval. All voted aye. Motion carried with a vote of two to zero.

An amendment to Contract #2001-002 with Edsall Construction, change order #2 was considered. After perusal of the change order, it was noted that the old amount was \$762,138.12, and the new amount is \$793,425.12; an increase in the contract of \$31,287.00. Fiscal Officer Ed Blackman confirmed that the funds for the change order are coming from the Phase II contingency fund, and the increase is due to a problem that has to be dealt with because of code issues. Commissioner Murdock made a motion to approve change order #2, an amendment to Contract 2001-002 with Edsall Construction. Commissioner Olson seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered appointments to three County boards. It was noted that in the future, board appointments should be made at a public meeting when possible. One application was received for the Gallatin Canyon Consolidated Rural Fire District from Phil Kirk. Commissioner Murdock made a motion to appoint Phil Kirk to the Gallatin Canyon Consolidated Rural Fire District, finding that the current Board of Trustees recommended his appointment, and he has served on the board in the past. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously. One vacancy exists on the Three Forks Ambulance District with the expiration of Ralph Wilcox's term. Mr. Wilcox has expressed an interest in being reappointed, and no additional applications have been received. Commissioner Murdock made a motion to appoint Ralph Wilcox to the Three Forks Ambulance District. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously. One vacancy exists on the Search and Rescue Board due to the term expiration of Jerry Grant. Mr. Grant has expressed an interest in being reappointed and no additional applications or nominations have been received. Commissioner Mitchell made a motion to appoint Jerry Grant to the Search and Rescue Advisory Board. Commissioner Murdock seconded the motion, adding the finding that he does not like the spelling of Mr. Grant's last name. All voted aye. Motion carried unanimously.

An invoice for \$665.76 from Fire Control Sprinkler Systems for the interest on a late payment was discussed. The work took place in July and payment was not made until September. After discussion, the Commission requested a memo be sent to the Auditor, asking for a timeline of events and explanation of the problem.

Commissioner Mitchell expressed concern over the amendment to Contract 2001-002 with Edsall Construction. She explained that a portion of the change is due to an error by the Mechanical Engineer, and she is also concerned about the lack of an inclusion of any design fees and/or lack of a written statement waiving design fees. The Commission agreed to re-visit the previously approved item. Commissioner Mitchell made a motion to hold off on approval of the amendment to Contract

## 122 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

#2001-002 with Edsall Construction, change order #2 until confirmation from Staff Engineer Roy Steiner that the concerns about the additional mechanical costs and design fees have been taken care of. Commissioner Olson seconded the motion. Commissioner Mitchell suggested that as soon as information is obtained, this item should be re-visited for action so that the vendor could be paid. All voted aye. Motion carried unanimously.

Commissioner Mitchell presented a letter from Staff Engineer Roy Steiner regarding the purchase of a generator and additional wiring for the Courthouse. After discussion, the Commission determined that this is not feasible at this time. Commissioner Olson made a motion to not consider the purchase of a generator and wiring at the Courthouse as the County is not able to afford the proposed costs that range from \$106,250.00 to \$150,000.00. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

### **OCTOBER 31-NOVEMBER 3, 2000**

The Commissioners conducted regular County business.

### **NOVEMBER 3, 2000**

- The Commissioners conducted a regularly scheduled Planning Monthly meeting. In attendance were Commissioners Olson and Murdock and Planning Director Bill Arnold. Mr. Arnold submitted his recommendation for a re-submittal criteria for denied subdivisions and the group also discussed a cell tower draft ordinance. It was determined that Chief Deputy County Attorney Susan Swimley would be asked to review a possible ordinance for cell towers, drafted by Mr. Arnold. The Commissioners agreed to the subdivision re-submittal criteria as presented by Mr. Arnold, with suggested Commission changes, and asked him to follow through with getting the changes adopted as part of the subdivision regulations.
- The Commissioners attended a regularly scheduled Facilities Monthly meeting. In attendance were Commissioners Olson and Murdock, Facilities Director Bob Isdahl and Executive Secretary Stacy Johnston. The group discussed the upcoming office move and how to pay for fire doors and other expenses at the Law and Justice. Commissioner Olson made a motion to approve the office usage as illustrated by Mr. Isdahl. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero. Commissioner Olson made a motion to approve keeping the tower outside door locked. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero. Commissioner Olson made a motion to approve Commission secretaries Stacy Johnston and Glenda Noyes to configure the new (interim) office space. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero. The Commission requested Mr. Isdahl look into other alternatives and possibilities regarding the fire doors and other expenses and present them to the Commission for action.
- The Commission conducted a special meeting for the purpose of addressing the continuation of the signing of an amendment to Contract #2001-002 with Edsall Construction, change order #2. In attendance were Commissioners Olson and Mitchell, Staff Engineer Roy Steiner, Fiscal Officer Ed Blackman and Executive Secretary Glenda Noyes. Mr. Steiner explained that the Phase II project is \$26,000 in the hole due to items budgeted for in Phase III being done in Phase II (fire doors, stair tower doors) and to comply with City code requirements. Fiscal Officer Ed Blackman suggests a budget amendment to take care of these items, and asked that the Commission send the architect and contractor a memo stating no more change orders will be accepted. The change order in the amount of \$31,287.00 has funds included for any small additional changes necessary. Commissioner Mitchell made a motion to pay the change order in the amount of \$31,287.00 finding that most of the work was originally designated in Phase III and IV, doing the work now will save maintenance in the future and savings to the overall project. It was also noted that the County may have to take action against the architect's engineer in the future for repayment of a mechanical error that cost the County additional money. Commissioner Olson seconded the motion. All vote aye. Motion carried with a vote of two to zero. Commissioner Mitchell made a motion to transfer \$40,000 from Phase III and IV budget into Phase II, finding that any left over will roll-back into the future phases at the completion of the current phase. Commissioner Olson seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners conducted a meeting for the purpose of considering approval of a hand issued claim received November 1, 2000. In attendance were Commissioners Olson, Murdock and Mitchell, Auditor Joyce Schmidt and Executive Secretary Glenda Noyes. Commissioner Murdock made a motion to approve PO #68574 for \$15,000.00, payment to Shelter Care, finding that it is in the budget and Auditor Schmidt and Fiscal Officer Ed Blackman have recommended approval. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

### **NOVEMBER 6, 2000**

- A regularly scheduled office meeting was called to order at 10:06 a.m. In attendance were Commissioners Olson, Murdock and Mitchell, and Executive Secretaries Stacy Johnston and Glenda Noyes. Deputy County Attorney Chris Gray and Phil Forbes and Scott Bell from Morrison-Maierle

attended the meeting to participate in the review and consideration of the Three Forks/Pogreba Airport land swap. Mr. Gray explained that several weeks ago the County Commission entered into an agreement for access control on 5.42 acres adjacent to the Three Forks/Pogreba Airport. Morrison-Maierle is going to Helena to close the transaction, transferring the control from the County to the State. Commissioner Murdock made a motion for the Commission to sign the deed transferring the land, finding that prior approval in the form of the contract signed by both parties enables them to do so. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously. Mr. Gray explained that in the prior agreement, the County promised to make up the difference in the cost of the parcels via an FAA grant. The Airport Authority Board will cut a check on Wednesday, November 8, in the amount of \$27,947.50, and they need authorization to draw down funds from the grant to back this transaction. He explained that the Commission needs to authorize Morrison-Maierle to be the party to carry the funds, in order to protect the County. Commissioner Murdock made a motion to authorize Morrison-Maierle to be an agent for the transferring of funds to the State department. Commissioner Mitchell seconded the motion. In discussion, Commissioner Murdock added the finding that the Airport Authority Board will consent to doing the draw down from the grant at their monthly meeting. Commissioner Olson added the comment that a land swap transaction such as this needs an agency to transfer the money. Commissioner Mitchell amended her second to include these additional findings. All voted aye. Motion carried unanimously. Mr. Gray also explained that the original contract had a closing date of November 1, 2000, and a motion was needed to extend this date until November 9, 2000. Commissioner Mitchell made a motion to change the closing date for the transaction from November 1, 2000 until November 9, 2000. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered a contract with U.S. Systems, Inc. for the installation of electrical control systems and the Gallatin County Detention Center. Fiscal Officer Ed Blackman and Deputy County Attorney Chris Gray have both granted approval of the contract. Commissioner Mitchell explained that the work involved in the contract will provide added security to the Detention Center and provide necessary wiring. Commissioner Mitchell made a motion to approve the contract with U.S. Systems, Inc. for the installation of electrical control systems at the Gallatin County Detention Center in the amount of \$4,180.00. Commissioner Murdock seconded the motion, adding the finding that Fiscal Officer Ed Blackman and Deputy County Attorney Chris Gray have approved the contract. All voted aye. Motion carried unanimously.

The Commissioners considered a contract with Nona Faith and Rob Brown to provide consulting services to the Community Corrections Board. Commissioner Murdock made a motion to approve the contract with Nona Faith and Rob Brown for their consulting services to the Community Corrections Board in the amount of \$30,250.00, finding that the funding is from of a grant they have received and the money is available, and that Mr. Blackman and Mr. Gray have approved of the contract. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commission considered a request from Maxim Technologies, Inc. to open a charge account at the Logan Landfill. Commissioner Olson made a motion to approve the request from Maxim Technologies, Inc. to open a charge account at the Logan Landfill, and accept their check for \$500.00 as a deposit on the account. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

Numerous requests for transferring of budget authority were received. Jason Shrauger of DES submitted a request for a transfer of \$1,500.00 from the radio fund to the travel fund to pay for seminar and travel expenses for himself and Graver Johnson. Project Impact will reimburse the fund January 1, 2001. Commissioner Murdock made a motion to approve the transfer of funds, finding that Fiscal Officer Ed Blackman has approved the transfer. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

Under-Sheriff Jim Cashell submitted three requests for transfers of funds within the Sheriff's Department budget. Each one is a matter of "house-keeping" and no new funds are involved. Commissioner Mitchell made a motion to approve the transfer requests for the Sheriff's Department. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Planning Department submitted a request to transfer \$10,087.02 within their budget in order to pay the floodplain contract. Fiscal Officer Ed Blackman has approved the transfer, and the money is available from Personnel due to salary savings. Commissioner Murdock made a motion to approve the budget transfer request from the Planning Department. Commissioner Mitchell seconded the motion, adding the finding that no new money is involved and the transfer is from one fund to another in order to cover the floodplain costs. All voted aye. Motion carried unanimously.

The Commission discussed purchase orders received from 911 Communication Services for payment of items from a 940 fund. This payment requires a transfer of funds and budget amendment. The proper process for doing so has not been followed. Commissioner Olson made a motion to deny payment of PO #68735, #68751, #68757 and #68755 until the proper funds have been transferred and are available for this use. Commissioner Mitchell seconded the motion. In discussion, the Commission

## 124 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

requested a memo be sent to 911 Director Jenny Hansen regarding the proper process to follow. All voted aye. Motion carried unanimously.

### NOVEMBER 7, 2000

- The Commissioners conducted regular County business.

### NOVEMBER 8, 2000

- A special meeting was called to order by Chairman Phil Olson on November 8, 2000, at 9:00 a.m. Also, present were Commissioner Bill Murdock and Acting Clerk to the Board Mary Miller. Gallatin County Auditor Joyce Schmidt presented claims dated, October 31, 2000 through November 02, 2000, for P.O. #70218 for \$418.01, P.O. #69629 for \$348.45. P.O. #69185 for \$1,360.00, P.O. #69182 for \$279.51 and P.O. #68735 for \$17,496.00 totaling \$19,901.97, and the following batches dated October 31, 2000: Batch 1 for \$19,033.90, Batch 2 for \$120,240.60, Batch 3 for \$108,800.41, Batch 4 for \$65,948.14, Batch 5 for \$78,502.46, Batch 6 for \$67,372.27, Batch 7 for \$3,237.29 totaling \$463,135.07. Grand total \$483,037.04. Ms. Schmidt recommended P.O. #68735 for \$17,496.00 be held until the budget is approved by Gallatin County Fiscal Officer Ed Blackman. Commissioner Murdock moved to approve the claims excluding P.O. 68735, with the finding it needs to go through the budget amendment procedure. Seconded by Commissioner Olson. None voting nay. Motion carried. There being no further business the meeting was adjourned at 9:08 A.M.
- A special meeting was called to order at 9:30 a.m. for the purpose of considering approval of a hand issue request received November 3, 2000. In attendance were Commissioners Olson and Murdock, Auditor Joyce Schmidt and Executive Secretary Glenda Noyes. The request is for payment to Disaster and Emergency Services for public safety and travel expenses. The money is available in the budget. Commissioner Murdock made a motion to pay PO #70115, #70116-01 and #70116-02 for a total of \$1,210.66, finding that Fiscal Officer Ed Blackman and Auditor Joyce Schmidt have both recommended approval. Commissioner Olson seconded the motion. All voted aye. Motion carried with a vote of two to zero.

### NOVEMBER 9 - 10, 2000

- The Commissioners conducted regular County business.

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- Landfill Revenue for October 2000: \$109,659.81.
- Payroll for October 2000: \$1,080,245.42.
- Clerk & Recorder's Fees Collected for October 2000: \$38,996.11.
- New Hire Report for October 2000: DETENTION CENTER – Adam Pankratz, Randy Reber; HEALTH – Bonnie Hash, Sylvy Wilson-Gebel; REST HOME – Ann Marshall, Michael Menzel, Eryn Krinitt, Emily Allen, Rhonda Richardson, Carol Pajak; SHERIFF – Anita Johnson.  
Terminated Employees' Report for October 2000: 911 – Marsha Ball 10/23/00, Kilynn Sharp 10/31/00; CLERK OF COURT – Margaret Eitel 10/13/00; EXTENSION – Chris Barry 9/12/00; REST HOME – Melissa Purdham 9/26/00, Kristi Graham 9/29/00, Joe Duperry 10/3/00, Rachel Morehead 10/11/00, Misty Massey 10/24/00; SUPERINTENDENT OF SCHOOLS – Barbara Chamberlain 9/29/00; WEED – Ryan Limb 9/29/00, Steve Murray 9/29/00.

#### **The following items were on the consent agenda:**

1. Approval of claims presented by the Auditor dated from November 06, 2000 through November 08, 2000 for P.O. #57532-13,14,15,16 for \$13,129.71.
2. Consideration of the following contract(s): Licensing Agreement with CSA for Taxation Software Package; Bailey Paving, Inc. for RID Crack and Fog Sealing, Patching; and Montana Power to Install & Maintain Electric Service Facilities in RID 366, Middle Creek 1&3.
3. Request for Family Transfer Exemption for Sharon Cottrell located in Section 21, T2S, R5E. Gallatin County Planner Jennifer Koozer reported that the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
4. Request for Final Plat Approval for the Boyd Subsequent Minor Subdivision (Amended Plat of Lot 2A, Block 10A, Amended James C. Boyd Subdivision) located in the SE1/4 of Section 35, T2S, R5E. A staff report submitted by Gallatin County Planner Jennifer Madgic states that the conditions for final plat approval have been met.

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**GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 125**

Commissioner Mitchell read the consent agenda. Gallatin County Auditor Joyce Schmidt requested that the claim be moved to the regular agenda for discussion. Commissioner Murdock requested the Licensing Agreement with CSA for Taxation Software Package contract be moved to the regular agenda. Commissioner Olson stated Item #7 was placed on the agenda in error. There was no public comment. Commissioner Mitchell moved to approve the consent agenda as amended. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Auditor Joyce Schmidt explained her reason for discussion on the claim was not that it wasn't a valid claim against the County, however, an issue was raised about an advance check written in the amount of \$9,539.49 from the Treasurer's office that by-passed the Commission and the Auditor as a claim. She told the Commission she had requested the Gallatin County Treasurer Jeff Krauss to provide documentation and had not received an answer. She stated that it appeared to be a pre-pay to Executive Services for postage. Ms. Schmidt stated she wanted to bring this to the attention of the Commission and encouraged them to approve the balance of the claim. Commissioner Murdock moved to approve the claim. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Commissioner Murdock stated his reason for discussing the licensing agreement with CSA for the taxation software was to congratulate the senior programmer Don Carlson and Director of Information Ed Kawa. He congratulated them for a process that has taken 5 years, in getting an integrated software system that will allow people to look up financial and tax information and pay their taxes on the Internet at some point. Commissioner Murdock moved to approve the contract. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County GIS Coordinator Allen Armstrong reported this was a Proclamation declaring November 15, 2000, National Geographic Information System (GIS) Day. Mr. Armstrong noted they were planning an event to educate the public and local and area schools. Mr. Armstrong read the proclamation. Commissioner Olson stated that Mr. Armstrong spent a lot of time completing the data base for Gallatin County through GIS information which, is the data base 911 will use when it gets the computer aided dispatch. Commissioner Murdock moved to proclaim November 15, 2000, GIS Day. Seconded by Commissioner Mitchell. Commissioner Mitchell stated that Mr. Armstrong has made GIS an invaluable tool for all the departments within the county. None voting nay. Motion carried.

Gallatin County Clerk and Recorder Shelley Vance reported on receipt of a petition to annex a portion of property into the Bridger Canyon Rural Fire District. Ms Vance stated the petition consisted of Tract 5A of COS 1028B. She reported the petition contained the signatures of 50% or more of the area of privately owned lands; who constitute a majority of the taxpayers who are freeholders; and whose names appeared on the last completed assessment roll. The tract of land for which the annexation is being requested is adjacent to the Bridger Canyon Rural Fire District. She stated she received a letter from the Bridger Canyon Rural Fire District Secretary/Treasurer Jerry Perkins stating the fire district has been reviewed and accepted by the board of trustees. Ms. Vance recommended this be placed on the agenda for a public hearing on December 12, 2000, if the petition were accepted. Commissioner Mitchell moved to accept the petition at the recommendation of the Clerk and Recorder and placed it on the agenda for December 12, 2000. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Commissioner Olson stated this was a public hearing on a resolution promoting a passenger train between the Spokane and Denver corridor. Commissioner Olson read the resolution. There was no public comment. The Commissioners discussed that there was little known about this other than the resolution was in support of this service. Commissioner Mitchell moved to approve Resolution #2000-104, with the finding it is in support of a concept, and if it goes further, decisions will occur at that time. Seconded by Commissioner Murdock stating he did not know enough about this and would be abstaining. Commissioner Olson and Mitchell voting aye. Commissioner Murdock abstained. Motion carried.

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Gallatin County Planner Lanette Windemaker stated the purpose of this public hearing was: to consider an application from Three Trees Development represented by Gaston Engineering for a text amendment to Section 10.040 of the Gallatin County/Bozeman Area Zoning Regulations; to consider an application by the Gallatin County Commission to clarify the legal description for the Gallatin County/Bozeman Area Zoning District; and to consider an application by the Gallatin County Planning Board for text amendments to Sections 4, 10, 12, 17, 20, 26, 30, 39, 43, 50, 51, 52, 53, 54, 55, 56, 57, 62, and 65 of the Gallatin County/Bozeman Area Zoning Regulations. Ms. Windemaker stated the intent of the Three Trees request was to maximize lot coverage for A-S zoned lots of less than five acres. The current maximum lot coverage allowed for a dwelling, garage and accessory structures on a one-acre A-S lot is 2,178 sq. ft.; and the proposed text amendment would allow lot coverage of up to 10,890 sq. ft. She explained the intent of the revision of the legal description was to correct an omission in the written legal description; the revision would make the written legal description correspond with the adopted map. Ms. Windemaker stated the intent of text amendments to Sections 4, 10, 12, 17, 20, 26, 30, 39, 43, 50, 51, 52, 53, 54, 55, 56, 57, 62, and 65 was to clarify the land use review process, ensure adequate public review, maximize administrative efficiency, and strengthen enforcement. She stated these were basis changes to clarify issues for administrative problems. She explained the directive from the Planning Board was to only take care of the problems and not do any substantial changes. She stated the required notices were published and were not mailed to adjacent property owners because its not required when the amendments apply to the entire jurisdiction. Ms. Windemaker stated that on October 24, 2000, the Planning Board held a meeting and found the revision to correct the legal description met the goal and criteria; moved to deem the Three Trees Development proposed text amendment of Section 10.040 to be in the public interest to promote the health, safety and general welfare of the community; and moved to find that the proposed text amendments and section 50.080 and 50.160 as revised are compatible with the current zoning ordinance because these amendments were intended to be non-substantive administrative changes to increase efficiency, and that it is the intention of the Planning Board to readdress the Gallatin County/Bozeman Area Zoning Regulations after completion of the Growth Policy Plan. They voted unanimously on them all. Ms. Windemaker stated if the Commission determined the proposed text amendments and revision to correct the legal description meets the criteria of the Gallatin County/Bozeman Area Zoning Regulations and state statutes, a Resolution of Intention to adopt the text amendments and resolution to correct the legal description may be passed. Notice of the Resolution of Intention shall be published once a week for two weeks beginning the 30-day protest period. After the expiration of the protest period, the Clerk and Recorder shall report on the adequacy of the protests received. If the protests received are not adequate to void the adoption, within 30 days after the expiration of the protest period, the Commission may adopt a Resolution finalizing the text amendments and revision to correct the legal description. Discussion took place regarding the three different applications and the confusion it may cause the public. Ms. Windemaker explained that Three Trees brought in the application and this gave the Planning Department the opportunity to append the administrative changes on to the other public notice and not cause the county any additional costs. Commissioner Mitchell was concerned with making it clear to the public that the Planning Board suggested these changes and that it will impact the zoning district. Dennis Foreman of Gaston Engineering representing Three Trees Development stated their reasons for the amendment. He explained they approached the Planning Department with the proposal and were told they were going to make this change but it would be about 4 or 5 months, so if they wanted it sooner they could make the request on behalf of Three Trees. He stated after submitting the proposal the planning staff said they had more changes they would like to add, and asked if they could attach them and do it all at once to save on costs. Mr. Foreman stated they had no problem with it as long as it didn't encumber their application. Steve White a resident of the donut area stated he was confused with regard to this application and concurred with Commissioner Mitchell. He, along with others believed there was going to be a hearing at some point on the document concerning the donut area yet he was told by the planning staff it would not be until the completion of the Growth Policy Plan. He was not necessarily opposed to the changes but felt it was inappropriate to notify the public in such a way that they may be perplexed as to the changes taking place. Commissioner Murdock stated that was a valid point although he did not want to hold up Three Trees Development. Board discussion took place to decide if the Commission could approve the applicant's request and postpone making a decision on the others. Chief Deputy County Attorney Susan Swimley suggested the Commission make the appropriate findings to approve the proposed amendments for Section 10.040 of the regulation and ask staff to re-draft the resolution consistent with those changes. She further noted the Commission would have to pay for re-noticing the rest of the hearings. Ms. Swimley recommended the Commission take action to correct the legal description. A decision was made to postpone this until the end of the hearing to give the planning staff time to revise the resolution to exclude the portions that the Commission was not going to act on.

Gallatin County Fiscal Officer Ed Blackman reported this was a public hearing and consideration of a resolution approving the designation of Chief Deputies in the combined offices of Clerk and Recorder/Surveyor; Clerk of Court/Public Administrator; and the Treasurer/Assessor, Effective July 1, 2000. Mr. Blackman stated this resolution implements the deputy portion of the combined offices and noted it was incorporated into the original budget for their current percentages for this year. There was no public comment. Commissioner Murdock moved to approve Resolution #2000-105, effect July 1, 2000 making it retroactive. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Road & Bridge Superintendent Lee Provance reported this was a public hearing and consideration of a resolution adopting policies and procedures of the creation and administration of cost share improvement projects. Mr. Provance stated this was a modification of the present cost share improvement policy. He gave an over view of what was covered in the policy. These improvements are above and beyond what is on the priority list of the Commission but would not supersede them. Commissioner Olson stated he questioned the 200 trips per day when the subdivision regulations state anything over 100 trips per day should be paved and thought the 100 ADT'S should also, apply in this policy. Mr. Provance did not feel that was relevant in this case because this policy was about using taxpayer money in conjunction with private money to improve roads. Commissioner Olson stated he had some concern with the 200 trips per day listed only under dust control and suggested having two different criteria, one for paving and one for dust control. Mr. Provance explained there were two different policies with similar criteria and one was the cost share improvement district policy and the other the dust control policy. He was under the impression they both included the 200 trips per day and it was determined it was only in the dust control policy. Board discussion took place to decide if it should be added or left to the desecration of the Commission. Commissioner Olson also, questioned #3 that reads: Proposed road must be a through road, classified as a minor arterial or collector. He stated that would be fine for road improvements but for dust control it was not fair to the public. Mr. Provance stated he thought it would be a fair number with the limited funding for dust control. Commissioner Mitchell asked if Mr. Provance thought the dust control policy worked and if he would recommend making any adjustments. Mr. Provance stated he thought it was a great asset and it was a fair and just way of doing it but would defer on making any adjustments. He stated they were looking into grant money from the EPA which, sets money aside for dust control and air quality programs, to increase the budget for next year. There was no public comment. Commissioner Murdock moved to approve Resolution #2000-106. Seconded by Commissioner Mitchell. Commissioner Olson stated he would be support of the resolution with an amendment to the 200 trips per day and striking #3 in the dust control policy. Commissioner Mitchell stated she understood the concern and because they were applying for grants they should stay with the policy and establish a base of information at least for one year. She thought adjusting it would make it harder to apply for the grants and preferred to follow the policy and procedures set forth and review it at the end of the year to see if changes are needed. Commissioner Murdock agreed and stated he thought this was going to be a popular and a growing program once the word got out on the dust control. He stated he was going with Mr. Provance's recommendation of giving top priority to roads with the most traffic and the 200 trips a day was not that exorbitant. Commissioner Olson did not support it because he felt it would be excluding some people. Commissioner Mitchell and Murdock voting aye. Commissioner Olson voting nay. Motion carried.

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Director of the Lewis and Clark Bicentennial Association Tony Demetriades reported on the consideration of a resolution recognizing and endorsing the Gallatin Lewis and Clark Bicentennial Association, Inc. as the group of citizen volunteers most suitable for representing this area in the forthcoming observance of the Lewis and Clark Bicentennial. Mr. Demetriades recommended the adoption of this resolution based on the fact year 2005 is near, and the 200th anniversary of the Lewis and Clark expedition. He reported that the state of Montana was preparing, through the Montana Bicentennial Master Plan, a commemorate set of exercises. He reported we might have as many as 8 to 9 million-tourist visit in the years 2004, 2005 and 2006. He noted our sister states are very interested because of their roll in the expedition of Lewis and Clark and the US Congress is very active in this issue. Mr. Demetriades reported the Montana State Bicentennial Commission has been appointed by the governor and is looking into a regional commission to coordinate activities for local groups. He explained Montana depends on 15 regional commissions across the state and the state commission is interested in obtaining for each group an endorsement and support from the County Commission. Commissioner Mitchell acknowledged Mr. Demetriades and the association as once a floundering group but with encouragement from the Commissioners, they have pulled it together. They have also, submitted proposals to the state and gone on to the national and are now in line as one of 6 major

projects to be funded nationally. Commissioner Mitchell moved to approve Resolution #2000-107. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Chief Deputy County Attorney Susan Swimley presented the second reading of the ordinance reducing speeds in the Triple Tree Ranch Subdivision. Ms. Swimley stated that on October 31, 2000, the Commission had the first reading and approval on the speed ordinance. Commissioner Mitchell read the ordinance. There was no public comment. Commissioner Murdock moved to approve the second reading of Ordinance #2000-04. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Commissioner Olson reported this was the continuation of the County Commission findings and resolution abandoning a portion of Cimmeron Drive. Chief Deputy County Attorney Susan Swimley stated that on September 12, 2000, the Commission considered the viewing committee report and held a public hearing on abandoning this portion of Cimmeron Drive. At that time the Commission heard public testimony and voted to abandon that road. She stated that pursuant to 76-3-305, before the resolution could be drafted confirming that action, the Commission would have to make findings how the property would be divided. Those findings would take into consideration: a. previous platting; *Wheatland Hills Subdivision was platted in 1975 and the Spirit Hills Subdivision was platted in 1997.* b. manner in which the right-of-way was originally dedicated, granted, or conveyed; *Wheatland Hills plat dedicated the roads to the use of the public forever and the Spirit Hills Subdivision plat dedicated the roads for public however, the County accepts no responsibility for maintaining the same.* c. the reasons stated in the petition requesting vacation; *No road constructed. The right of way is undeveloped. It is not used. The fire department does not oppose this abandonment. The abandonment is in the best interests of promoting safety and general welfare of Gallatin County Citizens.* and d. any agreement between adjacent property owners regarding the use of the vacated area; *The property owners fronting the abandoned road will split the area 50-50".* Ms. Swimley reported the names of the adjacent property owners are Spirit Hills, Inc. c/o Ken Walker, Bill & Jeannie Fudge, Dave & Karen Kirk and Charles & Corrine Hoenig. Those four owners had originally agreed to grant a 5-foot easement to create a 10-foot pedestrian easement for the public. That was thought over and Wheatland Hills decided that they did not want to dedicate the easement to the public and instead have it dedicated for the pedestrian use of the residents of Spirit Hills and Wheatland Hills. She explained that following the vote to vacate the road and prior to taking action on the criteria the citizens of Spirit Hills Subdivision submitted a petition asking the Commission to reconsider the abandonment of the road. Another public hearing was held and a large number of the Spirit Hills residents came forward asking for the reconsideration of abandonment, and at that time Ms. Swimley informed the Commission they did not have the jurisdiction and they could not go back and reconsider the action. She noted the members of Spirit Hills have an attorney and they differ about whether or not it was noticed correctly. She explained there were some modifications to the findings from the first time, as Ken Walker was not willing to grant a 5-foot pedestrian easement on his portion. He wanted the road built or have no easement at all. She stated the original easement was to divide the property 50/50. She explained to the Commission that they did not have the authority to require the pedestrian easement as part of the division and they could divide the property however they chose. Karen Kirk and Bill Fudge both property owners fronting the road stated they were flexible and willing to compromise by allowing more of their share of the easement to accommodate the pedestrian walkway and emergency access. Residents of Wheatland Hills Subdivision Kristie Jacoby, Mark Jacoby, Jim Sutton, Tammy Walker, Charles Hoenig and Denise Malloy were in favor of the pedestrian easement and encouraged the Commission to make a decision. Greg Holdeman representing Spirit Hills residents spoke of their concerns and expressed the point that they have not gotten a chance to have the Commission hear their story. Robert Steiner representing families of Wheatland Hills 1, stated he was involved in the original abandonment in 1995 and was surprised because of the concerns they had then it was being heard another time. He noted at that time envelopes were left with the Commission to notify them if Cimmeron Drive were ever petitioned to be abandoned again and they never received any notice. They wanted Cimmeron Drive open to alleviate some of the traffic on Sentinel Drive, which is their main access. Bill Muhs of Spirit Hills stated the road was used, and their primary concern was they have not been heard and have not received due process. Attorney Richard Dolan spoke representing the concerned homeowners in the Spirit Hills Subdivision. He questioned Ms. Swimley on how the decision was made that the Commission could not reopen the hearing. He stated he was there to ask for the reopening of the hearing due to the fact the notice of the hearing was seriously flawed and violated his clients due process rights. Mr. Dolan stated that landowners affected were not notified. He noted this road has been in controversy since 1995 and there was knowledge of those people involved at that time. He commented regarding the question on



the petition that asks what is the necessity for the abandonment. The answer to that was the roadway is not being used, yet there was a letter attached by one of the petitioners that complained of the increased use of the road. He stated the people opposed to this abandonment weren't part of the process and the only way to make it right would be void the initial ruling and start over with all involved. Ms. Swimley explained the request was not to void it, it was to rehear it and the Commission has no jurisdiction to rehear it. He then requested on behalf of his clients that the Commission void the abandonment and start over. Mr. Muhs stated the land should not go to the property owners fronting the land. The one thing that would please them would be the entire property on the Spirit Hills side go back to Ken Walker and let the people in Spirit Hills decide what to do with the property, and the property in Wheatland Hills go to them. He stated that the Wheatland Hills people were not acceptable to the 12 foot paved road proposed by Spirit Hills but were acceptable to a 12-foot path. He said that was not acceptable to them because what they are interested in is a road that can be used as an emergency access. He urged the Commission to void the original decision of abandoning road. Commissioner Mitchell stated the signed easement did not mention anything about emergency access and Commissioner Murdock was under the impression emergency access was included. Tom Stonecipher stated the original easements were drawn up for a 10-foot pedestrian path and they were willing to work out a compromise. He noted they had met with some of the homeowners and not the directors so there was no one there to negotiate on their behalf. He stated that Sue Olson asked for an advisory board resolution by Wheatland Hills of what they would be willing to do. He wrote her a letter stating what was said during that meeting was what they would be willing to do and asked her to get back with him to address the emergency access issue and he did not hear back from her. He stated he had conversations with Bill Muhs and did not reach any common ground. He stated there were letters from Mr. Dolan's partner Brian Gallik. On behalf of Wheatland Hills as a lawyer and a board member he stated they were committed to negotiating with Spirit Hills to address their concerns. He urged the Commission to convey the land as they deemed fit, and in a way so they can keep a pedestrian easement and possibly other things. Commissioner Mitchell was concerned if the land were divided and then reestablished that the County would not have the money to buy the easements back for the road. Mr. Stonecipher stated there were ways without the County paying the entire cost and if a compromise could not be met the County could condemn it. Sue Olson spoke in opposition of the pedestrian easement. Commissioner Mitchell asked Ms. Swimley if voiding decision was possible. Ms. Swimley stated that yes they could go back and make the decision that the notice for the original hearing was insufficient. She explained they would not start over, as they had no authority to abandon or create a road and they had to wait for the public to request it. Commissioner Murdock moved to distribute the land in equal shares to the four properties on the right of way of Cimmeron Drive. He stated the decision was made to abandon and he did have sympathy with limited emergency access and the pedestrian walkway. He explained there are no guarantees and did not know if it was appropriate to have them, however, there was a petition to reestablish the road and he stated he might look at the petition differently if there is not some agreement worked out with the emergency and pedestrian access between Wheatland Hills and Spirit Hills. He did have sympathy with Wheatland Hills not wanting the traffic through Cimmeron Drive and did not think they were denying Spirit Hills adequate access and egress. He did understand their concerns for some limited emergency access. He said emergency access is appropriate without putting in a full-unrestricted 60 foot paved right of way and felt it would all work out. Commissioner Murdock stated his motion was to apportion the property equally with 30 feet to each side. He stated if Mr. Walker chose to not give an easement that would be another subject, while the Kirks and Fudges said they would give more. Seconded by Commissioner Olson. Commissioner Mitchell noted that while the decision was made it still eliminated a second access for 62 lots and that was her primary concern. She was convinced from letters and testimony that the original notice was inadequate. She said she thought the Commission made a mistake and if they had the opportunity to void the decision and allow the public to do the process in an adequate notification they owed that to the public. To continue on dividing up the property and giving land to people who have not paid for is really asking for more problems. She stated in this case that voiding the petition would allow both neighborhoods to do the petition process again and the Commission could make a decision based on adequate notice, and the public safety issues and concerns of all the people affected. Commissioner Mitchell stated she was not going to support the motion. Commissioner Olson stated it was properly noticed while some people will disagree and he could understand. He stated the three property owners fronting the road and the Wheatland Hills do not want people driving through the subdivision. He stated they went through a process that was confirmed to him that was legal and proper and was staying with the abandonment decision. He stated he was in favor of giving the property to both homeowner associations rather than the property owners fronting the road and that was not possible. He was concerned, as it had already happened with one property owner that they would renege. Commissioner Olson was in support of the motion. Commissioner Mitchell question if either of the other Commissioners were willing to consider voiding the first decision. Commissioner Murdock stated he was told there was adequate notice and he was going by the advice of counsel. Commissioner Olson stated they were advised it was done properly. Commissioner Murdock and Olson voting aye. Commissioner Mitchell voting nay. Motion carried.

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Gallatin County Attorney Marty Lambert reported this was a continuation of a resolution of intent to amend the 911 budget regarding dispatcher positions. Mr. Lambert stated they have been working on this project for three years and looking forward to completion. He stated these 2 additional dispatchers are needed now as well as in the future because they will be learning a new dispatch system and at the same time providing emergency services. He explained the extra staff would provide for some to go off and be trained and provide time for staff to receive emergency medical dispatch certification. Only 2 of the 14 dispatchers now have that certification. He noted in the past the administrative board voted 7-0 and 6-1 for additional dispatch staff and the City Commission despite having reservations in the past also, approved the positions. Mr. Lambert recommended approval of the resolution and asked the Commission to pass his form of the resolution as opposed to Gallatin County Fiscal Officer Ed Blackman's. He stated he needed to visit with Mr. Blackman with regards to a budget transfer regarding expenditures for furniture and computers for 911 and they could process and incorporate where the money will come from by doing both at one time. Mr. Lambert stated the money for the furniture and computers would come from the 911 budget and the money for the dispatchers would come from money available now in capital resources. He explained the total on the resolution would be reduced, as it was based on the assumption the staff would be hired by November 1<sup>st</sup>. He stated they did not have provisions in 911 budget for dispatch staff that is why the motion was passed by the administrative board. The City borrowed money across the board from all the department budgets to pay for it. Mr. Lambert stated if the Commission approved the two dispatch positions the sources of money would be discussed with Mr. Blackman and resolutions would be prepared accordingly. Commissioner Murdock asked Mr. Lambert to give a summary of why he was requesting additional dispatchers in midyear. He stated he was in support although; they needed a good reason to add personnel and at the same time not set a dangerous precedence. Mr. Lambert stated there was a 7-0 vote by the administrative board to approve it and the motion was made by City Manager Clark Johnson to approach both Commissions in midstream after budgets were approved to seek this expense. There were overtime and compensatory time concerns and the most compelling reason was that there was a lot riding on getting this cut over to computer-assisted dispatch. Mr. Lambert stated both the City and County Commission have been concerned in the past about a Cops More grant they have continued to get a series of extensions on and the bottom line is they need to get up and running on CAD or the \$400,000. grant will be at risk. Commissioner Mitchell commented she had been trying to get copy of the E911 plan for quite some time and by statute it should be available. She stated that the plan talks about the emergency medical certification and if it is not in the plan then the dispatchers have to be trained to refer those medical calls to an appropriate entity that can give that information. She questioned why she was unable to get a copy of the plan. Mr. Lambert did not have an answer. Mr. Lambert questioned the liability we would potentially incur by having people with a desperate medical condition referred elsewhere even if the plan did not require medical certification. He said that was an unacceptable liability and regardless of the plan he recommended doing the appropriate thing by training the dispatch staff. Commissioner Mitchell stated normally when budget requests are made by a department there is a plan and she was trying to understand, and without a plan or any information it was hard to make budgetary decisions. Commissioner Murdock asked 911 Director Jenny Hansen if the style of resolution with attached conditions, referring to the City resolution should be included in the resolution. He commented he was in support of the conditions, however, he did not think they should be included in the resolution as that was the administrative boards job. He asked if Ms. Hansen thought the conditions would be met. She was affirmative, except for the last condition that stated the center would demonstrate an acceptable approval rating from the Gallatin County Deputy Sheriff's Association, Bozeman Police Protection Association, Gallatin County Fire Council or mayors of Belgrade, Three Forks and Manhattan. Ms. Hansen stated that restriction was entirely to subjective. She pointed out there is a difference in department styles for getting from point a to z, and as long as it did not compromise safety issues or present problems on a day to day basis they have to take care of business. She was not saying they could not get an acceptable approval rating in all cases, it depended on the issues. Ms. Hansen stated the E911 Plan was faxed to Commissioner Mitchell a month ago. She stated that she and the administrative board have worked on staffing studies and there is a 5-year plan that has been outlined for the department. She explained the states own adopted E911 plan that was worked out with the state director was established and the conditions are inclusive of emergency medical dispatch. She also, noted there was no other entity in this county or state that has emergency medical dispatch certification in which calls could be forwarded. Hospitals and emergency rooms do not have the training to provide the instruction. Commissioner Mitchell stated she received copies of the law and the log but not the plan. Ms. Hansen informed Commissioner Mitchell that the plan does not address emergency medical dispatch the law addresses it. She stated the plan was to adopt the technical hardware and software in order to accommodate enhancing the county and city for 911 automatic number and location identification. The law subscribes to the plan with respect to how it is going to operate. Steven

Longacre a resident of Belgrade reported he had a 25-year background in radio communications. He compared his experiences with emergency military operations to the 911 Center and recommended as a private citizen the approval of the additional dispatch positions. DES Coordinator Aaron Holst spoke as a charter member of the 911 administrative board and stated his support in approving the resolution. Mr. Holst stated he had 3 goals: 1. Say what needs to be said; 2. Do no harm in doing so; and 3. Be of service to the Commission's efforts. He stated he voted for additional staffing for the needs of the board and the people of Gallatin County and noted the population is increasing and in turn that increases the need for emergency services. Along with the increased population many factors have to be considered such as simultaneous emergency calls that have to be verified as the same or a separate call, which places an additional load on the dispatchers. Mr. Holst commented the technology that is being used to collaborate the emergency service providers now in some cases may take five minutes or more, and with the CAD it will allow that call out to be done in a matter of seconds. He stated in order to get CAD running they need the additional dispatchers. Mr. Holst explained one benefit, is that any improvement to 911 has an impact on the ISO rating in Gallatin County. The ISO offices, Risk Classification Program identifies fire insurance costs for homeowners and businesses. Also, any improvement has to conform to the NFPA (National Fire Protection Association) standard for the installation, maintenance and use of public fire safety communication systems. Gallatin County Sheriff Bill Slaughter a charter member of the administrative board asked the Commission to consider this step towards finalizing the 911 Center. He stated one of the reasons they were before the Commission in mid year asking for additional staff was due to the liability of overtime and comp time. He stated the City Manager made a motion realizing that this was an emergency and that staffing was the only answer. He noted that the City department heads were giving up part of their budget to make this happen. Mr. Slaughter stated he was opposed to the restrictions the city set and felt steps needed to be taken to quit micro managing the director. He spoke of the importance the additional staffing posed to law enforcement and told of the decision to change from a law enforcement dispatch center to a public safety answering point. He told the Commission they should be proud of the 911 Center and what they have done for it. He encouraged them to put their trust in the director and the administrative board to do the right thing. Commissioner Mitchell pointed out that in the past the Commission has increased the 911 staff by 10 employees over a five year period and in addition to that supported 911 by getting mapping done through GIS, computer support and getting the City and County computers coordinated to work together. She stated the City Commission put four conditions on their resolution and considering this was a joint contract she questioned if the County Commission resolution should not match. She reiterated it was very difficult to make budgetary decisions without any factual data supporting the request. She questioned the need for a supervisor along with the three dispatchers on every shift, while they have not had a supervisor in the past, and neither do other counties. Commissioner Olson stated he was in favor of this resolution and at the same time he was concerned about 911 meeting the conditions and the possibility of future demands for equipment and training. Board discussion took place regarding changing the dollar amounts on the resolution. Ms. Swimley suggested leaving the figures as written rather than changing them, and any overage would be used in the next year's budget. Commissioner Murdock moved to approve Resolution #2000-109, as written. He commented that he did share Commissioner Mitchell's concerns that it is good to have the factual information and that 911 was lax on that point and could improve, however, he was convinced they needed more staff because of the chronic compensatory and overtime problem. Commissioner Murdock stated during a discussion with the administrative board on overtime they decided they were going to trust the director by giving more staff, and a motion was made by City Manager Clark Johnson to request the funding. It was felt if they were not asking for money to fund additional staff they would be asking for it to pay compensatory and overtime, so by doing this they are going to minimize compensatory and overtime issues. He supported the City's resolution with the exception of the fourth condition. He felt it was not appropriate to put the conditions in the resolution, as it was understood that they were going to be met and if not it would become a budget issue. Seconded by Commissioner Olson. Commissioner Murdock and Olson voting aye. Commissioner Mitchell voting nay. Commissioner Olson made a motion to take the money out of the unanticipated Pilt Funds and the balance from the General Fund contingency. Seconded by Commissioner Murdock. Commissioner Murdock and Olson voting aye. Commissioner Mitchell voting nay. Motion carried.

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Belgrade City/County Planner Jason Karp reported that Survco Surveying on behalf of Gordon and Russell Bartz requested preliminary plat approval of a four lot minor subdivision on 6.4 acres, described as 1B of Minor Subdivision No. 205, located in the SW1/4 of Section 13, T1S, R4E, PMM, Gallatin County, Montana. Mr. Karp stated the Belgrade City/County Planning Board voted unanimously at their November 1, 2000, public hearing to recommend preliminary plat approval of the Bartz Commercial Minor Subdivision No. 2, subject to the conditions. Mr. Karp's staff report included comments addressing review of primary criteria including the effects on wildlife and wildlife habitat;

public health and safety; local services; natural environment; agriculture; and agriculture water user facilities. He noted there was a landowner south of the property that requested a road easement be extended south of the cul-de-sac for better access. An adjoining property owner to the north has expressed concern regarding potential flooding of his property as the result of irrigation overflow ditches being filled in on the Bartz property. The Planning Board noted that the state DEQ is required to review and approve the water supply, storm water drainage, and waste water disposal facilities and recommended a covenant which requires that storm water that originates on the site be disposed of off site, as not to impact the property owner to the north. The Commission needed to make a determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Commission finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval:

1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates.
2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever."
3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval.
4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat.
5. The developer shall record covenants on the final plat including the following provisions.
  - a. Requiring control of county declared noxious weeds.
  - b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and residents of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.
  - c. All fences bordering agricultural lands shall be maintained by the Homeowners in accordance with State Law.
  - d. The Property Owners Association shall be responsible for the maintenance of the interior access road.
  - e. A Property Owners Association shall be established.
  - f. Plans must be submitted to the State of Montana, Building Codes Division, and the Belgrade Rural Fire District for review and approval for all commercial structures.
  - g. All structures must meet minimum fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief.
  - h. Due to potential periodic flooding, stormwater drainage originating within Bartz Commercial Minor Subdivision must be mitigated on the property.
  - i. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County.
6. Two copies of the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval.
7. Road Impact fees and Fire Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact Fee Regulations.
8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval.
9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department.
10. The developer must obtain an encroachment permits from the Montana Department of Transportation for the interior access road's intersection with Jackrabbit Lane.
11. Road names shall be approved by the Road Office, and road name signs and STOP signs at all intersections as required by the Road Office shall be installed prior to final plat approval, or a bond covering the cost of the signs shall be deposited with the Road Office.
12. The interior access road shall be a sixty foot right-of-way, and shall be constructed to Gallatin County standards with a temporary cul-de-sac or "T" type turnaround at its east end. The first 75 feet of the access road off Jackrabbit Lane shall be paved to county standards and the road shall be named with road name approved by the Road Department.
13. All roadwork will need to be inspected and certified by a licensed engineer. The inspection and certification must be provided to the County Road Office in writing prior to final plat approval.
14. The final plat(s) shall show a no access strip for vehicles along all lots adjacent to Jackrabbit Lane except at MDOT approved road encroachments.
15. An NFPA compliant fill-site or other Fire Department approved water supply is required. If the developer chooses the Floss Flats fill site to provide water for fire protection, the developer shall be required to pay a proportionate reimbursement of the total construction cost of the fill site to the Belgrade City-County Planning Office, which will reimburse the entity responsible for maintaining the fill

site. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. Commissioner Olson questioned a variance mentioned in the staff report. Mr. Karp stated there was no variance and that it an error. There was a typo error on Condition #10 changing it from permits to permit. Applicants representative real estate broker Fred Bell reported on the history of the tract of land, showing that the adjoining property owners were not always cooperative in working to help accommodate the applicant with access issues. He stated they were not in favor of the request for the applicant to provide an additional easement to the south and they would like to see it approved as submitted. This additional easement was a last minute request and was not a condition of approval. Norval Fandrich the property owner to the north stated he did not have a problem with the subdivision except the ditch being filled in might cause seasonal run off. Mr. Fandrich was concerned with ground water and where they would put the septic system. He stated the reason for refusing the applicant use of the easement through his property was because they started using it first without asking permission and tore his fence down. Commissioner Murdock pointed out the environmental health department and the state approve septic systems while taking into consideration the ground water and that it is a condition of approval. Cheryl Greenig the property owner to the south gave copies of two area drawings marked, Exhibit "A" and Exhibit "B". Ms. Greening stated originally the 20 acres belonged to her family before being subdivided. She spoke of an original easement recorded on her property that was solely for her use, with the stipulation that if both her property and the adjoining property of the applicants were developed commercially they would share. The applicant developed his property as commercial and she lives on her property. She noted when the applicant moved in he built a fence within 20 feet of the property line and found that when he decided to develop commercially he needed a 60-foot easement for access. She was asked by Fred Bell who marketed the property to give the applicant 40 feet of her property to use, as an easement and that she too, would benefit by it. This would prevent the applicant from having to remove his fence. She stated she was not able to talk about her concerns at the Belgrade Planning meeting. She spoke with Mr. Bartz about her concerns and proposed the idea of incorporating the two properties and developing a subdivision. They went to Gaston Engineering with the idea and Mr. Bartz had other plans. Ms. Greening felt she should have the option of maximizing her property by putting in more than five lots, which would require another access and if the applicant is allowed to proceed with his proposal her options would be limited. She stated if she were to develop her property then she would share in the cost for maintenance and did not feel she should be limited by how the applicant has chose to develop his property. She noted it would help the access problem off Jackrabbit Lane if the applicant were in agreement to her request for the easement. Ms. Greening said she would like to be able to have an access or easement, so if she choose to develop she would have the right to connect and share a road. Gordon Bartz stated he had tried working with Ms. Greenig and twice had oral agreements with regards to the easement and both times she reneged. He stated at his own expense he had two roads constructed on his property because he was also, denied the use of the easement through Mr. Fandrich's property. He felt if Ms. Grennig's request was required that she should participate in the cost of the two roads. Chief Deputy County Attorney Susan Swimley questioned what lot in Horseshoe Meadows Subdivision that this property fronted, as this is Master Planned in the Belgrade Master Plan to be high-density development. Mr. Karp concurred. She stated in relation to Horseshoe Meadows this also, had to make that high-density development compatible with adjoining subdivisions. She stated those lots were 3 and 5+ acres. She questioned the size of adjoining lots 10 and 11 in Horseshoe Meadows. Mr. Karp thought they were 3 or 5 acres. Ms. Swimley asked what mitigation's or compatibility the two 1-acre lots have done for the two 5 acre lots in order to say this meets the Master Plan. Board discussion took place with regard to this being near an area in litigation with the same issues. Mr. Karp pointed out this was different from the Krushensky issue. Ms. Swimley noted it was not road issue but a compatibility issue. Mr. Karp stated the Planning Board did not look at this, although notice was sent to the lot owners in Horseshoe Meadows and received no response. He said the reason there was no mitigation done was because it is the back of the lot and the houses are to the front. He stated there was no mitigation for any kind of buffering, only a barb wire fence. Ms. Swimley stated that it was a concern. Commissioner Murdock stated the cul de sac did not appear to exceed the cul-de-sac lengths and asked if the subdivision regulations include anything about easements or access to abutting lands. Mr. Karp stated that all the abutted lands have access and the cul-de-sac appears to meet the minimum standards of the subdivision regulations. Commissioner Murdock asked if there was anything that would prevent Ms. Greening if she wanted to develop using a cul-de-sac. Mr. Karp stated the cul-de-sac already had three lots so she would be limited to splitting hers into 2 lots if she did not have another access. Mr. Karp spoke with the highway department and they were in support of bringing the road over to provide the circulation and not having the issue of another encroachment off Jackrabbit Lane. Commissioner Murdock suggested requiring a 60-foot easement and leaving it up to Planning Department, and when Ms. Greening came in with her proposal she would have to cost share expenses and develop it at her expense. Mr. Bartz requested if she were to do that, that she would have to cost share for the roads he had built at his own expense. Ms. Swimley stated the Commission could require it to be an un built easement and if Ms. Greening does develop her property she will then be required to pay her cost share.

Mr. Karp stated that Condition #16 would read as follows: The final plat shall show a 60 foot wide public easement or dedicated right of way from the cul-de-sac to the adjacent property to the south between lots 3 and 4. Said road easement is not required to be constructed. Mr. Bartz was in agreement with the condition. Commissioner Murdock moved to approve the subdivision, noting the Planning Board voted unanimously recommending approval. Finding it is consistent with the Belgrade Master Plan and the Gallatin County Subdivision Regulations and with the conditions as presented by staff with a correction in the staff report and a typo correction in Condition #10, and the addition of Condition #16. Seconded by Commissioner Mitchell, including the finding that the Belgrade Planning office has informed the Commission they have notified the Horseshoe Subdivision and there were no comments received, therefore, they feel it is compatible with neighboring properties. Commissioner Murdock stated it was the understanding of the three seated Commissioners, if the owner of Tract 2 came in with a proposal to further sub divide they will require a cost share reimbursement to Mr. Bartz. None voting nay. Motion carried.

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Belgrade City/County Planner Jason Karp reported that Survo Surveying on behalf of Paul Christensen requested preliminary plat approval of a five lot minor subdivision on 25 acres, described as Tract B-1 COS No. 507-A situated in the NW1/4 of Section 13, T1S, R4E, PMM, Gallatin County, Montana. Mr. Karp stated the Belgrade City/County Planning Board voted unanimously at their November 1, 2000, public hearing to recommend preliminary plat approval of the subdivision subject to the conditions. He stated the applicant requested one variance from the subdivision regulations because Lot 1 does not meet the 3 to 1 length to width ratio requirement due to the irregular configuration of the original parcel. The lot does have adequate street frontage and adequate depth to provide for a suitable building site. The Planning Board voted to recommend the variance because of the original lot's irregular shape based on adequate lot size for a building site, adequate street frontage, and past precedent. He noted the existing road was in place so no new encroachments would be needed off Jackrabbit Lane. Mr. Karp's staff report included comments addressing review of primary criteria including the effects on wildlife and wildlife habitat; public health and safety; local services; natural environment; agriculture; and agriculture water user facilities. The Commission needed to make the determination as to whether or not to grant the variance for Lot 1; and determine as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Commission finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat. 5. The developer shall record covenants on the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and residents of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c. All fences bordering agricultural lands shall be maintained by the Homeowners in accordance with State Law. d. The Property Owners Association shall be responsible for the maintenance of the interior access road. e. A Property Owners Association shall be established. f. Plans must be submitted to the State of Montana, Building Codes Division, and the Belgrade Rural Fire District for review and approval for all commercial structures. g. All structures must meet minimum fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief. h. No lot owner may remove water or cause to be removed water from irrigation ditches without deeded water rights, and before any maintenance or improvements are performed on any of the ditches, the owner of the waterway must give written permission for the work to be done. i. Lots shall be used for business or commercial purposes. j. Any covenant which is included herein as a condition of preliminary plat approval and required by the

County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County.

6. Two copies of the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval.

7. Road Impact fees and Fire Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact Fee Regulations.

8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval.

9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department.

10. The developer must obtain an encroachment permits from the Montana Department of Transportation for the interior access road's intersection with Jackrabbit Lane.

11. Road names shall be approved by the Road Office, and road name signs and STOP signs at all intersections as required by the Road Office shall be installed prior to final plat approval, or a bond covering the cost of the signs shall be deposited with the Road Office.

12. The interior access road shall be a sixty foot right-of-way, and shall be constructed to Gallatin County standards with a temporary cul-de-sac or "T" type turnaround at its east end. The first 75 feet of the access road off Jackrabbit Lane shall be paved to county standards and the road shall be named with road name approved by the Road Department.

13. All roadwork will need to be inspected and certified by a licensed engineer. The inspection and certification must be provided to the County Road Office in writing prior to final plat approval.

14. The final plat(s) shall show a no access strip for vehicles along all lots adjacent to Jackrabbit Lane except at MDOT approved road encroachments.

15. An NFPA compliant fill-site or other Fire Department approved water supply is required. If the developer chooses the Floss Flats fill site to provide water for fire protection, the developer shall be required to pay a proportionate reimbursement of the total construction cost of the fill site to the Belgrade City-County Planning Office, which will reimburse the entity responsible for maintaining the fill site.

16. The final plat shall contain a statement that includes the following language: Lots abutting irrigation ditches may have water rights as described in deeds. No owner may remove water or cause to be removed water without deeded water rights.

17. The final plat(s) shall show a maintenance easement of a minimum of 15 feet on one side, and 5 feet on the other side of the irrigation ditches or as required by the ditch owner consistent with subdivision regulations, and before any maintenance or improvements are performed on any the ditches, the owner of the waterway must give written permission for the work to be done. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval.

Commissioner Olson noted there was a typo error on Condition #10 changing it from permits to permit. Commissioner Mitchell questioned if the creek was active and if the ditches ran into it on the east end of Lot 5. Paul Christensen stated it was an irrigation canal that ran only in the summer. The other ditches were for irrigation and have not been used in years. There was no public comment. Commissioner Murdock moved to approve the variance, finding it would not be detrimental to the public convenience, necessity and welfare. He noted they have a prevalence of similar conditions given the shape of the existing lots. He did not think it was a flag shaped lot or circumventing good design, because of the separation needed on Jackrabbit Lane and the existing lots. Seconded by Commissioner Mitchell, adding it is an irregular shaped lot and road requirements further reduce that lot. None voting nay. Motion carried.

Commissioner Murdock moved to approve the subdivision, finding it comports with the Belgrade Master Plan and the Gallatin County subdivision regulations and with conditions proposed by staff, with typographical corrections as made by Commissioner Olson. Seconded by Commissioner Mitchell. Commissioner Mitchell questioned if Horseshoe Meadows Subdivision was notified. Mr. Karp stated they were not as this was a minor subdivision and they were not required to send out public notice. Commissioner Murdock stated he did not think there was a compatibility issue today with Horseshoe Meadows at this time, possibly in the future with lot 5. None voting nay. Motion carried.

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Gallatin County Planner Lanette Windemaker presented a resolution of intention to adopt a text amendment to the Gallatin County/Bozeman Area Zoning Regulations. Commissioner Murdock moved to approve Resolution #2000-110. Seconded by Commissioner Mitchell. Chief Deputy County Attorney Susan Swimley recommended the Commission make the findings that the proposed text amendment will promote the health, safety and general welfare of the community and is, therefore, consistent with the intent and purpose of the Gallatin County Bozeman Area Zoning Regulation. Commissioner Murdock stated he would find this amendment would promote cluster development which allows more efficient use of the land and is consistent with the zoning regulations and the way they were previously written it was impossible. The change meets the whereas that reads: Avoiding undue concentration of population and prevent the over crowding of land. Commissioner Mitchell included items 1 through 4 on the final Now, Therefore, Be It Resolved as part of the findings. None voting nay. Motion carried.

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Gallatin County Planner Lanette Windemaker presented a resolution of intention to adopt a revision to the Gallatin County/Bozeman area-zoning district. Commissioner Murdock moved to approve Resolution #2000-111, finding the public necessity and convenience would require amending erroneous legal descriptions. Seconded by Commissioner Mitchell, adding the finding of 1 through 4, and that it was adequate public notice to make the correction. None voting nay. Motion carried. Commissioner Murdock suggested waiting and discussing with the Planning Board and advisory committee the resolution of intention to adopt text amendments to the Gallatin County/Bozeman area zoning regulations. Commissioner Olson and Mitchell were both concerned that notifying the public concurred. Commissioner Olson stated it needed to be re-noticed.

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Chief Deputy County Attorney Susan Swimley replaced Resolution #2000-108 to correct the spelling of Cimmeron. Commissioner Murdock moved to approve the revised resolution that was the same except Cimmeron is spelled correctly. Seconded by Commissioner Olson. Commissioner Murdock and Olson voting aye. Commissioner Mitchell voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 3:50 P.M.

*Unavailable*  
*For signature*  
CHAIRMAN APPROVAL

*Shelley Vance*  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 21ST DAY OF NOVEMBER 2000**

The meeting was called to order by Chairman Phil Olson at 9:00 A.M. Also present were County Commissioners Bill Murdock and Jennifer Smith Mitchell, Chief Deputy County Attorney Susan Swimley, and Acting Clerk to the Board Mary Miller.

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Chairman Olson requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**NOVEMBER 13 - 14, 2000**

- The Commissioners conducted regular County business.

**NOVEMBER 15, 2000**

- The Commissioners attended a special meeting for the purpose of considering hand issue claims received November 9, 2000. In attendance were Commissioners Mitchell and Murdock (via conference phone), Auditor Joyce Schmidt, Accounting Clerk Brenda Morris and Executive Secretary Glenda Noyes. PO #71014 for \$200.00, PO # 68870 for \$7,205.53, PO #67063 for \$810.00 and PO #67062 for \$8,438.01 were received and have been reviewed and recommend for approval by the Auditor and Fiscal Officer Ed Blackman. These POs involve payments for the Health Department, Flu clinic, Davis Maintenance and an SBIR grant payment. Commissioner Mitchell made a motion to approve payment of claims totaling \$16,653.54, finding that the Auditor and Fiscal Officer have approved. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.
- The Commissioners attended a special meeting for the purpose of considering signing a contract with TD & H Services for surveying of the current Detention Center site. In attendance were Commissioners Mitchell and Murdock (via conference phone), Grants Administrator Larry Watson and Executive Secretary Glenda Noyes. This is the firm that has been recommended by the Detention Center Project Team and architects Prugh and Lenon. Commissioner Mitchell expressed concern, stating that she believed a survey had already been completed. Mr. Watson explained that Morrison-Maierle did the old survey and that it was done several years ago and has some problems. No soil test was completed with the survey and an environmental assessment/geo-technical work



needs to be completed. Commissioner Mitchell stated that she would not vote on this item until she could talk to Staff Engineer Roy Steiner about the previous survey. Mr. Watson noted for the record that the architect couldn't proceed without this survey being completed. This item was continued until further notice.

**NOVEMBER 16 - 17, 2000**

- The Commissioners conducted regular County business.

**The following items were on the consent agenda:**

1. Approval of claims presented by the Auditor dated November 15, 2000 through November 16, 2000 for P.O. #69819 for \$67,010.00, P.O. #60500 for \$191,121.95, P.O. #68585 for \$93.75, P.O. 56500-10 for \$1,700.00 totaling \$259,925.70 and the following batches dated November 21, 2000: Batch 1 for \$74,408.98; Batch 2 for \$79,780.90; Batch 3 for \$139,366.82; Batch 4 for \$39,837.80; Batch 5 for \$34,815.07; Batch 6 for \$83,778.23; Batch 7 for \$85,266.23; Batch 8 for \$27,222.32; and Batch 9 for \$39,964.36 totaling \$604,440.71. Grand total \$864,366.41. The following claim has been partially denied: P.O. #69689 for \$125.00.
2. Consideration of the following contract(s): Engineering Services Agreement with Morrison-Maierle for RID Maintenance Program.
3. Request for Approval of Zoning Improvements Agreement for Allied Engineering Office Building located on lot 2 in the Genesis Business Park Subdivision, 32 Discovery Drive.
4. Request for Family Transfer Exemption for Patricia Nash located, in Section 6, T3S, R6E. Gallatin County Planner Jennifer Koozer reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Relocation of Common Boundary Exemption for S. Luigia Crippa and Diane G. Ensign located, in Section 24, T2S, R7E. Gallatin County Planner Jennifer Koozer reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
6. Request for Relocation of Common Boundary Exemption for Willis R. and Norma Daniel and Paul Zitzer and Laura Miche located, in NW1/4 and SW1/4 Section 34 and SE1/4 Section 33, T3S, R5E. Gallatin County Planner Jennifer Koozer reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
7. Request for Relocation of Common Boundary Exemption for WBC, LP, Development and Construction and Leesa Poole and Timothy W. Anderson located in SE1/4 and SW1/4 Section 34, T1S, R3E and NE1/4 Section 3 T2S, R5E. Gallatin County Planner Jennifer Koozer reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
8. Request for Relocation of Common Boundary Exemption for Richard and Kay Walstrom and V. Hugo and Shirley A. Schmidt and Dave A. and Alice I. Douma located in SE1/4 Section 14 and SW1/4 of Section 13, T2S, R6E. Gallatin County Planner Jennifer Koozer reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
9. Request for Final Plat Approval for Valley Grove Subdivision, Phase IV located in the SE ¼ of Section 20, T1S, R5E. Preliminary plat approval was granted September 23, 1996. A staff report submitted by Belgrade City/County Planner Jason Karp states that the conditions for final plat approval have been met.

Commissioner Murdock read the consent agenda. Commissioner Olson stated Item #8 was removed from the consent agenda. There was no public comment. Commissioner Mitchell moved to approve the consent agenda as amended. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Commissioner Olson reported this was a public hearing and consideration of a resolution regarding the closure of various county departments the day after Thanksgiving. He stated they could not take action on elected offices and the people who were taking the day off would use comp time or vacation time. The offices requesting the day off were as follows: GIS; Planning; Personnel; and the Commission. There was no public comment. Commissioner Murdock moved to approve Resolution #2000-112, with the understanding the elected offices that have to stay open by law on November 24, 2000, will do so, and those that do close follow procedures. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Chief Deputy County Attorney Susan Swimley reported this was a public hearing and consideration of a resolution changing the election of trustees for the Clarkston Fire Service Area. Ms. Swimley stated on September 12, 2000, the Commission received a petition to change the method of selecting trustees

and Resolution of Intention #2000-065 was passed to select trustees by election rather than appointment. She noted if this resolution were passed changing the method there would be a 60-day protest period. If at the end of that period not more than 50% of the electors entitled to protest, do not file a written protest it will be changed and the soonest election will be May 8, 2001. Gallatin County Clerk and Recorder Shelley Vance stated that notice of this public hearing was published in the High Country Independent Press on November 2<sup>nd</sup> and 9<sup>th</sup> 2000, and in addition copies of the notice were mailed to all freeholders listed on the last completed assessment roll within the proposed rural fire district in the Clarkston area, on November 3, 2000. Ms. Vance explained the election process with regards to informing members of the public and noted that everyone would have to abide by these rules. Ms. Vance stated if it was determined that the selection of trustees for the Clarkston Rural Fire Service Area were to be by election, the term of office and procedures for nomination and election are provided for in 7-33-2106 MCA, and the County Commission Resolution of Intention #2000-065. The annual election would be held on school election day, the first Tuesday after the first Monday of May. Any person who is a qualified elector within the boundaries of the Clarkston Rural Fire Service Area or any holder of title to lands within the district who presents a proof of payment of taxes on the lands at the polling place is eligible to vote in the election. Any person who is a qualified elector within the boundaries of the Clarkston Rural Fire Service Area may file a nominating petition and run for the office of the fire service area trustee. Any person who is the holder of title to lands within the Clarkston Rural Fire Service Area who presents proof of payment of taxes on the lands may file a nominating petition and run for the office of fire service area trustee. Nominating petitions must be filed no sooner than 135 days before the election and no later than 75 days before the election. Nominating petition must be signed by at least five electors of the district and an elector is a register voter. Ms. Vance stated the Clarkston Rural Fire Service Area shall pay for all costs associated with these elections pursuant to 13-1-301 MCA. Costs of the election may not include the services of the election administrator or capital expenditures. Ms. Vance did not know how many qualified electors were in the Clarkston area without ever having an election, so based on other fire district elections she estimated the cost could be anywhere from \$500. to \$1,000. She explained that all active registered voters within the boundaries get one vote, and if they are not a registered voter but a real property owner they can present proof of payment of taxes on Election Day and vote. Ms Vance as the elections administrator would make the decision whether it would be a mail ballot election or at a polling place, and either way an absentee ballot could be requested. She explained if it were by mail ballot she would automatically mail ballots to all registered electors in the district and would not mail a ballot to real property owners, unless they presented proof of payment of taxes. Commissioner Murdock confirmed a person who presents proof of payment of taxes could also, run as trustee. Commissioner Olson confirmed that the fire chief is not elected. Commissioner Mitchell reported they received letters from Pam Verzwylt and Theda Bouldin in support of the resolution. A note was delivered by hand written by Kevin Kunze in support. Members of the Clarkston Rural Fire Service Area speaking in support of the election were: Mimi Van Straaten, Tim La Cotta, Pat McCall, Wilbert Van Straaten, Ellen Palmer, Les Rate and Dennis Painter. Bill Shott initially stated he was in favor of the election and after speaking he was uncertain if he was in support or not. He was concerned with the qualifications of the elected trustees and the fact the election would represent a very small portion of landowners without the real property owners being notified of the election. Mr. Shott also questioned if joint tenants would have two votes, and whose job it was to notify the real property owners. Commissioner Murdock stated it would be the job of the homeowners association. Gordon Ross agreed with the concept of electing trustees except for the fact a non-resident could be trustee and he felt that it would not serve the property owners to have an off-site trustee. Another concern of his was the qualifications of potential candidates. Ms. Vance stated that notification of real property owners through the homeowners association would be the best way, however, the law requires a close of voter registration prior to every election and they must be a registered voter 30 days prior to the election. This notice would be published in the High Country Independent Press. She noted that absentee ballots would be accepted 75 days before the election and could only be requested by the individuals themselves. The information that would be requested in order to receive that ballot would be name, address, proof of payment of taxes and their signature. Ms. Vance stated she would have to do some research on whether or not landowners with joint ownership would both be allowed a vote. Commissioner Murdock stated this could be a start to solve some of the problems of the fire service area. Commissioner Olson stated it would help the community to work together for something needed and deserved. Commissioner Mitchell moved to pass Resolution #2000-113, finding nearly all of the public testimony was for the resolution with none against it and some undecided. She stated this is an opportunity to give control to the people who live and own property in the fire service area. Seconded by Commissioner Murdock with the suggestion of going further, and having the county pay for the election if the money were available. Ms. Swimley stated there was a statutory scheme that funds fire service areas and it is set out in the statute. The Commission budgets for the fire service areas during the budget process, based on the fire service area request and the law says the fire service area pays for the election. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic reported this was a change of condition for the Garden Center Major Subdivision (Page amended plat) located in the NE1/4 and the SE1/4 of Section 11, T2S, R4E, PPM, Gallatin County, Montana. The applicant received preliminary plat approval on August 25, 1988 for nine lots and five tracts to provide for commercial uses. Ms. Madgic stated the applicant's proposed revision included the following: 1. Extension of "Red Wing Lane" northward 200 feet; 2. Elimination of north-south road (Ice Dog Lane); 3. striking of Condition #10 requiring a pedestrian walkway; and 4. Change "Red Wing Lane" to "Garden Drive". She stated the planning staff took issue with the striking of Condition #10 which reads as follows: If a pedestrian walkway is not required by the Montana Department of Transportation, the developer shall install a pedestrian walkway within Tracts A and C, subject to approval by the Gallatin County Road and Bridge Department, to be completed prior to final plat approval. She noted that with the approval of the preliminary plat both the Planning Board and the Commission noted pedestrian safety and access as a concern, so that is why this condition was added. Ms. Madgic stated the applicant's intention is to strike that condition. She stated the applicant submitted a letter from the MDT which states that the pedestrian walkway "on the west side of Jackrabbit Lane will not be required by MDT at this time" because there are provisions to widen Jackrabbit Lane at some point adding turn bays. Ms. Madgic stated there was no reason why they could not put a walkway on Tract A and C. She stated neither the Road Department nor the Planning Department is in support of striking Condition #10. Ms. Madgic stated the County Commission has one determination to make with this application. A determination as to whether to approve the proposed change of conditions. The Commission may amend conditions of preliminary plat approval where it can be found that errors or changes beyond the control of the sub divider have rendered a condition unnecessary, impossible or illegal. If the Commission decides to approve the condition(s) modification request, the following additional conditions are suggested (applicant shall continue to comply with previous conditions of preliminary plat approval): 1. Final plat design shall correspond with plat dated September 2000, which shows interior road re-design (eliminating north-south road and extending Garden Drive 200 feet westward) and adjustment of the following lots: Lot 6 reduced in size from 1,613 acres to 2.232 acres; Lot 7 reduced in size from 1.897 acres to 2.069 acres; and Lot 8 reduced in size from 3.634 acres to 3.627 acres; and 2. "Red Wing Lane" shall be changed to "Garden Drive". She stated she did not do anything with Condition #10, so if the Commission chose to strike it, a condition would have to be added. Richard Andriolo, on behalf of Bill Martel reported that Ice Dog Lane was being eliminated and in order to make access for the fire department they put in an easement. He stated this was a better plan and the planning staff thought it was better than the original. Mr. Andriolo stated the reason they were asking to eliminate the pedestrian walkway was because the MDT is presently in the process of developing Jackrabbit Lane into a 4-lane highway from Belgrade to Four Corners. He noted the MDT contacted the applicant with regard to acquiring additional right of way at this time. He submitted Exhibit "A", a letter from the MDT written to Thomas Kallenbach, P.E., Fluidyne. The letter stated that a pedestrian walkway on the west side of Jackrabbit Lane will not be required by MDT at this time, since the programmed highway improvements will likely require removal and/or relocation of any pedestrian pathway in this area. He talked with the MDT and it was understood that part of their plans on Jackrabbit Lane are to make a walkway similar to what was done along Monforton School. He felt it was a needless waste of money and effort to install a walkway at this time when it will probably be removed by the MDT when requesting additional right of way for the expansion. Commissioner Mitchell asked if they anticipated giving any of Tract A or C to the highway department for their improvements. He could not answer that until the MDT finishes their design. Commissioner Murdock stated he had sympathy with them in having to build the walkway and having to turn around and remove it, however, he did want to see a pedestrian walkway installed. Commissioner Murdock suggested they could post a bond or put an easement at some point on the property and if and when the state does not want to put a walkway in they will have one and that would be a sure way of one being there either way. Mr. Andriolo commented they had no objection to the walkway itself, they just did not want to put it in and have to remove it. He suggested a minor gravel walkway would be an acceptable alternative, which, also, would be cost effective. Bill Martel the applicant stated that putting in a walkway at the present time would serve no purpose and, unless it started at Four Corners and ended at a logical place it would be useless. He also, commented that a gravel path could not be plowed in the winter. Mr. Martel suggested he was willing to enter into a Memorandum of Understanding, similar to the one he has with MDT, such as when MDT completes the design and decisions are finalized there would be a financial contribution from the applicant to facilitate the installation of a walkway and possibly connect with the property owners to the north and south so it would serve a purpose. Mr. Andriolo commented the Memorandum of Understanding with the MDT was for the turn bays and not the pedestrian walkway. Chief Deputy County Attorney Susan Swimley suggested the possibility of dedicating an easement for a public pedestrian trail along the edge with no requirement to build it, and if MDT wants it, it would be there. Mr. Martel stated it would be difficult, as they did not know how much of an easement the MDOT would need and was sure they would want control of the pedestrian walkway in their design as well as construction. He stated that having two parallel walkways with one on his property and one near the

140 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

highway would be not make any sense. Commissioner Mitchell stated there was going to be a need for a pedestrian walkway and did not want the County to be tapped for the funds to do it. Board discussion took place regarding the best way to assure the installation of the pedestrian walkway and if it would be by posting a bond for an improvements agreement or requiring the un-built easement. Mr. Andriolo proposed getting final approval with the present condition and later bond the condition and enter into a Memorandum of Understanding with the County with regard to how that condition is going to be met through the improvements agreement. Ms. Swimley stated she thought that would work, and the important part would be the posting of a bond and guaranteeing the construction and if the Commission chose to go back and modify the agreement they have that right. Commissioner Mitchell affirmed they were proposing to withdraw their request and leave Condition #10 as written and deal with it later. The applicant was in agreement. There was no public comment. Commissioner Mitchell stated she agreed with the other requests and it did improve the plan while providing one more access for the large project and, therefore, moved to approve the proposed change of conditions, except for the third request to strike Condition #10, leaving it, and finding that the errors and changes are beyond the control of the sub-divider and have rendered the three conditions unnecessary, impossible or illegal, and with the new conditions presented by staff. Seconded by Commissioner Murdock with the understanding an improvements agreement is acceptable with all parties for a path. None voting nay. Motion carried.

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Chief Deputy County Attorney Susan Swimley stated this was the first reading of the ordinance reducing speeds in the Sourdough Ridge Subdivision. There was no public comment. Commissioner Olson read the ordinance. Commissioner Murdock moved to approve Ordinance #2000-05. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman presented a pending resolution of intent to amend the budget for the joint dispatch fund for the hiring of two dispatchers and approval of computer and workstation capital purchases. Mr. Blackman stated this was to implement the decision from last week in authorizing the hiring of two dispatchers. It would also, adjust the budget for the capital outlay items the A board approved in September. He stated this would call for a public hearing on December 5, 2000, and recommended the adoption of the resolution of intent. Commissioner Murdock moved to approve Resolution of Intent #2000-114. Seconded by Commissioner Mitchell stating she was not in support because there was not adequate evidence as with other departments. Commissioner Olson and Murdock voting aye. Commissioner Mitchell voting nay. Motion carried.

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Gallatin County Treasurer Jeff Krauss presented a pending resolution of intent to amend the Treasurer Department within the general fund budget for Gallatin County, Fund No. 1000 with budget transferred from the Motor Vehicle activity of the Treasurer's Department. Mr. Krauss reported this was a budget amendment to move approximately \$1,180.00 dollars from the salaries and employee contribution from Motor Vehicle to the salaries and employee contributions of the Treasurers office. The resolution requests that the Deputy Treasurer that is being paid at 85% be increased to 90%, the same as the Deputy Clerk and Recorder and the Deputy Clerk of Court. He stated it was a matter of equity. Commissioner Murdock moved to approve Resolution of Intent #2000-115, finding it is not a net increase in tax payers money, as it was within the approved budget to be funded. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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There being no further business the meeting was adjourned at 10:30 A.M.

*Unavailable*  
*for signature*  
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CHAIRMAN APPROVAL

*Shelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

## GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 141

The meeting was called to order by Chairman Phil Olson at 9:00 A.M. Also present were County Commissioners Bill Murdock and Jennifer Smith Mitchell, Chief Deputy County Attorney Susan Swimley, and Acting Clerk to the Board Mary Miller.

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Chairman Olson requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

### **NOVEMBER 20, 2000**

- The Commissioners conducted regular County business.

### **NOVEMBER 21, 2000**

Commissioner Olson called a regularly scheduled office meeting to order at 11:19 a.m. In attendance were Commissioners Olson, Murdock and Mitchell, and Executive Secretaries Stacy Johnston and Glenda Noyes. A contract amendment submitted by Kathy Gallagher was discussed. It was determined that the additional work is a mandatory expense and will be paid for by the Logan Landfill. Commissioner Mitchell made a motion to approve the amendment to Contract 2000-93 in the amount of \$3,519, finding that the funds are available through the Landfill, the work is mandatory and it will be no additional cost to the County. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

Commissioner Murdock made a motion to approve payment of invoice #117 BS.117, for the professional services of Dale Beland in the amount of \$2,460.92 for professional services and direct expenses. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

A request for transfer of expenses was submitted from the Fiscal Office. A mistake was made when writing the purchase order for contracted services. The money was taken from the fund that it was supposed to be paid into. Commissioner Murdock made a motion to approve the transfer of expenses from one line item to another finding that it has been recommended by the Fiscal Officer and the Auditor, has followed the proper process and there are not additional funds involved. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

Commissioner Murdock made a motion to increase the contract ceiling for Flood Plain Administration by Phil Forbes in the amount of \$1,375, per the recommendation by Planning Director Bill Arnold. This increase will also terminate the contract with Morrison-Maierle, Inc. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

Commissioner Murdock made a motion to allow Commissioner Olson to sign a court-ordered transfer exemption presented by the Planning Department. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

Gallatin County entered into a five-year participation and funding agreement with Alcohol and Drug Services of Gallatin County. Commissioner Mitchell made a motion to sign a document stating Gallatin County's continuing participation in the five-year agreement. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

An invoice was submitted to Gallatin County by the Montana Coalition of Forest Counties (MACo) in the amount of \$175.00 for participation as a Forest County. In the past Gallatin County has declined to participate. Commissioner Olson made a motion to pay the dues on the invoice submitted by MACo for the Montana Coalition of Forest Counties. Commissioner Mitchell seconded the motion. In discussion it was determined that 21 of the 32 "forest" counties are participating. A question was raised about whether or not there was money in the budget to pay the invoice, and Ms. Johnston was unsure. Commissioner Murdock expressed that he does not support paying into this group, as the MACo dues should cover all areas of need. It was determined that a vote would be delayed until it the budget capabilities could be determined.

Discussion took place regarding a letter from the Bridger Ridge Radio Users' Association, Inc. regarding a county commissioner representative on the Board of Directors upon Commissioner Olson's retirement. It was determined that it would be in the best interest of the board and users group for someone actively involved in County government to sit on the board. The secretaries were asked to send a memo to the Association declining their request and a memo to eligible staff asking for their participation in this manner.

### **NOVEMBER 22, 2000**

- A special meeting was called to order for the purpose of considering three contracts regarding the Haynes Pavilion. In attendance were Commissioners Olson, Murdock and Mitchell, Deputy County Attorney Chris Gray, Joe Nelson of Barnard Construction and Executive Secretary Glenda Noyes. Mr. Gray explained that on November 15 Fairground Director Sue Shockley gave him authority to deal with all matters relating to the construction of the Haynes Pavilion. The first contract is a change order, being executed retroactive to November 21, adds time to the contract, fire coating on the structure

## 142 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

columns, deletes the "coating" requirement of a fire sprinkler system and deletes the cost of contingency funds (effectively \$10,000.00) in the contract. The second contract closes out the contract with Barnard Construction and requires fire sprinklers be installed no later than June 1, 2001 with BAHA responsible for paying for the systems up to \$18,000. The third contract is a lease with BAHA for use of the Haynes Pavilion. Commissioner Murdock made a motion to approve change order #2 to the contract with Barnard Construction, contingent on Fiscal Officer Ed Blackman's approval. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously. Commissioner Murdock made a motion to approve the contract with Barnard Construction for installation of the fire sprinkler systems in the Haynes Pavilion by June 1 with the understanding that the City is requiring the system; contingent on Mr. Blackman's approval. Commissioner Mitchell seconded the motion. Mr. Nelson explained that the fire codes require the sprinkler system if the pavilion is going to have other uses, and noted that the City has been very helpful in many areas. All voted aye. Motion carried unanimously. Commissioner Mitchell made a motion to approve the lease with the Bozeman Area Hockey Association (BAHA) for the use of the Haynes Pavilion. Commissioner Murdock seconded the motion, adding the finding that Mr. Nelson, Fairgrounds Director Sue Shockley, and Deputy County Attorney Chris Gray are all satisfied with the terms of the lease; contingent on Mr. Blackman's approval. All voted aye. Motion carried unanimously.

### NOVEMBER 23, 2000

- All County Office's were closed in observance of Thanksgiving Day.

### NOVEMBER 24, 2000

- The Commissioners' office was closed in observance of Thanksgiving Day.

#### **The following items were on the consent agenda:**

1. Approval of claims presented by the Auditor dated November 17, 2000 through November 22, 2000 for P.O. #69779 for \$121.50, P.O.#67062 for \$102.40 totaling \$225.90
2. Consideration of the following contract(s): Library Services Contract with City of West Yellowstone; Agreement with Big Sky Owner's Association for Snow Plowing; and Memorandum of Agreement with Wylie Creek Homeowners Association for Park Funds.
3. Request for Final Plat Approval for the Garden Center Major Subdivision (Page Amended Plat), located as Lot 2 of Minor Subdivision No. 190 in the NE1/4 and the SE1/4 of Section 11, T2S, R4E. Preliminary plat approval was granted August 25, 1988. A staff report submitted by Gallatin County Planner Jennifer Madgic states that the conditions for final plat approval have been met.
4. Request for Final Plat Approval for the Huffine Lane Business Park Subdivision located in the SW1/4, SE1/4 of Section 12, T2S, R4E, PMM, Gallatin County, Montana. Preliminary plat approval was granted December 15, 1988. A staff report submitted by Gallatin County Planner Jennifer Madgic states that the conditions for final plat approval have been met.

Commissioner Murdock read the consent agenda. Commissioner Olson stated that Item #4 was moved to the regular agenda and Item #5 was continued for one week. There was no public comment. Commissioner Mitchell moved to approve the consent agenda as amended. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic reported this was the request for final plat approval for the Garden Center Major Subdivision that was before them last week for a change of conditions. Ms. Madgic stated they have met all the conditions and a number of them are covered under an improvements agreement and that agreement has to be approved prior to final plat. She made a correction on the staff report that the preliminary plat approval was in 1998, rather than 1988. Ms. Madgic reported that staff findings 8, 10, 13, 14, 15, 17, 20, 21, 23, and 24 were all covered under the improvements agreement. She noted that Chief Deputy County Attorney Susan Swimley reviewed and approved the improvements agreement as well as the letter of credit. Commissioner Murdock moved to approve the improvements agreement, based on the planning staff's recommendation that everything that needs to be included is covered and the County Attorney has reviewed and approved it. Ms. Swimley reported the Road Department reviewed the amount of the cost. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Murdock moved to grant final plat approval based on the planning staff's report that all conditions have been met. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman presented the consideration of a resolution of intention to amend the Gallatin City-County Health Immunization Fund for receipt of \$13,000 in unanticipated monies. Mr. Blackman stated this resolution is to implement a grant from the federal government that will purchase computers and other items for the communicable disease fund within the county operating budgets. He stated there would be a public hearing in two weeks. Commissioner Olson questioned if there were any matching funds. Health Officer for the City-County Board of Health Stephanie Nelson stated this is a one time grant of federal dollars from the health alert network through the state for the improvement of electronic capability of communications to local health departments, for computers, software and to improve the capability to broadcast facts and public health messages in the event of an emergency. Ms. Nelson stated this has also, gone before the Board of Health in the form of a task order and was approved. Commissioner Mitchell moved to approve Resolution of Intent #2000-116. Seconded by Commissioner Murdock. None voting any. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 9:17 A.M.

*Unavailable*  
*For signature*  
 CHAIRMAN-APPROVAL

*Shelley Vance*  
 CLERK ATTEST

**PUBLIC MEETING TUESDAY THE 5TH DAY OF DECEMBER 2000**

The meeting was called to order by Acting Chairman Jennifer Smith Mitchell at 9:00 A.M. Chairman Olson was present via telephone conference, Commissioner Bill Murdock was on vacation. Also, present was Chief Deputy County Attorney Susan Swimley, and Acting Clerk to the Board Mary Miller.

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Acting Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**NOVEMBER 27, 2000**

- The Commissioners conducted regular County business.

**NOVEMBER 28, 2000**

- A special meeting was called to order at 11:50 a.m. for the purpose of considering approval of an agreement with Jamison Law Firm to provide lobbying services. In attendance were Commissioners Olson, Murdock and Mitchell, and Executive Secretary Stacy Johnston. Commissioner Murdock moved to approve the contract in the amount of \$25,000 (+ expenses not to exceed \$1,000), finding that it has been approved as to form and content by Deputy County Attorney Chris Gray and funds have been verified by Fiscal Officer Ed Blackman. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.
- The Commissioners attended a regularly scheduled Personnel monthly meeting. In attendance were Commissioners Olson, Murdock and Mitchell, and Personnel Director Kathy Nowierski. Numerous personnel matters were discussed. Commissioner Olson agreed to contact Grants Administrator Larry Watson regarding ADA self-evaluations and grants. The group discussed a request from an employee for elective surgery coverage. Commissioner Murdock made a motion to deny the elective surgery coverage request. Commissioner Olson seconded the motion. All voted aye. Motion carried with a vote of two to zero.

**NOVEMBER 29, 2000**

- A special meeting was called to order at 1:19 p.m. for the purpose of considering approval of hand issue claims received by the Auditor November 22, 2000 and a special run dated November 28, 2000, edits 1-3. In attendance were Commissioners Olson and Mitchell, Accounting Clerk Jeanine Fillinger, Accountant Susan Lang and Executive Secretary Glenda Noyes. The hand issue claim is to pay a grant from the State to Alcohol and Drug Services. The special run is election judge payments. Commissioner Mitchell made a motion to approve claims received November 22 through November 28, for a total of \$39,092.65. Commissioner Olson seconded the motion. All voted aye. Motion carried with a vote of two to zero.

## 144 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

### NOVEMBER 30, 2000

- A special meeting was called to order at 1:12 p.m. for the purpose of considering approval of hand issue claim requests received November 23, 2000 through November 28, 2000. In attendance were Commissioners Olson and Murdock, Accounting Clerk Jackie Lamke, Accounting Clerk Brenda Morris and Executive Secretary Glenda Noyes. Two claims were received, PO #42539 in the amount of \$2,596.00 and PO #68029 in the amount of \$2,400.00. Commissioner Murdock made a motion to approve claims as presented, finding that approval has been recommended by Fiscal Officer Ed Blackman and Auditor Joyce Schmidt. Commissioner Olson seconded the motion. All voted aye. Motion carried with a vote of two to zero.

### DECEMBER 1, 2000

- The Commissioners attended a regularly scheduled Finance Committee meeting. In attendance were Commissioners Olson and Murdock, Treasurer Jeff Krauss, Clerk and Recorder Shelley Vance, and guests GIS Coordinator Allen Armstrong and Deputy Treasurer Anna Rosenberry. Much discussion took place regarding the motor vehicle tax distribution and its problems. It was determined that a letter explaining the situation needs to be sent to all affected parties. Commissioner Murdock made a motion to send such letter, with the help of Treasurer Jeff Krauss. Commissioner Olson seconded the motion. All voted aye. Motion carried with a vote of two to zero.

#### **The following items were on the consent agenda:**

1. Approval of claims presented by the Auditor dated November 30, 2000, for Batch 1 for \$28,989.45, Batch 2 for \$34,241.98, Batch 3 for \$24,360.55, Batch 4 \$46,382.81, Batch 5 for \$27,244.64, Batch 6 for \$36,643.62 and Batch 7 for \$818.62 totaling \$198,681.67.
2. Consideration of the following contract(s): Memorandum of Agreement with Baxter Creek II Homeowners Association for Park Funds.
3. Amend the Gallatin Canyon/Big Sky Zoning Map and Land Use Map for Buckridge Ltd described as Tracts 25A through 32A of COS 2175, located in the SE1/4 and the SW1/4 of Section 25 and the N1/2, N1/2 of Section 36, T7S, R3E, PMM, Gallatin County, Montana. Gallatin County Planner Jennifer Madgic reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Relocation of Common Boundary Exemption for Gloria Hardin located, in NE1/4 Section 35, T2S, R5E. Gallatin County Planner Jennifer Koozer reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Family Transfer Exemption for Richard M. and Susan C. Craig located in NE1/4 Section 5, T1S, R1E. Gallatin County Planner Jennifer Koozer reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
6. Request for Family Transfer Exemption for Joseph J. and Hazel Mae Smith located in SW1/4 Section 29, T1S, R6E. Gallatin County Planner Jennifer Koozer reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act. .
7. Request for Relocation of Common Boundary Exemption for Roger B. and Sandra D. Hamilton, Sandan, LLC and Robert Gene Davis located, in NW1/4 Section 35, T1S, R5E. Gallatin County Planner Jennifer Koozer reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
8. Request for Final Plat Approval for Huffine Lane Business Park Subdivision located in SW1/4, SE1/4 of Section 12, T2S, R4E. Preliminary plat approval was granted October 31, 2000. A staff report submitted by Gallatin County Planner Jennifer Madgic states that the conditions for final plat approval have been met.

Commissioner Mitchell read the consent agenda. Gallatin County Planner Jennifer Madgic requested Item #8 be continued and placed on next weeks agenda. Commissioner Olson moved to approve the consent agenda as amended. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County DUI Task Force Coordinator Jenna Caplette reported this was a Proclamation Declaring December 2000 as Drunk and Drugged Driving (3D) Prevention Month. Ms. Caplette read the proclamation and noted that December 15 - 17 is Holiday Lifesavers Weekend, with December 15 as "Lights On For Life" Day, in Gallatin County. Ms. Caplette called upon Gallatin County to be a part of "Lights On For Life" weekend. She stated there were ongoing efforts for education and prevention and noted they were sponsoring overtime patrol for further police protection during that weekend. Commissioner Olson stated there was a real need to prevent drunk driving, as the money spent on alcohol-related crashes could be better spent on other programs such as mental health. Commissioner Mitchell concurred and stated this was a worthwhile proclamation. She noted the Treatment court deals with alcohol, as well as drug abuse and Gallatin County is making efforts to institute prevention



measures. Commissioner Olson moved to proclaim Gallatin County Declaring December 2000, as Drunk and Drugged Driving (3D) Prevention Month. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Commissioner Olson announced the consideration of board appointments to the Historic Preservation Board. There was no public comment. Commissioner Mitchell moved to appoint Charles Soha to a two-year term, expiring June 1, 2002. Seconded by Commissioner Olson. They will continue advertising to fill the one remaining vacancy. None voting nay. Motion carried. Commissioner Mitchell announced the consideration of board appointments to the Bozeman Area Zoning District Board of Adjustments. There was no public comment. Commissioner Olson moved to appoint Dave Bissell to a two-year term, expiring November 9, 2002. Seconded by Commissioner Mitchell. They will continue advertising to fill the one remaining vacancy. None voting nay. Motion carried.

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Executive Director of the Gallatin County Open Lands Board Brent Morris reported this was a public hearing and consideration of a resolution to amend Resolution #1998-76 regarding agricultural membership of the Open Lands Board. Mr. Morris stated in 1998 Resolution #1998-76 was adopted formalizing the Gallatin County Open Lands Board and, prior to that time it was a task force. He explained there was a sentence in that resolution that stated the following: The Open Lands Board shall consist of not more than 15 members to be appointed by and serve at the will of the Gallatin County Commission. He stated the current board would like to amend that by adding one sentence to Paragraph 3, to read as follows: Whatever the total number of Board members at any given time, a majority shall be representatives of the farming and ranching interests in the County. The Board felt this was necessary since the bond has passed, and in looking at open lands in Gallatin County the majority is owned by ranchers and farmers who have this land in agricultural production. They thought it would be in the best interest of the county to have them represented as the majority on the board. Commissioner Olson stated he appreciated the direction on the board, however, he had a concern that the intent was to have agricultural producers on the board and the change would allow anyone that owns land to represent the farming and ranching interests in the county. He thought it would be best if it were limited to commercial producing agriculturists, and wanted to add the words (that receive the majority of their income from agriculture production) to the end of the sentence in Paragraph 3. Mr. Morris stated that the board was sensitive to that and discussed the idea of creating a definition of an agriculture producer. After looking at the alternatives of the definition and looking at how much one is deriving their livelihood from agricultural production it would enter into more problems. They felt the current language would give the Commission the flexibility to make decisions, and discretion could be utilized with the Commission receiving input from the agricultural industry as to recommended board appointments. The Commission could then appoint those who truly represent agricultural production within the county. There was no public comment. Commissioner Olson moved to adopt Resolution #1998-76A. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the receipt of a petition to abandon Roxi Lane received on November 14, 2000. Ms. Vance explained the road is located northwest of Bozeman, and by the petition it appeared the Bozeman Master Plan and adjacent land owners were working via the Master Plan to extend North 27<sup>th</sup>. She noted that Roxi Lane was dedicated for ingress and egress in order to approve a minor subdivision. Ms. Vance stated that she examined the petition and pursuant 7-14-2601 MCA, it does contain the signatures of at least 10 qualified freeholders within Gallatin County; meets the petition to abandon; and meets the minimum requirements of state statute. She stated the Commission would need to appoint a viewing committee if the petition were accepted. Commissioner Olson moved to accept the petition to abandon Roxi Lane, and asked Acting Chairman Mitchell to appoint the viewing committee. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Mitchell stated the viewing committee would be the Gallatin County Clerk and Recorder/Surveyor Shelley Vance, Commissioner Mitchell and Road Superintendent Lee Provance.

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Grants Administrator Larry Watson presented a resolution of intent to amend the Gallatin County FY 2001 budget to include revenue from the Southwest Regional Juvenile Grant. Mr. Watson stated that Gallatin County re-opened their Juvenile Detention Facility and the funding mechanism for the facility was a Montana board of crime control grant on behalf of the Montana Southwest Juvenile Region, and Gallatin County assumed responsibility for the management of the grant. Mr. Watson stated that although they anticipated revenue from the grant at the time the budget was established, they did not know the dollar amount and this resolution is to amend the budget to include the revenue and matching

**146 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46**

amounts from the grant. Mr. Watson stated the grant was for \$172,095.00 and the local match from Gallatin County was \$309,456.79 that comes out of the sheriff department's budget. The other counties contribute \$86,904.50. Commissioner Olson moved to approve Resolution of Intent #2000-117. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman stated that Road Superintendent Lee Provance would be presenting a pending resolution to amending the junk vehicle budget. Mr. Blackman stated there were two things that occurred with this resolution. One being that additional funds were received from the state after adopting the original budget, and the decision to change from a contractual arrangement for the collection of junk vehicles to a fully employed collection of those vehicles was not implemented into the budget. Commissioner Mitchell questioned if there were any new employees required by the resolution. Mr. Provance's answer was no. Commissioner Olson moved to approve Resolution of Intent #2000-118. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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There being no further business the meeting was adjourned at 9:33 A.M.

*Unavailable*  
*For signature*  
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CHAIRMAN APPROVAL

*Shelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

**PUBLIC MEETING TUESDAY THE 12TH DAY OF DECEMBER 2000**

The meeting was called to order by Chairman Phil Olson at 9:00 A.M. Also present were County Commissioner Jennifer Smith Mitchell, Chief Deputy County Attorney Susan Swimley, and Acting Clerk to the Board Mary Miller. Commissioner Murdock was on vacation.

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Chairman Olson requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**DECEMBER 4 - 5, 2000**

- The Commissioners conducted regular County business.

**DECEMBER 6, 2000**

- The Commissioners attended a special meeting for the purpose of considering hand issue claim requests received December 1, 2000. In attendance was Commissioner Olson via telephone, Commissioner Mitchell, Auditor Joyce Schmidt and Executive Secretary Glenda Noyes. PO #67069 for \$972.00 and PO #67068 for \$7,050.26, both payments on the SBIR grant contracts, have been reviewed and recommended for approval by the Auditor, Fiscal Officer Ed Blackman and Grants Administrator Larry Watson. Commissioner Olson made a motion to pay the claims submitted on December 1, 2000, finding that they have been approved by the Auditor, Fiscal and Grants Departments. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

**DECEMBER 7 - 8, 2000**

- The Commissioners conducted regular County business.

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- Landfill Revenue for November 2000: \$61,979.82.
- A101's for November 2000: \$62.20.
- Payroll for November 2000: \$1,003,560.76.
- Clerk & Recorder's Fees Collected for November 2000: \$36,455.75.
- New Hire Report for November 2000: 911 – Chris Compton, Richard Hartman, Jesse Moore, Gloria Olson; CLERK OF COURT – Mary Hostetler; DETENTION CENTER – Jared Mannering; DISTRICT COURT – Dorothy Bradley; REST HOME – Alice Jandt, Carol Skinner; ROAD & BRIDGE – Timothy Connors, J.R. Bohleen; YOUTH PROBATION – Dynise Ette.

- Terminated Employees' Report for November 2000: DETENTION CENTER – Jared Mannering 11/14/00; CLERK OF COURT – Mary Ann Hostetler 10/26/00; REST HOME – Rhonda Richardson 10/31/00, Brian Woods 11/2/00; ROAD & BRIDGE – Robert Lee 11/17/00.

Received & Approved Applications for Cancellation of Taxes for November 2000: \$3,561.71.

**The following items were on the consent agenda:**

1. Approval of claims presented by the Auditor dated December 4, 2000 through December 7, 2000, for P.O. #57532-17-20 for \$6,985.06, P.O. #70228 for \$16,143.77, P.O. #69845 for \$2,222.62, P.O. #72511 for \$27.25, and P.O. #69851 for \$313.21, totaling \$25,691.91.
2. Consideration of the following contract(s): Amendment to Contract No. 2000-137 with Morrison-Maierle for the RID Maintenance Program; Amendment to Contract No. 2000-127 between GC Personnel Services and Communication & Mgmt Services LLC; Memorandum of Agreement with Bozeman Area Hockey Association for Park Funds; Memorandum of Agreement with Belgrade Babe Ruth Baseball Association for Park Funds; and Memorandum of Agreement with 4-H Skate Park Project for Park Funds.
3. Request for Family Transfer Exemption for M. Dudley Lutton located in E1/2 of E1/2 Section 13, T1N, R3E, and SW1/4 of W1/4 Section 18, T1N, R4E. Gallatin County Planner Jennifer Koozer reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Eminent Domain Exemption for TM Land Partners, LTD, Westland Enterprises, Inc., and Gallatin Peaks Land & Development, LLC located in NW1/4 Section 1, T7S, R3E. Gallatin County Planner Jennifer Koozer reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Family Transfer Exemption for the Margaret Larson property described as parcel 4 of COS 1909, located in the SW1/4 of Section 4, T1S, R5E. Belgrade City/County Planner Jason Karp reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
6. Request for Final Plat Approval for Huffine Lane Business Park Subdivision located in SW1/4, SE1/4 of Section 12, T2S, R4E. Preliminary plat approval was granted October 31, 2000. A staff report submitted by Gallatin County Planner Jennifer Madgic states that the conditions for final plat approval have been met.

Commissioner Olson read the consent agenda and announced that Item #4 was to be continued. Commissioner Mitchell moved to approve the consent agenda as amended. Seconded by Commissioner Olson. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the receipt of a petition to abandon Lone Mountain Trail, received on November 17, 2000. Ms. Vance explained the road is located in Big Sky and that some portions of the road are located within Section 1, T7S, R3E and Section 36, T6S, R3E. Ms. Vance stated that she examined the petition and pursuant to 7-14-2601 MCA, it does contain the signatures of at least 10 qualified freeholders within Gallatin County; meets the petition to abandon; and meets the minimum requirements of state statute. She stated the Commission would need to appoint a viewing committee if the petition were accepted. She noted that she received a letter on December 7, 2000; from the petitioner's attorney Brian Gallik requesting the County publish notice of the public hearing in the Lone Peak Lookout, in addition to the current newspaper of record. The letter indicated that Westland TM Enterprises and the district would pay for the additional notice, and Ms. Vance suggested that the Commission consider having the County prepare the notice for the petitioners to publish rather than having the County bill them for the publishing. Discussion took place trying to determine if this portion was a continuation of what was previously abandoned. Ms. Vance noted when the state constructed the Big Sky Spur Road the old Lone Mountain Trail was not abandoned and there are portions of it that will continue to be discovered. She stated that Steve Anderson a local surveyor offered to stake out the road for the viewing committee. Commissioner Olson asked if it would be prudent for the Commission to abandon any and all portions of the Lone Mountain Trail. Chief Deputy County Attorney Susan Swimley stated it was not within the Commission's jurisdiction to abandon a road, and they would have to wait for the public to come forward and request the abandonment. Commissioner Mitchell moved to accept the petition to abandon Lone Mountain Trail and follow the Clerk and Recorder's recommendation to prepare the additional notice for the petitioner to publish. Seconded by Commissioner Olson. None voting nay. Motion carried. Commissioner Olson stated the viewing committee would be the Gallatin County Clerk and Recorder/Surveyor Shelley Vance, Commissioner Mitchell and the Road Superintendent Lee Provance. Ms. Swimley stated that by statute the viewing committee would embody one Commissioner and the County Surveyor. She explained he

## 148 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

was not officially part of the viewing committee, although he could go along as a consultant. Commissioner Olson asked Mr. Provance to go along as a consultant for the viewing committee.

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Gallatin County Clerk and Recorder Shelley Vance reported this was a public hearing to consider a petition requesting annexation of Tract 5A of COS 1028B into the Bridger Canyon Rural Fire District. Ms. Vance stated the petition was received on October 17, 2000. Notice of this public hearing was published in the High Country Independent Press on November 30 and December 7, 2000. There was no public comment. Commissioner Mitchell moved to approve Resolution #2000-119 to annex this property; with the finding there is no public protest. Seconded by Commissioner Olson. None voting nay. Motion carried.

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Commissioner Olson opened the consideration of a Zone Map Amendment Request for Huffine Lane/Gooch Hill Road and stated it was to be continued until the December 19, 2000, public meeting.

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Gallatin County Planner Lanette Windemaker reported this was a public hearing on a resolution of intention for the Gallatin County/Bozeman Area Zoning Regulation Text Amendments to Sections 4, 10, 12, 17, 20, 26, 30, 39, 43, 50, 51, 52, 53, 54, 55, 56, 57, 62, and 65-District Wide. Ms. Windemaker stated the intent of this resolution is to clarify the land use review process, ensure adequate public review, maximize administrative efficiency and strengthen enforcement. She noted the former members of the Gallatin County/Bozeman Area Zoning Regulations Advisory Committee received copies of the proposed text amendments on October 4, 2000; public notice of the original hearing was published in the High Country Independent Press on October 5 and 12, 2000; and a complementary notice was published in the Bozeman Daily Chronicle on October 9, 2000. The Planning Board held a public hearing on October 24, 2000, and two members of the public testified, but voiced no objections to the specific text amendments. She stated there was a public hearing on November 14, 2000, and it was decided that a second hearing would be held, and public notice of this hearing was published in the High Country Independent Press on November 22 and 30, 2000, and in the Bozeman Daily Chronicle on November 27, 2000. Ms. Windemaker stated if this resolution of intention is passed it would be published once a week for two weeks which, would begin a 30 day protest period. After that protest period the Clerk and Recorder would report on the adequacies of those protests received and if those protests received are not adequate to void the adoption, within 30 days after the expiration of the protest period, the Commission may adopt a resolution finalizing the text amendments. Commissioner Mitchell had some questions regarding the amendments and suggested adding a diagram for the description under Section 50.080: Street vision triangle, which would make it clearer to the public. Ms. Windemaker stated the current regulations include a diagram. There was no public comment. Commissioner Mitchell moved to approve Resolution of Intention #2000-120, finding that most of it eliminates regulations that do not apply to the County. Seconded by Commissioner Olson. None voting nay. Motion carried.

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Gallatin County Assessor/Treasurer Jeff Krauss reported on the quarterly reports for June 30 and September 30, 2000. Mr. Krauss explained there had been some delays with these quarterly reports since Norwest the principal bank changed their name to Wells Fargo and made some changes in the way things are processed. He gave the Commission a printout of the June 30 and September 30, 2000, report and pointed out an irregularity on the June 30<sup>th</sup> report that reads: Checking/Repurchase Agreement 712386 - The deposit is 58.70% pledged. Mr. Krauss stated that normally it would be 100% pledged, and explained that the Montana statute 76-207 requires the County to obtain securities for the uninsured portion of the deposits as follows: Securities equal to 50% of such deposits of the institution in which the deposits are made has a net worth of total assets to ratio 6% or more or securities of 100% if the institution has a net worth of less than 6%. He stated the stockholders equity to assets ratio for Wells Fargo was 10.15%, so the County was in compliance with the statute but at the time Wells Fargo was not in compliance with our agreement to be 100% pledged and that was a result of the transfer of the investment responsibilities from Minneapolis to San Francisco. Mr. Krauss pointed out on the September report the County is well over the 100% pledged. Discussion took place regarding the fluctuating figures, which was due to the normal course of business. Commissioner Mitchell moved to accept the Treasurer's reports for June 30 and September 30, 2000. Seconded by Commissioner Olson. None voting nay. Motion carried.

I, Jeff Krauss, County Treasurer of Gallatin County, State of Montana, upon oath depose and say:

**GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 149**

That, at the close of business on June 30, 2000 there was on deposit to my credit in the following banks, balances as shown by the statements of cashiers of such banks herewith: that, from such balances, there should be deducted for checks outstanding, and added for deposits made, amounts as follows:

<u>BANKS</u>	<u>ACCOUNT NUMBER</u>	<u>BANK BALANCES</u>	<u>OUTSTANDING CHECKS</u>	<u>DEPOSITS</u>	<u>TREASURER'S BALANCES</u>
Wells Fargo, Bozeman Branch	712386	\$859,993.00	(\$129,160.67)	\$4,382,818.94	\$5,113,651.27
	20491	\$0.00	\$0.00	\$0.00	\$0.00
	315503	\$0.00	\$536,828.78	\$0.00	\$536,828.78
AMERICAN BANK	280102436	\$3,492.10	\$0.00	\$45,279.61	\$48,771.71
VALLEY BANK OF BELGRADE	108103	\$37,719.25	\$0.00	(\$48.90)	\$37,670.35
MANHATTAN STATE BANK	4100013	\$17,408.10	\$0.00	(\$13,951.79)	\$3,456.31
SECURITY BANK, THREE FORKS	5200116	\$3,078.53	\$0.00	\$315.42	\$3,393.95
FIRST SECURITY BANK, WY	700351	\$8,590.74	\$0.00	(\$204.35)	\$8,386.39
BIG SKY WESTERN BANK	101710	\$27,409.30	\$0.00	(\$780.08)	\$26,629.22
FISCAL AGENT	N/A	\$100.00	\$0.00	\$0.00	\$100.00
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		\$957,791.02	\$407,668.11	\$4,413,428.85	\$5,778,887.98

Cash	\$59,357.31
School Investments	\$9,699,602.59
Airport Authority	\$8,263,014.33
County and Pooled Investments	\$25,425,343.36
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TOTAL Cash on Hand	\$49,226,205.57

I, Jeff Krauss, County Treasurer of Gallatin County, State of Montana, upon oath depose and say:  
That, at the close of business on September 30, 2000 there was on deposit to my credit in the following banks, balances as shown by the statements of cashiers of such banks herewith: that, from such balances, there should be deducted for checks outstanding, and added for deposits made, amounts as follows:

<u>BANKS</u>	<u>ACCOUNT NUMBER</u>	<u>BANK BALANCES</u>	<u>OUTSTANDING CHECKS</u>	<u>DEPOSITS</u>	<u>TREASURER'S BALANCES</u>
Wells Fargo, Bozeman Branch	712386	\$3,211,463.79	(\$33,164.03)	\$325,758.83	\$3,504,058.59
	20491	\$0.00	\$0.00	\$0.00	\$0.00
	752756254	\$0.00		\$800,000.00	\$800,000.00
	315503	\$0.00	\$918,396.55	\$0.00	\$918,396.55
AMERICAN BANK	280102436	\$30,839.84	\$0.00	(\$2,930.99)	\$27,908.85
VALLEY BANK OF BELGRADE	108103	\$21,301.75	\$0.00	(\$6,205.32)	\$15,096.43
MANHATTAN STATE BANK	4100013	\$23,072.76	\$0.00	(\$18,624.68)	\$4,448.08
SECURITY BANK, THREE FORKS	5200116	\$9,187.14	\$0.00	(\$211.90)	\$8,975.24
FIRST SECURITY BANK, WY	700351	\$6,525.41	\$0.00	(\$1,205.84)	\$5,319.57
BIG SKY WESTERN BANK	101710	\$7,492.74	\$0.00	(\$627.50)	\$6,865.24

**150 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46**

FISCAL AGENT	N/A	\$100.00	\$0.00	\$0.00	\$100.00
	\$3,309,983.43	\$885,232.52	\$1,095,952.60	\$5,291,168.55	
		Cash		\$125,596.52	
		School Investments		\$10,557,331.63	
		Airport Authority		\$7,960,661.34	
		County and Pooled Investments		\$21,386,031.50	
		TOTAL Cash on Hand		\$45,320,789.54	

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Commissioner Olson reported this was the second reading of the ordinance reducing speeds in the Sourdough Ridge Subdivision. Chief Deputy County Attorney Susan Swimley read the ordinance. There was no public comment. Commissioner Mitchell moved to approve Ordinance #2000-05. Seconded by Commissioner Olson. He affirmed that the speed reduction will take effect 30 days from this date. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported this was a public hearing and consideration of a resolution amending the budget for the Joint Dispatch Fund for the hiring of two dispatchers and approval of computer and workstation capital purchases. There was no public comment. Commissioner Mitchell recommended that this resolution be continued due to the fact she had still not received any statistics to back up the need for two additional dispatchers and because of that she was not going to vote for it. Commissioner Olson also, recommended continuing it for one week. Mr. Blackman asked if it would be possible to give a 48-hour notice and re-visit this on Thursday, because it was tied into capital outlay purchases that occurred already. They were in agreement for Thursday as long as there was a 48-hour notice given.

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Grants Administrator Larry Watson reported this was a public hearing and consideration of a resolution amending the Gallatin County FY 2001 budget to include revenues from the Southwest Regional grant. Mr. Watson stated the reason for amending the budget was to include revenue received from the board of crime control grant for the operation of Southwest Juvenile activities. He explained that although they anticipated this grant at the time the budget was setup, by putting in the line items, they did not have the appropriations. This amendment to the budget now includes \$172,095.21 from the Board of Crime Control and the local match from the Gallatin County Sheriff's Department fund of \$309,456.79. The other counties in the Southwest Juvenile also, participated with their matching funds of \$86,904.50 and combining all three of those totals establishes the operational budget for Southwest Juvenile FY 2001. There was no public comment. Commissioner Mitchell moved to approve Resolution #2000-121. Seconded by Commissioner Olson. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported this was a resolution of intent to increase the Gallatin County final operating budget for the Belgrade Rural Fire District for FY 2001. Mr. Blackman stated the reason for the increase of the Belgrade Rural Fire District is the costs associated with the Maudlow-Toston fire. The intent is to only replace the actual incurred cost of \$27,142.44 for expenses. He noted that the County has been reimbursed 82% of everything that was submitted and there will be additional funds coming as DNRC and others pay. He stated the public hearing on this resolution would be on December 27, 2000. Belgrade Assistant Fire Chief Bryan Connelley reiterated this was just getting the moneys that were expended back into their budget. Mr. Connelley stated the board of trustees had a meeting on November 8, 2000, and approved Resolution #000105, which was their request for amending the budget. Commissioner Olson thanked the Belgrade Fire Department for their efforts. There was no public comment. Commissioner Mitchell moved to approve Resolution of Intention #2000-122. Seconded by Commissioner Olson. None voting nay. Motion carried.

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GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 151

Gallatin County Planner Jennifer Madgic reported this was a consideration of a resolution to amend the Gallatin Canyon/Big Sky Zoning Regulation and land use map for property owned by Buck Ridge Company, LTD. Ms. Madgic noted this was on last weeks consent agenda and although it was approved there was no mention made of this resolution. In order to have some record of it, it was put back on the regular agenda to confirm the action taken at last weeks public meeting. Commissioner Mitchell moved to approve Resolution #2000-123. Seconded by Commissioner Olson. None voting nay. Motion carried.

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Gallatin County Assessor/Treasurer Jeff Krauss reported this was a public hearing and consideration of intent to amend the Treasurer Department within the General Fund budget for Gallatin County, Fund No. 1000 with budget transferred from the Motor Vehicle activity of the Treasurer's Department. Mr. Krauss stated that notice of this public hearing was published in the High Country Independent Press on November 23 and 30, 2000. Commissioner Mitchell confirmed there was no new money; it was just moving money within the budget. There was no public comment. Commissioner Mitchell moved to approve Resolution #2000-124. Seconded by Commissioner Olson. None voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 9:53 A.M.

*Unavailable  
For signature*  
\_\_\_\_\_  
CHAIRMAN APPROVAL

*Shelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

**PUBLIC MEETING** **TUESDAY THE 19TH DAY OF DECEMBER 2000**

The meeting was called to order by Chairman Phil Olson at 9:10 A.M. Also present were County Commissioners Bill Murdock and Jennifer Smith Mitchell, Chief Deputy County Attorney Susan Swimley, and Acting Clerk to the Board Mary Miller.

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Chairman Olson requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**DECEMBER 11, 2000**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Olson and Mitchell, Deputy County Attorney Chris Gray, Fiscal Officer Ed Blackman and Executive Secretaries Stacy Johnston and Glenda Noyes. The Commission considered a request for a release of purchase of gravel, located in T1S, R1E and T1S, R1W. The County has had an interest in gravel on three or four parcels of land located in the above-mentioned legal description. The County received the interest from the Gallatin Council on Drug and Alcohol in 1989, and still has the lease on that interest. Someone is buying the parcels of land and wants a release of interest from the County. The Road and Bridge Superintendent Lee Provance confirmed that the County has received all of their rightful interest, and taken the necessary gravel off the land. Commissioner Mitchell made a motion to release the purchase of gravel on certain lands located in T1S, R1E and T1S, R1W. Commissioner Olson seconded the motion, finding that Deputy Chris Gray and Road and Bridge Superintendent Lee Provance have confirmed that the County has gotten their money and appropriate amount of gravel from the parcels. All voted aye. Motion carried unanimously. Discussion took place regarding the notification of the intent to create a refuse district. Fiscal Officer Ed Blackman agreed that funds could come from the landfill in order to pay for the notification, because the proposed refuse district would run the landfill. Commissioner Olson made a motion to pay for the notification of the intent to create a refuse district from the Landfill budget and contingency, per Mr. Blackman's recommendation. Commission Mitchell seconded the motion. In discussion, Mr. Blackman noted that he would spell out the terms of repayment in the resolution. All voted aye. Motion carried unanimously. The Commission discussed a request from the Manhattan City-County Planning Board for 1/2 of their funding for FY 2000-2001, in the amount of \$1,775.00. Commissioner Mitchell made a motion to pay the invoice for \$1,775.00 pending the Fiscal Officer Ed Blackman's determination of the amount budgeted for. Commissioner Olson seconded the motion. All voted aye. Motion carried unanimously. Discussion continued on a tabled motion for the Commission to pay due in the amount of \$175.00 for MT Coalition of Forests. Commissioner Olson encouraged membership due to the fact that Gallatin County receives and depends on PILT payments for roads and schools, and we need to be proactive on forest receipts. Commissioner Mitchell made a motion to become a member of the MT Coalition of Forests and pay

## 152 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

the dues at \$175.00 for FY 2001. Commissioner Olson seconded the motion, adding the finding that this will help with our input into the possible PILT payments to Gallatin County. All voted aye. Motion carried unanimously. Commissioner Mitchell made a motion to approve and pay invoice #120BS.127 in the amount of \$1,500.00 to Dale Beland for his contracted services on the Big Sky Transportation Study. Commissioner Olson seconded the motion, noting that the balance on the contract is \$11,101.65. All voted aye. Motion carried unanimously. A budget transfer request was received from the Office of Public Assistance in the amount of \$460.00. Commissioner Mitchell made a motion to approve the budget transfer, finding that no new money is involved. Commissioner Olson seconded the motion. All voted aye. Motion carried unanimously. Expenditure transfer requests were received from the Sheriff's Department totaling \$1,509.97. Commissioner Olson made a motion to approve the expenditure request totaling \$1,509.97, finding that Fiscal Officer Ed Blackman has approved the request, and noting that these transfers are due to Juvenile Detention activities. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously. Commissioner Mitchell made a motion to approve the FY 2001 membership and payment of dues in the Lewis and Clark Bicentennial Association. Commissioner Olson seconded the motion, adding the finding that the funds are in the budget. All voted aye. Motion carried unanimously. Discussion took place regarding office space for the LWQD. Commissioner Mitchell made a motion to dedicate the space at the end of the hall on third floor, currently the temporary offices of Commissioner Murdock and Mitchell, to LWQD. Commissioner Olson seconded the motion. All voted aye. Motion carried unanimously.

### DECEMBER 12, 2000

- A special meeting was called to order at 2:30 p.m. to consider approval of a contract with Sweet Grass County Superintendent of Schools. In attendance were Commissioners Olson and Mitchell, Fiscal Officer Ed Blackman and Executive Secretary Stacy Johnston. As Gallatin County Superintendent of Schools Jill Richards must excuse herself due to a conflict of interest, Sweet Grass County Superintendent of Schools will act as the alternative hearings officer for Land Transfer Hearing 2000-03, Petition of Mary Jacobs to transfer 6.02 acres from District #43 to District #07. Ed Blackman stated that sufficient funding was available in PILT Professional Services 2761-201-410100-350 to satisfy this agreement. Commissioner Mitchell moved to approve the contract, contingent upon "an amount not to exceed \$2,000 without prior approval of the Gallatin County Commission" be included in the contract language. Commissioner Olson seconded the motion; motion passed unanimously.

### DECEMBER 13, 2000

- The Commissioners conducted regular County business.

### DECEMBER 14, 2000

- The Commissioners attended a special meeting for the purpose of considering a resolution to amend the budget for the joint dispatch fund for the hiring of two dispatchers and approval of computer and workstation capital purchases. In attendance were Commissioners Olson and Murdock, Executive Secretary Glenda Noyes, and via telephone, County Attorney Marty Lambert. Commissioner Murdock made a motion to approve Resolution 2000-125, amending the budget for the joint dispatch fund for the hiring of two dispatchers and approval of computer and workstation capital purchases. Commissioner Olson seconded the motion. All voted aye. Motion carried unanimously.

### DECEMBER 15, 2000

- The Commissioners conducted regular County business.

#### **The following items were on the consent agenda:**

1. Approval of claims presented by the Auditor dated December 08, 2000 through December 14, 2000, for P.O. #72003 for \$64,117.05, P.O. #61964 for \$3,000.00, P.O. #65000 for \$1,037.50 and P.O. #71869 for \$1,875.07 totaling \$70,029.62, and following batches dated December 19, 2000: Batch 1 for \$11,363.26, Batch 2 for \$6,234.70, Batch 3 for \$35,827.11, Batch 4 \$130,745.28, Batch 5 for \$19,626.17, Batch 6 for \$61,842.24, Batch 7 for \$63,898.01 and Batch 8 for \$4,129.47 totaling \$333,666.24. Grand total \$403,695.86. The following claims have been denied: P.O. #55080 for \$7.70 partial and P.O. #61943 for \$3,000.00.
2. Consideration of the following contract(s): Modification to Contract #2000-135 with Fire Control Sprinkler Systems, Inc., Change Order #2; Jerry's Enterprises Inc. dba Yellowstone Adventures for Lease of Snowmobile in West Yellowstone for Gallatin County Sheriff's Office; and Westfork Owners' Association for Snowplowing Services in Big Sky.



3. Continuation of a request for Eminent Domain Exemption for TM Land Partners, LTD, Westland Enterprises, Inc., and Gallatin Peaks Land & Development, LLC located in NW1/4 Section 1, T7S, R3E. Gallatin County Planner Jennifer Koozer reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Mitchell read the consent agenda. There was no public comment. Commissioner Murdock requested that the claims be placed on the regular agenda for clarification. Commissioner Mitchell moved to approve the consent agenda as amended. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Commissioner Murdock called upon Gallatin County Auditor Joyce Schmidt to explain the reasons for denying the two claims. Ms. Schmidt explained that P.O. #55080 in the amount of \$7.70 included receipts well over a year old, and denial was based on that, and P.O. #61943 in the amount of \$3,000. was for the purchase of equipment and furniture for Coroner MacNab. She stated the equipment and furniture did not meet the county standards and the claim also, included receipts well over a year old. She noted this claim had also, been denied during the budget process. Ms. Schmidt stated the Commission asked her to find a way to pay Mr. MacNab and she stated that she believed she found a way and recommended the approval of \$3,000. as rent for the use of the equipment and furniture for the last two years. She believes this is a way through the system rather than around the system. Commissioner Murdock questioned approving a claim that was denied by the Auditor. Commissioner Mitchell expressed concern that granting the Coroner's request for \$3,000. in the form of rent means the taxpayer pays twice for the furniture and equipment because when Mr. MacNab leaves office he will take it with him. The County will then have to purchase more equipment. Commissioner Olson made a motion to approve all items except P.O. #61964 and #61943. Seconded by Commissioner Mitchell. Commissioner Murdock expressed that Coroner MacNab did the right thing in furnishing a bare office in order to do his job and he wanted to see him reimbursed so he was going to vote for the rental. Commissioner Olson stated that denial of the claim being partially due to the receipts being a year old was not justified, as they have been aware of it and working towards resolving it. He noted this was the first time that the Auditor has presented the idea of rent to be considered and stated it would have to be discussed at a later date. Commissioner Mitchell stated she would like to see Mr. MacNab reimbursed, and that the County needs to resolve the lack of process for acquiring equipment when new elected officials and department heads come on board. To her knowledge the County has no rental policy and there are a lot of legal questions to be addressed. Commissioner Olson stated he wanted to see Mr. MacNab reimbursed. None voting nay. Motion carried. Commissioner Mitchell moved to approve P.O. #61943 that the Auditor has denied to reimburse Mr. MacNab for his equipment and furniture, making it county property, to be maintained by the County. Seconded by Commissioner Murdock. None voting nay. Motion carried. Commissioner Mitchell moved to deny paying P.O. #61964 in the amount of \$3,000. in rent, with the finding payment has already been approved for reimbursement of the equipment and furniture. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported this was a public hearing and consideration of a resolution to amend the Gallatin City-County Health Immunization Fund for receipt of \$13,000. in unanticipated monies. Mr. Blackman stated this is primarily for computer equipment. Gallatin County Health Officer Stephanie Nelson stated this grant did not require any new tax payers money. There was no public comment. Commissioner Murdock moved to approve Resolution #2000-126. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported this was a public hearing and consideration of a resolution to amend the Gallatin County final operating budget for the Junk Vehicle Program Fund for FY 2001. Mr. Blackman stated there were no matching funds. There was no public comment. Commissioner Mitchell moved to approve Resolution #2000-127. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Manager-Subdivision and Zoning Review W. Randall Johnson reported this was a continuation of consideration of a zone map amendment request for Huffine Lane/Gooch Hill Road

(Gene Cook, Michael Basile, James Ferguson, Martin and Susanne Erickson, Kip Kay and Barbara Kapinos, and Kendall Lemieux). Mr. Johnson stated this was opened and continued from last weeks meeting because of the notices. He stated the above named applicants have requested a change in the zoning classification of six parcels, 31.10 acres total, from Agricultural Suburban (A-S), Residential Medium Density (R-3), Neighborhood Services (B-1), and Community Business (B-2) to Light Manufacturing (M-1). The properties are generally described as being located on the southwest and southeast corners of the intersection of Huffine Lane (U.S. Highway 191) and Gooch Hill Road. Existing land uses within the applicant's properties include a mix of residential, commercial, and agriculture. The majority of the properties remain undeveloped. The six individual parcels are described as follows: Parcel No.1 (Erickson): .905 acres located in the Northwest ¼ of the Northwest ¼ of Section Sixteen (16), Township Two South (T2S), Range Five East (R5E), PMM, Gallatin County, Montana. This parcel is currently zoned Agricultural Suburban (A-S). Parcel No.2 (Kapinos): 7.831 acres located the Northwest ¼ of the Northwest ¼ of Section Sixteen (16), Township Two South (T2S), Range Five East (R5E), PMM, Gallatin County, Montana. This parcel is currently zoned Community Business (B-2). Parcel No.3 (Lemieux): 3.8 acres located the Northwest ¼ of the Northwest ¼ of Section Sixteen (16), Township Two South (T2S), Range Five East (R5E), PMM, Gallatin County, Montana. This parcel is currently zoned Residential Medium Density (R-3). Parcel No.4 (Cook/Basil): 6.84 acres located in the Northeast ¼ of the Northeast ¼ of Section Seventeen (17), Township Two South (T2S), Range Five East (R5E), PMM, Gallatin County, Montana. This parcel is currently zoned Neighborhood Services (B-1). Parcel No.5 (Ferguson): 9.118 acres located in the Northeast ¼ of the Northeast ¼ of Section Seventeen (17), Township Two South (T2S), Range Five East (R5E), PMM, Gallatin County, Montana. This parcel is currently zoned Neighborhood Services (B-1). Parcel No.6 (Cook/Basil): 2.61 acres located in the Northeast ¼ of the Northeast ¼ of Section Seventeen (17), Township Two South (T2S), Range Five East (R5E), PMM, Gallatin County, Montana. This parcel is currently zoned Neighborhood Services (B-1). He stated the applicants provided the following reasons for the zone change request: a) Per the Gallatin County/Bozeman Area Zoning Regulations, "...The intent of the B-1 neighborhood business district is to provide for small retail and service activities frequently required by neighborhood residents on a day-to-day basis, while still maintaining a residential character." The subject parcels abut US 191, a major arterial highway, which is not appropriate for services oriented to maintenance of "residential character". b) The highway corridor frontage of these parcels provides convenient and appropriate accessibility for uses permitted in the M-1 District. c) The public interest will be served by this rezoning because the consolidation of parcels for development will become much more feasible. This would reduce the number of highway accesses and greatly improve public safety. Also, the potential M-1 uses typically generate less traffic and wastewater than typical B-1 uses (such as restaurants), B-2 (hotel/motel/theater), and R-3 (apartments). Such reductions in development impacts are conducive to the public interest. Mr. Johnston stated the Commission must consider the following criteria in reviewing the zone map amendment request: Relationship/compliance with adopted plans; Consistency with the intent and purpose of the zoning regulations; Relationship with prevailing uses in the area; Compliance with statutory requirements of Section 76-2-203 MCA; and whether or not the requested zoning designation benefits a small area and only one or a few landowners. The subject property is within the jurisdiction of the Gallatin County Plan and the 1990 Bozeman Area Master Plan Update. Goals and land use classifications are as follows: Protect public health; Preserve prime agricultural land; Protect the environment; Provide for orderly development; Provide for compatible land uses within the planning area, and Provide for efficient delivery of public services. Mr. Johnson pointed out this property is within the jurisdiction of the Gallatin County Plan and the 1990 Bozeman Area Master Plan Update and commented on the land use classifications. He stated that in reviewing the application for the change in zoning classification, the Commission shall consider the following criteria: 1. Is the requested zoning designation compatible with adopted County Plans; 2. Is the requested zoning designation consistent with the intent and purpose of the zoning regulations and the requested new zoning classification; 3. Is the requested zoning designation compatible with adjacent land uses and zoning classifications; 4. Does the requested zoning designation comply with the statutory review requirements of Section 76-2-203 MCA; and 5. Does the requested zoning designation benefit a small area and only one or a few landowners, or does the requested zoning designation benefit the surrounding neighborhood, community and the general public. He pointed out that Section 2.020A of the Gallatin County/Bozeman Area Zoning Regulations provides the following: The provisions of this title shall be held to be minimum requirements adopted for the promotion of the health, safety, and general welfare of the community. Mr. Johnson stated the intent of the M-1 District is to provide for the community's needs for wholesale trade, storage and warehousing, trucking and transportation terminals, light manufacturing and similar activities. The district should be oriented to major transportation facilities yet arranged to minimize adverse effects on residential development; therefore, some type of screening may be required. He summarized the adjacent land uses and zoning classifications. Mr. Johnson explained the applications for zone map amendments must be made in accordance to Section 55 of the Gallatin County/Bozeman Area Zoning Regulations. Section 55 requires a finding that the zone map amendment is consistent with the intent and purpose of the Zoning regulations, including but not limited to a finding

that the amendment complies with the Gallatin County Plan. The Gallatin County Planning Board considered the zoning request at their public hearing November 28, 2000, and voted to recommend the zone map amendment as submitted by the applicant, and that it be adopted by the Gallatin County Commission. If the Commission, after hearing and considering all public testimony, determines that the requested zone map amendment meets the criteria of Section 55 of the Gallatin County/Bozeman Area Zoning Regulations, a Resolution of Intention to adopt the zone change may be passed. Notice of the Resolution of Intention shall be published once a week for two weeks beginning the 30-day protest period, the Clerk and Recorder shall report on the adequacy of the protests received. If the protests received are not adequate to void the adoption, within 30 days after the expiration of the protest period, the Commission may adopt a Resolution finalizing the zone map amendment. In addition, the following condition is suggested: 1. The zone map amendment shall be completed upon submittal of the \$100 mapping fee to the Gallatin County Planning Department for update of the Official Zoning Map. Planning Consultant Dale Beland stated this was an example of unfinished business from a previous rezoning of the westerly portion of this property of which, the Commission had no direction or recommendation from the planning board, due to the lack of a quorum. At that meeting the planning board expressed concerns about the proposal to rezone those parcels to M-1 because they were concerned about spot zoning and felt it would be better to take a more comprehensive and broader approach. He stated with that in mind his client Gene Cook approached other property owners to inquire if they were interested in submitting a joint application and they agreed. Mr. Beland felt there were some very strong reasons to consider the request because this area was very fragmented with mixed zoning and in his mind it was inconsistent with the zoning regulations. It would encourage better use of land and the real benefit would be reducing the number of driveways accessing onto Huffine Lane. He stated that all these parcels are in the entryway corridor so any development will be required to go through the overlay provisions, and that designation of a design overlay requires that access be no less than 660 feet. Currently some of these parcels have frontage less than 660, with many driveways off a busy highway, which is not consistent with the access criteria in the zoning regulations. In his opinion the benefits and potential for the owners to consolidate would enhance the public safety. Mr. Beland stated out of 13 owners notified there was only one that responded with concerns. He felt that Allan and Connie Lien's concern was answered by the reliance on the design corridor overlay review process for any building or land use permits in that area. Commissioner Mitchell questioned owner and developer Gene Cook what his wholesale plans were for this corner that was originally planned to serve as a grocery store so residents did not have to commute into town. Mr. Cook explained they changed the plan because it was felt a grocery store would create more congestion and traffic on Gooch Hill Road, and there were ample grocery stores within a mile and a half to three miles. He stated his intent was to clean it up by making it more uniform and consistent without potential spot zoning. Mr. Cook commented that staying with M-1 zoning would minimize traffic and be a higher use and more demand. Commissioner Mitchell was concerned that all the grocery stores mentioned are within driving distance and that it would be inconsistent with the application that shows plans for trails along Gooch Hill Road. She felt if trails are planned then people from the mobile home park could utilize them by walking to a nearby store. Board discussion took place regarding what uses were allowed in M-1 zoning. Mr. Johnson noted M-1 zoning allows for a higher level of review. Mr. Cook reported he had inquired if there was an interest in locating a gas station or convenience store in this area and he was told there would not be enough traffic to make it viable. There was no public comment. Commissioner Olson reported on the one letter received from Allan and Connie Lien and their concern was not so much directed at the zone change as it was with future development that could create potential runoff and they were assured it would be addressed at the time of development. Commissioner Murdock noted that the majority of the proposed parcels to be changed are in the Neighborhood B-1 zone and in looking at the allowed permitted or conditional uses under B-1 the same types of impacts could potentially occur as great if not greater based on Mr. Lien's concern. Commissioner Murdock stated that he was swayed to support this application since it is a unified plan and the M-1 would require extra review with the overlay. Commissioner Mitchell stated she was concerned with down zoning because of the difference in development criteria in B-1 and M-1. She was concerned with down zoning an area that did not seem to fit with the intent of the Master Plan. She thought the unified plan was a good idea although with the amount of people that live in that area she felt it would decrease traffic if neighborhood services were available. Board discussion took place regarding the different requirements of a M-1 project versus a B-1 project. Mr. Johnson stated he did not think M-1 would require a lesser level of review or lesser establishment of criteria because it is an entryway corridor. Commissioner Murdock stated the entryway corridor would be more controlling than the B-1 or M-1 criteria. Commissioner Olson stated he was in support of the application since the neighbors were notified and there was only one response that was not a denial but only making the planning board aware of issues. Commissioner Murdock moved to approve the zone amendment request as described in the staff report as approximately 31 acres from the existing zoning designations to the proposed ones, with the finding that the proposed zoning designations and the potential uses will be in compliance with the Gallatin County Plan and the 1990 Bozeman Area Master Plan Update; Be consistent with the intent and purpose of the Gallatin

156 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

County/Bozeman Area Zoning Regulations; Be compatible with the prevailing uses, and adjacent properties and be in compliance with the statutory review requirements of MCA; and the proposed zoning designation would benefit the surrounding neighborhood, community and general public; and with the condition recommended by the planning board and staff. He stated with the overlay zoning, that a lot of concerns would be addressed with specific development applications. Seconded by Commissioner Mitchell, reiterating her concern of down zoning and the fact they had not heard testimony from other landowners. Commissioner Olson commented Mr. Ferguson expressed to him that this be approved. Mr. Beland stated the application that was filed has an affidavit signed by each property owner authorizing him to make the application on their behalf. None voting nay. Motion carried.

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Gallatin County GIS Manager Allan Armstrong reported this was a public hearing and consideration of a resolution of assigning GIS duties of re-addressing and re-naming roads in Gallatin County. Mr. Armstrong stated the GIS Department would be responsible for maintaining the following official records: A. A Gallatin County map of official use showing roads and road names; B. An alphabetical list of all roads; C. A GIS coverage of structure locations; and D. A Master Street Addressing Guide. The GIS Department will use available GIS technology and methodologies currently under evaluation throughout West Yellowstone's re-addressing and road naming pilot project. This policy shall become effective April 1, 2001, or when GIS is moved to its new office location, which ever comes first. When effective, this policy allows the GIS Department to collect a fee of \$15.00 for the assignment of any new construction addresses if deemed legally appropriate. Fees will be used to help cover the cost of Global Positioning System for field mapping the new construction, incorporating the information into the countywide GIS database, maintaining the E911 database and the Master Street Address Guide (MSAG) on file with Quest/SCC Communications. Discussion took place regarding numbering sequence versus street names. Commissioner Olson suggested for future use a numbering sequence be incorporated into the streets with names, or having a master list of street names that included the direction to aid emergency responders in locating a street. Mr. Armstrong stated there was no way to maintain original street names along with adding a numbering sequence and suggested getting input from emergency responders and dispatchers. Mr. Armstrong stated they would follow the standards for numbering set by the state and keep existing road names whenever possible to cause less disruption. He explained most counties with griding name the roads running north to south, A to Z, and number roads from east to west, and unlike those counties Gallatin County has no griding. He did explain the address numbering sequence would change. Commissioner Mitchell commented the consistency in the numbering roads will be very beneficial to all emergency responders and she was glad to hear they would be maintaining the existing road names because of their historical significance. Gallatin County Assessor/Treasurer Jeff Krauss stated if the county was going to institute a change in addresses and road names it would be important to notify the Assessor's office since he uses the State's database for tax billing addresses. It would be up to the State to change the addresses rather than relying on the taxpayers to notify his office of the change. He noted there are approximately 35,000 tax bills sent out each year and address changes are costly. Mr. Armstrong was advised to work with Mr. Krauss and the Assessor's office. Commissioner Mitchell moved to approve Resolution #2000-128. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Planner Lannette Windemaker presented a pending resolution of intention amending the adoption of text amendments to the Gallatin County/Bozeman Area Zoning Regulations. Ms. Windemaker explained this was an amendment to last weeks resolution of intention because an error was detected in the section of Board of Adjustments. Since it was in a section that was advertised as being amended Chief Deputy County Attorney Susan Swimley recommended amending the resolution, adding the change, and proceeding with the protest period. Commissioner Murdock moved to adopt the amended Resolution of Intention. Seconded by Commissioner Mitchell, noting it was Resolution of Intention #2000-120A. None voting nay. Motion carried.

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There being no further business the meeting was adjourned at 10:28 A.M.

*Unavailable*  
*For signature*  
CHAIRMAN APPROVAL

*Shelley Vance*  
CLERK ATTEST

\* \* \*

**GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 157**

**PUBLIC MEETING**

**WEDNESDAY THE 27TH DAY OF DECEMBER 2000**

The meeting was called to order by Chairman Phil Olson at 9:05 A.M. Also present were County Commissioners Bill Murdock and Jennifer Smith Mitchell, Chief Deputy County Attorney Susan Swimley, and Acting Clerk to the Board Mary Miller.

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Chairman Olson requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**DECEMBER 18, 2000**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Olson, Murdock and Mitchell, and Executive Secretaries Stacy Johnston and Glenda Noyes. The Sheriff's Department submitted an expenditure transfer request in the amount of \$11,071.11. Commissioner Mitchell made a motion to approve the request finding that Fiscal Officer Ed Blackman has approved the transfer and no new money is involved. Commissioner Olson seconded the motion. All voted aye. Motion carried unanimously. Budget transfer requests were received from the Environmental Health Department in the amount of \$2,255; Planning Department in the amount of \$486.64; and the Extension Department in the amount of \$1,500.00. Commissioner Mitchell made a motion to approve the three budget transfer requests finding that Fiscal Officer Ed Blackman has approved the transfers. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously. The Commissioners discussed the openings on the recycling, composting and Refuse District boards. Commissioner Olson gave his recommendation that Grants Administrator Larry Watson be appointed as the Commission representative to these boards since he has been intricately involved in them and is knowledgeable in all areas. Commissioners Mitchell and Murdock agreed to take his recommendation into consideration when making the final decision after the new Commissioner comes on board.

**DECEMBER 19, 2000**

The Commissioners conducted regular County business.

**DECEMBER 20, 2000**

- The Commissioners attended a special meeting for the purpose of considering hand issue claim requests received December 7, 2000 through December 15, 2000. In attendance were Commissioners Olson and Murdock, Accounting Clerks Jeanine Fillinger and Jackie Lamke, and Executive Secretary Stacy Johnston. Commissioner Murdock made a motion to approve Purchase Orders numbered 71820, 71831, 71858, 71862, 71865-01, 71865-02, and 67078; totaling \$14,292.41, finding that these claims have been reviewed and recommended for approval by the Auditor and Fiscal Officer Ed Blackman. Commissioner Olson seconded the motion. All voted aye. Motion carried with a vote of two to zero.

**DECEMBER 21 - 22, 2000**

- The Commissioners conducted regular County business.

**The following items were on the consent agenda:**

1. Approval of claims presented by the Auditor dated December 15, 2000 through December 21, 2000 for P.O. #67199 for \$250.00, P.O. #72015 for \$175.00, P.O. #69894-01 for \$100.00, P.O. 69894-02 for \$100.00 totaling \$625.00.
2. Resolution to Amend the Official Zoning Map and Land Use Map for the Gallatin Canyon/Big Sky Zoning District, Section 31. Resolution #2000-129
3. Resolution to Amend the Official Zoning Map and Land Use Map for the Gallatin Canyon/Big Sky Zoning District, Section 36. Resolution #2000-130
4. Request for Mortgage Exemption for Shelle Lynne and Phillip A. Egbert located, in Section 6, T1S, R6E. Gallatin County Planner Jennifer Koozer reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Family Transfer Exemption for Joseph S. Sobczac, Jr., located in Section 2, T3S, R4E. Gallatin County Planner Jennifer Koozer reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
6. Request for Correction Survey for Cape-France Enterprise located in Section 26, T1S, R5E. Gallatin County Planner Jennifer Koozer reported that correction appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
7. Consideration of a Resolution of Intention to Adopt a Zone Map Amendment in the Gallatin County/Bozeman Area Zoning District. Resolution #2000-131

Commissioner Murdock read the consent agenda. There was no public comment. Commissioner Mitchell moved to approve the consent agenda. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Planner Lanette Windemaker reported on the consideration of a resolution on the Gallatin County/Bozeman Area Zoning District text amendment, and a legal description revision. Ms. Windemaker stated the text amendment was requested by Three Trees Development, which applies to the whole jurisdiction of the donut area. This public hearing was noticed on October 5 and 12, 2000. The Planning Board held a public hearing on October 24, 2000, and the Commission held a public hearing on November 14, 2000, adopting Resolution of Intention #2000-110 and #2000-111. Notice was published of the passage of those resolutions of intention, which started the 30-day protest period. Chief Deputy Clerk and Recorder Eric Semerad reported that as of 5 PM, December 26, 2000, the Clerk and Recorder received no protests for the text amendment or the revised legal description. There was no public comment. Commissioner Mitchell moved to approve Resolution #2000-132 to adopt the text amendment, with the finding that the resolution of intention was approved, the notice to the public was published and there were no protests within the 30 days protest period. Seconded by Commissioner Murdock. None voting nay. Motion carried. Commissioner Mitchell moved to approve Resolution #2000-133 to adopt the revision to the Gallatin County/Bozeman Area Zoning District, with the finding that it was properly advertised and there was no public protest. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Chief Deputy County Attorney Susan Swimley reported this was the first reading of an ordinance establishing a speed limit on Camp Creek Road. Ms. Swimley stated the County Attorney's office received a request to prosecute an individual for speeding on Camp Creek Road, and in researching the validity of the 25 mph speed limit sign posted on Camp Creek Road it was found the Commission had not adopted an ordinance establishing that speed limit. The Road Department conducted a speed study on this area of the road, which showed it should be posted at 25 mph. The County Attorney's office in conjunction with the Road Department put together the proposed ordinance with that information. Commissioner Olson read the ordinance. Board discussion took place with regard to the number of homes in that area and the distance between the driveways. Ms. Swimley noted where homes are 100 feet apart for a quarter of a mile the state statute automatically reduces the speed to 25 mph, and the homes in this area are more than 125 feet apart. Road Superintendent Lee Provance, in accordance with the speed limit study recommended the 25 mph speed limit, although he noted that the speed study indicated it could have gone between 25 to 30 mph. Mr. Provance stated the people that live in the subdivision would like to see it even lower and he did not see that as being prudent. Chet Sinnema a third generation rancher in the area described Camp Creek Road as being a farm to market road for many years. Now kids play in the road throwing rocks, along with making obscene gestures and people threaten to make a citizens arrest as he passes by in his grain truck. He mentioned that he has placed several requests as to how this speed study and the previous speed studies were conducted and never received a response. He felt the speed study was flawed and asked that a new speed study be done with the signs removed to determine how fast people go in this area, and suggested a reasonable speed for that area to be 35 mph, and 15 mph in the school zone when children are present. Commissioner Olson noted the second reading was scheduled for January 9, 2001. Mr. Provance stated he had never received a request regarding the speed study from Mr. Sinnema before today, and it was readily available in his office. He stated the children in this neighborhood, regardless of how they behave need to be protected with a speed limit and if they are acting inappropriately it is a legal situation. Commissioner Murdock stated the Road Department has set a precedent on Monforton School Road and suggested they consider doing something similar on this road. Mr. Provance noted that a meeting with the Amsterdam School is scheduled for January 11, 2001, to discuss a possible path and they have plans to widen the bridge next to the school. He suggested keeping the lower speed limit because of the closeness of the driveways along the road. He explained that the signs do not have to be pulled for a speed study and the most recent study was not flawed. Discussion took place regarding non-vehicular public use of a road. Mr. Provance stated the law reads that the road can be used for non-vehicular use as long as you do not create an obstruction to hinder the normal flow of traffic. Commissioner Mitchell commented that Mr. Sinnema made a good point suggesting the speed study be conducted without the signs and asked Mr. Provance to explain the guidelines for that process. Mr. Provance explained that traffic-engineering studies say people will drive the speed that makes sense to them. The formula is figured by taking the top 7-1/2 and the bottom 7-1/2 percentile that leaves 85%. Those speeds are then combined to get a median that determines the speed limit. Commissioner Olson stated that he would like to see a new

study done with the signs removed for at least 30 days, except in the school zone. Commissioner Murdock concurred, and stated he was in support of Mr. Provance working with the school to provide a path. He commented that by having the speed study conducted without the signs would provide a better understanding of the situation, although he felt they would eventually have a speed limit. Mr. Provance agreed to remove the signs and conduct the speed study as soon as possible. Commissioner Mitchell stated there was a need to educate the people in this area on what it takes to maintain open space and agriculture in this valley, and to follow up on the project, The Code of the West. Commissioner Murdock stated he was not going to vote for the acceptance of this first reading for the reasons mentioned and moved to delay adoption of the speed reduction ordinance for this portion of Camp Creek Road. Ms. Swimley asked that he change the wording of his motion, because delaying it implies that it will be reconsidered as presented. Commissioner Murdock withdrew his previous motion and moved to not approve the speed reduction ordinance for a portion of Camp Creek Road as presented at this time. He directed the Road Department to work with the Amsterdam School District to come up with alternate route and educate the children to stay off the driving surface of the road. He also, directed the Road Department to remove the 25 mph speed limit signs which, are not legal at the present time, leaving the school speed limit sign in place and conduct another speed study within the next two months. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman presented a resolution setting the public hearing date for consideration of approving tax benefits for Pathway Systems, Inc., pursuant to statute 15-24-1402. Mr. Blackman stated this resolution was setting the public hearing date for January 16, 2001, to consider the request and to receive public comment on the proposed tax incentive. He explained that Pathway Systems does qualify and the request was for \$682,150. in machinery that has been put into place in the current calendar year, and the tax abatement would be \$26,232., based on current estimates. This would affect road and library funds not the City of Belgrade. Mr. Blackman noted that the comptroller for Pathway Systems stated the majority of the equipment had a twenty-year life expectancy and also, provided information on new employees. The total employees in January 2000 were 29, and at present there are 76 employees, with an estimated 103 at the end of the project. Commissioner Murdock moved to approve Resolution #2000-134. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Commissioner Olson announced that Deputy County Attorney Chris Gray requested to continue receipt of a petition for County predator control for protection of cattle, until he is able to secure the appropriate information from the Gallatin County Extension to provide an adequate record in support of the petition. This was set for next weeks public meeting.

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Gallatin County Fiscal Officer Ed Blackman reported this was the public hearing and consideration of a resolution to amend the Gallatin County final operating budget for Belgrade Rural Fire District FY 2001. Mr. Blackman stated the reason for the request from the Belgrade Rural Fire District is for costs associated with the Maudlow-Toston fire. This request did not require new County tax dollars. There was no public comment. Commissioner Murdock moved to approve Resolution #2000-135. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic reported this was the consideration of a request for final plat approval for Porcupine Park. Ms. Madgic recommended the Commission approve the improvements agreement that was approved by the County Attorney's office. She stated the improvements agreement covers improvements to Highway 191, internal roads and a fire fill tank. Ms. Madgic explained they would not issue any land use permits until land tank is installed. Chief Deputy County Attorney Susan Swimley stated she did approve the improvements agreement as to form on December 19, 2000. Commissioner Murdock moved to approve the improvements agreement, with the finding all the conditions of approval have been met and the County Attorneys office prepared and recommended it. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Murdock moved to give final plat approval, finding the improvements agreement was approved with the recommendation of the County Attorneys office and all conditions of approval recommended by staff have been met. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 10:10 A.M.

*Unavailable*  
*For Signature*  
CHAIRMAN APPROVAL

*Shelley Vance*  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 2nd DAY OF JANUARY 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:00 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**DECEMBER 25, 2000**

- The Commission Office was closed in Observance of Christmas.

**DECEMBER 26, 2000**

The Commissioners conducted regular County business.

**DECEMBER 27, 2000**

- The Commissioners attended a special meeting for the purpose of considering a resolution regarding the Rural Improvement District 316 loan from the revolving fund and a resolution regarding a 1991 loan from the revolving fund. In attendance were Commissioners Mitchell and Murdock, Fiscal Officer Ed Blackman, Chief Deputy County Attorney Susan Swimley, Clerk and Recorder Accountant Susan Lang, and Commission Secretary Glenda Noyes. Ms. Swimley explained to the Commission that the first issue stems from comment number seven on the 1999 external audit. Funds in the amount of \$46,000 were borrowed from the Revolving Fund in order to pay-off the bonds on RID 316/322. There are no funds available to pay back the revolving fund. The law allows the Commission to foreclose on delinquent property; however, the Clerk and Recorder's Accountant, Fiscal Officer and County Attorney advise against this because one parcel is in the lake and one is in tax delinquency, therefore there is no fiscal benefit to taking the property. Ms. Lang, Mr. Blackman, and Ms. Swimley suggest that the Commission write off the loan and decline foreclosure on the land. Mr. Blackman explained that this would take the matter off the County books and eliminate its effect on our bonding capacity. Commissioner Murdock made a motion to approve Resolution 2000-136 regarding Rural Improvement District 316 loan from the Revolving Fund, stating that the Gallatin County Commission declines to pursue the remedy of foreclosure as set forth in Section 7-12-2184(2), MCA and finding that it is in the best interest of the RID, the revolving fund and Gallatin County to write off the loan in the amount of \$59,668.01 borrowed by RID 316 from the revolving fund. Commissioner Mitchell seconded the motion. All voted aye. Motion carried.

Ms. Swimley explained that in 1991 the Commission was sued by Yellowstone Basin Properties and ordered to pay \$496,064.25. The Commission borrowed \$314,184.64 from the Revolving Fund in order to pay a portion of the judgment. The repayment of those funds did not go back into the Revolving Fund, but instead were used for the remodel of the Law and Justice Center. Ms. Swimley advised that the money has to be repaid, as there was no authority for the original borrow. Bob Murdow of Bond Council has stated that the money has to be repaid and suggested that the Commission find a solution with accountants that would not cripple the county. The Revolving Fund by law has to contain 5% of the bonds/warrants and RIDs, with 15% being advisable. By statute, the County Commission has authority to take the excess out of the revolving fund and transfer it to the general fund. The solution would take the excess out of the Revolving Fund, transfer it into the General Fund where it would then be used to pay back the loan into the Revolving Fund. The County Attorney, bond council and advising accountants have agreed that the solution is workable and legal. Commissioner Murdock made a motion to approve Resolution 2000-137 to pay off a loan to the Revolving Fund as described in the resolution per Chief Deputy Susan Swimley, in order to clear up any outstanding bonds and warrants. Commissioner Mitchell seconded the motion. In discussion, the Commission added the finding that this is being done to clear up mistakes of a previous Commission and is being done so on the advise of Ms. Swimley, Fiscal Officer Ed Blackman, Treasurer Jeff Krauss, Accountant Susan Lang, Bob Murdow of Bond Council and Stefeni Freese the external auditor. All voted aye. Motion carried unanimously.



**DECEMBER 28-29, 2000**

- The Commissioners conducted regular County business.

**The following items were on the consent agenda:**

1. Approval of claims presented by Auditor dated from, December 22, 2000 through December 27, 2000, for P.O. #70238 for \$16,367.55 and the following batches dated December 31, 2000: Batch 1 for \$55,870.30, Batch 2 for \$106,072.04, Batch 3 for \$116,802.76, Batch 4 for \$28,355.18, Batch 5 for \$49,638.06, Batch 6 for \$36,016.49 and Batch 7 for \$867.77 totaling \$393,622.60. Grand Total \$409,990.15.

Commissioner Murdock read the consent agenda and requested that the approval of all claims be continued until a question regarding account RK15136 could be clarified by the Gallatin County Fiscal Officer Ed Blackman, or the Auditor. Commissioner Vincent made a motion to continue the consideration of claims. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Extension Agent Ron Carlstrom reported on behalf of the Gallatin Beef Producer Board of Directors that this was the continuation of the receipt of a petition for County predator control for the protection of cattle. Gallatin Beef Producers President, Jake Callantine stated the petition represented over 50% of the cattle on the tax rolls in Gallatin County with only three individuals that would not sign. Commissioner Murdock moved to accept the petition as presented, finding that it conforms to applicable state law requirements; the request is to license all cattle coming 9 months or over at the rate of 50 cents per head; the license fee will remain in full force from year to year, unless a new petition is filed with the Commission; the funds will be made available to USDA, APHIS, Wildlife Services Program for organized predator control during the ensuing fiscal years; and the money shall be expended in cooperation with the Montana Department of Livestock, State Producers Associations. Seconded by Commissioner Vincent. Commissioner Mitchell added this was consistent with surrounding counties and Gallatin County will now be joining its neighbors in predator control making it easier for the ag community to maintain their livestock. None voting nay. Motion carried.

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The Commission agreed to continue the consideration of a grant proposal to the Montana Board of Crime Control. Commissioner Mitchell stated it would be presented after a 48-hour notice.

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Mark Haggerty reported on the consideration of co-sponsorship with The Greater Yellowstone Coalition to host a transportation plan meeting. Mr. Haggerty noted that at a previous public meeting a decision was made to delay the adoption of the newly drafted transportation plan until there were draft copies of both the County and City Growth Policies, in order to merge them together. He stated in an effort to help understand how the land use plan and the transportation plans interact, The Greater Yellowstone Coalition invited Executive Director of Walkable Communities, Inc., Dan Burden to Bozeman. Mr. Burden will compile a report outlining the problems with the existing plan and solutions that can be implemented. Mr. Haggerty stated that Greater Yellowstone Coalition was asking both the Gallatin County Commission and the Bozeman City Commission to endorse or co-sponsor the invitation. Gallatin County Road Superintendent Lee Provance suggested this may further complicate the TCC, and questioned if co-sponsoring was also, committing to endorsement of the plan. He felt the process was complicated enough and did not see the point in complicating it even more. Commissioner Murdock commented that he saw no harm in bringing in the consultant and that it could be used as a learning experience. Commissioner Vincent concurred and hoped that Mr. Burden could relate to other like situations. He also, agreed with Mr. Provance that it would have been more appropriate if this had been done earlier in the process so it could have been melded into the work that TCC has already done. Commissioner Vincent commented that it was important to consider the growth policy plan in conjunction with the transportation plan, and he would support a motion endorsing the appearance of Mr. Burden, rather than endorsing his presentation in order to have a neutral bias to what he might include in his presentation. Commissioner Mitchell concurred in supporting Mr. Burden's visit and she too, was concerned with using the terms of endorsement and sponsorship of a particular group. Commissioner Murdock moved to extend an invitation to Mr. Burden to present his thoughts on transportation planning, with the understanding that he will be remunerated for his services by The Greater Yellowstone Coalition, and the planning boards and the City of Bozeman would like to see his presentation. Seconded by Commissioner Vincent. Commissioner Mitchell requested clarification of

162 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

the motion in regards to the use of the word invitation, and if it included a letter of invitation. Commissioner Murdock stated it was not his intent to write a letter, and felt that his motion was enough for Mr. Haggerty to arrange Mr. Burden's presentation, and that Gallatin County Commission could be used on any advertising when publicizing his visit. Commissioner Vincent stated that any advertisement would indicate the Commission extended an invitation or welcoming and it would not have to imply an endorsement or sponsorship. Commissioner Mitchell suggested reviewing any advertisement that included the Commission before publication. Commissioner Murdock was not opposed. Commissioner Vincent was not opposed and felt it would be a courtesy for the coalition to show a copy of the advertisement to the Commission for review. Commissioner Mitchell stated that was her intent and it was agreed to by Mr. Haggerty. Commissioner Vincent added to the motion that any advertisement be consistent with what the Commission stated. None voting nay. Motion carried.

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Commissioner Mitchell acknowledged Nona Faith, a development consultant for the Gallatin County Community Corrections Program. She arrived after the agenda item was continued. Commissioner Mitchell explained it was continued until Gallatin County Fiscal Officer Ed Blackman could identify the account, which these funds would come out of. Ms. Faith stated this was a continuation of a Montana Board of Crime Control grant that was issued last year, as potentially a 48-month grant but is subject to annual renewal and qualification. She noted the Montana Board of Crime Control's proposal time schedule is different than the County's budget request schedule, which is why they are asking outside the normal budget time line for the consideration of matching funds. In year one the County's match was 30 percent of the grant, which totaled \$12,878.00. Ms. Faith explained for the continuation grant that is due January 12, 2001, the County's portion will go up to 40 percent, for a total of \$17,171.60, that would have to be committed before they would be eligible, and the money would come out of next years budget. Ms. Faith stated they are actively searching for other sources of funding. It was agreed this would be re-scheduled for the public meeting on January 9, 2001.

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There were no pending resolutions. There being no further business the meeting was adjourned at 9:50 A.M.

*Unavailable*  
*For signature*  
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CHAIRMAN APPROVAL

*Shelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 9th DAY OF JANUARY 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:05 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**JANUARY 1, 2001**

- The Commissioners' office was closed in observance of New Year's Day.

**JANUARY 2, 2001**

- The Commissioners attended a regularly scheduled Office Meeting. In attendance were Commissioners Mitchell, Murdock and Vincent, and Executive Secretaries Stacy Johnston and Glenda Noyes. Auditor Joyce Schmidt presented claims totaling \$409,990.15 for approval of payment. Commissioner Vincent made a motion to approve the hand issue requests dated December 22-27, 2000 and regular run dated December 31, 2000 pursuant to the December 28 memo from the Auditor. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously. Commissioner Murdock made a motion to elect Commissioner Jennifer Smith Mitchell as chair for the next calendar year. Commissioner Vincent seconded the motion. In discussion, Commissioner Mitchell noted that this position does not come with more honor or power, only more work. All voted aye. Motion carried unanimously. HKM Engineering submitted two invoices for work completed under Task Order 99-124-4 and 99-124-5. Commissioner Murdock made a motion to approve the task orders based on a previously approved contract, with the understanding that the work done falls under the contract. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously. Expenditure transfer requests were submitted from the Grants and Fiscal Office. Commissioner Murdock made a motion to approve the

expenditure transfer request from Grants/Fiscal in the amount of \$999.75 and from Grants in the amount of \$197.10. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously. Budget Appropriations transfer requests were received from the Clerk and Recorder in the amount of \$485.00 and \$1,225.00, and from the Office of Public Assistance in the amount of \$1,037.50. Commissioner Murdock made a motion to approve the budget appropriations transfer requests as submitted. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously. The Commissioners had a discussion regarding the reconfiguration of Commission duties and assignments and arrived at the following distribution:

<u>Jennifer Smith Mitchell</u>	<u>Bill Murdock</u>	<u>John Vincent</u>
CIP Committee	911 Admin Board	City-County Board of Health
Fair Board	Criminal Justice Coord. Council	Extension Advisory Board
Finance Committee	Finance Committee	Danforth Foundation
MACo 2002 Ann'l Convention	MACo Land Use & Planning	Headwaters Recycling
Planning Committee	Committee	Logan Landfill Advisory Board
MACo Board of Directors	Victim/Witness Advisory Board	Phase I & II Project Team
MACo District #9 Chair	MOU Gallatin	West Yellowstone/Hebgen Basin
MACo Urban Counties	Open Lands Board	Refuse District Board
Madison-Missouri River Task Force	Planning/Zoning Commission	Mental Health Advisory Board
Planning/Zoning Commission	Software Implementation	Planning/Zoning Commission
MOU Gallatin	Transportation Coordinating Comm.	Finance Committee
Lewis & Clark Bicentennial		Weed Board
Local Water Quality District (LWQD)		MOU Gallatin
Phase II & III Renovation		Southwest Montana Composting
Southwest Regional Juvenile		Committee
Detention Board		South Central Montana Regional
		Mental Health Governing Board

#### JANUARY 3, 2001

- The Commissioners attended a regularly scheduled department head meeting. In attendance were Commissioners Mitchell, Murdock and Vincent; Rest Home Director Connie Wagner, Facilities Director Bob Isdahl, Grants Administrator Larry Watson, ITS Director Ed Kawa, Planning Director Bill Arnold, GIS Coordinator Allen Armstrong, Road and Bridge Superintendent Lee Provance and Personnel Director Kathy Nowierski. Items discussed included the County website, software RFP, strategic planning, and progress reports. Ms. Nowierski consented to be the department head assigned to the CIP Committee and the Commissioners accepted her offer. It was also noted that a "Risk Management" presentation would be placed on an upcoming staff meeting agenda.

#### JANUARY 4, 2001

- The Commissioners attended a meeting with Clerk and Recorder Shelley Vance for the purpose of approving an Election staffing request and discussing organizational matters. In attendance were Commissioners Mitchell, Murdock and Vincent, and Clerk and Recorder Shelley Vance. Ms. Vance requested that the Commission consider allowing her to hire temporary elections staff due to a current overwhelming work-load in this department. Due to upcoming special elections before the end of the budget year, there will be a short fall in the budget for this purpose. It was determined that Ms. Vance and Fiscal Officer Ed Blackman will prepare the specific budget amendment proposals to meet her needs for the remainder of budget year and the Commissioners will consider it for decision. Discussion also took place regarding the process for and consideration of petitions and resolutions. Ms. Vance will provide a cover sheet of the petitions to the Commissioners and will continue to certify qualified petitioners and have an attorney review the petition for language and proper legal form. It was also noted that resolutions must be complete and accurate before the Commissioners take action. Ms. Vance will work with the Commission secretaries to develop a policy for resolutions.

#### JANUARY 5, 2001

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- Landfill Revenue for December 2000: \$48,015.44.
- A101's for December 2000: \$94.74.
- Payroll for December 2000: \$1,088,530.94.
- Clerk & Recorder's Fees Collected for December 2000: \$33,513.50.
- New Hire Report for December 2000: 911 – Jessica Inabnit; CLERK OF COURT – Rhonda Hoyem; DETENTION CENTER – Jonathan Harrington; GIS – Toni Ipolyi; MOTOR VEHICLE – Carolyn Wilmont; SHERIFF – Kerry Bickle.

## 164 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

- Terminated Employees' Report for December 2000: 911 – Janet Malcott; DETENTION CENTER – Christopher Evans 12/14/00; COMMISSIONERS – Philip Olson 12/31/00; CORONER – Sarah Cunningham 10/31/00; MOTOR VEHICLE – Deborah Schulz 12/1/00; REST HOME – Eryn Krinitt 11/29/00, SHERIFF – Jack Greenway 11/30/00, Kyle Kelso 11/30/00.

Received & Approved Applications for Cancellation of Taxes for December 2000: \$4,482.17.

### The following items were on the consent agenda:

1. Approval of claims presented by Auditor dated from, January 2, 2001 through January 4, 2001, for P.O. #57532-21,22,23,24 for \$5,895.64, P.O. #69767 for \$496.40. P.O. #69749 for \$33,002.98, P.O. #69768 for \$334.57, P.O. #69766 for \$416.52, P.O. #69765 for \$358.75, P.O. #72339 for \$50.00 and P.O. #69764 for \$413.77 totaling \$40,968.63.
2. Consideration of Contract(s): Modification to Contract #2000-070 with Open Lands Board Director Brent Morris
3. Request for Relocation of Common Boundaries Exemption for Richard and Kay Walstrom, V. Hugo and Shirley A. Schmidt and Dave A. and Alice I. Douma located in, SE ¼ Section 14 and SW ¼ Section 13, T2S, R6E. Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
4. Request for Relocation of Common Boundaries Exemption for B & D Investments, LLC located in, NW ¼ and SW ¼ Section 34, T2N, R5E. Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
5. Request for Final Plat Approval for Cheri Subdivision. Preliminary plat approval was granted August 15, 2000. A staff report submitted by Belgrade City-County Planner Jason Karp states that the conditions for final plat approval have been met.

Commissioner Vincent read the consent agenda. Belgrade City-County Planner Jason Karp requested Item #5 be continued until a later date. Gallatin County Fiscal Officer Ed Blackman requested Item #2 be moved to the regular agenda for discussion. Commissioner Murdock moved to approve the consent agenda as amended. Seconded by Commissioner Vincent. None voting nay.

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Gallatin County Fiscal Officer Ed Blackman reported on the consideration of modification to contract #2000-070 with the Open Lands Board Director Brent Morris. Gallatin County Open Lands Board Executive Director, Brent Morris indicated he agreed with Mr. Blackman's analysis and planned to work with him in verifying the numbers. Commissioner Murdock moved to approve the contract for Brent Morris on a month-to-month basis with the fiscal officers memo entered into the record, and with the understanding that this month-to-month contract will only be good until, if, and when, the amounts are transferred that are needed to keep it funded. Seconded by Commissioner Vincent. Commissioner Mitchell added that according to the Open Lands Director there is not an exact amount figured and he will work with the fiscal officer. None voting nay. Motion carried.

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Two vacancies exist on the Belgrade City-County Planning Board. This is a two-year term, expiring on December 31, 2002. There was no public comment. Commissioner Murdock moved to reappoint Michele Corriel. Seconded by Commissioner Vincent. None voting nay. Motion carried. The Commission will continue advertising the one remaining vacancy. One vacancy exists on the Big Sky Transportation District. This is a three-year term, expiring on December 31, 2003. There was no public comment. Commissioner Vincent moved to reappoint Yancey Arterburn. Seconded by Commissioner Murdock. None voting nay. Motion carried. Two vacancies exist on the Gallatin City-County Board of Health. This is a three-year term, expiring on December 31, 2003. There was no public comment. Commissioner Murdock moved to appoint Warren Jones. Seconded by Commissioner Vincent. None voting nay. Motion carried. Two vacancies exist on the Gallatin County Fair Board. These are two-year terms, expiring December 31, 2002. There was no public comment. Commissioner Vincent moved to reappoint Mr. Nerlin and Mr. Sims. Seconded by Commissioner Murdock. None voting nay. Motion carried. One vacancy exists on the Gallatin County Weed Board. This is a three-year term, expiring on December 31, 2003. Mr. Sam Hofman a previous board member and father of Robert Hofman stated that in the past the basis for appointing board members included appointing people from various areas in the county and now that has shifted towards appointing professionals. He suggested that appointees be kept rural and that the professionals be used as a resource. Commissioner Vincent moved to reappoint Mr. Robert Hofman. Seconded by Commissioner Murdock. None voting nay. Motion

carried. Two vacancies exist on the Manhattan City-County Planning Board. These are two-year terms, expiring December 31, 2002. There was no public comment. Commissioner Vincent moved to reappoint Mr. Schutter and Ms. Baker. Seconded by Commissioner Murdock. None voting nay. Motion carried. Two vacancies exist on the Three Rivers Mosquito Control District due to the term expirations of Dewey Schmidt on December 31, 1999, and Leo Lane on December 31, 2000. Both Schmitt and Lane have reapplied to serve another three-year term. To date, no new applications have been received. If the Commission so desires, Mr. Schmitt would be appointed retroactive to January 11, 2000, with a term expiration of December 31, 2002. Mr. Lane's term would expire on December 31, 2003. There was no public comment. Commissioner Vincent moved to reappoint Mr. Schmitt and Mr. Lane, with the appropriate appointment and expiration date. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Commissioner Mitchell presented the consideration of a resolution to change the location of the County Commission public meeting on January 16, 2001, to be held at the Belgrade City Hall in Belgrade. There was no public comment. There was an error on the resolution and the Commission requested it be corrected before approval. This agenda item was continued until later in the meeting.

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Nona Faith, development consultant for the Gallatin County Community Corrections Program reported on the consideration of a grant proposal to Montana Board of Crime Control for the Community Corrections Board. Ms. Faith explained that she reviewed this proposal, and was reporting on the modifications that have taken place. Ms. Faith explained this grant is for the purpose of establishing a pilot program for misdemeanor offenders by providing some rehabilitation that would allow them to stay in the community and increase their ability to work and make restitution. There was no public comment. Mr. Blackman stated the Commission could approve the application with some minor modifications, not to exceed \$24,000. Commissioner Murdock moved to approve based on the information received. The county match for this grant application in an amount for next budget year not to exceed \$24,000. Seconded by Commissioner Vincent. Commissioner Mr. Blackman requested that the Commission authorize the Chair to sign the application. Commissioner Murdock amended the motion, to include authorizing the Chair to sign the application. Commissioner Vincent amended his second. None voting nay. Motion carried.

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Commissioner Mitchell announced they would take action on the resolution changing the location of the public meeting on January 16, 2001, to the Belgrade City Hall. There was no public comment. Commissioner Vincent moved to approve the resolution. Seconded by Commissioner Murdock approving Resolution #2001-01. None voting nay. Motion carried.

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Gallatin County Attorney Marty Lambert reported on the receipt of petition to dissolve Reese Creek Fire Service Area and Annex properties into the Belgrade Fire District. Mr. Lambert requested the petition be pulled and resubmitted at a later date because of technical problems. Ms. Vance requested clarification of whether or not the petition submitted to the Clerk and Recorder's office was being continued until a later date, or if the petition was being withdrawn. Mr. Lambert stated the petition would be resubmitted as two separate petitions. Belgrade Rural Fire District Trustee Gilbert Moore and Belgrade Rural Fire District Assistant Chief Bryan Connelley stated they would like to withdraw the petition at this time and resubmit them for consideration. Commissioner Mitchell stated there would be no action taken, as the petition was withdrawn.

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Gallatin County Subdivision and Zoning Review Manager, W. Randall Johnson reported on the consideration of improvements agreement and final plat approval for the Spanish Peaks Estates, Phase 2, Major Subdivision. Preliminary plat approval was granted on August 24, 1999. He noted that Morrison-Maierle, Inc., on behalf of John Raddick and David Traylor, have requested that the subdivision now be given final plat approval. Mr. Johnson stated the county attorney's office has reviewed the improvements agreement for content and form; however, the bank still has to produce the letter of credit to provide the security. He suggested the Commission go ahead and take action to approve the final plat, and the improvements agreement for its content, without signing either document

until the bank provides the letter of credit. The documents would remain in his possession until the letter is received. He confirmed that he received the advice of the county attorney that this was an appropriate procedure. Bob Lee, Morrison Maierle agreed this was an unusual circumstance, and that they would provide the letter of credit so it could be signed all at once. He stated the County Attorney indicated that when the bank learns the Commission has approved the subdivision they would provide the letter of credit. The developer John Raddick explained that before the bank will give the final letter of credit they need everything signed. Commissioner Murdock moved to accept the improvements agreement in lieu of the other conditions that have not been met, based on staff's advice. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Murdock made the motion that upon receipt of a completed improvements agreement, the Commission will grant final plat approval and if for some reason the bank does not provide the letter of credit they will not have final plat approval. Seconded by Commissioner Vincent. Commissioner Mitchell expressed concern about giving approval without the letter of credit in hand because it would possibly send the bank a message they can do this again. She stated this was a one time, and one time only exception and it would not be done again. Commissioner Vincent suggested that the applicant mention the County processes to the bank staff. None voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 10:17 A.M.

*Unavailable  
For Signature*  
CHAIRMAN APPROVAL

*Shelley Vance*  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 16th DAY OF JANUARY 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:00 A.M., at City Hall, Belgrade, Montana. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**JANUARY 8, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell, Murdock and Vincent, Grants Administrator Larry Watson, Dave Douglas of Alcohol and Drug Services, and Commission Secretaries Stacy Johnston and Glenda Noyes. Mr. Douglas presented a request for a letter of support for an Alcohol and Drug Services grant application to receive funding for a screening program. This program is in conjunction with the Health Department, Turning Point Initiative and the CIP program. Commissioner Murdock made a motion to write a letter of support for Alcohol and Drug Services grant application. Commissioner Vincent seconded the motion. Commissioners Murdock and Vincent voted in favor of the motion, Commissioner Mitchell abstained. Motion carried with a vote of two to one. Mr. Watson presented a Disadvantaged Business Enterprise Program for signature, explaining that each contract the County enters into must comply with this program. The contract with Pogreba Field Airport did not include a clause regarding the program, and this is an addendum to that requirement. The goal of the program is for 3-5% of the work to be conducted by women and minorities. Commissioner Murdock made a motion to approve the Disadvantaged Business Enterprise Program with Pogreba Field Airport, finding that it has been reviewed by Mr. Watson and Deputy County Attorney Chris Gray and recommended for approval. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

**JANUARY 9, 2001**

The Commissioners conducted regular County business.

**JANUARY 10, 2001**

- The Commissioners attended a special meeting for the purpose of considering signing a grant proposal request for Alcohol and Drug Services. In attendance were Commissioners Mitchell, Murdock and Vincent, Grants Administrator Larry Watson, Treatment Court Coordinator Joe Driskell, and Commission Secretary Glenda Noyes. The application is for next years funding for urinalysis equipment, and is to be submitted to the Montana Board of Crime Control. The match

## GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 167

will come from District Court Judges Salvagni and Guenther in the amount of \$15,000. Commissioner Vincent made a motion to approve the grant application request from Alcohol and Drug Services to the MBCC, finding that Fiscal Officer Ed Blackman and Deputy County Attorney Chris Gray are okay with it. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

### JANUARY 11, 2001

- The Commissioners conducted regular County business.
- A special meeting was called to order by Chairman Mitchell, at 11:30 A.M., for the purpose of considering a resolution for waiver of contract prohibition-Susan Swimley. Susan Swimley reiterated to the Commission her prior employment from December 1991 to January 2, 2001, with Gallatin County as the Chief Deputy County Attorney. Upon her departure the County Attorney advertised the position and there were very few applicants, none of which were qualified to fill the position. Ms. Swimley applied for a waiver of prohibition stating a former employee may not, within 6 months following the termination of employment, contract with any state subdivision involving matters with which the former employee was directly involved during employment. She noted that Section 2-2-201(2), MCA states that the governing body of a county may waive the application of the prohibition for a former employee who in an official capacity does not influence the decision making process or supervise a function regarding the contract in question. A governing body may grant a waiver under this subsection only after publicly disclosing the nature of the conflict in an advertised public hearing held for that purpose. Ms. Swimley's testimony revealed through her prior service that she possesses the knowledge of county government process and law that is not otherwise available in the region. Deputy County Attorney Chris Gray stated this hearing was properly noticed, no less than 48 hours. Mr. Gray stated this was the proper process and advised the Commission to consider the findings. Gallatin County Treasurer/Assessor Jeff Krauss concurred that Ms. Swimley possesses the knowledge of county government process and law that is not otherwise available. Commissioner Murdock moved to approve Resolution #2001-02, finding that this waiver would provide the County Commission and the County a significant benefit and essential skill and expertise that is not otherwise available as demonstrated by the fact this was advertised and there were no qualified applicants to fulfill this function. Finding in matters including, but not limited to subdivision review, road petitions and any number of civil law matters that typically are not addressed in law school or even in private practice are available. Commissioner Murdock wanted to note the distinction between this waiver and others in the past is that Ms. Swimley was never involved in appointing a board of which she asked to hire her. He felt it would be hardship imposed on the County if she were not available. She is not a member of a clearly identified group of people that would be the intended beneficiary of a project other than a resident of Gallatin County. Seconded by Commissioner Mitchell, adding that the position was advertised and filled the requirement for open competitive bidding and there were no qualified applicants to the extent needed. She noted the significant value in the historical memory of Ms. Swimley in many issues that keep reoccurring within the County. None voting nay. Motion carried. There being no further business the meeting was adjourned at 12:05 P.M.

### JANUARY 12, 2001

- The Commissioners attended a special meeting for the purpose of approving hand issue claims; PO # 71728 for \$6,524.55 and PO # 71310-50 for \$75.96. In attendance were Commissioners Mitchell and Murdock, Accounting Clerk Brenda Morris and Commission Secretary Glenda Noyes. Commissioner Murdock made a motion to approve the claims totaling \$6,600.51, finding that Auditor Joyce Schmidt and Fiscal Officer Ed Blackman have approved them as well. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

#### **The following items were on the consent agenda:**

1. Approval of claims presented by Auditor dated from, January 5, 2001 through January 10, 2001, for P.O. #71412-01 for \$600.00, P.O. #71412-02 for \$321.00, P.O. #68735 for \$17,496.00, P.O. #71413 for \$3,840.00, P.O. #60465-24-35 for \$3,627.57, P.O. #72521 for \$449.50, P.O. #67084 for \$21984.07 totaling \$48,318.14, and the following batches dated January 16, 2001: Batch 1 for \$61,345.18, Batch 2 for \$209,761.26, Batch 3 for \$39,118.62, Batch 4 for \$56,729.60, Batch 5 for \$26,407.92 and Batch 6 for \$1,492.88 totaling \$394,855.46. Grand Total \$443,173.60.
2. Consideration of Contract(s): Grant Application to the Montana Board of Crime Control for Urinalysis Equipment for the Adult Drug Treatment Court FY 2002; Amendment to Contract #2001-002 with Edsall Construction, Change Order #3; Snowplowing Services Agreement with Big Horn Snow Removal for RID #323, Middle Creek No. 2 Subdivision; Snowplowing Services Agreement

## 168 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

with Wally Freund for RID #370, Outlaw Subdivision; and Snowplowing Services Agreement with Bush Drilling, Inc. for RID #344, Clover Meadows.

### 3. Acceptance of Public Road Easement.

Commissioner Vincent read the consent agenda. Gallatin County Grants Administrator Larry Watson requested that the grant application to the Montana Board of Crime Control for Urinalysis Equipment for the Adult Drug Treatment Court FY 2002 be continued. Commissioner Murdock moved to approve the consent agenda, as amended. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Chief Deputy County Treasurer Anna Rosenberry reported on the consideration for cancellation of mobile home delinquencies. Ms. Rosenberry stated that on January 3, 2001, Gallatin County Treasurer Jeff Krauss submitted a list of delinquent mobile home parcels to the Commission requesting that they examine the list, make any necessary corrections and approve the cancellation of these delinquent taxes. The total amount of cancellations relating to these delinquent taxes is \$3,692.26, dating from 1989 through 1994. There was no public comment. Commissioner Vincent moved to approve the Treasurer's request to cancel the delinquent mobile home taxes in the amount of \$3,692.26. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Chief Deputy County Treasurer Anna Rosenberry, on behalf of Gallatin County Treasurer Jeff Krauss requested the Treasurer's quarterly report for December 31, 2000, be continued until January 23, 2001. Commissioner Mitchell continued this until next week.

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FOR Parks President Paul Weingart gave a presentation regarding a regional park. There was no public comment.

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Gallatin County Fiscal Officer Ed Blackman reported this was a public hearing and consideration of approving tax benefits for Pathway Systems, Inc., pursuant to statute 15-24-1402, M.C.A. Mr. Blackman noted the Commission approved the resolution of intention on December 27, 2000, calling for this public hearing. He received a letter from the Belgrade Rural Fire District indicating they voted to support this tax abatement request. The total abatement over the ten-year period is estimated at \$26,232. Mr. Blackman recommended denial of the request strictly from a financial standpoint. Pathway Systems Controller, Mike Styren explained the nature of their business and told of the rapid expansion in the last 12 months. Belgrade City Manager Joe Menicucci stated that Pathway Systems is an asset to the community and he supported the request. Commissioner Murdock moved to approve Resolution #2001-03. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the receipt of a petition requesting creation of a rural improvement district for improving and maintaining roads in the Painted Hills Subdivision, Lots 1 - 76 and 78 - 102, Phases 1,2,3, & 4, and the Park tracts of Phases 3 & 4. Ms. Vance stated she received the petition on November 8, 2000, on behalf of the Gallatin County Commission. She examined the petition and pursuant to Section 7-12-2110, M.C.A 1999, and the Gallatin County RID policy, there are 65 parcels represented by qualified signatures appearing on the petition, which equals 63% of the possible 103 parcels within the proposed district. According to the Gallatin County RID policy (Section 3.A.12) 60% of the parcels represented by qualified signatures are required on the petition. If the Commission were to accept this petition, there would be a resolution of intention for consideration, which would start the process to hold a public hearing and protest period. If there are not enough protests received the Commission would consider a resolution, which would establish this RID. Commissioner Murdock thanked Ms. Vance for reviewing these petitions. Commissioner Murdock moved to accept the petition, based on Ms. Vance's report finding it meets the requirements of the statute and the Gallatin County RID policy. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Susan Swimley reported on the consideration of a request for a waiver from the RID policy for Wildhorse Properties. Ms. Swimley explained the Commission adopted a policy requiring petitions in rural improvement districts and this was a request on behalf of a subdivision for an exception to the



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**GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 169**

policy. Phil Forbes, Morrison-Maierle stated the homeowner's association polled their members and got written responses from most of the owners and are now asking that this process be enough of an indication to the Commission that there is enough interest to move forward, versus going through the formal petition process that the policy requires to join the RID maintenance program. Ms. Swimley stated the policy does not require every owner to be notified, however, the petition request does require 60 percent of the owners to sign in favor. Clerk and Recorder Shelley Vance cautioned the Commission that the potential exists for many subdivisions to request waiver of a petition and stated concerns on the impact this may have on county offices and providing services. Discussion took place with regard to how the cost associated with the maintenance notification could be recouped by the County. Mr. Blackman recommended that a policy and practice be set up to be used while the RID policy is being changed, and also, set up special provisions for the future subdivisions. Gallatin County Road Superintendent Lee Provance stated this would not impact the road department as much as other county offices and this was a way to make it equitable for the subdivision. Belgrade City Manager Joe Menicucci spoke in support. Commissioner Mitchell moved to approve the request for a waiver from the RID policy for Wildhorse Properties, finding this will trigger the resolution process, protest period and proper notification. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Deputy Gallatin County Attorney Chris Gray presented a pending resolution for the establishment of a predator control program for cattle. This was to memorialize the Commissions action taken on January 2, 2001, regarding the .50-cent per head cattle fee for predator control. Commissioner Murdock moved to approve Resolution #2001-04. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson presented a pending resolution of intention to increase the Gallatin County FY 2001 budget to include unanticipated revenues for the Community Corrections Program activities. The public hearing is scheduled for January 30, 2001. Commissioner Vincent moved to adopt Resolution of Intention #2001-05. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Deputy County Attorney Chris Gray confirmed to the Commission that Ms. Swimley was hired to act as the Commissions attorney when working on County issues and she will be in contact with the County Attorney's office. Mr. Gray had two subpoenas to be issued by the Chair for a personnel matter.

Commissioner Mitchell announced there would be time for open discussion and welcomed any comments from the public. Gilbert Moore spoke regarding the waiver from the RID policy for Wildhorse Properties. He suggested if the County were concerned with the costs of future requests for maintenance rather than construction, they may want to consider a maintenance district policy in addition to the RID, in which these fees may be included. Phil Forbes complemented Mr. Moore as he suggested an excellent idea and thanked the Commission for their consideration of the Wildhorse Properties. Mr. Forbes stated that he fully understood the county's concerns, and made the suggestion if the Commission were to arrange a staff work session that the staff at Morrison-Maierle would gladly attend and provide information. Commissioner Murdock asked if Mr. Forbes could give an update on the Headwaters Trail. Mr. Forbes stated he was unable to give an update at this time. There was no further comment.

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There being no further business the meeting was adjourned at 10:34 A.M.

*Unavailable*  
*For signature*  
CHAIRMAN APPROVAL

*Shelley Vance*  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 23rd DAY OF JANUARY 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:05 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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## 170 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

### JANUARY 15, 2001

- The Commissioners' office was closed in observance of Martin Luther King, Jr. Day.

### JANUARY 16, 2001

- The Commissioners conducted regular County business.

### JANUARY 17, 2001

- The Commissioners held a special meeting for the purpose of considering hand issue claim requests received January 11, 2001. In attendance were Commissioners Mitchell and Murdock, Accounting Clerk II Brenda Morris, County Auditor Joyce Schmidt and Commission Secretary Stacy Johnston. Commissioner Murdock moved to approve Purchase Orders numbered 64459, 72615, 72632, 72620, 72650, 72646, 72642, 72631 and 72626, totaling \$18,278.02, finding these claims have been reviewed and recommended for approval by the Auditor and Fiscal Officer. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously 2-0.
- The Commissioners met to consider approval of a grant application to the Montana Board of Crime Control (MBCC) for the FY 2002 Missouri River Drug Task Force (MRDTF) program. As the original document was not available for review or signature, the meeting was continued until 10:00 a.m., 1/22/01, at the Commissioners' office meeting.

### JANUARY 18, 2001

- Commissioner Mitchell called to order a noticed office meeting at 9:15 a.m. In attendance were Commissioners Mitchell, Murdock, and Vincent, and Commission Secretary Stacy Johnston. Invoice #126 BS from R. Dale Beland in the amount of \$1,544.93 was presented for payment for services relating to the Big Sky Transportation Study. Commissioner Murdock moved to approve payment in accordance with the contract; Commissioner Vincent seconded the motion. All voting aye, motion carried unanimously.

The Commission considered the reappointment of Jim Hunt, former Park County Commissioner, as Gallatin County's representative to the Montana Job Training Partnership (MJTP) board, a program that assists low-income families with job placement. Commissioner Murdock moved to reappoint Jim Hunt in light of his longstanding relationship with this board and contingent upon the by-laws having been appropriately amended to allow a non-commission representative to serve. Commissioner Vincent seconded the motion. All voting aye, motion carried unanimously.

Discussion was held regarding the frequency of Commissioners' office meetings, block scheduling, and office procedures in general. The Commission concurred that due to the lengthiness of recent office meetings, we should have more than one per week. It was decided to set aside Wednesday afternoons from 1:30 - 5:00 p.m. for this purpose. Given the numerous changes to the Commissioners' calendar on a daily basis, Commissioner Mitchell requested that updates to the calendar be distributed twice per week on Tuesday's and Friday's. In an effort to improve office procedures in general, Commissioner Vincent proposed to send Commission Secretaries Stacy Johnston and Glenda Noyes to other counties to "job shadow" their counterparts. The purpose would be to compare how other counties similar in size do the same task (i.e., scheduling, mail distribution, public meetings and notices, etc.). All in attendance agreed this could be extremely beneficial. Commissioner Vincent will contact Yellowstone, Missoula, and Lewis and Clark counties to schedule. It was also noted that no meetings involving a quorum are to be scheduled without the prior consent of all commissioners. Commissioner Mitchell reported that ITS had informed her that many county employees were abusing their Internet privileges. As we have a contract with the State (Summit Net), personal use on any level is inappropriate and probably illegal. ITS Director Ed Kawa and Network Specialist Gene McCloney will draft an Internet Usage Policy for the Commissioners' consideration. In the meantime, we should make employees aware of the proper and improper uses of the Internet on a case-by-case basis until such time as a policy has been adopted and distributed to employees.

### JANUARY 19, 2001

- The Commissioners attended a special meeting for the purpose of considering signing a DUI Task Force Grant Proposal. In attendance were Commissioners Mitchell and Murdock, Jeff Linkenbach of MSU and the DUI Task Force, and Commission Secretary Glenda Noyes. The traffic safety grant proposal would allow the DUI Task Force to participate in social norms focus groups and provide information and education to the public regarding DUI matters. Commissioner Murdock made a motion to sign the grant application as presented, finding that Fiscal Officer Ed Blackman and Deputy County Attorney Chris Gray have recommended approval. Commissioner Mitchell

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**GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 171**

seconded the motion, noting that the grant requires no County match. All voted aye. Motion carried unanimously 2-0.

**The following items were on the consent agenda:**

1. Approval of claims presented by Auditor dated January 12, 2001 through January 18, 2001, for P.O. #72693 for \$20,316.80 and P.O. #61045 for \$775.00 totaling \$21,091.80.
2. Consideration of Contract(s): Agreement with Touch America for 3<sup>rd</sup> Floor Eastside Cabling, Phase II Construction; Amendment to Contract #2001-075 with Bailey Paving, Change Order #1; Amendment to Contract #2000-072 with Teton Communications; Amendment to Contract #1998-029 with Qwest (formerly US West); and Snowplowing Services Agreement with Figgins Sand & Gravel for RIDs 308, 309, 315, 317, 321, 326, 332, 341, and 343.
3. Request for Final Plat Approval for Genesis Business Park Major Subdivision. Preliminary plat approval was granted December 14, 1999. A staff report submitted by Gallatin County Planner Jennifer Madgic states that the conditions for final plat approval have been met.
4. Request for Boundary Relocation Exemption for William and Linda Young located in, SE ¼ Section 14, T2S, R4E. Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
5. Request for Boundary Relocation Exemption for Chris and Karen Lunt and Mark Tedsen located in, SE ¼ Section 34, T6S, R3E. Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.

Commissioner Murdock read the consent agenda. There was no public comment. Commissioner Vincent moved to approve the consent agenda as read. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Commissioner Mitchell announced that the public hearing on Cimmeron Drive was removed from the regular agenda at the advice of the County Attorney.

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Susan Swimley reported on the consideration of a resolution of intent to create the Painted Hills Subdivision RID No. 376. Ms. Swimley stated the Commission would need to consider whether it was in the public's best interest or a benefit to create the RID, and decide if they would allow the RID bond sale to be backed by the revolving fund. Greg Stratton, Morrison-Maierle, representing the Painted Hills Homeowners, prepared the petition to create the RID, and addressed the criteria for backing the bonds with the revolving fund. The proposed public hearing will be held February 13, 2001. There was no public comment. Commissioner Murdock moved to pledge the use of the revolving fund to secure this rural improvement district, with the finding that it is in the public interest and it best serves the interest of both the county and district. He added that the testimony presented: the estimated market value of the property is increased by more than the special assessment; shows diversity in the ownership that would not put the revolving fund at risk; only 35 lots of the 103 lots are unimproved; no special assessments are due; no mortgage backed bonds; the tax delinquencies in the district are not significant; there is adequate proof on the improved tax rolls of the increase in property value that would occur with the improvement; and the public would receive the benefit of the improved road surface with this project as shown in Exhibits "A", "B" and "C" attached to the RID. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Murdock stated he would find the rural improvement district serves the public's interest in convenience and moved to adopt the Resolution of Intention RID-01-376A, to create RID No. 376 located in the Painted Hills Subdivision in Gallatin County with a protest hearing to be held on, February 13, 2001. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the receipt of petition to create the River Rock County Water and Sewer District and consideration of a resolution to set a public hearing. Ms. Vance noted in order for a county water and sewer district to be created the state statute calls for an election, and in addition the people of River Rock would like to combine elections to elect a board of directors and ask the question of voting on the issue of authorizing bonded indebtedness of the district in the amount of \$5.2 million. She examined the petition and pursuant to state law, which requires at least

**172 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46**

10 percent registered voters signing the petition, there were 38 qualified signatures of registered voters appearing on the petition out of 117 possible registered voters in the proposed district. Thirty-two percent of the possible registered voters within the proposed district signed the petition. The proposed public hearing will be held February 6, 2001. Commissioner Murdock moved to approve Resolution #2001-06, based on the Clerk and Recorder's finding that the petition is adequate. Seconded by Commissioner Vincent. Commissioner Mitchell added the finding that bond counsel has advised them throughout this process. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the consideration of a resolution of intention to amend the Clerk and Recorder's election activity in the amount of \$11,300.00 due to unforeseen expenses. There was no public comment. Commissioner Vincent moved to adopt Resolution of Intention #2001-07. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Treasurer Jeff Krauss reported on the continuation of the Treasurer's quarterly report for December 31, 2000. Mr. Krauss noted some concerns regarding bank accounts he was unaware of using Gallatin County's federal tax ID number at the First Security Bank. He asked the Commission to join him in writing a letter to the banks in the county asking for account balances and accounts that exist under the county tax ID number. The Commission requested that Mr. Krauss draft the letter. Commissioner Vincent moved to accept the Treasurer's report. Seconded by Commissioner Murdock. None voting nay. Motion carried.

I, Jeff Krauss, County Treasurer of Gallatin County, State of Montana, upon oath depose and say:  
That, at the close of business on December 31, 2000 there was on deposit to my credit in the following banks, balances as shown by the statements of cashiers of such banks herewith: that, from such balances, there should be deducted for checks outstanding, and added for deposits made, amounts as follows:

<u>BANKS</u>	<u>ACCOUNT NUMBER</u>	<u>BANK BALANCES</u>	<u>OUTSTANDING CHECKS</u>	<u>DEPOSITS</u>	<u>TREASURER'S BALANCES</u>
Wells Fargo, Bozeman Branch	712386	\$7,003,709.80	\$137,606.82	\$167,071.43	\$7,308,388.05
	20491	\$0.00	\$0.00	\$0.00	\$0.00
	752756254	\$0.00		\$800,000.00	\$800,000.00
	315503	\$0.00	\$1,010,159.11	\$0.00	\$1,010,159.11
AMERICAN BANK	280102436	\$27,358.47	\$0.00	\$200.00	\$27,558.47
VALLEY BANK OF BELGRADE	108103	\$36,574.31	\$0.00	(\$882.46)	\$35,691.85
MANHATTAN STATE BANK	4100013	\$7,256.48	\$0.00	(\$638.50)	\$6,617.98
SECURITY BANK, THREE FORKS	5200116	\$5,716.77	\$0.00	(\$0.18)	\$5,716.59
FIRST SECURITY BANK, WY	700351	\$6,907.42	\$0.00	(\$263.95)	\$6,643.47
BIG SKY WESTERN BANK	101710	\$3,957.91	\$0.00	\$0.00	\$3,957.91
FISCAL AGENT	N/A	\$100.00	\$0.00	\$0.00	\$100.00
		-----	-----	-----	-----
		\$7,091,581.16	\$1,147,765.93	\$965,486.34	\$9,204,833.43
					-----
			Cash		\$182,857.69
			School Investments		\$10,176,350.32
			Airport Authority		\$8,126,872.05
			County and Pooled Investments		\$28,943,769.46
					-----
			TOTAL Cash on Hand		\$56,634,682.95

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Gallatin County Planner W. Randall Johnson reported on the consideration of a resolution amending the official zoning map and land use map for the Gallatin Canyon/Big Sky Zoning District- Smith Amendment. Commissioner Murdock moved to approve Resolution #2001-08, finding this was a jointly held meeting with the Commission and the Gallatin Canyon/Big Sky Zoning Commission where there was public testimony. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported that as of 5 P.M., January 22, 2001, the Clerk and Recorder had received no protests on Resolution of Intention #2000-120A, to adopt text amendments to the Gallatin County/Bozeman Area Zoning Regulations. Gallatin County Planner Lanette Windemaker reported on the consideration of a resolution to adopt text amendments to the Gallatin County/Bozeman Area Zoning Regulations. Commissioner Murdock moved to approve Resolution #2001-09, finding there were three public hearings held and there were no protests received. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the consideration of a request for a family transfer exemption for Lester and Inez Warwood. Ms. Koozer explained the two additional parcels would be for the Warwood's daughters. Lester Warwood confirmed to the Commission that was his intention for the transfer. There was no public comment. Commissioner Murdock moved to approve the family transfer exemption for the Warwood's. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the consideration of a request for preliminary plat approval of Antler Ridge Major Subdivision, located in the SW1/4 of Section 27, the NW1/4 and the NE1/4 of Section 34, T6S, R3E, PMM, Gallatin County, Montana. Joseph Sabol, on behalf of CVG Montana L.L.C., requested preliminary plat approval for the Antler Ridge, Phase 1 through 4, major subdivision. He submitted Exhibit "A", a fact sheet on the Antler Ridge Subdivision. The proposed subdivision would divide 237 acres into 65 clustered residential lots, with an average lot size of one half acre. The development also includes 190 acres of common open space and parkland. The proposed subdivision is within the Gallatin County/Big Sky Zoning District. Bob Lee, Morrison-Maierle spoke regarding the access roads in the subdivision. Steve Conti representing the owner spoke with regard to the proposed entry-level affordable housing planned for the subdivision. Big Sky Water and Sewer Manager Ron Edwards commented on the aspects of water supply and sewage disposal. Mr. Johnson submitted the following three letters of support: Mark Tedsen; Todd Olson; and Kelly Coffin. The County Commission needs to make the following determinations: a determination as to whether or not the application meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act; and, a determination as to whether or not the application complies with the provisions of the Gallatin County Subdivision Regulations. The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the following conditions: 1. The developer shall have three (3) years from the date of preliminary plat approval (January 23, 2001) to complete all conditions, and apply for final plat approval for each development phase. Required conditions to be completed prior to final plat approval for the first development phase: 1. The 13.4-acre park shall be created and dedicated to the property owner's association. 2. All subdivision road names shall be reviewed and approved by the County Road & Bridge Department prior to final plat approval. 3. Interior subdivision road plans, interior road maintenance plans, interior drainage plans, lot access plans, and sign plans shall be submitted to the County Road & Bridge Department prior to the construction of the interior subdivision roads. 4. After the Big Sky Coordinated Transportation Study, or a successor study in the absence of the named study, has been adopted by the County Commission, determination of mitigation required of the developer for traffic impacts caused by this subdivision shall be made by the County Commission at a hearing specifically conducted for that purpose in accordance with applicable subdivision regulations governing preliminary plat approval. If the study is not completed or adopted by the County Commission prior to the developer seeking approval of a final subdivision plat, after first obtaining a detailed technical review of traffic impacts from the Montana Department of Transportation, determination of mitigation required of the developer for traffic impacts caused by this subdivision shall be made by the County

Commission at a hearing specifically conducted for that purpose in accordance with applicable subdivision regulations governing preliminary plat approval. 5. The developer shall agree to participate and equitably share in the cost of any Law Enforcement Study that may be approved by the Gallatin County Commission that concerns law enforcement needs and impacts of future land use developments on law enforcement services in the Big Sky area. The developer shall be entitled to an equitable reimbursement for any disproportionate costs expended by it in connection with participation in such study. 6. The developer shall obtain an approved weed management plan from the Gallatin County Weed Control District prior to any construction projects within the site. The approved weed management plan shall be submitted to the Gallatin County Planning Department. 7. Copies of the approach permits from the Montana Department of Transportation for the two access onto State Highway 64 shall be submitted to the Gallatin County Planning Department. 8. Stop signs shall be installed at both intersections with State Highway 64. 9. The subdivision shall be annexed into the Gallatin Canyon Rural Fire District. 10. A property owners' association for the subdivision shall be created. 11. Covenants for the subdivision shall include the following provisions: a. All structures shall be constructed in compliance with the current Uniform Building Codes. b. The property owners' association shall be responsible for the control of noxious weeds within the common open space, parkland, and all road right-of-ways. Lot owners shall be responsible for the control of noxious weeds within their property. c. Place title to common open space and parkland parcels with the property owners' association. d. Common open space shall be preserved and maintained for passive and active recreation, wildlife habitat, and protection of scenic, unique or important natural features. e. Membership shall be mandatory for each owner, who must be required to pay fees to the Association for taxes, insurance, and maintenance of common open space. f. As concerns common open space; the property owners' association shall be responsible for liability insurance, local taxes, and the maintenance of recreational facilities. g. As concerns common open space; assessments levied by the association must be able to become a lien on the property. h. As concerns common open space; the property owners' association shall be responsible to adjust the assessment to meet changed needs. i. Ownership shall be structured in such a manner that real property taxing authorities may satisfy property tax claims against the common open space lands by proceeding against individual owners in the association and the dwelling units they each own. j. The property owners' association shall be responsible for the operation and maintenance of all interior subdivision roads and parkland. k. All dwellings shall be constructed with an automatic fire sprinkler system meeting the requirements of NFPA 13D/Uniform Fire Code. The fire district shall receive a stamped set of engineered sprinkler system plans for review and approval prior to construction. Inspections shall be scheduled, with 48 hours notice, during construction and after completion. l. All structures shall be constructed in compliance with the National Fire Protection Association codes. m. Class A or B fire-rated roofing materials shall be used. n. Spark arrestor screens shall be placed on all fireplace and woodstove chimneys. o. Smoke detectors shall be installed on each level of dwelling units. p. The vegetation reduction and clearance guidelines of the Fire Protection Guidelines for Wildland Residential Interface Development shall be used. q. The artificial feeding of all big game wildlife shall be prohibited. r. All garbage shall be stored in animal-proof containers or be made unavailable to animals. s. Owners acknowledge that wildlife damage to landscaping will occur. Owners shall accept that risk and shall not file claims against the Owners Association or any other governing body for such damages. t. Fencing along the exterior boundaries of lots shall be prohibited. u. Pets shall be controlled by each homeowner, and not allowed to roam within the subdivision. v. The planting of wildlife attracting vegetation shall be prohibited. w. A site-specific analysis and geotechnical study, prepared by a licensed professional engineer, shall be required in connection with proposed construction of any single-family residence. This covenant cannot be revoked. x. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. Required conditions for each Phase final plat recordation: 1. The final plat shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates. 2. All common open space parcels shall be provided as shown on the preliminary plat. All open space parcels shall be conveyed to the property owners association. 3. State Department of Environmental Quality approval shall be obtained. The subdivider shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The subdivider shall obtain the Gallatin County Health Officer's approval. 4. Primary and secondary access shall be provided at the two locations as approved by the Montana Department of Transportation. 5. Interior subdivision roads shall lie within a 60 foot public dedicated right-of-way, and be constructed to county standards for paved roads. All cul-de-sacs shall be provided and constructed to county paved standards. 6. All road construction shall be inspected and certified by a Montana registered civil engineer. The subdivider shall obtain written verification from the County Road & Bridge Department that all roads have been brought to county standards. 7. The final plat shall contain a statement requiring lot access to be built to the standards of Section 7.G.2 of the Gallatin County Subdivision Regulations. 8. Road name signs shall be required at all intersections. Road name signs shall be installed or bonded prior to final plat approval. 9. All required

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**GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 175**

sewer and water infrastructure improvements shall be installed. 10. The subdivider shall provide water supply for fire protection in accordance with the Gallatin County Subdivision Regulations. The Gallatin Canyon Rural Fire District shall approve all hydrant locations, installation and operation prior to undertaking any construction within each development phase. The subdivider shall also obtain written verification from the Fire District that the required fire protection measures have been provided. 11. Areas disturbed by construction shall be seeded and controlled for noxious weeds. 12. All utility easements are to be shown on the final plat. Utility easements shall be centered along side and rear lot lines wherever possible, and shall be twenty (20) feet wide. Underground utilities, if placed in the road right-of-way, shall be located between the roadway and the right-of-way line. Such underground facilities shall be installed or utility culverts provided before the road is surfaced. In addition, the following statement must appear on the final plat: "The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as 'Utility Easement' to have and to hold forever". 13. The subdivider record on the final plat a waiver of right to protest creation of rural improvement districts and local improvement districts. 14. The subdivider shall make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. 15. The Subdivider shall make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. There was no public comment. Commissioner Murdock moved to approve the subdivision as presented, with the conditions recommended by staff, finding it is consistent with the zoning regulations, state law, subdivision regulations and that the advisory committee recommended approval. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 11:23 A.M.

*Unavailable  
for Signature*  
CHAIRMAN APPROVAL

*Shelley Vance*  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 30th DAY OF JANUARY 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:05 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**JANUARY 22, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell, Murdock, and Vincent, and Commission Secretaries Stacy Johnston and Glenda Noyes. Youth Probation submitted a budget appropriation transfer request for \$500.00. Commissioner Vincent made a motion to approve the transfer request submitted by Youth Probation in the amount of \$500.00. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously. The Mental Health Center submitted an invoice in the amount of \$10,672.22. Discussion took place with Fiscal Officer Ed Blackman regarding the status of payments to the Mental Health Center. Mr. Blackman stated that we are way above our original estimation in the budget, and there is concern regarding the State not keeping their end by sending patients. Commissioner Murdock made a motion to pay the invoice for the Mental Health Group Home. Commissioner Vincent seconded the motion. In discussion it was noted that further investigation on this matter should to take place before our budgeted funds run out. All voted aye. Motion carried unanimously. Commissioner Mitchell requested to go to the Governor's Ball in Billings as a Gallatin County Commission representative. Commissioner Murdock made a motion to endorse Commissioner Mitchell's attendance at the Governor's Ball and pay for the price of her ticket and mileage out of Commission funds. Commissioner Vincent seconded the motion. In discussion, Commissioner Mitchell expressed her appreciation. All voted aye. Motion carried unanimously.

**JANUARY 23-24, 2001**

The Commissioners conducted regular County business.

176 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

JANUARY 25, 2001

- The Commissioners attended a special meeting for the purpose of approving two hand issue claims, PO #72059 and #72060. In attendance were Commissioners Mitchell and Vincent, Auditor Joyce Schmidt, Accounting Clerk Brenda Morris and Commission Secretary Glenda Noyes. Commissioner Vincent made a motion to pay claims in the amount of \$762.00, hand issues received from January 19, 2001 through January 22, 2001 for the Fiscal Officer's trip to Philadelphia for the GFOA conference. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

JANUARY 26, 2001

- The Commissioners conducted regular County business.

**The following items were on the consent agenda:**

1. Approval of claims presented by Auditor dated from, January 23, 2001 through January 25, 2001, for P.O. #72543 for \$8,500.00, P.O. #70556 for \$70.00 totaling \$8,570.00 and the following batches dated January 30, 2001: Batch 1 for \$47,658.05, Batch 2 for \$79,959.41, Batch 3 for \$70,037.33, Batch 4 for \$35,459.80, Batch 5 for \$24,138.73, Batch 6 for \$211,967.92, Batch 7 for \$62,010.74, and Batch 8 for \$64,175.05 totaling \$595,407.30. Grand total \$603,977.03.
2. Consideration of Contract(s): Engineering Services Contract with Morrison-Maierle, Three Forks Airport Improvements; and Construction Contract with JTL Group, Inc., Three Forks Airport Improvements.

Commissioner Vincent read the consent agenda. There was no public comment. Commissioner Vincent moved to approve the consent agenda as read. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the consideration of a resolution to amend the Clerk and Recorder's Election activity in the amount of \$11,300.00, due to unforeseen expenses. There was no public comment. Commissioner Murdock moved to approve the resolution, finding it is a requirement that line item budget amendments are done during a public meeting. Commissioner Mitchell noted this was Resolution #2001-10. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported on the public hearing and consideration of a resolution to increase the Gallatin County FY 2001 budget to include unanticipated grant revenues for the Community Corrections Program activities. There was no public comment. Commissioner Vincent moved to approve Resolution #2001-11. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the protest period results of Resolution #2000-113, Changing the Method of Selecting Trustees for the Clarkston Fire Service Area. Ms. Vance certified there were not sufficient protests to prevent the change from appointment to election. Commissioner Murdock moved to accept the Clerk and Recorder's report. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance presented the certificate of changing the method of selecting trustees for the Clarkston Fire Service Area. Ms. Vance requested the Chairman sign the certificate should they desire to change the method. Commissioner Murdock moved to accept changing the method of selecting trustees to the election process. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported this was consideration of a resolution regarding the Clarkston Fire Service Area Trustee election. There was no public comment.



Commissioner Murdock moved to approve Resolution #2001-12. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported this was consideration of a resolution to adopt a zone map amendment in the Gallatin County/Bozeman Area Zoning District, Huffine Lane/Gooch Hill Road. Mr. Johnson stated the Clerk and Recorder received no formal protests of this application. Commissioner Vincent moved to adopt Resolution #2001-13. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic reported this was a public hearing on a resolution of intention to adopt text amendments to the Middle Cottonwood Zoning regulations. Ms. Madgic stated these proposed amendments would affect Sections 7, 8, 10, and 11, and are intended to clarify some language with regard to the transfer of the development rights section of the regulation, and correct identified typos. She noted the following letters were received from: Steve Kelly and Jim Madden. Ms. Madgic gave a summary of the changes. The Gallatin County Planning Board held a public hearing on January 9, 2001, after listening to public comment, determined that the proposed amendments would promote the health, safety, morals and general welfare of the County and a motion was made to recommend approval. The Board voted 8:0 to include an amendment and not include a table prepared by staff to demonstrate transfer of density units. The Board voted 4:4 to include an amendment to strike February 1, 1994 from Section 7.2, and voted 7:1 to recommend approval of the amendments with one correction to Section 8.6. Anne Rusoff, a member of the Middle Cottonwood Zoning Regulation Advisory Committee summarized what the zoning ordinance was designed to do, and gave a history of the problems they have encountered. Ms. Rusoff provided the Commission with the following exhibits: Exhibit "A" zoning district map showing the outline of the parcels; Exhibit "B" zoning district map showing the outline of the deer winter range overlay areas; Exhibit "C" a copy of the ordinance; and Exhibit "D" transcript from December 26, 1995, Commission meeting. John Brown responded to the concerns addressed in Steve Kelly's letter regarding the proposed amendments. Ms. Rusoff and Mr. Brown were both in support of the proposed resolution. Planning Consultant Dale Beland recommended approval of the proposed resolution. At the same time, he also cautioned the Commission to have one last check with the County's legal representative because of the ambiguities discovered with regard to interpreting the regulation. Commissioner Murdock stated that he was satisfied, having talked with Susan Swimley regarding this regulation and he was in support of the proposed amendment. Commissioner Murdock moved to approve Resolution of Intention #2001-14, with the amendments as presented by staff, to the Middle Cottonwood Zoning Regulation, with one change. He suggested the third sentence in Section 7) 7.2 read as follows: Parcels of record on January 30, 2001, containing from 21 to 40 acres outside the Deer Winter Range Overlay Area may have a one-time split into two parcels with the smaller parcel being no less than one-third (1/3) of the total original parcel size. He added the finding that the public health, safety, morals and general welfare require this amendment in accordance with the procedures that the regulations prescribe, and stated it was clear based on the intent, that the evidence submitted (exhibits from Anne Rusoff) show this was the intent all along and this is to clarifying an ambiguity. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planning Director Bill Arnold reported this was a public hearing on a resolution of intention to adopt Williams Brothers zone map amendment from AS (Agricultural Suburban) to R-O (Residential-Office) in the Gallatin County/Bozeman Area Zoning District. Mr. Arnold stated this request was on behalf of Gerald Williams, President of WBC L.P. The property is a 25 acre parcel described as Tract 4, COS No. 2202, and is in the SE1/4, Section 34, T1S, R5E, PMM, and is located at the northwest corner of Baxter and Davis Roads. He gave an overview on the standards and uses of the current AS Zoning and the proposed R-O Zoning. The staff report contained criteria for the Commission to evaluate for considering the proposed change in the zoning classification. The Gallatin County Planning Board held a public hearing on January 9, 2001, and recommended approval on a 5:3 vote. Mr. Arnold pointed out an error on Exhibit "G", attached to the staff report submitted by the applicant. The draft map of a plan titled, "Bozeman 2002 Plan" should be titled "Bozeman 2020 Plan". Stacey Robinson, CTA Landworks Group representing Mr. Williams gave a synopsis of the application. Bozeman City Commissioner Joe Frost told of a pilot fast track review system and change in project sequencing to allow simultaneous infrastructure installation and construction. This would enable them to avoid the need for timing variances and speed up the process. Mr. Frost left the Commission with the question of considering whether or not urban zoning designations in the county are in the best interest of the public. He stated the Bozeman City Commission was not opposed, nor were they supporting the

178 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

request. He submitted Exhibit "A" a letter of intent from the City of Bozeman to Jerry Williams. Jerry Williams spoke of the processes they have gone through with the City from the start, to the present time. Mr. Williams urged the Commission to give their vote of approval. Commissioner Mitchell moved to approve Resolution of Intention #2001-15, with the findings as follows: that the request is compatible with the adopted County plans and plans in the process; it is consistent with the intent and purposes of the zoning regulations and the requested new zoning classification; the request of zoning designation is compatible with adjacent land uses and zoning classifications; it already touches the city limits and is continuous; it complies with the statutory review under Section 76-2-203, M.C.A and will benefit a majority of the land owners, rather than just a few because it is a natural growth area for the City of Bozeman; the intent is to eventually be within the city limits and, thereby benefiting the surrounding neighborhood community and general public; and that it has been adequately advertised and the planning board has approved this zoning amendment request. Seconded by Commissioner Murdock. Commissioner Mitchell amended the motion, adding a condition suggested by staff to read as follows: The zone map amendment shall be completed upon submittal of the \$100 mapping fee to the Gallatin County Planning Department for update of the Official Zoning Map. Commissioner Murdock amended his second to include the condition. None voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 11:25 A.M.

*Unavailable  
For Signature*  
CHAIRMAN APPROVAL

*Shelley Vance*  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 6th DAY OF FEBRUARY 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:05 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**JANUARY 29 – February 1, 2001**

- The Commissioners attended regular County business.

**FEBRUARY 2, 2001**

- The Commissioners attended a regularly scheduled Finance Committee meeting. In attendance were Commissioners Mitchell and Vincent, Treasurer Jeff Krauss, Deputy Treasurer Anna Rosenberry, Auditor Joyce Schmidt, and Clerk and Recorder Shelley Vance. The group discussed the Knaub and Co. audit reports and responses and the creation of an audit committee. Clerk and Recorder Vance was elected unanimously as the new chairman of the Finance Committee. Treasurer Krauss made a motion to create the audit committee with the following membership: Accountant for the Clerk and Recorder, Representative of the Commission, Representative of the Auditor, and Representative of the Treasurer. Auditor Schmidt seconded the motion. All voted aye. Motion carried unanimously.

**The following items were on the consent agenda:**

1. Approval of claims presented by Auditor dated January 26, 2001 through February 2, 2001, for P.O. #72390 for \$50.00, P.O. #56499-01 for \$1,728.64, P.O. #73126 for \$145.19, P.O. #69062 for \$1,700.00, P.O. #56500-01 for \$1,700.00, P.O. #70252 for \$17,558.14, P.O. #71992 for \$344.85, and P.O. #73734 for \$688.00 totaling \$23,914.82.
2. Consideration of Contract(s): Snowplowing Services Agreement with Mike Barnes for RID #372, Harvest Hills; Snowplowing Services Agreement with Steve O'Neil for RID #357, Hyalite Heights; Interlocal Agreement with City of Belgrade for Use and Storage of Mag Chloride Tank at County Shop; and Library Services Contract with the City of Bozeman.
3. Release of Improvements Agreement for Shakira Subdivision located at the SW corner of Valley Center and Harper-Puckett Roads in the former Bozeman City-County Planning Jurisdiction. Preliminary plat approval was granted April 4, 1997. A staff report submitted by Gallatin County Planner John C. Shepard recommends that the Commission consider approval of the requested release.

4. Request for Relocation of Common Boundaries Exemption for William Oldroyd, Pamela Naisbett, James W. and Samuel Kephart and Katherine Kephart Barnes, Lisa Reon and Gregg Evans Barnes located in, E1/2 Section 21 and W1/2 Section 22, T13S, R4E, (West of West Yellowstone). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
5. Request for Agricultural Exemption for Annabelle Strang located in E1/2, SW1/4, Sw1/4 Section 29, T2S, R6E. Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
6. Request for Eminent Domain Exemption for Westland Enterprises, Inc. and TM Land Partners, Ltd., located in NW1/4 Section 31, T6S, R4E, (Highway 64, near existing Big Sky Water and Sewer District ponds). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.

Commissioner Mitchell read the consent agenda. There was no public comment. Commissioner Murdock moved to approve the consent agenda as read. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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One vacancy exists on the Fairview Cemetery Board. This is a three-year term, expiring on December 31, 2003. There was no public comment. Commissioner Vincent moved to appoint Marcia K. Fairhurst. Seconded by Commissioner Murdock. None voting nay. Motion carried. Nine vacancies exist on the Open Lands Board. These are two-year terms, expiring on February 9, 2003, and one of the appointees will serve the remainder of Nancy Flikkema's term, expiring on February 9, 2002. There was no public comment. Commissioner Murdock noted that he had discussed the idea of creating a definition of an ag producer with the Open Lands Board. Currently there is not a definition, and the board requested that the Commission consider a recommendation based on a definition that they would identify as an ag producer, which is required in the by-laws. Commissioner Murdock moved to reappoint Archie Alexander, Delbert Kamerman, Verna Lou Landis, Greg Leep, Terry Lonner, Carmen McSpadden, Carl Schutter, and Devon Sorlie. Seconded by Commissioner Vincent. Board member Grace Morgan stated they would meet the following week to discuss the definition using the same criteria as the IRS and the state. This position is being re-advertised. None voting nay. Motion carried. One vacancy exists on the Search & Rescue Advisory Board. Effective July 19, 2000, Lieutenant Richard Pease replaced Captain Gary Smith. Based on this change, Lieutenant Pease should be appointed to the board as the Salvation Army's representative, filling the remainder of Captain Smith's term, expiring on June 30, 2003. There was no public comment. Commissioner Vincent moved to appoint Lieutenant Pease. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported on the consideration of a resolution of intent to amend the Gallatin County General Fund Miscellaneous Department budget for FY 2001. The public hearing is set for February 13, 2001. Commissioner Murdock moved to approve Resolution of Intention #2001-17. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported this was a public hearing and consideration of a resolution to conduct an election creating the River Rock County Water and Sewer District, electing board of directors and incurring bonded indebtedness. The election will be held on April 11, 2001. Michael Potter, a partner in the development of the River Rock project spoke to the Commission regarding the creation of the district. Joby Sabol stated he would be available for questions. Barbara Campbell a consultant with Double-Tree Inc., explained her involvement in creating the rate structure in the negotiations of the acquisition, and her help with the financial planning of the municipal system infrastructure. Meg Richards, administrator of River Rock Water and Sewer and Wes Dooley, a resident spoke in support of the district. The Clerk and Recorder received no correspondence in regards to this matter. Commissioner Murdock moved to approve Resolution #2001-18. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the consideration of a family transfer exemption request for Eric Ossorio, located in the NE1/4 and SE ¼, Section 22, T6S, R3E. Ms. Koozer stated the Commission needed to determine whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. Eric Ossorio was sworn in and testified under oath,

answering questions submitted by the County Attorney to assist the Commission with their determination. There was some ambiguity regarding the last question that read as follows: Do you agree that you and your immediate family recipients will not sell, transfer or encumber any of the tracts created under the family transfer exemption, unless you or the recipient files for subdivision review with the Planning Department? Mr. Ossorio did not understand the legitimacy of the question, although he stated it was not his intention to sell the property. Commissioners Murdock and Mitchell concurred his intent was adequately expressed. There was no public comment. Commissioner Vincent moved to grant Eric Ossorio the family transfer exemption. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the consideration of a family transfer exemption request for Katherine G. Steele, located in the SE1/4, Section 35, T2N, R3E. Ms. Koozer stated the Commission needed to determine whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. Tom Potter, the claimant's representative was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination. There was no public comment. Finding that the questions were answered to satisfaction under oath, Commissioner Murdock moved to approve the Katherine Steele family transfer exemption. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Belgrade City-County Planner Jason Karp reported on the consideration of a request for final plat approval of the Cheri Major Subdivision located in the SE1/4 of Section 28, T1N, R4E, P.M.M., Gallatin County, Montana. Mr. Karp stated that Gaston Engineering on behalf of Larry Wilcox has requested approval of an independent road impact fee calculation, improvements agreement, and final plat approval of a 16-lot subdivision on 19.8 acres. The subdivision is located west of Belgrade off Collins Road, adjacent to the Mission Park Subdivision. The Commission granted preliminary plat approval on August 15, 2000. Mr. Karp explained as per Section 5.3 of the Gallatin County Road Impact Fee Regulation, the applicant has submitted an independent road impact fee calculation study for the subdivision which recommends that the subdivider pay \$3,346.39 in road impact fees for the subdivision, and as per Section 8-D of the Gallatin County Subdivision Regulations, the developer has submitted an improvements agreement and letter of credit in the amount of 150% of the estimated cost of the improvements in lieu of completion of the required paving within the subdivision. Part of the process for the impact reduction request relies on the Gallatin County Planning Department consulting with the Road Office to review the independent fee calculation. Gallatin County Planning Director Bill Arnold recommended that the independent fee calculation be rejected, and that the subdivider be required to pay the full amount. He did not agree with the independent study assumption that suggested the impact of county roads would only be a half-mile section from the north Frontage Road, along Collins Road to the subdivision. The study did not consider additional vehicle trips for service and utility providers and he felt this would set a bad precedence to accept these impact reduction requests at face value. Gallatin County Road Superintendent Lee Provance concurred and stated that the road impact fees should be a standard fee and the cost of doing business in Gallatin County. The developer Larry Wilcox stated that the precedence already existed in two different cases where subdivisions were granted a 90 percent reduction. Mr. Wilcox explained to the Commission the road improvements completed to this point and the amount of funds invested in those improvements. Dennis Foreman, Gaston Engineering stated there was some misunderstanding of the use of impact fees. Mr. Foreman quoted sections of the Impact Fee Regulations and stated the fees were to be used to expand the capacity of the road and was not intended for maintenance. Board discussion took place regarding the criteria used for granting lesser impact fees, revising the impact fee reduction formula and reimbursement to prior subdivisions that were required to pay impact fees. Commissioner Murdock stated he was not comfortable waiving a deduction or applying the full impact fee without considering the criteria. Staff Engineer Roy Steiner explained a pay back clause and cost share process that is currently in place for subdivisions that are required to pave county roads. Commissioner Vincent was reluctant to proceed because it was unclear if the impact fees were for a prescribed area, relative to immediate impacts in the area, or whether they are impact fees for the overall impact on county roads over time by an increase of population. Mr. Arnold suggested delaying action on the final plat in order to allow him to meet with the applicant to thoroughly look at the regulations in terms of how credits against the impact fee are calculated. Commissioner Murdock moved to approve the improvement agreement, finding it is acceptable with the County Attorney's office. Seconded by Commissioner Vincent. Commissioner Mitchell, added that the letter of credit was also, approved to length and form. None voting nay. Motion carried. Commissioner Murdock suggested continuing final plat approval, based on the advice of the Road Office and the Planning Director in order to give them a chance to look at the impact fee

formula and work with the developer. Commissioner Mitchell asked Mr. Wilcox if he would be willing to continue final plat approval. Mr. Wilcox replied he would like to seek final plat approval and would pay the money recommended by the planners so he could continue his project, while working with staff and his engineers. If subsequently it were found the fee should be reduced, hopefully the county would reimburse him for the difference. Commissioner Mitchell was unsure if this type of process was allowable. Commissioner Mitchell and Murdock stated they were not in support of giving the reduction at this point, if Mr. Wilcox was not in favor of the continuance. Mr. Wilcox was in agreement to a continuance until February 13, 2001.

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Town of Manhattan Planning Consultant Ralph Johnson was unavailable to present the consideration of a request for preliminary plat approval for the Klompfen Minor 2 Subdivision. Dennis Foreman, Gaston Engineering stated the application was submitted in October 2000, to the Manhattan City-County Planning Board. Mr. Foreman explained that they were working with Ralph Johnson and suggested that possibly the county planning, too, could help by giving Mr. Johnson some direction on how to proceed. Gallatin County Planning Director Bill Arnold stated the proposed subdivision was not within the Manhattan zoning jurisdiction. Finding the conditions presented in Mr. Johnson's staff report did not follow the preliminary plat approval process, and the fact that Mr. Klompfen was in attendance, Commissioner Murdock suggested they take the standard conditions of approval from the Cheri Major Subdivision staff report and make changes accordingly. Mr. Foreman was in agreement. Commissioner Mitchell was in agreement as long as a staff member of county planning was present. Gallatin County Planner W. Randall Johnson presented a staff report revised from the Cheri Major Subdivision. The Klompfen 2 Minor Subdivision located in the NE1/4, SW1/4, Section 3, T1N, R3E, P.M.M., Gallatin County, Montana. This subdivision is a 1.125-acre site located approximately 0.5 miles northwest of the City of Manhattan, just north of the railroad right-of-way and Frontage Road U.S. 10. The County Commission needs to make the following determinations: a determination as to whether or not the application meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act; and, a determination as to whether or not the application complies with the provisions of the Gallatin County Subdivision Regulations. The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the following conditions: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat. 5. The developer shall record covenants with the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and tenants of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c. All fences bordering agricultural lands shall be maintained by the Homeowners in accordance with State Law. d. All structures must meet the fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief. e. Site plans of all lots must be submitted for review and approval by the Manhattan Rural Fire District. f. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. g. All structures shall be constructed in compliance with the Uniform Building Codes, and the National Fire Protection Association (NFPA) codes. h. Any covenants which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 6. Two copies of the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval. 7. Fire and Road Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact fee regulations. 8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval. 9. A copy of the final plat shall be submitted to the Manhattan Fire Department

**182 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46**

and the Gallatin County Road Department. 10. Encroachment permit must be obtained from the Road Department. 11. The developer shall obtain an approval weed management plan from the Gallatin County Weed Control District prior to any construction projects within the site. The approved weed management plan shall be submitted to the Gallatin County Planning Department prior to final plat approval. Areas disturbed by construction shall be seeded and controlled for noxious weeds. 12. The subdivider shall provide a water supply for fire protection in accordance with the Gallatin County Subdivision Regulations. The subdivider shall have the fire district review and approve the water supply prior to final plat approval. The subdivider shall obtain written verification from the fire district that the required water supply has been provided. 13. Two copies of the covenants, a copy of the preliminary approval document, documents establishing the homeowners' association, road easement documents, deed restrictions, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants, documents establishing the homeowners' association, easement documents, deed restrictions, and certificate of title abstract prior to final plat approval. 14. The developer shall have three (3) years to complete the above conditions and apply for final plat approval. Mr. Johnson cautioned the Commission to pay close attention to the continued addition of ADT's on Nixon Gulch Road, because of the numerous subdivisions on that road. Mr. Foreman stated the conditions were acceptable to the applicant, and that the Road Office had been consulted and there were no concerns with this subdivision. There was no public comment. Commissioner Murdock moved to approve the Klompien 2 Minor Subdivision as proposed, subject to the conditions as presented, finding it meets the Manhattan Master Plan Goals and zoning requirements; the Gallatin County and Manhattan area subdivision regulations; and that it is consistent with all other applicable laws. Seconded by Commissioner Vincent. Commissioner Mitchell, added the finding that the Klompiens have already received their variance through the Manhattan Board of Adjustments. None voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 11:52 A.M.

*Unavailable  
For signature*  
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CHAIRMAN APPROVAL

*Shelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 13th DAY OF FEBRUARY 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:00 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**FEBRUARY 5, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell, Murdock and Vincent, Executive Secretaries Stacy Johnston and Glenda Noyes, Grants Administrator Larry Watson, Deputy County Attorney Chris Gray, Staff Captain Jason Shrauger, and David Falk of LifeLink. The Commission considered a grant application for Project Impact. Commissioner Vincent made a motion to approve the Project Impact grant application. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.
- The Commissioners considered a change to the personal property subordination agreement with LifeLink International. The company has a long-standing CDBG loan with the county, with a current balance of \$109,815.77. The company is changing banks to Wells Fargo and they have different standards for their subordination agreements. The new agreement puts the County in the place of being secondary to other lenders, which is a decreased position from the current agreement. Mr. Gray noted that this places the County in a position of increase risk if payments are not made. It was also noted that LifeLink has not missed any payments and all have been made in a timely manner. Mr. Gray recommends the company go to the bank and request alternate language that would decrease the risk to the County, and if they will not agree, CDBG could be approached for other recommendations. Commissioner Murdock made a motion to enter into a revised agreement with LifeLink and Wells Fargo, contingent on language that is consistent with previous agreements and meets the approval of Mr. Gray. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

## GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 183

Commissioner Murdock made a motion to approve the uninsured motorist forms for First West Insurance. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commission considered an invoice from Gallatin Development Corporation in the amount of \$300.00. This support has been budgeted. Commissioner Murdock made a motion to approve the budgeted support to Gallatin Development Corporation in the amount of \$300.00. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Open Lands Board submitted an expenditure transfer request in the amount of \$920.00. Commissioner Vincent made a motion to approve the request. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

In an effort to finalize the CIP committee, Commissioner Vincent made a motion to appoint Clerk of District Court Lorraine VanAusdol as the elected official member of the CIP Committee. Commissioner Mitchell seconded the motion. Commissioners Mitchell and Vincent voted in favor of the motion. Commissioner Murdock voted against. Motion carried with a vote of two to one.

- The Commissioners attended a regularly scheduled meeting with the County Attorney. In attendance were Commissioners Mitchell, Murdock, and Vincent, County Attorney Marty Lambert and Treasurer Jeff Krauss. The group discussed the resignation of Treasurer Krauss and the filling of his position, along with other legal matters. Commissioner Vincent made a motion to appoint Mark Murphy as counsel for the Harrington case. Commissioner Murdock seconded the motion, adding the finding that this is per County Attorney Lambert's advice. Commissioners Murdock and Vincent voted in favor of the motion. Commissioner Mitchell abstained. Motion carried with a vote of two to one.

### **FEBRUARY 6, 2001**

- The Commissioners conducted regular County business.

### **FEBRUARY 7, 2001**

- The Commissioners attended a regularly scheduled Road Department Monthly meeting. Discussion took place regarding the Camp Creek Road speed study, the dust control cost share policy, road and bridge priorities, and the Fischer gravel pit. Mr. Provance agreed to have the road office investigate weight limits on Gooch Hill and Valley Center Roads and recommend appropriate action to the Commissioners at a later time. The Road Office will also work with Fiscal Officer Ed Blackman to budget a portion of impact fees to be used in the Amsterdam Road are this year. The Commissioners agreed to keep the dust control cost share policy the same in the next year.
- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, and Executive Secretaries Stacy Johnston and Glenda Noyes. The Commissioners considered a contract with Prugh & Lenon for the Manhattan CTEP project. Finding that the Fiscal Officer and County Attorney have reviewed and approved the contract and no new county funds are required, Commissioner Murdock made a motion to approve the contract with Prugh & Lenon for the Manhattan CTEP project. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously. Commissioner Vincent made a motion for the County Commission to interview Jim Cashell for the position of Sheriff, February 9 @ 3:00 pm. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

### **FEBRUARY 8-9, 2001**

- The Commissioners conducted regular County business.

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- Landfill Revenue for January 2001: \$78,988.73.
- A101's for January 2001: \$5,257.41.
- Payroll for January 2001: \$1,126,677.50.
- Clerk & Recorder's Fees Collected for January 2001: \$39,080.25.
- New Hire Report for January 2001: COMMISSION – John Vincent; REST HOME – Dawn Streich; ROAD & BRIDGE – Michael Divish; SHERIFF – LaDawn Eckhardt, Johnathan Green, Gerald Adams; SUPERINTENDENT OF SCHOOLS – Megan Sandiland.
- Terminated Employees' Report for January 2001: ATTORNEY – Susan Swimley 01/02/01; CLERK & RECORDER – Barbara Jensen 11/07/00; HEALTH – Lindsey Feldner 01/05/01, Bonnie Hash 01/12/01; REST HOME – Michael Menzel 12/17/00, Melanie Holland 01/02/01, Jan Zimmerman 01/12/01, Alice Jandt 01/18/01; ROAD & BRIDGE – Tyler Harmon 01/16/01; SHERIFF – Jeremy Johnson 01/14/01, Bill Slaughter 01/17/01; YOUTH PROBATION – Lee Copenhagen 12/31/00.

Approved Applications for Cancellation of Taxes (No. 4289-4291), January 2001: \$162.44.

**The following items were on the consent agenda:**

1. Approval of claims presented by the Auditor were the following batches dated February 13, 2001: Batch 1 for \$59,593.40, Batch 2 for \$143,189.86, Batch 3 for \$42,772.66, Batch 4 for \$108,768.69, Batch 5 for \$114,938.17, Batch 6 for \$36,090.04, Batch 7 for \$1,262.83, Batch 8 for \$21,673.12 totaling \$528,288.77.
2. Consideration of Contract(s): Attorney Services Contract with Nash, Zimmer and Swimley.
3. Request for Relocation of Common Boundaries Exemption for Cynthia and Gerald Mernin and Bridger Headlands, LLC located in, SE ¼ and SW ¼ Section 32, T1S, R6E. Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
4. Request for Amerud Zoning Improvements Agreement.

Commissioner Murdock read the consent agenda. There was no public comment. Commissioner Murdock moved to approve the consent agenda. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Belgrade City-County Planner Jason Karp reported on the continuation of consideration of a request for final plat approval of the Cheri Major Subdivision located in the SE1/4 of Section 28, T1N, R4E, P.M.M., Gallatin County, Montana. Mr. Karp noted the improvements agreement was approved at last weeks hearing. The Commission advised the Planning Department and the Road Office to meet with the developer and discuss the independent road impact fee calculation study requested in this application. Gallatin County Road Superintendent Lee Provance stated an agreement was reached in the amount of \$6,040.49 for road impact fees, and recommended the policy be re-worded to include criteria for rejection, due to the loose nature of the policy. Susan Swimley spoke regarding the adoption of the impact fee calculation and the formula for determining the cost factor for impacts on county roads. Larry Wilcox the developer requested the waiver be granted for some of the impact fees and that the subdivision be approved. Commissioner Murdock moved to accept the impact fees, based on the information presented by the applicants engineering firm, in the amount of \$6,040.49. Seconded by Commissioner Vincent. Commissioner Vincent supported the motion and recommended the policy be reviewed expeditiously. Commissioner Mitchell concurred with the discussion, although she was not in support, because she felt it was not equitable compared to what has been done in the past, with other developers. Commissioner Vincent and Murdock voting aye. Commissioner Mitchell voting nay. Motion carried. Mr. Karp stated the applicant submitted the impact fee of \$6,040.49, to the Planning Department, and that all the conditions have been met, and recommended final plat approval. Commissioner Murdock moved to accept final plat approval, finding the conditions of preliminary plat approval have been met. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic reported on the consideration of a request for preliminary plat approval for the KM Minor Subdivision located in the NE ¼, SE ¼ of Section 13, T2S, R4E, PMM, Gallatin County, Montana. The property is adjacent to the jog in Cobb Hill Road. Ms. Madgic stated that Gaston Engineering, on behalf of Kenneth Miller has requested approval for a three-lot minor subdivision on approximately three acres, for an overall density of one lot per acre. She explained the applicant is requesting one variance from the Gallatin County Subdivision Regulations-Road Design Standards (Section 7.A.2)-concerning provision of access to un-subdivided land. The application was properly noticed, and she noted that there was one telephone call regarding some of the present uses on the property, and surface water on Lot 3. The Gallatin County Planning Board held a public hearing on January 23, 2001, and voted 9:1 to recommend approval of the variance request. Ms. Madgic submitted changes, made by the Road Office to the staff report on page 3, and 6 photos, labeled Exhibit "A through F". The Commission needs to make the following determinations: a determination as to whether or not the application meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act; a determination as to whether or not the application complies with the provisions of the Gallatin County Subdivision Regulations; and whether or not to grant the variance concerning provision of access to un-subdivided land. The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the following conditions: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2. Applicant shall obtain approval from the Gallatin City-County Environmental Health Department for on-site septic systems and wells. 3. Two copies of the covenants, a copy of the conditions of preliminary approval, documents establishing the property



owners' association, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants, documents establishing the property owners' association, and certificate prior to final plat approval. 4. Applicant shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, or the creation of a sewer and/or water district. 5. All utility easements shall be shown on the final plat. Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat: The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever. 6. A Memorandum of Understanding shall be signed between the Weed Control District and applicant prior to final plat approval. 7. Applicant shall record the following covenants on or with the final plat: a) The property owner shall be responsible for the control of County-declared noxious weeds. b) Individual lot accesses from County public roads shall be built to the standards of Section 7.G.2 of the Subdivision Regulations. c) All new dwellings or home business occupancies built prior to the provision of an adequate water supply for fire fighting purposes shall be constructed with an automatic fire sprinkler system meeting the requirements of NFPA 13D/Uniform Fire Code. The fire district shall receive a stamped set of engineered sprinkler system plans for review and approval prior to construction. Inspections shall be scheduled, with 48-hour notice, during construction and after completion. d) Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. e) The control of noxious weeds by the Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District. f) The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds after 10 days notice from the property owners' association, the association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment. g) Any covenant, which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission. 8. The County Road Department shall approve all proposed interior road names. 9. Road name signs and STOP sign(s) shall be required per the County Road Department. 10. All interior roads (Emrie Lane) shall be built to County gravel standards and have 60 feet of right-of-way dedicated to the public. 11. Applicant shall obtain encroachment permit(s) from the Gallatin County Road and Bridge Department for access from Emrie Lane onto Cobb Hill Road. 12. ~~A cul-de-sac, built to County standards, shall be constructed at the north end of Emrie Lane.~~ 13. All roadwork shall be certified by a licensed engineer. Such inspection and certification shall be provided to the County Road Department in writing. 14. Forty-five feet of Cobb Hill Road, north and west of the centerline shall be dedicated to the public for the entire length of the development **as an access/pedestrian easement for the future expansion of Cobb Hill Road.** 15. A no-access strip shall be shown on the final plat along the length of the south and east property boundaries. 16. Applicant shall make payment of road impact fees in accordance with the Gallatin County Subdivision Regulations. 17. Applicant shall make payment of fire impact fees in accordance with the Gallatin County Subdivision Regulations. 18. Applicant shall provide an appropriate fire protection method in accordance with the Subdivision Regulations. Applicant shall have the Rae Rural Fire District review and approve the fire protection method prior to final plat approval. Applicant shall obtain written verification from the fire district that the requirement has been met. Applicant shall submit copy of final plat to Fire District for approval. 19. Applicant shall have three (3) years to complete the above conditions and apply for final plat approval. Ms. Madgic added one condition concerning a ditch maintenance easement to read as follows: The existing ditch shall be protected with a ditch maintenance easement as required by the subdivision regulations. At the recommendation of the Gallatin County Planning Board, changes were made to condition #10 to read as follows: 10. All interior roads (Emerie Lane) shall be built to County gravel standards and have 60 feet of right-of-way dedicated to the public; condition #12 was deleted, as the road department is no longer requiring that be a condition. Condition #14 changed to read as follows: 14. ~~Forty-five~~ Thirty feet of Cobb Hill Road, north and west of the centerline, shall be dedicated to the public for the entire length of the development **as an access/pedestrian easement for the future expansion of Cobb Hill Road.**, with the change of

thirty fee the highlighted section would be moot; and condition #18 with the addition of the following:

**1. General Fire Protection Requirements** 1.1 Any fire protection covenant required as a condition of the preliminary plat approval and required by the fire protection authority having jurisdiction may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in the covenants and the Gallatin County Commission. 1.2 The developer shall provide to the fire protection authority having jurisdiction a detailed site map, including fire protection features, i.e. access roads, hydrant systems, water supply points, etc. installed in the development and addresses for each lot. 1.3 The fire protection authority having jurisdiction shall be made a party to these covenants, for the purposes of enforcing these fire protection covenants. 1.4 Fire sprinkler systems, fire alarm systems, and private property driveways shall be installed and fully operational prior to occupancy. Addresses shall be posted at the street prior to any construction activity. 1.5 All buildings shall be built in compliance with the current editions of the Uniform Fire Code and the Uniform Building Code. 1.6 Prior to final plat approval, a summary fire protection note, approved by the Rae Fire Department, shall be recorded on the final plat.

**2. Posting of addresses of structures:** 2.1 All buildings shall be clearly marked with address numbers prior to occupancy. The numbers shall be plainly visible and legible from the street and on a contrasting background. The building address number shall also be posted at the intersection of the driveway to the building and roadway serving the driveway. The address numbers shall be constructed of a minimum of 4-inch reflective material on a contrasting background located at the intersection of the driveway and the county standard public roadway. The sign shall have one face with the above referenced reflective numbers facing each direction of travel of the public roadway(s) approaching the driveway intersection.

**3. Seperation Between Buildings** 3.1 The distance between any part of two or more structures shall be a minimum of 50 feet measured from the parts of the structures that are closest. Where two or more buildings have compliant fire protection sprinkler systems the buildings may be as close as allowed in other sections of the covenants.

**4. Access to buildings:** 4.1 Access shall be provided and maintained to allow fire apparatus to park within 150 feet of all portions of all buildings.

**5. Fire Protection Sprinkler Systems** 5.1 All new structures with any residential or commercial capacity or use shall have fire sprinkler systems installed. The fire sprinkler systems shall be designed and engineered (with appropriate stamps and signatures by a fire protection engineer licensed in Montana) and installed in accordance with the current edition of the appropriate National Fire Protection Association Standard for the building and its use. The property owner shall provide the Rae Fire Department with a signed and stamped copy of the fire protection sprinkler system plans 14 days prior to their installation. The property owner shall provide the Rae Fire Department with written certification by a fire protection engineer (licensed in Montana) that the fire protection sprinkler system has been installed in compliance with the appropriate NFPA standard and is fully operational prior to occupancy of the building. 5.2 The property owner is responsible for the condition of the fire sprinkler system and shall keep the system in normal operating condition. 5.3 Buildings requiring fire sprinkler systems shall have a smoke detection and alarm system meeting or exceeding the requirements of the current edition of the applicable National Fire Protection Association Standard including but not limited to NFPA 13D, NFPA 72(National Fire Alarm Code), the Uniform Building Code, and other referenced standards or codes. 5.4 All fire protection sprinkler systems shall be properly maintained to provide at least the same level of performance and protection as their original design. Dennis Foreman, Gaston Engineering on behalf of the applicant stated they were in agreement with the conditions that the planning board and staff recommended. Mr. Foreman stated the variance was requested in order to avoid removing trees from the site at this time and they had no problem dedicating a 60-foot right-of-way easement for future use. Public comment in opposition of the subdivision: Melissa Batters; Teresa Ax; Mike Carisch; LeRoy Hopper; and Harley Quick, also speaking for Peggy Bennett. Some of the concerns were high ground water, too many homes in a close proximity, and improper noticing of the proposal. Mr. Foreman addressed some of those concerns. Kenneth Miller, the applicant spoke of his intentions for the proposed subdivision and addressed concerns of the Commission. Gallatin County Road Department Engineer Roy Steiner explained the details concerning the Road Department's requested changes to the conditions, and suggested ideas for improvements to the site triangle. Commissioner Murdock stated he would have a tough time in the absence of a zoning district, to turn down this proposal unless it was found to have public health and safety issues. He was concerned with the high ground water and in order to satisfy those concerns the developer would have to meet the health department's requirements. Commissioner Vincent was concerned with the noticing process, and requested more time to look at this proposal before making a decision. Ms. Madgic recommended they ask the applicant, as there was a statutory time frame requirement. Commissioner Mitchell stated she, too, would like more time to review the proposal, and asked the applicant if he was willing to continue. Mr. Miller agreed to the continuance for two weeks. Commissioner Murdock requested that staff meet with the developer to discuss the issues of concern. Commissioner Mitchell continued the proposal until February 27, 2001.

Gallatin County Chief Deputy Clerk and Recorder Eric Semerad reported this was a public hearing and consideration of a resolution creating rural improvement district 376-Painted Hills Subdivision. Mr. Semerad noted the petition was received on November 8, 2000, and the Commission adopted a Resolution of Intention RID-01-376-A, to create on January 23, 2001. Notice was published in the High Country Independent Press on January 25, 2001, and February 1, 2001, and mailed to owners and contract purchasers on January 24, 2001. Mr. Semerad stated that during the protest period the Clerk and Recorders office received 5 letters from owners within the proposed district, protesting the creation of RID 376. This constitutes 5 percent of the owners within the proposed district protesting the creation of this district. Susan Swimley stated the purpose of this hearing was for the Commission to consider the sufficiency of the protests. If there were 50 percent protests the Commission would be prohibited from proceeding, and less is within their discretion in order to create or not create this district by resolution. Commissioner Murdock questioned if any of the protests were against the county's pledge of the revolving fund as security for the bonds. Ms. Swimley stated there were none. Public comment speaking in opposition of creating the RID was as follows: Joyce Schmidt and Candis Dorsch. Some of their concerns were repairing a road with a sub-standard base; potential misrepresentation of the homeowners association in procuring signatures for the petition; impact of heavy construction vehicles continuing to impair the road; future subdivisions using Painted Hills roads for access; and the two streets within the Painted Hills Subdivision that were excluded from the resolution. Ms. Swimley clarified the issue of the excluded streets and, explained that it was addressed in Section 2 of the resolution. It was an oversight that Cobalt and Canvas streets were not included in the resolution of intention, however, they are in the district and will be included. Gallatin County Road Superintendent Lee Provance spoke regarding future build out and the prospect of future subdivisions. Mr. Provance stated if the roads were not repaired they would be looking at total reconstruction and right now it is possible to save them. Greg Stratton, Morrison-Maierle explained to the Commission the intention of the planned proposal and addressed the future maintenance program that is incorporated in the RID program. Commissioner Murdock stated after hearing testimony from the road office and the engineer, it was evident if the road repair is put off, it will cost more in future. Commissioner Murdock moved to approve Resolution RID-01-376-B, with the addition on page two showing there were 5 protests, and none protesting against the county pledge for the revolving fund. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Deputy County Attorney Chris Gray reported on the first reading of an ordinance establishing a 25 MPH speed limit on Camp Creek Road. Commissioner Vincent read the ordinance. Kathleen Jillson read her letter previously submitted to the Commission dated January 15, 2001, and a letter from neighbors Ed and Sharon Sendra in support of the ordinance. Public comment speaking in support of the ordinance as read: Larry Knutson; Tony Visser; Marie Rapp; Denise Hewitt; Brent Hawkins; Kristy Johnson; and John Kimm. Public comment speaking in opposition of the ordinance and in support of a 35 MPH speed limit: Sam Hofman; Chet Sinnema; Lidea Kamps; Holly Uiterdyk; and Leonard Uiterdyk. Letters were received from the following in support of the ordinance: Charles Danhof; Robert and Jean Selles; Tracy and Angie Downton; Ken and Peggy Kreitzer; and Kathleen Jillson. Gallatin County Road Superintendent Lee Provance explained that according to the state law pedestrians and vehicles have a shared right on the road. Mr. Provance also, explained how people in certain school districts could apply for a special project to enhance pedestrian access, through the Commission or the Road and Bridge Department, and this may be a way for them to have a pedestrian/bike path. He noted that because of the driveway spacing this is an urban area and should not be treated differently from any other public road in a subdivision; therefore, the speed limit should be 25 MPH. Discussion took place regarding the widening of the bridge and the need for a pedestrian/bike pathway. Commissioner Murdock stated he was not in support of setting the speed limit to 25 MPH at this time. He was in support of a pedestrian/bike pathway in conjunction with the speed limit being 35 MPH, with the exception of the school zone being 15 or 25 MPH with flashing lights. Commissioner Vincent moved to adopt Ordinance #2001-01, as written. Seconded by Commissioner Mitchell. Commissioner Vincent reiterated the need to consider the widening of the bridge, providing the pedestrian pathway and committing County funds to that effort. Commissioner Mitchell concurred. Commissioner Mitchell and Vincent voting aye. Commissioner Murdock voting nay. The second reading will be held February 27, 2001.

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Gallatin County Chief Deputy Clerk and Recorder Eric Semerad reported on the receipt of three petitions to annex properties into the Belgrade Rural Fire District. Mr. Semerad stated the locations of the properties are: a portion of Section 21, T2N, R5E lying north of Reynolds Creek Road owned by Rahn and Pates Limited Partnership; NE ¼, NE ¼ SE ¼ less COS 1201, SE¼ NW ¼, NE ¼ SW ¼, and

**188 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46**

W ½ SW ¼ of Section 4, T2N, R5E, and the NE ¼ of Section 5, T2N, R5E owned by Robert A. and Dorothy A. Haugland; and Tract 1 of COS 389A located in the S ½ of Section 21 and N ½ of Section 28, T2N, R5E owned by Joel and Dawn Leadbetter. The petitions contain the signatures of 50% or more of the area of privately owned lands; who constitute a majority of the taxpayers who are freeholders; and whose names appeared on the last completed assessment roll. The tracts of land for which the annexations are being requested, are adjacent to the Belgrade Rural Fire District. Mr. Semerad recommended the hearing be held March 20, 2001. Commissioner Murdock moved to accept the petitions as presented by the Clerk and Recorder's office. Seconded by Commissioner Vincent. Commissioner Murdock amended the motion to include the public hearing date of March 20, 2001. Commissioner Vincent amended his second. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman speaking on behalf of the Health Department stated this was for consideration of a resolution of intention to amend the covering kids fund for changes in grant revenues in FY 2001 budget. The public hearing is scheduled for February 27, 2001. Commissioner Vincent moved to adopt Resolution #2001-19. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported this was a public hearing on the availability of funding Community Development Block Grant/Home Programs. Mr. Watson stated this is the first of two hearings required to retain Gallatin County's eligibility for application for CDBG and HOME funds. The purpose of this meeting is to 1) Inform citizens about the CDBG and HOME Programs, 2) Identify the amount of funds available, 3) Explain how it may be used, 4) Discuss the range of activities eligible for funding, 5) Explain other program requirements. Due to the lack of public, he referred the Commission to the written documents submitted, in providing the detail needed to clearly understand all the components of the program. He pointed out some of the changes in the program that were new for this year. A second hearing will be held on March 13, 2001, and that hearing will call for a presentation of any proposed Economic Development projects and provide an opportunity for public comment on the application to be presented to the Montana Department of Commerce.

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Commissioner Murdock left for Helena at noon.

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Deputy County Attorney Chris Gray reported this was a public hearing and consideration of a resolution to transfer appropriations among expenditure classes of the County general fund - FY 2001 budget, County Attorney contracted services. There was no public comment. Commissioner Vincent moved to approve Resolution #2001-20. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported this was a consideration of a resolution of intention to amend the District Court #1 temporary salaries and wages for changes in revenues in FY 2001 budget. The public hearing was scheduled for February 27, 2001. Commissioner Vincent moved to adopt Resolution #2001-21. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported this was a public hearing and consideration of a resolution amending the Gallatin County final operating budget for the general fund miscellaneous department for FY 2001. Commissioner Vincent moved to adopt Resolution #2001-22, in the absence of any public testimony. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman gave a presentation of financial trend analysis and financial forecast. Mr. Blackman submitted a copy of his report, and made reference to an addition on page 7, that on February 21, 2001, a full presentation will be given at the department head and elected officials

GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 189

meeting. The Commission acknowledged the report was presented with the updated information, and is now part of the public document.

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There were no pending resolutions. There being no further business the meeting was adjourned at 12:35 P.M.

*Unavailable  
For Signature*  
\_\_\_\_\_  
CHAIRMAN APPROVAL

*Shelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 20th DAY OF FEBRUARY 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:07 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**FEBRUARY 12, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell, Murdock and Vincent, and Executive Secretaries Stacy Johnston and Glenda Noyes. Juvenile Detention submitted two expenditure transfer requests for \$336.30 and \$312.70. Commissioner Murdock made a motion to approve both requests submitted by Juvenile Detention. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously. The Sheriff's Office submitted a budget transfer request in the amount of \$21,674.14. Commissioner Murdock made a motion to approve the budget transfer request from the Sheriff's Office finding that it involves no new monies and is being done to offset the juvenile probation budget. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously. The Commission considered approval of invoice #129BS from R. Dale Beland, in the amount of \$627.00. Commissioner Murdock made a motion to approve invoice #129BS. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously. Members of the Web Committee presented an update and recommendation to the Commission. The group recommended that the Commission contract with Fred Gifford of Maxim Technologies to begin working on the County web sites, build the overall look and pages and set it up to allow various departments to maintain their own page. They noted that the cost could be as much as \$7,000.00. Mr. Blackman stated that the money could be taken from PILT funds, from a \$25,000 reserve for professional services. It was also noted that as departments want to improve their web sites, they can fund this from their own budgets. Commissioner Murdock made a motion to approve monies from PILT, not to exceed \$7,000.00 in order to get the County web site to standard. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously. Discussion took place regarding a letter received from Road and Bridge Superintendent Lee Provance regarding the staff engineer position. Commissioner Vincent made a motion to place the engineering technician position back under the sole supervision of the Road and Bridge Department, effective March 1, 2001. Commissioner Mitchell seconded the motion. In discussion it was determined that this decision should be conveyed to Mr. Provance in a formal letter. All voted aye. Motion carried unanimously.

**FEBRUARY 13, 2001**

The Commissioners conducted regular County business.

**FEBRUARY 14, 2001**

- The Commissioners attended a regularly scheduled meeting with Disaster and Emergency Services. In attendance were Commissioners Murdock and Vincent and Fire Chief Aaron Holst. Commissioner Murdock made a motion to approve the costs/location related to the moving of the EOC, not to exceed \$11,486.00. Also noting that phone system costs will roll over to the permanent SAR/EOC location at the fairgrounds. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.
- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent and Commission Secretaries Stacy Johnston and Glenda Noyes. Fiscal Officer Ed Blackman presented a FY 2002 budget timetable and baseline budget levels to the commission for approval. Commissioner Vincent made a motion to approve the FY 2002 budget timetable subject to amendment where necessary. Commissioner Murdock seconded

## 190 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

the motion. All voted aye. Motion carried with a vote of two to zero. The group discussed Phase II issues and Commissioner Vincent made a motion to instruct the Commission secretaries to work with Commissioner Mitchell to make decisions regarding conference room tables and dry erase boards for each. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero. Commissioner Vincent made a motion to enter into a contract with Knaub and CO. to do a limited review audit per the action taken on January 31, 2001. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

### **FEBRUARY 15-16, 2001**

- The Commissioners conducted regular County business.

#### **The following items were on the consent agenda:**

1. Approval of claims presented by the Auditor dated February 9, 2001 through February 14, 2001, for P.O. #73808 for \$50.00, P.O. #73740 for \$783.00, P.O. #67783 for \$420.09, P.O. #73622 for \$1,298.50, P.O. #72573 for \$215.38 totaling \$2,766.97.
2. Consideration of Contract(s): Agreement with Sure-Way Systems, Inc. for Disposal of Infectious Waste; Agreement with Ted & Claudia Washburn for Coffee Cart Services at L & J; Operation Freedom From Fear Grant Program Grant Proposal; and Victim Witness Assistance Program Grant Proposal.
3. Request for Relocation of Common Boundary Between a Single Lot Within a Platted Subdivision and Adjoining Land for Gail Chemodreau Willams located in, NE ¼ Section 31, T2S, R6E, and NW ¼ Section 31, T2S, R6E, and NE ¼ Section 36, T2S, R5E (Sourdough Road). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
4. Request for Common Boundaries Relocation Exemption for Section 17, LLC (Developer of Porcupine Park Subdivision)/Patricia Eudy located in NE ¼ Section 17, T7S, R4E. Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
5. Request for Common Boundaries Relocation Exemption for Section 17, LLC (Developer of Porcupine Park Subdivision)/Richard A. and Constance G. Barton & Christine Woodward Duncan & Richard T. and Janet J. Bruener & Josephine L. Erickson located in, Section 17, T7S, R4E. Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.

Commissioner Vincent read the consent agenda. There was no public comment. Commissioner Vincent moved to approve the consent agenda. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Chief Deputy Treasurer Anna Rosenberry requested that the consideration of a contract for tax bill printing and mailing for 2001 bills be continued until next week. Commissioner Mitchell continued for one week.

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the consideration of a resolution of the Gallatin County Commission denying the CVG Montana, L.L.C. variance request. There was no public comment. Commissioner Murdock moved deny the variance request with the same findings, facts and public testimony received at the joint Gallatin Canyon/Big Sky Planning and Zoning meeting, as Resolution #2001-23. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the hearing to consider abandonment of a portion of Lone Mountain Trail. Ms. Vance stated that notice of this public hearing was published in the High Country Independent Press on February 15, 2001, and in addition notice of this public hearing and a copy of the viewing committee report was mailed to all signers of the petition, land owners names on the petition, individuals named in the petition who could be affected, the post master of the area and the public lands access association. The viewing committee members were Commissioner Mitchell and Ms. Vance, with Road Superintendent Lee Provance as a consultant. A synopsis of the viewing committee report stated that the road is not constructed and no one would become land locked, nor denied access to public lands if the petition were granted. According to the petition, the necessity for

the abandonment include the following: The public no longer uses this road for ingress or egress because of the construction of State Highway #64 which replaced Lone Mountain Trail; This road does not provide access to public lands; This road does not provide a means of access to other lands to which access is not already provided by State Highway 64; and, the petitioners can put the property at issue to a beneficial use. It is both feasible and desirable to abandon this portion of Lone Mountain Trail. Brian Gallik spoke on behalf of the applicants Westland Enterprises and TM Land Partners. Mr. Gallik noted that a notice was also, published in the Lone Peak Lookout. He submitted Exhibit "A", a map that outlined the portion of Lone Mountain Trail to be abandoned. There was no public comment. Commissioner Murdock moved to abandon the portion of road as recommended by the applicant, finding that the public no longer uses this road for ingress and egress and there is no public benefit by keeping it, and including the information submitted by the viewing committee. Seconded by Commissioner Vincent. Ms. Vance requested the Commission have the County Attorney create a resolution for abandonment, which will then be recorded in the Clerk and Recorder's office to show this road no longer exists. Commissioner Murdock amended his motion to include directing the County Attorney to prepare a resolution with the findings. Commissioner Vincent amended his second. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the hearing to consider abandonment of Roxi Lane. Ms. Vance stated that notice of this public hearing was published in the High Country Independent Press on February 15, 2001, and in addition notice of this public hearing and a copy of the viewing committee report was mailed to all signers of the petition, land owners names on the petition, individuals named in the petition who could be affected, the post master of the area and the public lands access association. Members of the viewing committee were Commissioner Mitchell and Ms. Vance, with Road Superintendent Lee Provance as a consultant. An overview of the viewing committee report stated that the road is not constructed and no one would become land locked, nor denied access to public lands if the petition were granted. According to the petition, the necessity for the abandonment is two fold: 1) An approach permit is not available on Valley Center Road, and 2) The adjacent landowners desire to use the extension of North 27<sup>th</sup> Street which would be in accordance with the Bozeman Master Plan. The northern portion of Roxi Lane would potentially intersect very close to a sharp curve on Valley Center Road, and if constructed, would create severe safety issues related to site distances. The construction of both Roxi Lane and North 27<sup>th</sup> Street is unnecessary, and would have a negative effect on the usability of lots located within Minor Subdivision 221. It is feasible to abandon Roxi Lane because the road has not been constructed, and access using the extension of North 27<sup>th</sup> Street is more desirable for safety issues. The applicant's representative Tom Henesh, of Morrison-Maierle stated the adjacent landowners all mutually agreed to the location of North 27<sup>th</sup> Street. Mr. Henesh explained the current status of the easements for North 27<sup>th</sup> Street, and that the water and sewer easements still had to be signed. He suggested postponing the decision until all agreements regarding the water and sewer easements were signed. There was no public comment. The Commissioners were in concurrence to continue the abandonment decision until March 20, 2001.

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Gallatin County Planner Jennifer Koozer presented the consideration of a request for family transfer exemption for James M. Richards, located in the NE ¼ and SE ¼, Section 20, T13S, R4E. Ms. Koozer stated this hearing was for the Commission to determine as to whether the additional parcels should be approved as an appropriate claim or denied as an attempt to evade subdivision review. Board discussion took place regarding the proposed dwellings per lot, and conditions the Commission need to consider to determine if this were an attempt to evade subdivision review. James M. Richards was sworn in and testified under oath, to answer questions submitted by the County Attorney to help convince the Commission that the exemption is appropriate. Ms. Koozer was satisfied this proposal meets the criteria in the subdivision regulations. There was no public comment. Commissioner Murdock moved to approve the family transfer exemption, based on the testimony and the information received showing this is the proper use of a family transfer exemption. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer presented the consideration of a request for a family transfer exemption for George and Deborah Rabel, located in the NW ¼ Section 11, T3S, R4E. Ms. Koozer stated this hearing was for the Commission to determine as to whether the four additional parcels should be approved as an appropriate claim or denied as an attempt to evade subdivision review. George Rabel affirmed that his testimony was the truth, answering questions submitted by the County Attorney to help

192 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

convince the Commission that the exemption is appropriate. There was no public comment. Commissioner Murdock moved to approve the family transfer exemption, based on the testimony provided and the information received showing this is the proper use of a family transfer exemption. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer presented the consideration of a request for a family transfer exemption for Annabelle Strang, located in the E 1/2, SW 1/4, SW 1/4 Section 29, T2S, R6E. Ms. Koozer stated this hearing was for the Commission to determine as to whether the one additional parcel should be approved as an appropriate claim or denied as an attempt to evade subdivision review. The applicants representative Don Strang was sworn in and testified under oath, to answer questions submitted by the County Attorney to help convince the Commission that the exemption is appropriate. There was no public comment. Based on Mr. Strang's testimony under oath that there are no immediate plans or arrangements to sell this property, Commissioner Murdock moved to approve this family transfer exemption as a proper use of the exemption. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer presented the consideration of a request for a family transfer exemption for Richard and Kay Walstrom, located in the SE 1/4 Section 14 and SW 1/4 Section 13, T2S, R6E. Ms. Koozer stated this hearing was for the Commission to determine as to whether the one additional parcel should be approved as an appropriate claim or denied as an attempt to evade subdivision review. Kay Walstrom was sworn in and testified under oath, to answer questions submitted by the County Attorney to help convince the Commission that the exemption is appropriate. There was no public comment. Commissioner Murdock moved to approve the family transfer exemption, based on testimony received under oath, and he was satisfied it met the exemption criteria. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 10:22 A.M.

*Unavailable*  
*For Signature*  
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CHAIRMAN APPROVAL

*Shelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

**PUBLIC MEETING** **TUESDAY THE 27th DAY OF FEBRUARY 2001**

The meeting was called to order by Acting Chairman Bill Murdock at 9:07 A.M. Also present were County Commissioner John Vincent, and Acting Clerk to the Board Mary Miller. Chairman Jennifer Smith Mitchell was attending the Montana Association of Counties conference in Helena.

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Acting Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**FEBRUARY 19, 2001**

- The Commissioners' office was closed in observance of Presidents' Day.

**FEBRUARY 20, 2001**

The Commissioners conducted regular County business.

**FEBRUARY 21, 2001**

- Commissioner Mitchell called to order a regularly scheduled office meeting at 1:32 p.m. In attendance were Commissioners Mitchell, Murdock and Vincent, and Executive Secretary Stacy Johnston. Field Representatives Laura Brasen of Senator Burns and Jeff Garrard of Representative Rehberg's offices were also in attendance. Laura and Jeff asked if the Commission had any funding requests for programs and projects on Gallatin County's priority list. Commissioner Murdock asked that focus be placed on "cleaner, greener machines" in West Yellowstone – not abandonment. He also mentioned CTEP enforcement for trails. Feels the standard needs to be relaxed somewhat.



## GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 193

Commissioner Vincent stated he had received several requests to install lights at the top of Bozeman Pass, especially in chain-up areas. Commissioner Mitchell touched upon the Clean Cities Coalition. Noted that the Commissioners support the concept, but have no time to attend meetings. Would also be costly to convert County fleet vehicles to alternative fuels. The Commissioners instructed Stacy Johnston to compile all legislative funding requests and supporting detail received from department heads and elected officials and send in letter form to Ric Molen, Legislative Director for Senator Burns. Copies will also be sent to Rehberg and Baucus.

County Auditor Joyce Schmidt presented Claim #64464 in the amount of \$4,333.33 for the monthly payment to Brent Morris, Executive Director of the Open Lands Board. Commissioner Murdock moved to approve claim as presented; Commissioner Mitchell seconded the motion. All voting aye, motion carried unanimously.

Mr. Brad Flategraff entered the meeting and provided the Commission a lengthy history regarding matters involving public access to State lands adjoining Gateway Foothills Road. He expressed the need for the County to secure a public easement from the State through Section 16, T3S, R4E by the fall of 2001. Unless public access is obtained by that time, the DNRC will restrict vehicular travel and access on that portion of Gateway Foothills Road. Commissioner Murdock moved the County pursue purchase of a public easement from the State through Section 16, T3S, R4E thereby guaranteeing access on Gateway Foothills Road to the State lands therein. Commissioner Mitchell seconded the motion. All voting aye, motion passed unanimously 3-0. Commissioners will ask Gallatin County Attorney to draft letter to the State requesting the easement. To avoid possible closure, a memo will also be sent to Gallatin County Road & Bridge Superintendent Lee Provance instructing him to continue maintaining this road as has been done in the past until further notice. Mr. Brad Flategraff entered the meeting to provide a history to the Commission of matters involving public access to Gateway Foothills Road. The problem is that, in brief, Day Ranch and the Hutchisons have installed a gate with a padlock blocking public access to Sections 16, 17 and everything to the west. DNRC signs have been posted making vehicular travel a violation of ARM. Trespassers are being harassed and even prosecuted. Back in 1996, Ron Allen was hired to determine whether or not Gateway Foothills Road was a county road. His findings established Gateway Foothills Road as a petitioned county road. This report was later accepted and adopted by the Commission on September 12, 2000. The State reviewed Ron Allen's report and concurs it is a County road. Scott Frickel of the DNRC noted, "in the event that the County ceases to maintain the road, the road will be closed." Commissioner Murdock moved the County pursue purchase of a public easement from the State through Section 16, T3S, R4E guaranteeing access on Gateway Foothills Road to the State lands therein. Commissioner Mitchell seconded the motion. All voting aye, motion passed unanimously 3-0. Commissioners will ask Gallatin County Attorney to draft letter to the State. To avoid possible closure, a memo will also be sent to Gallatin County Road & Bridge Superintendent Lee Provance instructing him to continue maintaining this road as has been done in the past until further notice.

### **FEBRUARY 22, 2001**

- The Commissioners attended a regularly scheduled Fiscal Monthly meeting. In attendance were Commissioners Mitchell and Murdock and Fiscal Officer Ed Blackman. The group discussed the current financial situation of the county and the beginning of next year's budget cycle. The Commission agreed to set up a meeting with Rest Home Director Connie Wagner regarding low occupancy at the Rest Home. It was also suggested that the County's libraries should get back together to discuss the division of tax monies. In a formal action, Commissioner Murdock made a motion to authorize Mr. Blackman to negotiate an appraisal of the Planalp Building. Commissioner Mitchell seconded the motion. In discussion Commissioner Mitchell noted that the process needs to be started, the District Court Judges will appoint a committee to review the appraisal and the CIP Committee will be reviewing the proposal and making a recommendation to the County Commission. All voted aye. Motion carried unanimously.

### **FEBRUARY 23, 2001**

- The Commissioners conducted regular County business.

### **The following items were on the consent agenda:**

1. Approval of claims presented by the Auditor dated February 16, 2001 through February 22, 2001, for P.O. #72574 for \$161.00, P.O. #70579 for \$85.00, P.O. #71207 for \$21,088.24, P.O. #71208 for \$21,164.00 totaling \$42,498.24, and the following batches dated February 27, 2001: Batch 1 for

## 194 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

\$40,020.62, Batch 2 for \$41,851.81, Batch 3 for \$137,235.68, Batch 4 for \$51,554.61, Batch 5 for \$26,900.22, Batch 6 for \$915.11 and Batch 7 for \$10,765.76 totaling \$309,243.81. Grand Total \$351,742.05.

2. Consideration of Contract(s): Amendment to Contract #2000-04 with Mountain Land Rehabilitation; Agreement with Eagle Computer Systems for Recording Data Distribution; Agreement with Morrison-Maierle for Belgrade Area Transportation Study; Maintenance Agreement with NEC Technologies for Detention Center; Snowplowing Services Agreement with Hobough Construction for RID #336; Snowplowing Services Agreement with Avalanche Snow Removal for RID's #340 and #359; Juvenile Detention Bed Rate Agreement; Gallatin River Ranch for Repair of Nixon Gulch Bridge; and Continuation of Tax Bill Printing and Mailing for 2001 Bills.

Commissioner Vincent read the consent agenda, noting that the contract for the Juvenile Detention Bed Rate Agreement was continued indefinitely. There was no public comment. Commissioner Vincent moved to approve the consent agenda. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on behalf of Gallatin County Planner Jennifer Madgic on the continuation of consideration of a request for preliminary plat approval for KM Minor Subdivision. Mr. Johnson noted the strikeout in condition #10 was to be removed and the condition was to read as follows: All interior roads (Emrie Lane) shall be built to County gravel standards and have 60 feet of right-of-way dedicated to the public. Discussion took place with regard to the variance and changes to the suggested conditions. Dennis Foreman, Gaston Engineering the applicants representative confirmed changes discussed at the February 13, 2001, public hearing to condition #14 that was approved by the road department to read as follows: Thirty feet of Cobb Hill Road, north and west of the centerline, shall be dedicated to the public for the entire length of the development **as an access/pedestrian easement for the future expansion of Cobb Hill Road.** He also, noted that condition #12 was deleted, and confirmed that they were in agreement with all the conditions. Gallatin County Road and Bridge Department Engineer Roy Steiner was not in support of the variance and stated the Road Department had looked at Emrie Road and thought they could construct it at a lesser standard because it only serves one lot at this time. Commissioner Murdock made a motion to deny the variance request to Section 7.A.2 of the Gallatin County Subdivision Regulations, finding that strict compliance would not result in undue hardship to the County and the variance is not necessary for the public health, safety and general welfare of the County. Seconded by Commissioner Vincent. None voting nay. Motion carried. Given the proceeding motion on the variance, the adjustments to conditions #10 and #14 and the Planning Boards recommendation, Commissioner Vincent moved to grant preliminary plat approval. Seconded by Commissioner Murdock, adding the finding that it is consistent with the Gallatin County Subdivision Regulations and the Gallatin County Master Plan. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Acting Chairman Murdock announced the second reading of an ordinance establishing a speed limit on Camp Creek Road. Gallatin County Attorney Marty Lambert read the ordinance. Wendy Jorgenson spoke in support of the ordinance, and read letters of support from family members Michelle Jorgenson, Ryan Jorgenson and Bettijo Diamond. Public comment speaking in support of the 25 MPH speed ordinance was as follows: Kathleen Jillson, Kristy Johnson, Ed Sendra and Stephanie Larson. Public comment speaking in opposition of the ordinance requesting the 25 MPH were as follows: Sam Hofman, John Kamps, Chet Sinnema, Neil Ainsworth, and Leonard Uiterdyk. Several from both sides spoke of a letter being circulated by some Amsterdam Community Members, Exhibit "A", asking the community to work together on a solution to the problem. Commissioner Vincent noted at the previous hearing he was in support of the ordinance and Commissioner Murdock was not in support. Therefore, he was receptive to postponing the decision, given the request by some of the members of the community to work towards an agreeable solution amongst themselves. Commissioner Vincent stated the need for the community to come together on this issue and also, the need for the County Commission to make a firm commitment for a bike/pedestrian trail and to widen the bridge. Commissioner Murdock also, was encouraged by the community's willingness to work together. He stated that no matter what the speed limit was, there would be an enforcement problem, and expressed the need to get children off the road. He concurred with Commissioner Vincent the need to commit to the resources for a bike path, and agree to postpone the decision. Commissioner Murdock stated the Commission would supply the road office the resources to get the bike path built and added, that he did agree with Commissioner Mitchell's statement from the previous hearing that there should be a cost share with the school and the community. Commissioner Vincent moved to postpone consideration of

**GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 195**

the ordinance until March 20, 2001. Commissioner Murdock stated he would be gone on that date. Commissioner Vincent amended his motion to no later than March 27, 2001, and if there were substantial progress within the community it could be considered prior to that, at a public hearing. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on receipt of a petition to dissolve the Reese Creek Fire Service Area, and annex property into the Belgrade Rural Fire District. The Clerk and Recorder received a petition to dissolve the currently existing Reese Creek Fire Service Area, on behalf of the Commission on February 6, 2001, and the petitioners are requesting the Commission take procedures to annex all of the area from the dissolved Reese Creek Fire Service Area into the Belgrade Rural Fire District. The petition does contain at least 30 qualified signatures of owners of real property within the Reese Creek Fire Service Area, according to Section 7-33-2401, MCA, for the dissolution of the fire service area. For annexation purposes the petition contains the signatures of 50% or more of the area of privately owned lands; who constitute a majority of the taxpayers who are freeholders; and whose names appeared on the last completed assessment roll. The Board of Trustees has accepted this property into their fire district for annexation. Commissioner Vincent moved to accept receipt of the petition to annex property into the Belgrade Rural Fire District, adding that the Commission will request the County Attorney to draft the appropriate legal language. Seconded by Commissioner Murdock, adding to the request, that the County Attorney draft the resolution of intent to dissolve the fire service area. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution amending the Covering Kids grant fund for FY 2001 budget. There was no public comment. Commissioner Vincent moved to approve Resolution #2001-24. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported on the consideration of a resolution to amend the District Court #1 temporary salaries and wages for changes in revenues in FY 2001 budget. There was no public comment. Commissioner Vincent moved to approve Resolution #2001-25. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the consideration of a family transfer exemption for Charles and Lois White, located in the NE ¼ Section 23, T1N, R3E. Ms. Koozer stated the Commission needed to determine whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. Lois White was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination. Surveyor, Ron Allen suggested the applicant may not have understood the last question, and clarified the answer. There was no public comment. Commissioner Vincent made the motion that the application meets the requirements for a family transfer and that the exemption be granted. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported on the resolution to amend the amended Gallatin County Final Operating Budget for the Clerk and Recorder Election Fund for FY 2001. Commissioner Vincent moved to approve the amended Resolution #2001-10A. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Court Administrator Dorothy Bradley announced that the Criminal Justice Coordinating Council was submitting a recommendation for the Commission to consider the funding for the proposed use of Exhibit Building 4 at the Fairgrounds for overflow purposes at the Detention Center. Gallatin County Detention Center Administrator Anita Shaw-Tymrak stated that people were on a waiting list to serve their time due to the overcrowding, and some had gone past the 6-month period where they were under the jurisdiction of the courts. Lieutenant Brack and Ms. Bradley recommended to tentatively use the

## 196 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

Fairgrounds Building as an alternative to ease the overcrowding at the Detention Center for sentenced inmates that were low risk, on March 13 and 14, and March 20 and 21. The facility would be holding only 20 inmates at a time over a 48 hour period. The estimated costs per two days would be approximately \$3,165.20, and the County insurance will not charge any extra and some of the supplies would be donated by the Red Cross in order to keep the costs at a minimum. They were also, working with the fire department on an escape evacuation plan. Undersheriff Jim Cashell stated this was a temporary solution and urged the Commission to support the funding. Gallatin County Attorney Marty Lambert initially not in favor of the proposal, but because of the circumstances reluctantly supported it. Mr. Lambert further expressed the need to focus on a new jail facility. Board discussion took place regarding the screening process and who will have the authority and final word as to which prisoners would serve time in the temporary facility. Undersheriff Cashell addressed questions on how the classification process is determined. Judy Bridges expressed her concerns and spoke in opposition of the facility being in her neighborhood. She submitted Exhibit "A", a petition from tenants of the Greenwood Plaza Apartments in opposition of the facility. Ms. Bridges read letters of opposition from the following: Lisa Fremont; Stephanie Newman and Amity Rembold. Dennis Carlson urged the Commission to support the proposal. Gallatin County DUI Task Force Coordinator Jenna Caplette did not speak for the group but as a citizen in support of the proposal. District Judge Mike Salvagni stated this request was unfortunate, and because there was not a bigger jail the crisis with the detention center overcrowding was causing violators to not be accountable to the community for their actions. He did not like this idea and wished they did not have to consider this proposal of balancing accountability with public safety concerns. Judge Salvagni encouraged the Commission to support the proposal in an effort to ease the problems. Gallatin County Fiscal Officer Ed Blackman stated the only available funds are in the County general fund miscellaneous department contingency account. Mr. Blackman suggested a fair market value be paid to the Fairgrounds for the rental of the building since the Fairgrounds is in the process of becoming self-sufficient. Based on statements from staff, Mr. Blackman suggested \$6,000. for the two sessions. Ms. Shaw-Tymak stated the Fairgrounds was not planning to charge for the building and it was not figured into the proposal. Commissioner Murdock was concerned that in the long term this is not a solution and that it was unfair to the Fairgrounds to do this more than a few times. Commissioner Vincent concurred. Commissioner Murdock noted that Fairgrounds Director Sue Shockley stated that they were not planning on charging for these first two times. Commissioner Vincent moved to accept the Gallatin County Detention Center overcrowding proposal, and appropriate \$6,000. from the County Contingency Fund to support it. Seconded by Commissioner Murdock. Commissioner Vincent stated he did not like the idea either, although he would support it because of the urgent necessity, and the real issue is the compelling need for a new jail. He stated it would be an opportune time for the Sheriff's office to partake of some community outreach in this situation, and visit with the folks living in the nearby vicinity to reassure that they looking out for them. None voting nay. Motion carried.

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the consideration of a request for preliminary plat approval for the Firelight Meadows Minor Subdivision located in the SE ¼ of Section 2, T7S, R3E, P.M.M., Gallatin County, Montana. In general, the property is located in the West Fork Meadows Area of Big Sky, approximately 3.5 miles west of the intersection of Highways 191 and 64. C & H Engineering and Surveying Inc., on behalf of Firelight Meadows L.L.C., has requested preliminary plat approval for a one lot minor subdivision for the development of 216 multi-family residential condominium units. The 40.54-acre property under consideration for development was created as an un-reviewed remainder parcel of the Firelight Major Subdivision. The proposed subdivision is a first minor subdivision from a tract of record. An environmental assessment for the subdivision is not required. The County Commission needs to make the following determinations: a determination as to whether or not the application meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act; and a determination as to whether or not the application complies with the provisions of the Gallatin County Subdivision Regulations. The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the following conditions: 1. The final plat shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates. 2. State Department of Environmental Quality approval shall be obtained for 216 dwelling units within the subdivision. The subdivider shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The subdivider shall obtain the Gallatin County Health Officer's approval. 3. The developer shall obtain an approved weed management plan from the Gallatin County Weed Control District prior to any construction projects within the site. The approved weed management plan shall be submitted to the Gallatin County Planning Department prior to final plat approval. Areas disturbed by construction shall be seeded and controlled for noxious weeds. 4. A detailed signage and drainage plan shall be submitted to the County Road &

Bridge Department for approval prior to the start of any construction. 5. A site encroachment plan shall be submitted to the County Road & Bridge Department for all access points coming off Ousel Falls Road. Each access shall be at least seventy-five (75) feet from the nearest intersecting road or a variance request shall be submitted to the Road & Bridge Department. 6. The subdivider shall enter into an agreement with all affected parties for the shared maintenance of Ousel Falls Road and Spruce Drive. The maintenance agreement(s) shall be submitted to the County Road & Bridge Department. 7. Fifty (50) feet of Ousel Falls Road, south of the centerline, along the entire length of the development shall be dedicated to the public. 8. Candlelight Drive shall lie within a 60 foot public right-of-way and be constructed to county standards. 9. After the Big Sky Coordinated Transportation Study, or a successor study in the absence of the named study, has been adopted by the County Commission, determination of mitigation required of the developer for traffic impacts caused by this subdivision shall be made by the County Commission at a hearing specifically conducted for that purpose in accordance with applicable subdivision regulations governing preliminary plat approval. If the study is not completed or adopted by the County Commission prior to the developer seeking approval of a final subdivision plat, after first obtaining a detailed technical review of traffic impacts from the Montana Department of Transportation, determination of mitigation required of the developer for traffic impacts caused by this subdivision shall be made by the County Commission at a hearing specifically conducted for that purpose in accordance with applicable subdivision regulations governing preliminary plat approval. 10. All road construction shall be inspected and certified by a registered civil engineer. The subdivider shall obtain written verification from the County Road & Bridge Department that the roads have been brought to county gravel standards prior to final plat approval. 11. Road name signs shall be required at all intersections. A stop sign shall be required at the intersection of the interior subdivision road and Autumn trail. Road signs and stop signs shall be installed or bonded prior to final plat approval. 12. The developer shall agree to participate and equitably share in the cost of any Law Enforcement Study that may be approved by the Gallatin County Commission that concerns law enforcement needs and impacts of future land use developments on law enforcement services in the Big Sky area. The developer shall be entitled to an equitable reimbursement for any disproportionate costs expended by it in connection with participation in such study. 13. The final plat shall contain a statement requiring lot access to be built to the standards of Section 6.E.18 (a) of the Gallatin County Subdivision Regulations. 14. All utility easements are to be shown on the final plat. Utility easements shall be centered along side and rear lot lines wherever possible, and shall be twenty (20) feet wide. Underground utilities, if placed in the road right-of-way, shall be located between the roadway and the right-of-way line. Such underground facilities shall be installed or utility culverts provided before the road is surfaced. In addition, the following statement must appear on the final plat: "The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as 'Utility Easement' to have and to hold forever". 15. The subdivider shall either: 1) cause the subdivision to be included in the Gallatin Canyon Rural Fire District; or 2) contract for fire protection services with the Gallatin Canyon Rural Fire District; or 3) provide other reasonable protection as recommended by the Fire Chief, his designee or the fire district and approved by the County Commission. 16. The subdivider shall provide a water supply for fire protection in accordance with the Gallatin County Subdivision Regulations. The subdivider shall have the fire district review and approve the water supply prior to final plat approval. The subdivider shall obtain written verification from the fire district that the required water supply has been provided. 17. The subdivider record on the final plat a waiver of right to protest creation of rural improvement districts and local improvement districts. 18. The subdivider shall make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. 19. The Subdivider shall make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. 20. A property owners' association for the subdivision shall be created. 21. Covenants for the subdivision shall include the following provisions: a. Place responsibility for operation and maintenance of all interior driveways, parking areas, and common open space property in the property owners' association. b. The property owners' association shall be responsible for the control of noxious weeds within all common open space areas. c. All structures shall be constructed in compliance with the Uniform Building Codes, and the National Fire Protection Association (NFPA) codes. d. The artificial feeding of all big game wildlife shall be prohibited. e. All garbage shall be stored in animal-proof containers or otherwise be made unavailable to animals. f. Owners acknowledge that wildlife damage to landscaping will occur, and shall accept that risk and shall not file claims against the owners association or any other governing body for such damages. g. Pets shall be controlled by each owner, and not allowed to roam within the subdivision. h. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 22. Two copies of the covenants, a copy of the preliminary approval document, documents establishing the homeowners' association, and the

certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants, documents establishing the homeowners' association, and certificate of title abstract prior to final plat approval. 23. The developer shall have three (3) years to complete the above conditions and apply for final plat approval. Mike Lilly, attorney on behalf of Firelight Meadows L.L.C., stated the applicant concurred with all suggested conditions. Mr. Lilly gave an overview of the project regarding review, impacts and the environmental assessment. Mark Chandler, C & H Engineering and Surveying Inc., reported on the site plan, zoning and water & sewer. Paul Pariser, the developer told of plans to provide affordable housing in the Big Sky area. The units are proposed to range from \$99,000. to \$159,000. A letter was received from Big Sky POST Committee Chair Bill Olson requesting a dedicated easement for a pedestrian trail through Firelight Meadows adjacent to Ousel Falls Road right-of-way; the developer of Firelight Meadows construct and maintain the trail; the easement be dedicated to the public for use as a trail; and location subject to approval by both parties. A letter from Stephen M. Barrett on behalf of Boyne USA, Inc., expressed their support of the proposed application. Donald K. McBride submitted a letter requesting the Commission to consider traffic impacts and suggested the County assume partial or full responsibility for road repair, maintenance and replacement. Commissioner Murdock stated Curly Shea called in support of encouraging affordable housing. The following expressed concern with the proposal: Buzz Warren, Terry Threlkeld, John Michel, Laura Larocco, Bill Olson, Tom Simkins, Paul Cronin, and Kieran Kobell. Some of the issues discussed were as follows: degradation of property; traffic impacts; lights; noise; trash; sewage system drainage; road repairs and maintenance; and pedestrian trails. Several applauded Mr. Pariser for his affordable housing proposal, although they felt many of their concerns would have been dealt with by him going through major subdivision review. Jerry Pape and Ron Seher spoke in support of the proposal. Bill Madden, attorney on behalf of Gallatin Peaks Land and Development stated his clients have no problem with the proposed subdivision in concept. Their concerns are with the way it was packaged, as a one lot minor subdivision, using the condominium exemption and the impacts it will have on adjacent landowners. Mr. Madden addressed several issues including water and sewer supply and fire impact fees. Big Sky Fire Chief Bob Stober discussed the magnitude of impact this development would pose on the fire district. The fire district was disappointed this project would only yield the fee of one lot, and they were counting on the impact fees to purchase another engine. Discussion took place regarding other ways besides impact fees to mitigate services. Mr. Lilly explained they were proceeding in accordance with the law for this type of proposal, and reiterated they were not required to do an environmental assessment as required by major subdivision review. In addressing some of the concerns that were raised Mr. Lilly stated they had no objection to the Commission imposing conditions that would limit the development of this property to 218 units, and that the 29 acres dedicated to open space will remain open, and be held in common by the association to develop as park land. He discussed some of the fire issues and property value concerns, noting the area was zoned as multi-family, therefore, that argument was inappropriate. He urged the Commission to make a decision on this issue today, and to approve the application, as there was no additional information that could be provided. Mr. Lilly noted they have proceeded in good faith, in accordance with the law, meeting the requirements and they were prepared to satisfy all of the conditions as suggested by staff and the one they offered. Commissioner Murdock inquired about the Big Sky Community Corporation trail request. Mr. Lilly felt it was a good idea and agreed to the location being subject to approval by both parties, with one objection to the suggestion of the property owner being responsible for building and maintaining the trail. He did not feel that was a liability that a property owner should be required to assume. Commissioner Murdock stated he liked the project in concept, although if the applicant demanded a decision today they might not get approval. He stated the project was within the zoning and was convinced it will be affordable housing, which is needed. Commissioner Murdock requested a continuance for more time to consider some issues, as he was not prepared to approve the project without the additional information. Mr. Lilly questioned what information was needed. Commissioner Murdock stated the following concerns: whether or not this project has to comply to the Big Sky Plan; condominium projects being exempted from subdivision review; on site sewage treatment; does it conform with current zoning, and if non conforming does it raise an issue of subdivision approval; is a CUP required; suggested trail condition; traffic impacts; lights; and water quality. He stated that discussions needed to take place with Mr. Stober to determine exactly what the fire needs would be. Commissioner Vincent concurred. Mr. Lilly consented to an additional two weeks, requesting that there be no more public comment. Commissioner Murdock agreed with the request and continued the decision until March 13, 2001.

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Commissioner Vincent read the amount of claims from the consent agenda, and made a motion to add approval of the claims to the initial consent agenda motion. Seconded by Commissioner Murdock. None voting nay. Motion carried.

There were no pending resolutions. There being no further business the meeting was adjourned at 3:00 P.M.

*Unavailable*  
*For Signature*  
\_\_\_\_\_  
CHAIRMAN APPROVAL

*Shelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 6th DAY OF MARCH 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:05 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**FEBRUARY 26, 2001**

- The Commissioners conducted regular County business.

**FEBRUARY 27, 2001**

- Commissioners Murdock and Vincent convened a meeting at 8:46 a.m. to fill a vacancy on the Planning/Zoning Commission. Executive Secretary Stacy Johnston was also in attendance. Commissioner Vincent moved to appoint Treasurer Anna Rosenberry to the Gallatin County Planning/Zoning Commission, replacing Jeff Krauss who resigned effective 2/20/01. Commissioner Murdock seconded the motion and noted this appointment would be effective immediately. All present voting aye, motion carried unanimously.

**FEBRUARY 28, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, and Executive Secretaries Stacy Johnston and Glenda Noyes. The Commission considered approval of hand issue claims in the amount of \$8,370.54. Commissioner Vincent made a motion to approve the hand issued claims received February 23, 2001 thru February 26, 2001 in the amount of \$8,370.54. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.  
The Commission took further consideration of the personal property subordination agreement with LifeLink International. Deputy County Attorney Chris Gray noted that the agreement has been amended to his satisfaction, per action taken on February 5, 2001. Commissioner Murdock made a motion to approve the agreement per the changes and approval of Mr. Gray. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.  
Edsall Construction submitted a request for amendment to Contract #2001-002 (3<sup>rd</sup> & 4<sup>th</sup> Floor Renovations), change order #4. Commissioner Murdock made a motion to approve change order #4, amendment to Contract #2001-002, based on the recommendation of Fiscal Officer Ed Blackman, finding that there is no new budget money needed. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.  
Commissioner Murdock made a motion to sign the certificate of substantial completion for the Victim Services Remodel at the Law and Justice Center, finding that Deputy County Attorney Chris Gray has reviewed and approved the document. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

**MARCH 1, 2001**

- The Commissioners conducted regular County business.

**MARCH 2, 2001**

- The Commissioners convened for the purpose of selecting a sheriff for Gallatin County to fill out the term of Bill Slaughter, who resigned in December 2000. Commissioner Murdock presented a time line of the process, and Commissioner Mitchell requested one change. Commissioner Murdock read into the record his press release comments regarding his vote for sheriff – Jim Cashell. Commissioner Vincent read into the record his press release comments regarding his vote for sheriff – Jim Cashell. Commissioner Mitchell read into the record her press release comments regarding her vote for sheriff – Rob Brown. Commissioner Vincent made a motion to appoint Jim Cashell to

## 200 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

fill out Bill Slaughter's term as Sheriff. Commissioner Murdock seconded the motion. Commissioners Murdock and Vincent voted in favor of the motion. Commissioner Mitchell voted against. Motion carried with a vote of two to one.

### The following items were on the consent agenda:

1. Approval of claims presented by Auditor dated February 27, 2001 through March 1, 2001, for P.O. #73414 for \$2,887.84, P.O. #73285 for \$69,456.40, P.O. #73843 for \$225.00, P.O. #73660 for \$334.50, P.O. #73661 for \$21.60, P.O. #74901 for \$347.64, P.O. #74630 for \$63.89 totaling \$73,336.87.
2. Consideration of Contract(s): Animal Impound Agreement with Humane Society of Gallatin Valley; Amendment to Contract #2000-93 with Kathy Gallagher, Task Order #01-01; and Digital Scanning Services with Digital Scanning & Imaging, Inc.
3. Request for Relocation of Common Boundaries Exemption for Duane Robert Korhuis located in, SW ¼ Section 13, T1S, R3E, (Churchill area). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
4. Request for Final Plat Approval and Improvements Agreement for 4-Dot Subdivision. Preliminary plat approval was granted on May 27, 1997. A staff report submitted by Belgrade City-County Planner Jason Karp states that the conditions for final plat approval have been met.

Commissioner Murdock read the consent agenda. Gallatin County Auditor Joyce Schmidt stated that the hand issue request in the amount of \$145.60 was not a part of this consent agenda and requested that it not be included. Commissioner Vincent moved approval of the consent agenda including claims in the amount of \$73,336.87. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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One vacancy exists on the Gallatin County/Bozeman Area Zoning District Board of Adjustments. This is a two-year term, expiring on November 9, 2002. There was no public comment. Commissioner Murdock moved to appoint Betty Bradley. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Commissioner Mitchell reported on the consideration of a resolution to change the location of the County Commission public meeting on March 13, 2001, to the Manhattan High School Activities Room. There was no public comment. Commissioner Vincent moved to approve Resolution #2001-26. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported on the public hearing for the CDBG Economic Development Applications. Mr. Watson stated this was the second public hearing required to retain Gallatin County's eligibility for application for CDBG and Home funds. He gave a brief presentation and discussed the new category that assists businesses impacted by the Summer 2000 Wildfires. There was no public comment. Mr. Watson will continue to inform the public about this program and bring applications back to the Commission when completed.

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Gallatin County Grants Administrator Larry Watson reported on the public hearing to consider a resolution between Gallatin County and the Gallatin County Airport Board approving a land acquisition loan for an apron overlay and taxi lane construction at Three Forks. Phil Forbes of Morrison-Maierle answered questions regarding the location of the area. Mr. Watson confirmed both the Fiscal Office and the County Attorney approved this. There was no public comment. Commissioner Murdock moved to approve Resolution #2001-27. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the consideration of a resolution to adopt amendments to the Middle Cottonwood Zoning Regulations. Mr. Johnson stated the Clerk and Records office did not receive any protests regarding these amendments. There was no public comment. Commissioner Vincent moved the adopt Resolution #2001-28.



Seconded by Commissioner Murdock, finding there have been no protests. None voting nay. Motion carried.

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Belgrade City-County Planner Jason Karp presented the request for preliminary plat approval for the Leep Minor Subdivision located in the S ½, SE ¼ of Section 27 and NE ¼, NW ¼ of Section 34, T1S, R4E, PMM., Gallatin County, Montana. Donald Schaubert L.S. on behalf of Leep Hay and Grain has requested preliminary plat approval of a one lot minor subdivision on 65.60 acres with a remainder of over 400 acres. The lot being created is located along the east side of River Road and the intersection with Bitterroot Road. The Belgrade City-County Planning Board voted at their February 21, 2001 public hearing to recommend preliminary plat approval, subject to the conditions as suggested by staff. The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the conditions. The County Commission needs to make the following determination: a determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Commission finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. A waiver of right to protest creation of Rural Improvement Districts, and Water and Sewer Districts. 4. The developer shall record covenants on the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and residents of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c. All fences bordering agricultural lands shall be maintained by the Homeowners in accordance with State Law. d. A flood plain development permit must be obtained from Gallatin County for any construction in the Gallatin River's flood plain. e. No lot owner may remove water or cause to be removed water from irrigation ditches without deeded water rights, and before any maintenance or improvements are performed on any of the ditches, the owner of the waterway must give written permission for the work to be done. f. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 5. Two copies of the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval. 6. Road Impact fees and Fire Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact Fee Regulations. 7. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval. 8. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department. 9. The developer must obtain an encroachment permit from Gallatin County for the Lot A driveway off of River Road. 10. The River Road and Bitterroot Road right-of-ways shall be dedicated to the public on the final plat. 11. The developer shall provide one of the following standards to ensure a reasonable level of fire protection and life-safety to the public and firefighters. The following requirements must meet the specifications of Gallatin County Subdivision Regulations Section 6-E-5 and be reviewed and approved by the Belgrade Rural Fire District. The subdivider shall obtain written verification from the Belgrade Rural Fire District that one of the following requirements has been met. a. A single 10,000 gallon water supply for each home and associated structure meeting the requirements of Section 6-E-5(a). b. A single 20,000 gallon water supply meeting the requirements of Section 6-E-5(b). c. A rural fill site meeting the requirements of Section 6-E-5(c). d. R-3 occupancies as defined by the Uniform Fire Code may be protected by automatic fire sprinkler systems meeting the requirements of NFPA 13D. If the sprinkler options is used the covenants must include the following provisions, and a copy of the covenants must be submitted to the Amsterdam Fire Department.

1. Automatic fire sprinkler systems shall be installed in all structures, which are used for living and home business which people normally occupy. The fire sprinkler system must meet the requirements of

NFPA 13D. 2. A stamped set of engineered sprinkler system plans and covenants requiring the installation of sprinklers shall be submitted to the Belgrade Rural Fire District for review and be approved prior to construction, and the sprinkler system must be inspected by the Belgrade Rural Fire Department during construction and at completion as required by the Belgrade Fire Chief. e. A pressurized fire hydrant system meeting the requirements of Section 6-E-5(e). 12. The Gallatin River flood plain on Lot A shall be shown on the final plat. 13. The final plat(s) shall show a maintenance easement of a minimum of 15 feet on one side, and 5 feet on the other side of the irrigation ditches or as required by the ditch owner consistent with subdivision regulations, and before any maintenance or improvements are performed on any the ditches, the owner of the waterway must give written permission for the work to be done. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. Cory Vellinga on behalf of Greg Leep stated that they agreed with the suggested conditions. There was no public comment. Commissioner Murdock moved to approve the minor subdivision, with the staff suggested conditions, finding it conforms to the Gallatin County Subdivision Regulations, Belgrade Master Plan and that the applicant has agreed to the conditions of approval. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Belgrade City-County Planner Jason Karp presented the request for the amended Bartz Minor Subdivision described as Tract 3 of COS 444A situated in the SW ¼ of Section 13, T1S, R4E, PMM, Gallatin County, Montana. Survco Surveying on behalf of Gordon and Russell Bartz has requested preliminary plat approval of a four lot minor subdivision on 5 acres. The subdivision is located 1.5 miles south of Belgrade on the east side of Jackrabbit Lane. TZ Trailer Sales is located on the site. Previously, the developer had obtained preliminary plat approval for a three lot minor subdivision on this site in October of 1999-that subdivision has not been granted final plat approval. The developer is now requesting that the subdivision be four lots, essentially vacating the previous preliminary plat for this new proposal. The Belgrade City-County Planning Board voted at their February 21, 2001, public meeting to recommend preliminary plat approval of the amended Bartz Minor Subdivision subject to the conditions, as suggested by staff. Mr. Karp noted a change in the conditions from the first proposal, regarding access to Lot 4. The road office recommended one amendment added to condition 12, to read as follows: Access to Lot 1 shall be rebuilt at least 75 feet east of Jackrabbit Lane, as approved by the County Road Department. The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the conditions. The County Commission needs to make the following determination: a determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Commission finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat. 5. The developer shall record covenants on the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and residents of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c. All fences bordering agricultural lands shall be maintained by the Homeowners in accordance with State Law. d. The Property Owners Association shall be responsible for the maintenance of the interior access road. e. A Property Owners Association shall be established. f. Plans must be submitted to the State of Montana, Building Codes Division, and the Belgrade Rural Fire District for review and approval for all commercial structures. g. All structures must meet minimum fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief. h. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not

be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 6. Two copies of the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval. 7. Road Impact fees and Fire Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact Fee Regulations. 8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval. 9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department. 10. The developer must obtain an encroachment permits from the Montana Department of Transportation for the interior access road's intersection with Jackrabbit Lane. 11. Road names shall be approved by the Road Office, and road name signs and STOP signs at all intersections as required by the Road Office shall be installed prior to final plat approval, or a bond covering the cost of the signs shall be deposited with the Road Office. 12. The interior access road shall be a sixty foot public easement meeting the requirements of Section 7-B(1-4) of the Gallatin County Subdivision Regulations, and shall be constructed to Gallatin County standards with a temporary cul-de-sac or "T" type turnaround at Lot 4. The first 75 feet of the access road off Jackrabbit Lane shall be paved to county standards and the road shall be named with road name approved by the Road Department. Access to Lot 1 shall be rebuilt at least 75 feet east of Jackrabbit Lane, as approved by the County Road Department. 13. All roadwork will need to be inspected and certified by a licensed engineer. The inspection and certification must be provided to the County Road Office in writing prior to final plat approval. 14. The final plat(s) shall show a no access strip for vehicles along all lots adjacent to Jackrabbit Lane except at MDOT approved road encroachments. 15. An NFPA compliant fill-site or other Fire Department approved water supply is required. If the developer utilizes the Floss Flats fill site to provide water for fire protection, the developer shall be required to pay a proportionate reimbursement of the total construction cost of the fill site to the Belgrade City-County Planning Office which will reimburse the entity responsible for maintaining the fill site. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. There was no public comment. Commissioner Vincent moved to grant preliminary plat approval for the amended subdivision with the suggested conditions, finding that it meets the criteria of the Gallatin County Subdivision Regulation's, and adding the amendment as stated to condition 12. Seconded by Commissioner Murdock, finding that it complies with Belgrade Master Plan. None voting nay. Motion carried.

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Belgrade City-County Planner Jason Karp presented the request for the preliminary plat approval for the Yellowstone Inn Minor Subdivision located in the SW ¼ of Section 6, T1S, R5E, PMM, Gallatin County, Montana. Locati Architects has requested preliminary plat approval of a minor subdivision by rent or lease on 7.77 acres. The subdivision is located on Gallatin Airport Authority property, southeast of the airport terminal. The Belgrade City-County Planning Board voted at their February 21, 2001, public meeting to recommend preliminary plat approval of the subdivision, subject to the conditions as suggested by staff. This is a minor subdivision created by rent or lease, therefore, subdivision regulations state that the survey requirements are waived. The subdivision has to go under review by the Belgrade City Council for a conditional use permit, because it is within the City of Belgrade zoning jurisdiction. The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the suggested conditions. Belgrade Rural Fire Assistant Chief Bryan Connelley suggested adding a sentence to condition 7 to read as follows: Prior to final plat approval and/or occupancy of the facility. The County Commission needs to make the following determination: a determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Commission finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval: 1. The final plan shall conform to the standards set forth in Section 12 of the Gallatin County Subdivision Regulations for content of plans and data, and final approval procedures. 2. The file any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility providers. 3. Department of Environmental Quality and City of Belgrade approval shall be obtained for the subdivision's water and sewer systems. 4. Fire and road impact fees shall be paid as per County impact fee regulations. 5. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval. 6. A copy of the final plan shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department. 7. The developer must obtain approval from the Belgrade Rural Fire District for fire protection and life safety matters relating to the subdivision including fire hydrant performance and location, access roads, fire suppression systems, etc. Prior to final plat approval and/or occupancy of the

## 204 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

facility. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. Discussion took place regarding mitigating road and fire impacts and the appropriate fees. Mr. Karp stated that the Airport Authority was in agreement with the proposal as long as it meets the city's requirements. Commissioner Mitchell suggested that this may be more appropriate to come before the Commission after the City of Belgrade has completed their part. Commissioner Murdock suggested adding a condition subject to terms and conditions of approval by the Gallatin Airport Authority. Mr. Karp stated he had that language in the conditional use permit, and did not see a problem with adding that same language to these conditions. Gallatin County Road Engineer Roy Steiner stated that this subdivision would definitely create additional impacts on the roads, compared to the fee collected for one lot. He suggested a study be conducted by the engineering firm that consults the airport, so the Road Department could mitigate the impact on the County road system. It was decided during Board discussion that they needed to create the language for a traffic impact study condition. Mr. Steiner requested a one-week extension to review the proposal, and time to create the language for the condition, in order to be fair to all concerned. Ken Nottingham, Locati Architects stated he was in agreement to a one-week extension. He noted they did not generate the impact fees and that the Airport Board did unanimously approve the project. Commissioner Mitchell continued the consideration of preliminary plat approval until next week.

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There being no further business the meeting was adjourned at 9:55 A.M.

*Unavailable*  
*For Signature*  
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CHAIRMAN APPROVAL

*Shelley Vance*  
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CLERK ATTEST

### PUBLIC MEETING

TUESDAY THE 13th DAY OF MARCH 2001

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:00 A.M., in Manhattan. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

#### MARCH 5, 2001

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell, Murdock and Vincent, and Executive Secretaries Stacy Johnston and Glenda Noyes. The Commission considered Public Library Services Contract with the City of Belgrade. Commissioner Murdock made a motion to sign the contract giving funds to the Gallatin County public libraries. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

Discussion took place regarding the financing of the Mental Health Group Home. The January invoice for the Bozeman Group home is in the amount of \$6,096.85. Commissioner Murdock made a motion to pay the January invoice for the Mental Health Group Home in the amount of \$6,096.85. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commission discussed the organizational chart prepared by the Finance committee and Commissioner Murdock made a motion to include the chart into the External Audit RFP. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

Commissioner Murdock made a motion to pay the invoice submitted by Terry Radcliffe in the amount of \$2,562.42 for Strategic Planning consultant work. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

#### MARCH 6, 2001

The Commissioners conducted regular County business.

#### MARCH 7, 2001

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, Commission Secretary Glenda Noyes and Deputy County Attorney Chris Gray. The Commission considered approval of a competitive sealed proposal process by the West Yellowstone Solid Waste District Board for the Southwest Montana/Yellowstone Composting Project. Mr. Gray explained that because a solid waste district is

not considered a political subdivision, an alternative bidding process can be used only if approved on their behalf by the County Commission. The project decided the best way to get the bids in is through the competitive sealed proposal process. Resolution 1994-16 allows for this procedure. Commissioner Vincent made a motion to accept the recommendation of Deputy County Attorney Chris Gray, per Resolution 1994-16, and allow for the competitive sealed proposal process by West Yellowstone Solid Waste District Board for the Southwest Montana/Yellowstone Composting Project. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

**MARCH 8, 2001**

- The Commissioners attended a special meeting for the purpose of approving hand issued claims received March 5, 2001. In attendance were Commissioners Murdock and Vincent, Auditor Joyce Schmidt and Commission secretary Glenda Noyes. One claim was submitted in the amount of \$145.60 for Youth Probation Officer Wysoski's lodging expenses for a training conference. Commissioner Vincent made a motion to pay purchase order #69381 in the amount of \$145.60. Commissioner Murdock seconded the motion, adding the finding that Auditor Schmidt approved the payment. All voted aye. Motion carried with a vote of two to zero.

**MARCH 9, 2001**

- The Commissioners conducted regular County business.

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- Landfill Revenue for February 2001: \$61,138.18.
- A101's for February 2001: \$5,000.
- Payroll for February 2001: \$1,086,514.37.
- Clerk & Recorder's Fees Collected for February 2001: \$41,450.73.
- New Hire Report for February 2001: 911 – Sarah Miller; CLERK & RECORDER – Deborah Graf, Betty Bradley; FAIR – Luigi Mostefa, Joseph Duperry, Frank Bohagen; REST HOME – Marti Bryon, Amanda Miller, Erica Eckerson, Diana McLaglen, Kelli Bieler; SHERIFF – Lornn Caldwell.
- Terminated Employees' Report for February 2001: 911 – Greg Lannon 02/09/01, Jessica Inabnit 02/23/01; FAIR – Joseph Duperry 02/17/01, Frank Bohagen 02/18/01, Luigi Mostefa 02/20/01; HEALTH – Sylvy Wilson-Gebel 02/02/01; LWQD – Kerri Fleming 10/31/00; REST HOME – Twylla Williams 01/30/01, Ruth Rassley 01/31/01, Billie Boudreau 02/13/01, Kalani Pierce Cummings 02/19/01; ROAD & BRIDGE – Anita Monroe 01/30/01, Halcy Angel 02/13/01; SHERIFF – James Hocevar 02/03/01; TREASURER – Jeff Krauss 02/20/01.

Approved Applications for Cancellation of Taxes (No's. 4098, 4325-4345, 4347-4370), February 2001: \$6,116.92.

**The following items were on the consent agenda:**

1. Approval of claims presented by the Auditor dated March 2, 2001 through March 8, 2001, for P.O. #76314 for \$315.00, P.O. #70265 for \$16,274.12, P.O. #72585 for \$166.00 totaling \$16,755.12 and the following batches dated March 13, 2001: Batch 1 for \$44,839.12, Batch 2 for \$51,687.94, Batch 3 for \$34,132.69, Batch 4 for \$56,053.01, Batch 5 for \$54,326.73, Batch 6 for \$65,169.60, Batch 7 for \$2,075.52 and Batch 8 for \$4,537.24 totaling \$312,821.85. Grand Total \$329,576.97.

Commissioner Vincent read the consent agenda. There was no public comment. Commissioner Vincent moved to approve the consent agenda. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Three vacancies exist on the Springhill Fire Service Area Board of Trustees. These are three-year terms, expiring on April 1, 2004; however, one of the appointees will serve the remainder of John Grossenbacher's term, expiring on April 1, 2003. There was no public comment. Commissioner Murdock moved to appoint Joseph Townsend, Bruce Wright and Chris Wytcherley. Mr Wytcherley is to serve the remainder of Mr. Grossenbacher's term. Seconded by Commissioner Vincent. None voting nay. Motion carried. One vacancy for the County-appointee exists on the Bozeman Area Transportation Coordinating Committee (TCC). This is a one-year appointment, expiring on December 31, 2001. There was no public comment. Commissioner Murdock moved to appoint Pat Abelin. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Commissioner Mitchell announced the request for preliminary plat approval for the Yellowstone Inn Minor Subdivision would be continued to March 20, 2001.

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Gallatin County Planner Jennifer Madgic reported on behalf of Planner W. Randall Johnson on the continuation of a request for preliminary plat approval for the Firelight Meadows Minor Subdivision located in the SE ¼ of Section 2, T7S, R3E, P.M.M., Gallatin County, Montana. Ms. Madgic explained that the current staff report addressed issues of concern raised during the February 27, 2001, public hearing, and reviewed the proposed project. She noted letters of correspondence received from Big Sky Fire Chief Bob Stober, Mark Chandler of C & H Engineering and Surveying, Big Sky Owners Association Administrative Assistant Dee Rothschilder and also, a memo from Gallatin County Attorney Marty Lambert addressing those concerns. Commissioner Vincent read Mr. Lambert's memo addressing the following issues: proposed lineal trail or park; environmental assessment; and fire protection. Mr. Lambert stated that the Commission may not impose a condition requiring a lineal trail or park or an environmental assessment. In noting the Commission could not make these requirements, Commissioner Murdock asked if there was anything the developer would consent to regarding the trail. Mike Lilly, on behalf of the developer stated the following concerns: adjacent property owners have made no similar commitments, which would leave this easement trail an island; and this trail would pass over common property owned by the homeowners association with the potential of exposing it to liability. Mr. Lilly explained they were willing to allow the Commission to impose a condition upon final plat approval, so long as it encompassed the following conditions: 1. The granted easement would be contingent upon the Committee obtaining a similar grant from property owners on both sides of Firelight Meadows to provide the necessary linkage for the trail; 2. The Committee would maintain insurance insuring against any claims arising out of the construction, maintenance, and use of the trail; 3. The Committee would indemnify Firelight Meadows and/or the Homeowners' Association from any such liability; 4. The Committee would construct the trail; 5. The Committee would maintain the trail; and 6. The Committee and Firelight must mutually agree to the location of the trail. Commissioner Murdock suggested adding a condition to read as follows: DNRC approval shall be obtained for 216 dwellings units within the subdivision prior to final plat approval. Mr. Lilly's concern was that because they would not need water to begin construction of the infrastructure, it could delay final plat approval. C & H Engineering and Surveying, Inc., Mark Chandler noted that it may take up to a year to get the application finalized and approved by DNRC. Paul Pariser the applicant expressed concern with the DNRC time constraint relating to final plat and, suggested the condition be set for occupancy, rather than final plat approval. Mr. Lilly summarized the developers plans to mitigate water, sewer and fire impacts. Big Sky Fire Chief Bob Stober spoke of the importance of water being required on site prior to construction. Mr. Stober stated the fire department was not opposed to this subdivision but there were concerns for the welfare of firefighters. Gallatin County Road & Bridge Staff Engineer Roy Steiner spoke of the importance for the condition requiring a written agreement for the joint maintenance of Spruce Drive. BSOA Post Committee Chairman Bill Olson stated they were very pleased with the applicant's terms and conditions for the proposed trail. Mr. Lilly stated it was not the appropriate time to address Mr. Stober's comments regarding water on site. Discussion took place with regard to that issue being addressed at the time the land use permit is obtained. Buzz Tarlow, attorney on behalf of a neighboring resident Buzz Warren, spoke of his clients concern in obtaining reasonable mitigation for the following: location of the driveways; noise issues; and a berm being built around the front area of the development. Discussion took place with regard to requiring a condition of approval for a landscaping plan, or if it would be better dealt with when applying for the land use permit, which also, requires a site plan. Mr. Lilly noted that the suggested berm would interfere with the proposed trail, and suggested that they would be willing to allow a condition requiring landscaping in front of the parking areas that would be facing the adjoining subdivision. Ms. Madgic suggested posting a bond for the landscaping. The applicant was in agreement to the suggestion. Commissioner Vincent suggested the applicant come up with a design to mitigate the traffic light impacts off the access on to Ousel Falls Road. Commissioner Murdock moved to approve the Firelight Meadows one lot minor subdivision, subject to the conditions as presented by staff with the following changes and additions: #8. Candlelight Drive shall lie within a 60 foot public right-of-way and be constructed to county paved standards; #24. The DNRC approval for water supply shall be obtained for 216 dwelling units within the subdivision, prior to final plat approval; #25. A landscape plan shall be provided to the Planning Office for review and approval that will mitigate impacts of lights and traffic on adjoining properties. The landscaping shall be installed prior to final plat approval; and #26. Firelight Meadows shall agree to grant an easement for a trail, subject to the following terms to be satisfied by the Big Sky Community Parks and Open Space Committee: 1. The granted easement would be contingent upon the Committee

GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 207

obtaining a similar grant from property owners on both sides of Firelight Meadows to provide the necessary linkage for the trail; 2. The Committee would maintain insurance insuring against any claims arising out of the construction, maintenance, and use of the trail; 3. The Committee would indemnify or provide proof of indemnification to Firelight Meadows and/or the Homeowners' Association from any such liability; 4. The Committee would construct the trail; 5. The Committee would maintain the trail; and 6. The Committee and Firelight must mutually agree to the location of the trail. Adding the finding that it is consistent with the Big Sky/Gallatin Canyon Zoning District and Gallatin County Subdivision Regulations. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Commissioner Mitchell reported on the resolution setting the public hearing date for consideration of approving tax benefits for Color World Printers, pursuant to statute 15-24-1402, MCA. Gallatin County Fiscal Officer Ed Blackman was unavailable. There was no public comment. The proposed public hearing date was set for March 27, 2001. Commissioner Vincent moved to approve Resolution #2001-29. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Weed Supervisor Dennis Hengel reported on the consideration of a resolution of intent to amend the Weed District FY 2001 budget to include unanticipated grant revenues. There was no public comment. The proposed public hearing date was set for March 27, 2001. Commissioner Vincent moved to approve Resolution of Intention #2001-30. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported this was the second hearing on availability of Funding Community Development Block Grant/Home Programs. Mr. Watson stated these hearings were required to retain Gallatin County's eligibility for application for CDBG and HOME funds. He gave a brief presentation explaining the program, and pointed out changes to some of the categories. There was no public comment.

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Gallatin County Treasurer Anna Rosenberry reported on the consideration of cancellation of personal property delinquencies. On March 3, 2001, Ms. Rosenberry submitted a list of delinquent personal property parcels to the Commission requesting that they examine the list, make any necessary corrections and approve the cancellation of these delinquent taxes. The total amount of cancellations relating to these delinquent taxes is \$56,088.70, dating from 1984 through 1994. She noted that several parcels on the list were highlighted and requested that those not be canceled, as they needed further research to determine the correct status. There was no public comment. Commissioner Murdock moved to accept the Treasurer's recommendation for cancellation of personal property taxes that are delinquent for over five years, and based on the presentation these are predominately un-collectable taxes for the outlined reasons, in the amount of \$56, 088.70. Seconded by Commissioner Vincent. Commissioner Mitchell added that this does not include the highlighted areas of the report. None voting nay. Motion carried.

Open public comment was requested. Several attending thanked the Commission for coming to Manhattan.

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There were no pending resolutions. There being no further business the meeting was adjourned at 10:52 A.M.

*Unavailable  
For signature*  
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CHAIRMAN APPROVAL

*Shelley Vance*  
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CLERK ATTEST

## 208 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:05 A.M. Also present were County Commissioner John Vincent, and Acting Clerk to the Board Mary Miller. Commissioner Murdock was on vacation.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

### MARCH 12, 2001

- The Commissioners met to consider pursuing a Juvenile Accountability Incentive Block Grant in order to offset unanticipated shortfall. Gallatin County's juvenile detention center is 21-24 thousand dollars short on revenues due to opening late and fewer bed days than anticipated. Board of Crime Control alerted the regions to additional available funds from the JAIB grant program. Commissioner Murdock made a motion to pursue applying for \$24,000 plus for the Southwest Regional Juvenile Detention Board. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.
- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell, Murdock and Vincent, and Executive Secretaries Stacy Johnston and Glenda Noyes. The Commission considered approval of a public defender contract with Kirsten Mull Core for Treatment Court, District Court #1. Commissioner Murdock made a motion to approve the public defender contract with Kirsten Mull Core, finding that the money is in the budget and the Fiscal Officer and Deputy County Attorney have reviewed and recommended approval of the contract. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

Deputy County Attorney Chris Gray presented a Memorandum of Understanding with the Three Forks Airport Board pursuant to the Airport Improvement Grant for approval of the Commission. This MOU states that the Airport has authority to expend monies through the county process. Commissioner Murdock made a motion to approve the Memorandum of Understanding with the Three Forks Airport Board, finding that the Fiscal Officer, Deputy County Attorney, and Grants Administrator have recommended approval. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commission considered approval of hand issue claim requests received March 7, 2001. Commissioner Murdock made a motion to approve purchase orders #72588, #70596, #74366, and #73807 – totaling \$42,326.67, finding that the Fiscal Officer and Auditor have recommended approval. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners attended a regularly scheduled Personnel Semi-Monthly meeting. In attendance were Commissioners Mitchell, Murdock, and Vincent, and Personnel Director Kathy Nowierski. Discussion took place regarding a request submitted to Personnel by Treasurer Anna Rosenberry to hire an Accountant I to replace the Chief Deputy position vacated upon her appointment to Treasurer. Commissioner Murdock made a motion to approve the personnel request submitted by the Treasurer. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

### MARCH 13, 2001

The Commissioners conducted regular County business.

### MARCH 14, 2001

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell and Vincent, and Executive Secretaries Stacy Johnston and Glenda Noyes. The Commission considered two budget transfer requests received from the Clerk and Recorder's Office and Planning Department. Commissioner Vincent made a motion to approve the budget transfer request totaling \$10,000 submitted by the Clerk and Recorder. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero. Commissioner Vincent made a motion to approve the budget transfer request totaling \$5,000 submitted by the Planning Department. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

R. Dale Beland submitted invoice #138BS, totaling \$1,927.22 for services under contract for the Big Sky Transportation Study. Commissioner Vincent made a motion to pay invoice #138BS in the amount of \$1,927.22. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.



**MARCH 15, 2001**

- The Commissioners conducted regular County business.

**MARCH 16, 2001**

- The Commissioners held a meeting for the purpose of considering hand issue claim requests received March 12-14, 2001. In attendance were Commissioners Mitchell and Vincent, Accounting Clerk Jackie Lamke, and Executive Secretary Stacy Johnston. Commissioner Vincent moved to approve Purchase Orders numbered 72427, 75404 and 73425, totaling \$20,068.47. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously 2-0.

**The following items were on the consent agenda:**

1. Approval of claims presented by the Auditor dated March 15, 2001 for P.O. #73435 for \$12,102.02, P.O. #68053 for \$55.00, P.O. #68054 for \$246.24 and P.O. #69082 for \$122.50 totaling \$12,525.76.
2. Request for Common Boundary Lines Relocation Exemption for Kountz Family Limited Partnership located in, W ½ Section 15, T2S, R5E. Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under Montana Subdivision and Platting Act.
3. Consideration of Contract(s): MDOT for Gallatin Gateway CTEP Project.
4. Request for Final Plat Approval and for Leep Minor Subdivision. Preliminary plat approval was granted on March 6, 2001. A staff report submitted by Belgrade City-County Planner Jason Karp states that the conditions for final plat approval have been met.

Commissioner Vincent announced that today is National Agriculture Day. He extended thanks to the ag community in Gallatin County and acknowledged their special place in our economy and our lives. Commissioner Vincent read the consent agenda. Gallatin County Planner Jennifer Koozer requested that Item #2 on the consent agenda be continued for a couple of weeks, and that Item #5 on the regular agenda also, be continued. Commissioner Mitchell requested that the MDOT contract be placed on the regular agenda for discussion. Commissioner Vincent moved to approve the consent agenda, with consent agenda Item #2, and regular agenda Item #5 being continued, and the MDOT for Gallatin Gateway CTEP contract be removed from the consent agenda at the request of the Chairman. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson clarified Commissioner Mitchell's concerns with the MDOT for Gallatin Gateway CTEP Project contract regarding the bike path maintenance. There was no public comment. Commissioner Vincent moved to approve the contract, based on the questions and Mr. Watson's responses. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Susan Swimley reported on the public hearing and consideration of a resolution affirming Johnson Road and disclaiming interest in a tract of land located in Section 32, T2N, R5E, Gallatin County. There was no public comment. Commissioner Vincent moved to adopt Resolution #2001-31, based on the information in the resolution and the testimony. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Commissioner Mitchell announced that the consideration of board appointments to the Open Lands Board would be continued until a later date.

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Belgrade City-County Planner Jason Karp reported on the continuation of a request for preliminary plat approval for the Yellowstone Inn Minor Subdivision located in the SW ¼ of Section 6, T1S, R5E, PMM, Gallatin County, Montana. Locati Architects has requested preliminary plat approval of a minor subdivision by rent or lease on 7.77 acres. The subdivision is located on Gallatin Airport Authority property, southeast of the airport terminal. The Belgrade City-County Planning Board voted at their February 21, 2001, public meeting to recommend preliminary plat approval of the subdivision, subject to the conditions as suggested by staff. This is a minor subdivision created by rent or lease, therefore, subdivision regulations state that the survey requirements are waived. The subdivision has to go under review by the Belgrade City Council for a conditional use permit, because it is within the City of Belgrade zoning jurisdiction. The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the suggested conditions. The Commission reviewed the preliminary plat at their March 6, 2001, public meeting. The Commission agreed, with the consent of

the applicant's representative, to table the subdivision to allow staff to address traffic concerns the project may cause. Mr. Karp stated that he met with the Road Office and drafted some additional language to address concerns regarding traffic impacts that may be caused by this project. He added the following conditions: #8. All Federal Aviation Administration and other applicable air traffic and Gallatin Airport Authority related regulations must be adhered to. The County's granting of a minor subdivision by rent or lease does not alleviate the applicant from complying with all other Federal, State, and local laws regulating this project; and #9. The developer shall submit a traffic study projecting the impacts the hotel will have on surrounding roads with a plan approved by the Gallatin County Road Department to mitigate the impacts. Discussion took place with regards to additional traffic impacts created by service personnel. Ken Nottingham, Locati Architects commented that they did not anticipate most of the traffic flow leaving the area, and did not think it would create near the impact one might expect. There was no public comment. Commissioner Vincent moved to approve the Yellowstone Inn Minor Subdivision application, finding that the proposed subdivision meets the requirements of Section 76-3-608, MCA, and that the inclusion of conditions #1 through #9 are appropriate and acceptable to both the applicant and the County. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported on the public hearing on the availability of funding for the Community Transportation Enhancement Program (CTEP). Mr. Watson gave a brief presentation on the program requirements and the fund allocations. There will be a public hearing held on May 8<sup>th</sup> and 22<sup>nd</sup>, for the Commission to consider projects. There was no public comment.

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Gallatin County Clerk and Recorder Shelley Vance reported on the receipt of petition to annex property into the Belgrade Rural Fire District. The petition was received on February 8, 2001, to annex portions of the SW ¼, Section 18, T1S, R6E. The petition does contain the signatures of 50% or more of the area of privately owned lands; who constitute a majority of the taxpayers who are freeholders; and whose names appeared on the last completed assessment roll. The Belgrade Rural Fire District Board of Trustees has accepted this property for annexation. Ms. Vance certified that the petition met all the requirements, and suggested holding the public hearing on April 17, 2001, should the Commission chose to accept the petition. Commissioner Vincent moved to accept the petition to annex the property described by the Clerk and Recorder into the Belgrade Rural Fire District, finding it meets all the legal criteria, and setting the public hearing for April 17, 2001. Seconded by Commissioner Mitchell, adding the finding that according to the Clerk and Recorder the Belgrade Rural Fire District Board of Trustees accepted this property for annexation. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider annexation into the Belgrade Rural Fire District for Rahn & Pates Limited Partnership. On February 13, 2001, the Commission accepted this petition to annex a portion of Section 21, T2N, R5E, lying north of Reynolds Creek Road into the Belgrade Rural Fire District. Notice of this public hearing was published in the High Country Independent Press on March 8<sup>th</sup> and 15<sup>th</sup>. The Clerk and Recorder received no comment regarding this annexation. There was no public comment. Commissioner Vincent moved to approve the annexation, and requested that the Clerk and Recorder contact the County Attorney to prepare the resolution for adoption. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider annexation into the Belgrade Rural Fire District for Joel and Dawn Leadbetter. On February 13, 2001, the Commission accepted this petition to annex Tract 1 of COS 389A located in the S ½ of Section 21 and the N ½ of Section 28, T2N, R5E into the Belgrade Rural Fire District. Notice of this public hearing was published in the High Country Independent Press on March 8<sup>th</sup> and 15<sup>th</sup>. The Clerk and Recorder received no comment regarding this annexation. There was no public comment. Commissioner Vincent moved to approve the annexation, and requested that the Clerk and Recorder contact the County Attorney to prepare the resolution for adoption. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 211

Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider annexation into the Belgrade Rural Fire District for Robert A. and Dorothy A. Haugland. On February 13, 2001, the Commission accepted this petition to annex the NE¼, NE¼SE ¼ less COS 1201, SE ¼NW¼, NE¼SW¼, and W¼SW¼ of Section 4, T2N, R5E, and the NE¼ of Section 5, T2N, R5E into the Belgrade Rural Fire District. Notice of this public hearing was published in the High Country Independent Press on March 8<sup>th</sup> and 15<sup>th</sup>. The Clerk and Recorder received no comment regarding this annexation. There was no public comment. Commissioner Vincent moved to approve the annexation, and requested that the Clerk and Recorder contact the County Attorney to prepare the resolution for adoption. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the continuation of hearing to consider abandonment of Roxi Lane. On February 20, 2001, the public hearing was continued until March 20, 2001, at the request of Tom Henesh until agreements between the parties could be signed relating to water and sewer easements. Mr. Henesh was not present today to give an update on those agreements. Bob Davis, the developer stated there was a verbal agreement that he would abandon Roxi Lane and donate the ground for 27<sup>th</sup> Street. During discussion all parties were in agreement to postpone making a decision until April 3, 2001. Ms. Vance requested that the Commission contact Mr. Henesh and inform him of the new hearing date. Commissioner Vincent made a motion to continue the decision until April 3, 2001, with the understanding that the Commission will contact Tom Henesh to inform him of the continuation and that a decision will be made on that date with or without his presence. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on receipt of a petition to abandon a portion of Webb Street and the appointment of a viewing committee. Ms. Vance stated that on February 26, 2001, the Clerk and Recorder received a petition submitted to the Commission to abandon a portion of Webb Street and the alley, located between Blocks 13 and 14 and that portion of the alley located between lots 1, 2, 11, and 12 of Block 13 as shown on the plat of Gallatin Gateway. She noted that this petition has a different requirement because it is a street and alley within an un-incorporated town. The petition does contain the signatures of all the owners of lots on the street and alley to be closed. The portion to be abandoned is surrounded by the school. Commissioner Vincent moved to accept the petition to abandon a portion of Webb Street and the alley in Block 13 located in Gallatin Gateway, and that the Chair appoints a viewing committee to inspect the area covered in the petition. Seconded by Commissioner Mitchell, finding that the committee will come back and report to the Commission. None voting nay. Motion carried. Commissioner Mitchell appointed Commissioner Vincent and Clerk and Recorder/Surveyor Shelley Vance to the viewing committee, and Road Department Superintendent Lee Provance as a consultant.

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Gallatin County Planning Director Bill Arnold presented a resolution to adopt a zone map amendment in the Gallatin County/Bozeman Area Zoning District. There were no protests received during the 30-day protest period. Commissioner Vincent moved to approve Resolution #2001-32, finding it meets all relevant criteria and that no protests were filed in opposition. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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There being no further business the meeting was adjourned at 10:16 A.M.

*Unavailable  
For signature*  
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CHAIRMAN APPROVAL

*Shelley Vance*  
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CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 27th DAY OF MARCH 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:07 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

## 212 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

### MARCH 19-23, 2001

- The Commissioners conducted regular County business.

#### **The following items were on the consent agenda:**

1. Approval of claims presented by the Auditor dated March 16, 2001 through March 22, 2001, for P.O. #75116 for \$42,462.15 and the following batches dated March 27, 2001: Batch 1 for \$30,866.76, Batch 2 for \$33,457.79, Batch 3 for \$56,530.88, Batch 4 for \$21,585.54, Batch 5 for \$74,417.06, Batch 6 for \$45,153.72, Batch 7 for \$40,376.07, Batch 8 for \$20,140.04, Batch 9 for \$189,088.21 and Batch 10 for \$75,413.66 totaling \$587,029.73. Grand Total \$629,491.88.
2. Consideration of Contract #1999-121 with MSU for Student Nursing Services; Contract with Management Associates for Labor Relations Services; and Amendment to Contract #1999-021 with DPHHS, Task Order 01-07-4-31-015-0 for Immunization Action Plan.
3. Request for Final Plat Approval for Green Minor Subdivision. Preliminary plat approval was granted January 26, 1999. A staff report submitted by Gallatin County Planner Jennifer Koozer states that the conditions for final plat approval have been met.

Commissioner Murdock read the consent agenda. There was no public comment. Commissioner Murdock moved to approve the consent agenda. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Two vacancies exist on the Gallatin County Airport Board (Three Forks). These are five-year terms, expiring on March 4, 2006. There was no public comment. Commissioner Vincent moved to reappoint Robert Green and Greg Schneider. Seconded by Commissioner Murdock. None voting nay. Motion carried. One vacancy exists on the Rae Fire Service Area Board of Trustees. Commissioner Mitchell announced this appointment would be postponed until a later date, so it could be adequately noticed.

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Gallatin County Clerk and Recorder Shelley Vance reported on receipt of a petition for Meadow RID #378. Ms. Vance examined the petition, which did not contain the legal description of the proposed district. Attached to the petition was a draft resolution of intention that contained a sufficient legal description to determine that there are 6 lots within the proposed district. The proposed legal description is lots 2-5 of Minor Subdivision No. 91, Lot 1A of Minor Subdivision No. 91A, and COS No. 409, situated in the SE ¼ Section 36, T6S, R3E, and SW ¼ of Section 31, T6S, T4E, P.M.M., Gallatin County, Montana. Pursuant to Section 7-12-2110 M.C.A. 1999, and the Gallatin County RID policy, there are 6 parcels represented by qualified signatures appearing on the petition, which equals 100 percent of the parcels within the proposed district. According to the Gallatin County RID policy (Section 3.A.12) 60 percent of the parcels represented by qualified signatures are required on the petition. The petitioner's representative Steve Barrett gave a brief overview regarding the unique circumstances and an explanation of the plan to impose a condominium regime because of the diverse ownership in the district. Mr. Barrett stated it would have to be defined in a way that the Department of Revenue could tax it and bond counsel can write off on it. Attorney Susan Swimley retained to represent Gallatin County on RID's explained the Commission's action today is to make a decision on acceptance of the petition determining if it meets all the criteria for a valid petition, containing all the information and has 100 percent of the owners. Commissioner Murdock thanked the Clerk and Recorder for preparing this information, and based on the information that the petition is in order he moved to accept the petition and place it on the agenda for a hearing next week for the resolution of intention. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Representing the five County libraries, Ilene Casey from the Belgrade Community Library thanked the Commission for their continued support. Ms. Casey read the proclamation declaring April 1<sup>st</sup> through April 7<sup>th</sup> "National Library Week", in Gallatin County. There was no public comment. Commissioner Murdock proclaimed "National Library Week", April 1<sup>st</sup> through April 7<sup>th</sup>, based on the proclamation. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution approving tax benefits for Color World Printers Pursuant to Statute 15-24-1402, MCA. Mr.

Blackman stated the estimated reduction from future taxes would be \$50,330. He received a letter from the Superintendent of Schools Jill Richards requesting denial, based on reductions the schools are seeing throughout the area. There was no comment from the school district itself. Michael Burgard owner of Color World Printers explained the nature of the printing business and the significant growth they have experienced. There was no public comment. Commissioner Murdock stated he was in favor of the abatement, however, he did understand the concerns of the Fiscal Officer and the School Superintendent. Commissioner Mitchell concurred. Commissioner Murdock moved to grant the abatement as presented by the Fiscal Officer in Resolution #2001-33. Seconded by Commissioner Vincent, also in support of the motion. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the consideration of a resolution of intention to dissolve the Reese Creek Fire Service Area. Ms. Vance stated the petition was received on February 27, 2001, and the proposed date for the public hearing will be May 1, 2001. Commissioner Vincent moved to approve the Resolution of Intention #2001-34. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Commissioner Mitchell announced continuation of the second reading of an ordinance establishing a speed limit on Camp Creek Road. Commissioner Murdock read the ordinance and noted at the last hearing the Commission had asked that the neighbors look into the possibility of a pedestrian/bike trail. The following spoke in support of the proposed ordinance: Marie Rapp, (submitted testimony in writing); Pete Kimm, (submitted testimony in writing); Kathleen Jillson; Kristy Johnson; Ed Sendra; Wendy Jorgenson; and Angela Dowton. The following spoke in opposition of the proposed ordinance: John Kamps; and Chet Sinnema. Several issues discussed included: the condition of the road; enforcement; setting a speed limit before the path is established versus waiting and doing it all together. Commissioner Mitchell announced the public input received by the Commission were as follows: a petition for the speed limit set at 35 MPH with 144 +/- signatures; a petition for the speed limit set at 25 MPH with 169 +/- signatures; a petition for the speed limit set at 25 MPH with 247 +/- signatures. Letters in support of the 25 MPH received from the following: Kathleen Jillson; Kristy and Steve Johnson; Lawrence and Rebecca Heberle; Jamie and Greg Wubben; and a letter in support of the 35 MPH from Chet Sinnema. Commissioner Vincent questioned if the residents would pursue the bike/pedestrian path if the ordinance were passed. Ms. Rapp assured the Commission that they would continue to proceed with the project but that it will take time. Gallatin County Road and Bridge Superintendent Lee Provance informed the Commission that after viewing the area, it was found that there were a lot of utilities in the way and Camp Creek Road is only a 50-foot wide right-of-way with a ditch on the opposite side of the road. Discussion took place with regard to alternative options for construction of the path. Commissioner Murdock stated his sympathy for the folks along the road; however, he was not in support of the 25 MPH. He wants to see the path constructed and stated that the Commission needed to commit their resources through the Road Office and also, they would talk with the Sheriff with regards to enforcement. Mr. Provance explained the 15 MPH signs in front of the school were not legal and he planned on erecting advisory signs should the ordinance pass, so no future ordinance would be needed. Commissioner Murdock stated there should be something done to get the 15 MPH signs legal in the school zone. Commissioner Vincent moved that the Commission pass on the second reading of Ordinance #2001-01, to establish a speed limit of 25 MPH on the Camp Creek Road. Seconded by Commissioner Mitchell. Commissioner Vincent stated he was going to take Ms. Rapp at her word and assume she speaks for most of the residents along that road to make a commitment to do whatever possible to establish a bike path and a trail along this stretch of road, with a corresponding commitment from the Commission to help facilitate it in anyway possible. Commissioner Vincent and Mitchell voting aye. Commissioner Murdock voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic requested a continuation until next week on the consideration of a request for change of conditions for the Elk Grove Planned Unit Development, and noted that the applicant concurred with the request. During board discussion it was decided that the Commission would hear public testimony from those in attendance who would not be available next week.

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Gallatin County Planner Jennifer Koozer reported on the consideration of a request for preliminary plat approval of the Garwood Subsequent Minor Subdivision-Amended Plat located in SW ¼ of Section 12, T2S, R4E, PMM, Gallatin County, Montana. The property is generally located off of Huffine Lane,

approximately five miles west of the City of Bozeman and approximately one mile east of the Four Corners intersection. Gaston Engineering & Surveying, PC, on behalf of Richard and Allison Garwood, has requested preliminary plat approval to subdivide Lot 4 of the Huffine Lane Business Park Minor Subdivision No. 287, creating a two-lot subsequent minor subdivision. Lot 4 (2.3 acres) would be divided into Lot 4A (1.1 acres) and Lot 4B (1.3 acres). The Garwood Subsequent Minor Subdivision (Amended Plat of Lot 4, Huffine Lane Business Park Minor Subdivision No. 287) is a two-lot minor subdivision located in the Huffine Lane Business Minor Subdivision No. 287. The Gallatin County Planning Board held a public hearing regarding the proposal on February 27, 2001, and voted 8:0 to recommend approval with conditions suggested by staff. Huffine Lane Business Park was granted final plat approval on December 12, 2000. The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the conditions. The County Commission needs to make the following determination: a determination as to whether the proposed subdivision should be approved. The basis for the Commission's decision shall be whether the preliminary plat and additional information demonstrate that development of the subdivision meets the requirements of the Montana Subdivision and Platting Act. If the Commission finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2. Department of Environmental Quality approval shall be obtained for the subdivision. Applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. Applicant shall obtain the Gallatin County Health Officer's approval. 3. Applicant shall join the existing Huffine Business Park property owners' association for enforcement of the required covenants. All conditions applying to Huffine Business Park shall apply to this Garwood Subsequent Minor Subdivision. 4. Two copies of the covenants, a copy of the conditions of preliminary approval, documents confirming membership in the Huffine Business Park property owners' association, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants, documents establishing the property owners' association, and certificate prior to final plat approval. 5. Applicant shall record with the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, fire district or fire service area and/or the creation of a sewer and/or water district. 6. All utility easements shall be shown on the final plat. Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat: The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever. 7. A Memorandum of Understanding shall be signed between the Weed Control District and applicant prior to final plat approval. 8. Applicant shall record the following covenants with the final plat (plus any covenants recommended by the Gallatin County Weed Control District and Belgrade Rural Fire District): The property owners' association shall be responsible for the control of County-declared noxious weeds. Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission. 9. The final plat shall include a "no access" strip along the east boundary with Monforton School Road. 10. Applicant shall make payment of road impact fees in accordance with the Gallatin County Subdivision Regulations Impact Fee policy. 11. Applicant shall make payment of fire protection impact fees in accordance with the Gallatin County Subdivision Regulations Impact Fee policy. 12. Applicant shall provide a final plat to the Belgrade Rural Fire District prior to final plat approval. Applicant shall meet the fire protection requirements in accordance with the Subdivision Regulations and the Belgrade Rural Fire District. Applicant shall obtain written verification from the Belgrade Rural Fire District that the required water supply and any other conditions required by the Belgrade Rural Fire District have been provided. Inspections shall be scheduled, with a 48-hour notice, during construction and completion. 13. Applicant shall have three (3) years to complete the above conditions and apply for final plat approval. Ms. Koozer suggested an addition to condition #8 that was recommended by the fire department to read as follows: 5. All structures must meet the fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code. 6. Site plans of all lots must be submitted for review and approval by the Belgrade Rural Fire District before construction is started. 7. All commercial structures must submit plans to the Montana State Building Codes Bureau and the Belgrade Rural Fire District for review and

approval before construction is started. The applicants representative Dennis Foreman, stated the applicant was in agreement with all suggested conditions. There was no public comment. Finding that the Garwood Amended Minor Subdivision meets the intention of the Gallatin County Master Plan and the requirements of the Gallatin County Subdivision Regulations, and the Planning Board recommended approval with a 8:0 vote, Commissioner Murdock moved to approve the amended subdivision subject to the conditions presented by staff with the amendment to condition #8 from page 4 of the staff report, under General Requirements, adding 5, 6, and 7. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic reported on the consideration of a request for change of conditions for Elk Grove Planned Unit Development located in the South One-Half (S½) and Southeast One-Quarter (SE¼) of Section 23; and the South One-Half (S½) and Southwest One-Quarter (SW¼) of Section 24; and the North One-Half (N½) and Northwest One-Quarter (NW¼) of Section 25; and the North One-Half (N½) and Northeast One-Quarter (NE¼) of Section 26, Township Two South (T2S), Range Four East (R4E), PMM, Gallatin County, Montana. The property is generally located east of Highway 191, north of Blackwood Road, south of Violet Road, approximately one and a half miles south of Four Corners. Fluidyne, Inc., representing Concinnity Corp., has requested a condition modification affecting the preliminary plat of the Elk Grove Planned Unit Development. The proposed modification would change the location of access onto Highway 191, alter lot lines within Phase 4, and allow Phase 4 to be completed out of sequence. Preliminary plat approval was granted on June 27, 2000. Ms. Madgic stated that since the original request for a change to conditions the applicant, through their representative Russ McElyea has now requested to withdraw two of those changes that concern Phase 4 realignment and out-of-sequence completion. In an earlier discussion with the Commission it was agreed that there would be a continuance until next week and that public testimony would be heard from those that would be unable to attend next week. Ms. Madgic stated that condition #27 presently reads as follows: Encroachment permits from the Montana Department of Transportation must be obtained for access onto US Highway 191. Primary entrance into the proposed subdivision shall be moved .15 miles to the south where there is already an existing entrance. MDT does not support access at this location. The applicant proposes changing the location of the Hwy 191 access 200 feet north of the original access as designed under the submitted preliminary plat. The applicant is seeking to modify condition #27 to read as follows: Encroachment permits from the Montana Department of Transportation must be obtained for access onto US Highway 191. Primary entrance into the proposed subdivision shall be moved .15 miles to the south where there is already an existing entrance located approximately 900 feet south of Violet Road as shown on the revised preliminary plat. Letters were received from the following: Gallatin County Road Superintendent Lee Provance; Mike and Karen Monforton; and Michael Cok. Also, a letter signed by 11 neighbors. Ms. Madgic stated there have been several meetings to discuss and address some of the neighbors concerns for a potential alternative solution that would work for everyone. The applicant's representative Russ McElyea explained the original configuration, and the reason for the requested change was that the MDOT does not support access at the location that was approved by the Commission on June 27, 2000, because of safety concerns. Mr. McElyea stated their request was based on Section 13.G of the Subdivision Regulations that addresses changes to conditions after approval as follows: Upon written request of the subdivider, the Commission may amend conditions of preliminary plat approval where it can be found that errors or changes beyond the control of the subdivider have rendered a condition unnecessary, impossible or illegal. Mr. McElyea stated that after discussion with the County Attorney Marty Lambert it was agreed that he would limit his presentation until the continuance. The Commission was not in favor of delaying the presentation until the continuance, as the public would not have the chance to respond to the entire presentation. Mr. Lambert concurred with Mr. McElyea and felt the public could adequately comment on the request, although, he stated the Commission could require the applicant to make a full presentation. Mr. McElyea stated he was prepared to make a full presentation today should the Commission desire, and the reason for waiting was to provide some additional time to work things out. The Commission requested Mr. McElyea to give his full presentation with respect to seeking modification to condition #27 regarding access. He referred to several letters of correspondence that did not identify an alternative access from Violet Road (sometimes called Upper Rainbow Road) as being preferable, to the Highway 191 access. Speaking in opposition of the Highway 191 access, and in favor of exploring access from Violet Road are as follows: Mark Haggerty, representing the Greater Yellowstone Coalition; Frank Silva (submitted testimony in writing); and Allison Silva. Mr. Haggerty submitted a letter to the Commission, and Mr. Silva submitted four photographs marked Exhibits "A through D". Dan Martin representing MDOT, Helena, stated they reviewed and approved the proposed plan for access onto Highway 191. He noted that MDOT does not object to the use of Violet Road, nor have they required it. Commissioner Murdock suggested contacting MDOT Engineer Rob Bukvich who attended a November 2, 2000 meeting with the developer and the neighbors on the proposed road

## 216 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

alignment, to attend next weeks meeting in order to provide some input from that meeting. Commissioner Mitchell stated the public testimony portion would remain open and continued the hearing until next week.

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There were no pending resolutions. There being no further business the meeting was adjourned at 12:30 P.M.

*Unavailable  
For Signature*  
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CHAIRMAN APPROVAL

*Shelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

### PUBLIC MEETING

TUESDAY THE 3rd DAY OF APRIL 2001

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:07 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

#### MARCH 26, 2001

- The Commissioners attended a meeting for the purpose of approving support of the 1999 Juvenile Accountability Incentive Block Grant proposal to the Montana Board of Crime Control. In attendance were Commissioner Murdock and Vincent, Grants Department Accounting Clerk Jennifer Blossom, and Executive Secretary Glenda Noyes. Commissioner Murdock made a motion to support the application to the Montana Board of Crime Control for 1999 JAIB Grant monies, finding that the Fiscal Officer has signed off on the proposal, and contingent upon approval from the Deputy County Attorney Chris Gray. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, and Executive Secretaries Stacy Johnston and Glenda Noyes. The Commission considered a request submitted by the Sheriff's Office to expend \$1,260.00 from the Criminal Investigation Fund to pay Dr. Frank Seitz for his services. Commissioner Murdock made a motion to recommend approval of the expenditure request from the Sheriff's Office in the amount of \$1,260.00 from the Criminal Investigation Fund, finding that Fiscal Officer Ed Blackman has recommended approval. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Treasurer's Office submitted two-budget transfer in the amount of \$2,101.00 and \$1,800.00. Commissioner Murdock made a motion to recommend approval of the budget transfer requests submitted from the Treasurer's Office totaling \$3,901.00 and the budget transfer request submitted from the Sheriff's Office totaling \$1,798.10, based on approval from Fiscal Officer Ed Blackman. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commission also discussed the Gateway Foothills road access issue. Commissioner Murdock made a motion to revise the drafted request to the DNRC, based on the council of Susan Swimley, and ask the State to recognize the public county road status of Gateway Foothills, per the letter sent to them by Attorney Swimley. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

#### MARCH 27-30, 2001

- The Commissioners conducted regular County business.

#### **The following items were on the consent agenda:**

1. Approval of claims presented by the Auditor dated March 23, 2001 through March 29, 2001, for P.O. #75207 for \$65.00, P.O. #75410 for \$1,954.22, P.O. #73436 for \$279.05, P.O. #74514 for \$180.00, P.O. #70161 for \$140.00, P.O. #70162 for \$140.00, P.O. #70163 for \$275.19. P.O. #70269 for \$19,565.27 and P.O. #74685 for \$33.50 totaling \$22,632.23.
2. Consideration of Contract(s): Maintenance Agreement with J & H Equipment for Youth Probation
3. Request for Realignment of Common Boundary Exemption for Kountz Family Limited Partnership located in, W ½ Section 15, T2S, R5E, (Huffine Lane and Cottonwood Road). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.



4. Request for Mortgage Exemption for Michael Theisen located in, SE ¼ Section 25, T2N, R4E. Gallatin County planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Vincent read the consent agenda. There was no public comment. Commissioner Murdock moved to approve the consent agenda as read. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Three vacancies exist on the Middle Cottonwood Zoning District Board of Adjustments. This is a two-year term, expiring on March 31, 2003. There was no public comment. Commissioner Murdock moved to re-appoint John Brown and Barb Keller and appoint Clarice Dryer. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Representative Gerry Gaston reported on the consideration of a resolution of intent to create Meadow RID #378 and request to solicit construction bids. Mr. Gaston presented the findings as follows for rural improvement districts: The estimated market value of the property in the district is increased by more than the special assessment; The ownership of the property is diverse finding that there are a total of 38 assessable interests (lots and condominiums units), as the property is currently constituted. One owner holds 16 assessable interests, what are all individual condominium units. One owner holds 4 assessable interest; one owner holds 3 assessable interests and two owners hold 2 assessable interests. The remaining eleven units, lots and parcels or tracts are held in separate ownership; There are 0 special assessments due in this district; There is 1 mortgage backed bond or levy of record against property in this district. That bond is for Water and Sewer District 363. The balance payable on this bond is \$4,734,740.00. Other properties, outside this district, secure this bond; There are 0 delinquencies in this District; There are 6 lots, parcels or tracts in this district. The total land value before improvement is approximately \$2,000,000. The total land value after improvements is increased by the amount of the assessment. The delinquencies do not raise an issue of concern for the Commission regarding this rural improvement district; The public will receive benefit of improved road surface, signage, lighting, access, traffic flow, improved storm drainage and reduced yearly maintenance; This is not a newly platted subdivision. Minor Subdivision No. 91 was platted prior to 1975. The Chase Montana Condominium was created in 1991. The Meadow Center, Inc. Condominium was created in 1992. Gallatin County Treasurer Anna Rosenberry concurred with the findings. Commissioner Murdock moved to find that there was sufficient information to determine they could back the bonds. Seconded by Commissioner Vincent. Commissioner Murdock amended the motion to include, that based upon the findings and that this rural improvement district is in the public interest and best serves the interest of the County and the District, and to pledge the Revolving Fund to secure this rural improvement district. Commissioner Vincent amended his second. None voting nay. Motion carried. Commissioner Mitchell called for public comment on the creation of the rural improvement district. There was no public comment. Commissioner Murdock moved to adopt the Resolution of Intention RID-01-378A, to create RID #378, Meadow RID located in Meadow Village in Gallatin County. Seconded by Commissioner Vincent. None voting nay. Motion carried. Mr. Gaston requested to start advertisement before the consummation of the protest period due to the short construction season. The law allows this, and they would wait until after the protest period to open the bids. There was no public comment. Based on the 100 percent participation, Commissioner Murdock moved to allow simultaneous advertising along with the solicitation of the bids, of which, would not be opened until the protest period is completed. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Lanette Windemaker announced the presentation of the completed draft "Connecting Communities: Gallatin County Trails Report and Plan", by the Trails Advisory Committee. The Gallatin County Trails Advisory Committee was formed as an advisory committee to the Gallatin County Planning Board, and assigned to develop a countywide trails plan. The draft was submitted to the Gallatin County Planning Board on February 3, 2001, and the Board unanimously accepted the draft. Chairperson of the Gallatin County Trails Advisory Committee Gretchen Rupp acknowledged various individuals and committee members vital to the success in developing the proposal. Ms. Rupp and Cyndi Crayton outlined the report and plan while narrating a slide show displaying potential trail corridors and the tasks of the committee. Allen Armstrong and Chad Murray of the GIS Department were commended for their work in creating the maps. The Trails Committee urged the Commission to adopt this plan into the County Growth Policy. As part of the policy, the trails

plan would form the legal grounding for trails-related subdivision review and would help decision-makers set priorities for expenditure of transportation grant funds, in addition to other official activities. The committee recommended that the Commission create an independent trails advisory board. Public comment was as follows: Jeff Heath; Steve Forrest; and Michele Corriel. The Commission was very pleased with the presentation and encouraged by the Committee's efforts, along with commending them for attaining the first step towards the countywide trail network. Commissioner Murdock moved to accept the trails report and plan, and made a motion to proceed with advertising for a trails advisory board, consisting of a cross section of the entire county and to move forward on the recommendations in the report. He stated the Growth Policy has not been adopted but the Committee could get started initially reviewing, from a trails prospective, every subdivision proposal as to how it would relate to the plan. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic reported on the continuation of consideration of a request for change of conditions for Elk Grove Planned Unit Development located in the South One-Half (S $\frac{1}{2}$ ) and Southeast One-Quarter (SE $\frac{1}{4}$ ) of Section 23; and the South One-Half (S $\frac{1}{2}$ ) and Southwest One-Quarter (SW $\frac{1}{4}$ ) of Section 24; and the North One-Half (N $\frac{1}{2}$ ) and Northwest One-Quarter (NW $\frac{1}{4}$ ) of Section 25; and the North One-Half (N $\frac{1}{2}$ ) and Northeast One-Quarter (NE $\frac{1}{4}$ ) of Section 26, Township Two South (T2S), Range Four East (R4E), PMM, Gallatin County, Montana. The property is generally located east of Highway 191, north of Blackwood Road, south of Violet Road, approximately one and a half miles south of Four Corners. Fluidyne, Inc., representing Concinnity Corp., has requested a condition modification affecting the preliminary plat of the Elk Grove Planned Unit Development. Ms. Madgic stated that condition #27 presently reads as follows: Encroachment permits from the Montana Department of Transportation must be obtained for access onto US Highway 191. Primary entrance into the proposed subdivision shall be moved .15 miles to the south where there is already an existing entrance. MDT does not support access at this location. The applicant proposes changing the location of the Hwy 191 access 200 feet north of the original access as designed under the submitted preliminary plat. The applicant is seeking to modify condition #27 to read as follows: Encroachment permits from the Montana Department of Transportation must be obtained for access onto US Highway 191. Primary entrance into the proposed subdivision shall be ~~moved .15 miles to the south where there is already an existing entrance~~ located approximately 900 feet south of Violet Road as shown on the revised preliminary plat. Ms. Madgic briefly summarized last week's hearing, public testimony and correspondence. The following letters were received since last week's hearing: Mark Haggerty, Greater Yellowstone Coalition; Brian Gallik (Monforton attorney); and The Law Firm of Moore, O'Connell and Refling (addressed to Gallatin County Attorney Marty Lambert); and Allison Silva. A telephone call was received from Russ Tuckerman. MDOT representative Jason Giard clarified the department's position on the approval of the approach permit submitted by the applicant. Discussion took place regarding the feasibility of Violet Road being used as an alternative to the Highway 191 access. Public testimony in opposition of the proposed change and in support of using Violet Road: Frank Culver (submitted testimony in writing); Brian Gallik (submitted testimony in writing with attached letter from Michael Cok); Mike Monforton; and Rich Baumann. Carl Francis, a Violet Road resident, too, was in support of using Violet Road as long as the impacts were mitigated properly. The applicants representative Russ McElyea submitted documents supporting his testimony labeled exhibits "A through G"; a set of plans for the U.S. Highway No. 191 approach improvements; and a list of questions for the Commission to ask Mr. Giard. Commissioner Vincent suggested a continuance in order to take this under advisement due to the considerable amount of documentation submitted today. Commissioner Murdock stated he would like to see an exploration of the Violet Road alternative, although, it cannot be required. Commissioner Mitchell stated the Commission's obligation was to make sure the health, safety and welfare impacts created by this development are adequately mitigated for all concerned. The Commission was in agreement to take this additional information into consideration and postpone their decision until next week. Commissioner Vincent moved consideration of the application be continued until April 10, 2001. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Tom Henesh, Morrison-Maierle the applicant's representative reported on the continuation of the hearing to consider abandonment of Roxi Lane. Mr. Henesh recommended the Commission proceed with the abandonment, although one easement remained to be signed. He noted a letter of credit for both Roxi Lane and Westlake Road would remain in place for Westlake Road. Gallatin County Clerk and Recorder Shelley Vance briefed the Commission on the current status of the abandonment and the process. Ron Allen, Allen Associates stated that the right-of-way would revert to the adjacent lots. He was unaware of any protests. Commissioner Vincent moved to approve the abandonment of Roxi Lane and requested that the appropriate resolution be drafted. Seconded by Commissioner Murdock, adding that the resolution will include how the land will be reverted to the adjoining landowners as described

**GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 219**

by Mr. Allen. Commissioner Mitchell requested that the Clerk and Recorder follow up on the resolution. None voting nay. Motion carried.

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Commissioner Mitchell announced the consideration of a resolution concerning the decision to abandon a portion of Lone Mountain Trail. Commissioner Murdock moved to adopt Resolution #2001-35, which would abandon a portion of Lone Mountain Trail. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic, on behalf of Planner W. Randall Johnson reported on the consideration of a resolution to approve the Hall variance request. Commissioner Vincent moved adoption of Resolution #2001-36. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the consideration of a request for Jeff and Wendy Riggs family transfer, located in the SE ¼ Section 28 and E ½ Section 33, T2N, R2E (South of I-90, east of Three Forks). Ms. Koozer stated the Commission needed to determine whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. Jeff Riggs was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination. There was no public comment. Commissioner Murdock moved to approve the Riggs family transfer exemption. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the consideration of a request for Barbara and Morris Cascaddan family transfer located in the NE ¼, Section 3, T3S, R5E (Fowler Lane and Johnson Road). Ms. Koozer stated the Commission needed to determine whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. Ms. Koozer pointed out that this tract has been through several exempt transactions. Morris Cascaddan was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination. He deferred several questions to his son-in-law Marc Jacobs. Commissioner Murdock questioned Mr. Jacobs about the history of the tract and asked if he thought it was a proper use of the family transfer exemption. Mr. Jacobs stated he did not think it was a proper use. Commissioner Murdock stated he had concern with the prior history and suggested they go through Minor Subdivision review. There was no public comment. Commissioner Murdock moved to deny the family transfer request, based on the history pattern that the applicant agrees was not the proper use of the family transfer exemption. Seconded by Commissioner Vincent. Commissioner Mitchell and Commissioner Vincent concurred. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the consideration of a request for preliminary plat approval for the Madden Minor Subdivision located in Sections 17 and 20, T1N, R6E, PMM, Gallatin County, Montana. The property is generally located in the Springhill Zoning District, south of Springhill Community Road and north and west of Forswall Road. Allen and Associates Land Surveyors, on behalf of Jim and Corinne Madden, have requested preliminary plat approval to subdivide an approximately 241 acre parcel by creating one new approximately 20 acre lot. The proposed site is located in Springhill Zoning District. Under the Springhill Zoning Regulation, the creation of new parcels requires the transfer of development rights through the conditional use permit process. On December 14, 2000, the applicants obtained a conditional use permit allowing the transfer of one of their four development rights to the proposed new parcel. This conditional use permit will not be valid until a final plat is recorded with the County Clerk and Recorder creating the new parcel. The Commission has one determination to make with this application: A determination as to whether the proposed subdivision should be approved. The basis for the County Commission's decision shall be whether the preliminary plat and additional information demonstrate that development of the subdivision meets the requirements of the Montana Subdivision and Platting Act and the Gallatin County Subdivision Regulations. The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the following conditions: A. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. B. A copy of the conditions of approval, the covenants and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the required

220 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

covenants and certificate prior to final plat approval. C. Applicant shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, or the creation of a sewer and/or water district. D. All utility easements shall be shown on the final plat. Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat: The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever. E. A Memorandum of Understanding shall be signed between the Weed Control District and applicant prior to final plat approval. F. Applicant shall record the following covenants on or with the final plat: The control of noxious weeds by the Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District. The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. In the event a landowner does not control the noxious weeds, after 10 days notice from the Property Owners' Association, the Association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment. Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law. Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners and the County Commission. F. Encroachment permit(s) shall be obtained from the County road office for any access points coming off maintained roads. Each access must be at least seventy-five feet from the nearest intersecting County road. G. For the entire length of the development (both the new Lot 1 and the remainder), 30 feet north of the centerline along the east-west portion of Forswall Road and 30 feet west of the centerline along the north-south portion of Forswall road shall be dedicated to the public. H. Road impact fees shall be paid to Gallatin County, per Gallatin County Impact Fee standards. I. Any road improvements on the north-south portion of Forswall Road required by the Gallatin County Road Department shall be completed prior to final plat approval. All roadwork shall be inspected by a licensed engineer. Such inspection and certification must be provided to the County road office in writing. Final approval will not be given until this document is received. G. Applicant shall make payment of fire impact fees in accordance with the Gallatin County Subdivision Regulations. H. Applicant shall provide an appropriate fire protection method in accordance with the Subdivision Regulations (section 6.E). Applicant shall have the Springhill Fire Service Area review and approve the fire protection method prior to final plat approval. Applicant shall obtain written verification from that all requirements have been met. I. Applicant shall have three (3) years to complete the above conditions and apply for final plat approval. Ms. Koozer noted an error in the lettering of the conditions. She stated the applicant was willing to expand condition G, which should be H, to read as follows: H. For the entire length of the development (both the new Lot 1 and the remainder), 30 feet north of the centerline along the east-west portion of Forswall Road and 30 feet west of the centerline along the north-south portion of Forswall Road shall be dedicated to the public, and shall be moved to conform to right-of-way lines. She recommended deleting condition I, which, would be J, as the road department will not be requiring any improvements because there will be a boundary realignment that will take care of all the dedication that will be required. Surveyor Ron Allen explained the reason for the boundary realignment and stated that they were in agreement with the conditions as amended. There was no public comment. Commissioner Murdock moved to approve the preliminary plat for the Madden Minor Subdivision, finding that the submittal meets the requirements of the Montana Subdivision and Platting Act; Gallatin County Subdivision Regulations and that it comports with the Springhill Zoning with the conditions presented by staff as amended. Finding that the applicant agreed to the conditions. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 12:37 P.M.

*Unavailable*  
*For signature*  
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CHAIRMAN APPROVAL

*Shelley Vance*  
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CLERK ATTEST

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**GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 221**

**PUBLIC MEETING**

**TUESDAY THE 10th DAY OF APRIL 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:08 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**APRIL 2, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell, Murdock, and Vincent, and Executive Secretaries Stacy Johnston and Glenda Noyes. The Commission reviewed BRW invoice #1 in the amount of \$27,511.00 for the Big Sky Transportation Study. Due to concerns that have been brought forward by participants in the study, it was determined that payment of this invoice would be postponed until more information could be gathered.

The Commission considered approval of two budget transfer requests received from the Detention Center and Clerk and Recorder. Commissioner Murdock made a motion to approve a budget transfer request submitted by the Detention Center in the amount of \$328.46 and a budget transfer request submitted by the Clerk and Recorder in the amount of \$1,515.00, finding that they have been approved by the Fiscal Officer. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

Discussion regarding the junk vehicles located in the Law and Justice parking lot, personnel processes, and timecards was continued until the April 4, 2001 meeting.

**APRIL 3, 2001**

The Commissioners conducted regular County business.

**APRIL 4, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell, Murdock, and Vincent, and Commission Secretaries Stacy Johnston and Glenda Noyes. Discussion took place regarding a request from staff to attend a "Don't Sweat the Small Stuff" conference on May 17, 2001. Commissioner Vincent made a motion to send both Stacy Johnston and Glenda Noyes to the conference. Commissioner Murdock seconded the motion. In discussion Commissioner Mitchell requested that a report be prepared upon return from the conference, so that others might benefit from the Commission secretary's attendance. All voted aye. Motion carried unanimously.

**APRIL 5-6, 2001**

- The Commissioners conducted regular County business.

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- Landfill Revenue for March 2001: \$12,283.60.
- A101's for March 2001: \$3.50.
- Payroll for March 2001: \$1,087,504.43.
- Clerk & Recorder's Fees Collected for March 2001: \$56,631.23.
- New Hire Report for March 2001: 911 – Christina McCann; FAIR – Carey Andersen; HEALTH/WIC – Alana Long; REST HOME – Lonelle Lytle, Derek Bernier; SHERIFF – Chad Gundlikson; TREAS./MOTOR VEHICLE – Melissa Ogg.
- Terminated Employees' Report for March 2001: ATTORNEY – Gerry Higgins 3/22/01; ITS – Patty Scarrah 03/23/01; REST HOME – Ann Olson 02/28/01, Wade Jacobson 03/18/01; Rebecca Eckert 03/20/01; Kelli Bieler 03/23/01; SHERIFF – Jay Childress 02/24/01, Brian Josephson 03/12/01, Trisha Mooney 03/20/01; TREAS./MOTOR VEHICLE – Joni Brooks 03/15/01.

Approved Applications for Cancellation of Taxes (No's. 2400, 4370A-4407, 4410-4447), March 2001: \$7,877.21.

**The following items were on the consent agenda:**

1. Minutes for Public Meetings April 19, 1999 and January 2, 9, 16, 23 and 30, 2001.

2. Approval of claims presented by the Auditor dated April 3, 2001 through April 5, 2001, for P.O. #57532-33, 34, 35, 36 for \$7,514.29 and P.O. #73873 for \$456.39 totaling \$7,970.68.
3. Consideration of Contract(s): Grants Application for the Bullet Proof Vest Program for GCSO; and Service Agreement with Selby's for Xerox 2520
4. Request for Realignment of Common Boundary Exemption for John and Linda Rabel described as Tract 1A of COS 2019A and a tract of land described as the SW ¼ of Section 8, and the N½, N½, of Section 17, T1S, R4E, PMM, Gallatin County, Montana. Belgrade City-County Planner Jason Karp reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Murdock read the consent agenda. Commissioner Mitchell requested Item 4 be moved to the regular agenda for discussion. Commissioner Murdock moved to approve the consent agenda as amended. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Belgrade City-County Planner Jason Karp reported on the request for realignment of a common boundary exemption for John and Linda Rabel. The property is described as Tract 1A of COS 2019A, and a tract of land situated in the SW¼ of Section 8, and the N½, N½, of Section 17, T1S, R4E, PMM, Gallatin County, Montana. Mr. Karp noted an error in the staff report with regard to the applicant's name. John Rabel was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption was an appropriate claim or an attempt to evade subdivision review. Dennis Foreman, Gaston Engineering the applicants representative clarified questions concerning the boundary realignment. There was no public comment. Commissioner Mitchell moved to approve the Rabel common boundary realignment exemption. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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The Proclamation Declaring April 8-14, 2001, "National Public Safety Dispatchers Week" was continued until later on in the agenda.

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Gallatin County Planner Jennifer Madgic reported on the continuation of consideration of a request for change of conditions for Elk Grove Planned Unit Development. Ms. Madgic noted time lines with regard to preliminary plat and the request for a change of conditions. She referred to a letter she sent to the applicant's attorney clarifying his testimony and a letter he submitted last week regarding staff's opinion on Violet Road. Ms. Madgic claimed his testimony was flawed, as the staff has not taken a position or directed the applicant on this issue. Gallatin County Attorney Marty Lambert summarized legal issues regarding preliminary plat approval and the request of change in conditions. Commissioner Mitchell stated they received numerous phone calls and written material since the public testimony was closed last week, therefore, they could not consider any further public testimony. Commissioner Vincent stated in his opinion the issue boils down to two questions: Is the access requested in condition 27 the safest access to U.S. 191, and does the County Commission have the legal authority to deny the applicants request. After researching and considering these questions he concluded that the access requested in condition 27 is not the safest viable access to U.S. 191, and the County Commission has the authority to approve or deny the applicants request. He was convinced that at least two other viable accesses to U.S. 191 would be significantly and demonstrably safer than the access proposed in condition 27. So much safer, that the access requested in condition 27 would be relatively speaking a dangerous one and, as such, would fail to meet the standard of protecting the public's health, welfare and safety. Commissioner Vincent based this finding on the following: The driveway in question entering from the west is a factor and a legitimate safety issue, but it is by no means the only one, or in and of itself, the most important one; speed, the speed limit, percentile speed and design; The location of the access on a curve; Traffic volume on U.S. 191, now and in the future; Traffic volume on and off of U.S. 191 generated by the Elk Grove Subdivision both during construction and at build out; U.S. 191 accident experience; The high probability of Blackwood Road carrying greatly increased traffic loads as a designated collector roadway; The distance between Blackwood Road and the proposed access. This distance is approximately 1600 feet. He found that, as a general planning rule and to enhance safety accesses onto highways carrying heavy traffic load at highway speeds are ideally located or spaced at distances of no less than ½ mile. Sixteen hundred feet, the distance between Blackwood Road and the proposed access is 1040 feet, short of ½ mile; Present and future roadside development and land use in the immediate vicinity and the impacts of this development and use on U.S. 191, especially in regard to public safety. Based on those factors, Commissioner Vincent would vote to deny the applicant's

request. Commissioner Murdock and Commissioner Mitchell concurred, stating there are better alternatives for access that would best serve the public's health, safety and welfare. Given the public testimony, Commissioner Vincent moved that the request for change of conditions for Elk Grove be denied. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on receipt of a petition to annex property into the Gallatin Canyon Consolidated Rural Fire District. The petition was received on March 23, 2001, to annex Tracts 2, 3, 7, 8, 9, 10 and 11 of COS 1732, Tract A of COS 1132A, all located in Section 34, T6S, R3E. (Antler Ridge Subdivision). Ms. Vance examined the petition and it does contain the signatures of 50% or more of the area of privately owned lands; who constitute a majority of the taxpayers who are freeholders; and whose names appeared on the last completed assessment roll. The tract of land for which annexation is being requested, is adjacent to the Gallatin Canyon Consolidated Rural Fire District. It was determined that the fire district board had not submitted their acceptance letter to approve annexation of this property. Commissioner Mitchell continued acceptance of the petition until next week.

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Gallatin County Clerk and Recorder Shelley Vance reported on receipt of a petition to annex property into the Gallatin Canyon Consolidated Rural Fire District. The petition was received on March 14, 2001, to annex Firelight Subdivision Phase 1, located in the SE¼ of Section 2, T7S, R3E. Ms. Vance examined the petition and it does contain the signatures of 50% or more of the area of privately owned lands; who constitute a majority of the taxpayers who are freeholders; and whose names appeared on the last completed assessment roll. The tract of land for which annexation is being requested, is adjacent to the Gallatin Canyon Consolidated Rural Fire District. The Gallatin Canyon Rural Fire District Board of Trustees has accepted this property for annexation. Ms. Vance certified that the petition met all the requirements, and suggested holding the public hearing on May 8, 2001, should the Commission chose to accept the petition. Commissioner Vincent moved to accept the petition to annex Firelight Subdivision Phase 1, into the Gallatin Canyon Rural Fire District, and setting the public hearing for May 8, 2001. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider abandoning a portion of alley and Webb Street in Gallatin Gateway. Notice of this public hearing was published in the High Country Independent Press on April 5, 2001, and in addition on March 30, 2001, notice of this hearing and the viewing committee report was mailed to the signers of the petition, land owners named on the petition, individuals named on the petition who could be affected, post master of the area and the public lands access association. The viewing committee members were Commissioner Vincent and Ms. Vance, with Road Superintendent Lee Provance as a consultant. A synopsis of the viewing committee report stated that they viewed that portion of Webb Street lying south of Mill Street between Block 13 and 14, and the alley located in Block 13, which are located in the town site of Gallatin Gateway. Webb Street is constructed. A portion of the alley is constructed between lot 1 and 12 of Block 13, and between lots 3-6 and 7-10 of Block 13. The alley is not constructed between lots 2 and 11 of Block 13. There are fences, bushes, and out buildings located in this portion of alley. According to the petition, the necessity for and advantage of the abandonment is to construct an addition onto the existing school. Construction will also allow for new playground area. No one would become land locked, nor denied access to public lands if the petition were granted. The property located to the south of the townsite of Gallatin Gateway has access from Adams Street and possibly U.S. Highway 191. Gallatin County Attorney Marty Lambert noted that the Gallatin Gateway Rural Fire District Trustees are working on an agreement with the Gallatin Gateway School Board Trustees to make certain that the fire department will have unobstructed access for emergency vehicles to the southern and eastern portions of the new structure. He expected the agreement would be finalized in the very near future along with a map depicting the area that would remain unobstructed. George Rabel chairman of the school board stated they met with the fire district and there was no objection to closing the road and the school district fully intends to give access around the building. Commissioner Vincent moved to approve the abandonment of Webb Street in Gallatin Gateway, and requested the Clerk and Recorder draft the appropriate resolution. Seconded by Commissioner Murdock. None voting nay. Motion carried. Commissioner Murdock moved that the resolution propose the abandoned portions of the road go to adjacent property owners on a 50-50 basis, and in this case the school district is the owner of all portions. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Belgrade City-County Planner Jason Karp reported on the consideration of a request for family transfer exemption for Lowell Schafer described as Tract 1A of COS 2901 located in the SE¼ of Section 13, T1S, R4E, PMM, Gallatin County, Montana. Mr. Karp briefed the Commission on the history of the tract and noted the applicant previously used the family transfer exemption in 1997. Lowell Schafer was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption was an appropriate claim or an attempt to evade subdivision review. There was no public comment. Commissioner Murdock moved to approve the Schafer family transfer exemption, finding it is the proper use of the exemption, based on the testimony and information submitted. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Belgrade City-County Planner Jason Karp reported on the consideration of a request for family transfer exemption for Simeon Cantril described as a tract of land located in the SE¼, SE¼ of Section 3, T1S, R5E, PMM, Gallatin County, Montana. Mr. Karp briefed the Commission on the history of the tract. Simeon Cantril was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption was an appropriate claim or an attempt to evade subdivision review. There was no public comment. Commissioner Murdock moved to approve the Cantril family transfer exemption, finding it is the proper use of the exemption, based on the testimony and information submitted. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Belgrade City-County Planner Jason Karp reported on the consideration of a request for preliminary plat approval for the Stoppel Minor Subdivision described as the amended plat of Lot 34-A of the Outlaw Country Subdivision. The property is situated in the NW¼ of Section 10, T1S, R5E, PMM, Gallatin County, Montana. Lewis Burton and Associates on behalf of Brian Stoppel has requested preliminary plat approval of a two lot minor subdivision on 10 acres. The subdivision is located east of Belgrade on Butch Cassidy Drive in the Outlaw Country Subdivision. The Belgrade City-County Planning Board voted at their March 28, 2001, public meeting to recommend preliminary plat approval. The Commission has one determination to make with this application: A determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the following conditions: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat. 5. The developer shall record covenants on the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b. The Homeowners shall participate with the other property owners Outlaw Country Subdivision for the shared maintenance of the subdivision roads. c. The proper permits must be obtained from the Gallatin County Floodplain Administrator for any proposed development in the floodplain. d. Lot owners shall adhere to the recorded covenants of the Outlaw Country Subdivision. e. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 6. Two copies of the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval. 7. Road Impact fees and Fire Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact Fee Regulations. 8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and



developer prior to final plat approval. 9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department. 10. The developer shall provide one of the following standards to ensure a reasonable level of fire protection and life-safety to the public and firefighters. The following requirements must meet the specifications of Gallatin County Subdivision Regulations Section 6-E-5 and be reviewed and approved by the Belgrade Rural Fire District. The subdivider shall obtain written verification from the Belgrade Rural Fire District that one of the following requirements has been met. a. A single 10,000-gallon water supply for each home and associated structure meeting the requirements of Section 6-E-5 (a). b. A single 20,000-gallon water supply meeting the requirements of Section 6-E-5 (b). c. A rural fill site meeting the requirements of Section 6-E-5(c). d. R-3 occupancies as defined by the Uniform Fire Code may be protected by automatic fire sprinkler systems meeting the requirements of NFPA 13D. If the sprinkler options is used the covenants must include the following provisions. 1. Automatic fire sprinkler systems shall be installed in all structures, which are used for living and home business which people normally occupy. The fire sprinkler system must meet the requirements of NFPA 13D. 2. A stamped set of engineered sprinkler system plans and covenants requiring the installation of sprinklers shall be submitted to the Belgrade Rural Fire District for review and be approved prior to construction, and the sprinkler system must be inspected by the Belgrade Rural Fire Department during construction and at completion as required by the Belgrade Fire Chief. e. A pressurized fire hydrant system meeting the requirements of Section 6-E-5(e). 11. The East Gallatin River flood plain shall be shown on the final plat. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. Brian Stoppel was in agreement with the suggested conditions. There was no public comment. Finding that the Stoppel Minor Subdivision complies with the Belgrade Area Master Plan and the Gallatin County Subdivision Regulations, Commissioner Murdock moved to approve the subdivision subject to the conditions as prepared by staff. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Belgrade City-County Planner Jason Karp reported on the consideration of a request to amend the preliminary plat for the Belgrade Gardens Subdivision Phase 2 and 3, located in Section 34, T1N, R4E, PMM, Gallatin County, Montana. C & H Engineering on behalf of Russ Estes has requested to amend the preliminary plat of Belgrade Gardens Subdivision Phase 2 and 3. The subdivision is located west of Belgrade off Old Highway 10 (MT205) adjacent to the Vista Meadows Subdivision, which is north of Belgrade Commercial Park Subdivision. The applicant is requesting to alter the layout of Phases 2 and 3 of the Belgrade Gardens Subdivision. It appears the proposed changes will not significantly change the character of the subdivision. With the exception of parkland, the proposed layout will conform to the Gallatin County Subdivision Regulations with the conditions as required by the preliminary plat approval. Staff recommends that a condition be added to require additional parkland to be dedicated, or a cash-in-lieu of the remaining required parkland be donated. The Commission granted conditional preliminary plat approval to the Belgrade Gardens Subdivision on July 24, 1997. Belgrade Gardens Subdivision Phase 1 received final plat approval from the Commission on May 2, 2000. The Commission granted the developer a 1-year extension to the preliminary plat approval for the Belgrade Gardens Subdivision on August 15, 2000. The preliminary plat approval is set to expire on July 24, 2001. The Belgrade City-County Planning Board voted at their March 28, 2001, public hearing to recommend amending Phase 2 and 3 of the subdivision subject to the conditions as required by the previous approvals plus the added condition No. 30 as follows: The developer shall dedicate 6.4 acres of parkland to the public, or an equivalent combination of parkland and cash-in-lieu of parkland equaling 6.4 acres. Cash-in-lieu of parkland shall be based on the value of unsubdivided, unimproved land as per Section 6-G-4 of the Gallatin County Subdivision Regulations. Mark Chandler, C & H Engineering commented on the revision of the central sewer system plans and the parkland. There was no public comment. Based on the information submitted, and finding that the Belgrade Planning Board voted to approve the amendment, and that it comports with the Gallatin County Subdivision Regulations and better meets public health concerns with a central sewer system, Commissioner Murdock moved to approve the amended plat subject to the conditions as proposed by staff. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Belgrade City-County Planner Jason Karp reported on the consideration of a request for preliminary plat approval for the Landmark Subdivision described as COS 999, located in the NE¼ of Section 33 and the NW¼ and SW¼ of Section 34, T1N, R4E, PMM, Gallatin County, Montana. PC Development has requested preliminary plat approval of a 240-lot subdivision on 172 acres. The subdivision is being planned in 4 phases. The subdivision is located west of Belgrade off Thorpe Road, between Thorpe Road and I-90. The Belgrade City-County Planning Board voted at their March 28, 2001, public hearing to recommend preliminary plat approval of the subdivision. Letters were received from Michele

Corriel and the Gallatin County Road and Bridge Engineer Roy Steiner. Correspondence received from Sheriff Jim Cashell states that public safety infrastructure has failed to keep up with the growth in Gallatin County, and the safety net of emergency response is at a very dubious level right now and will only deteriorate with the addition of new major subdivisions. The Commission has two determinations to make with this application: A determination as to whether or not the variance should be granted; and a determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the following conditions: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat. Lot owners shall be required to participate with RID 367 for the joint maintenance of Thorpe Road. 5. The developer shall record covenants with the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and tenants of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c. All fences bordering agricultural lands shall be maintained by the Homeowners in accordance with State Law. d. All structures must meet the fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief. e. Site plans of all lots must be submitted for review and approval by the Belgrade Rural Fire District. f. A Property Owners Association shall be established and be required to maintain all interior subdivision roads and participate with Scottish Acres Subdivision for the shared maintenance of MacTavish Lane. g. The Homeowners Association shall be responsible for the maintenance of all parks within the subdivision. h. No lot owner may remove water or cause to be removed water from irrigation ditches without deeded water rights, and before any maintenance or improvements are performed on any of the ditches, the owner of the waterway must give written permission for the work to be done. i. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 6. Two copies of the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval. 7. Fire and Road Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact fee regulations. 8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval. 9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department. 10. The road names must be approved by the Gallatin County Road Department. Interior subdivision roads shall be 60 foot right-of-ways, dedicated to the public, and be paved to County Standards. Roads ending at future phase boundaries or unsubdivided land shall terminate with a temporary cul-de-sac or "T" type turnaround constructed to Gallatin County Standards. 11. Taylor Drive shall terminate in a permanent cul-de-sac or "T" type turnaround at its east end, constructed to Gallatin County Standards. 12. Road name signs and Stop signs shall be installed as required by the County Road Superintendent or a bond must be posted with the Gallatin County Road Office to cover the cost of the signs. 13. All required road construction shall be inspected and certified by a licensed engineer. Inspection and certification shall be provided to the County Road Department in writing, and the paving contractor shall submit a one-year written warranty to the County Road Office prior to final plat approval. Prior to any road construction, the developer shall schedule a pre-construction meeting with the Gallatin County Road Department. 14. Encroachment permits must be obtained from the Road Department for the access to Thorpe Road or any County maintained public roads. All internal lots are limited to one driveway access. Each access must be at least 75 feet from the nearest intersecting County road and 25 feet from the nearest internal street intersection. 15. Fire hydrants shall be installed in accordance with standards accepted by the Belgrade Rural Fire District. Fire hydrants shall be approved by the Belgrade Fire Department prior to final plat approval.

16. 45 feet of Thorpe Road north of the centerline shall be dedicated to the public along the entire width of the subdivision. 17. The final plat shall contain statements that include the following language: Lots abutting irrigation ditches may have water rights as described in deeds. No owner may remove water or cause to be removed water without deeded water rights. Irrigation ditches are hazardous to small children. 18. The final plat(s) shall show a maintenance easement of a minimum of 15 feet on one side, and 5 feet on the other side of the irrigation ditches or as required by the ditch owner consistent with subdivision regulations, and before any maintenance or improvements are performed on any the ditches, the owner of the waterway must give written permission for the work to be done. 19. An agreement between River Rock and Landmark for the use of the River Rock water system shall be submitted to the Gallatin County Attorney's office for review and approval prior to final plat approval. 20. The developer shall be required to upgrade and pave MacTavish Lane to Gallatin County Standards from Landmark subdivision across to Royal Road, or (change to "and") upgrade and pave MacTavish Lane from Landmark subdivision to MacGregor Lane, and MacGregor Lane to Thorpe Road prior to final plat approval of Phase 1. (note: as per the Scottish Acres Homeowner's request, the developer has agreed to pave both MacTavish and MacGregor prior final approval of phase 1). 21. The developer shall be required to participate in the current area traffic study for Gallatin County, The City of Belgrade, The Montana Department of Transportation, and the Gallatin Airport Authority as approved by the Gallatin County Road Department. 22. The developer shall be required to overlay Thorpe Road from the intersection of Royal Road to the intersection of Amsterdam Road as required by the Gallatin County Road Department. 23. The developer shall be required to install turning lanes at the intersection of Thorpe Road and South Landmark as required by the Gallatin County Road Department prior to final plat approval of Phase 1. 24. The developer shall enter into an improvements agreement with Gallatin County for the future installation of a traffic signal at intersection of Thorpe and Amsterdam Road, including a provision for the developer to contribute \$750 from the sale of each lot in Landmark into an escrow account until the cost of the traffic signal is covered. Said improvements agreement shall be reviewed and approved by the Gallatin County Road Department and the Gallatin County Attorney's Office prior to final plat approval of Phase 1. 25. Phases within the subdivision shall be developed concurrently or in sequence starting with Phase 1. Additional condition recommended by staff regarding fencing: 26. A five-foot high wood fence will be installed along the east, west, and south boundaries of the subdivision as proposed by the developer. The fences will be installed in phases in correspondence with the phases of the subdivision. If the applicant elects to submit a final plat for each phase, on the conditions, which apply to that phase, must be completed before final plat approval. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. Mr. Karp briefly summarized the conditions and noted that the Road Department requested a cul-de-sac, built to county standards be required at the north end of Taylor Drive. A variance must be requested for the number of lots on the cul-de-sac. He noted a change in condition 5)f to read as follows: A Property Owners Association shall be established and be required to maintain all interior subdivision roads and participate with Scottish Acres Subdivision for the shared maintenance of MacTavish Lane and MacGregor Road. Mike Potter the applicant addressed the proposed development and explained plans for mitigating traffic, safety and law enforcement impacts. Mr. Potter was in agreement to participating and adding conditions regarding a law enforcement study and a trails system. Discussion took place regarding a central water system. The following adjoining landowners expressed their concerns with the proposed development: William Bruner, representing the Scottish Acres Home Owners Association; Everett Thornton; Terry Degen; and Terry Maninger. The following concerns were addressed: roads; signage; fencing; and well contamination. Mr. Potter reassured the neighbors that they were willing to work cooperatively to address each and every concern to everyone's satisfaction. Gallatin County Road and Bridge Superintendent Lee Provance commented on the road impact issues. Gallatin County Road and Bridge Engineer Roy Steiner explained how results from the traffic study currently being conducted in that area would be collected and reviewed in determining the justification of a traffic light. Mr. Steiner was in support of the variance for the cul-de-sac, which would include a fire hydrant. He noted that Assistant Belgrade Fire Chief Bryan Connelley was in agreement with the variance. Commissioner Mitchell suggested postponing a decision until the conditions were complete, and impacts were further mitigated. Commissioners Vincent and Murdock concurred. Commissioner Murdock stated he would like to see a public safety impact study condition required and also, suggested the developer at least review the feasibility of creating a central sewer system. Commissioner Mitchell suggested the developer participate with the Gallatin Local Water Quality District in monitoring the project. Commissioner Mitchell continued the decision two weeks or longer if necessary. The applicant was in agreement.

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Commissioner Vincent moved to accept and approve the proclamation for "National Public Safety Dispatchers Week". Seconded by Commissioner Murdock making the week of April 8<sup>th</sup> through 14<sup>th</sup>, 2001, "National Public Safety Dispatchers Week". None voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 12:21 P.M.

*Unavailable  
For Signature*  
CHAIRMAN APPROVAL

*Shelley Vance*  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 17th DAY OF APRIL 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:08 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**APRIL 9, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell, Murdock, and Vincent, and Executive Secretaries Stacy Johnston and Glenda Noyes. The Commission considered approval of two budget requests submitted by the Local Water Quality District totaling \$5,500.00. Commissioner Murdock made a motion to approve the budget transfer requests from LWQD in the amount of \$5,500.00, finding that it involves no new money and is only a transfer of funds. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously. Discussion took place regarding ITS budget requests for the County Commission Office. It was determined that a computer for Commissioner Vincent would be requested in the FY 2002 budget. A computer for Commissioner Mitchell will be purchased from FY 2001 budgeted funds.

**APRIL 10, 2001**

- The Commissioners conducted regular County business.

**APRIL 11, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell and Murdock, Fiscal Officer Ed Blackman, Clerk and Recorder Shelley Vance, and Executive Secretaries Stacy Johnston and Glenda Noyes. The Commission discussed adjusting and finalizing the target levels for FY 2002 budget with Mr. Blackman and Ms. Vance. Two budget transfer requests were received from the Planning Department totaling \$1,550. Commissioner Murdock made a motion to approve the budget transfer requests submitted by the Planning Department in the amount of \$1,550.00, finding that the Fiscal Officer has approved the transfer. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

**APRIL 12, 2001**

- The Commissioners conducted regular County business.

**APRIL 13, 2001**

- The Commissioners attended a regularly scheduled personnel bi-monthly meeting. In attendance were Commissioner Mitchell, Murdock, and Vincent, and Personnel Director Kathy Nowierski. The group discussed various personnel matters; including the creation of a health benefits committee, classification and pay plan process, software implementation, an upcoming grievance hearing, and errors in pay increases for department heads. Commissioner Murdock made a motion to refund and not deduct over payment to department heads due to the calculation errors by Personnel. Commissioner Mitchell seconded the motion. All voting aye. Motion carried unanimously.

**The following items were on the consent agenda:**

1. Approval of claims presented by the Auditor dated April 4, 2001 through April 12, 2001, for P.O. #74947-01 for \$137.00, P.O. #74947-02 for \$137.00, P.O. #74947-03 for \$202.00, P.O. #74947-04 for \$137.00, P.O. #71769 for \$411.64, P.O. #73880 for \$26.00, P.O. #74821 for \$2,562.42, P.O. #75425 for \$632.38 and P.O. #75226 for \$1,494.36 totaling \$5,739.80.

2. Consideration of Contract(s): Grant Award from Montana Board of Crime Control for Urinalysis Testing Equipment for the Gallatin County Adult Drug Treatment Court; Real Estate Transfer Agreement with Lewis Rafferty re Three Forks Airport; Engineering Services Agreement with Morrison-Maierle, Inc. for Painted Hills RID #376.
3. Request for Common Boundaries Relocation Exemption Between a Single Lot Within a Platted Subdivision and Adjoining Land for Blixeth Group, Inc., C.E. Holliman & Associates, Inc., and William J. Mauzy located in the NW ¼ of Section 28, T6S, R3E (Across Highway 64 from Lone Moose Meadows Condominiums). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Murdock read the consent agenda. Deputy County Attorney Chris Gray requested that the Real Estate Transfer Agreement with Lewis Rafferty re Three Forks Airport be continued indefinitely. Commissioner Vincent moved to approve the consent agenda as amended. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Commissioner Mitchell announced that the Detention Center Project Team presentation regarding the new Detention Facility on the regular agenda was postponed until a later date. Commissioner Murdock stated there would be a 7 A.M. meeting at the Fairgrounds on April 18, 2001, with the Commission and the Project Team.

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Victim Witness Program Director Gloria Edwards read the proclamation declaring April 22<sup>nd</sup> through April 28<sup>th</sup>, 2001, "National Crime Victim's Rights Week." The Commission recognized Ms. Edwards for her efforts and success with this program. Commissioner Murdock moved to proclaim April 22<sup>nd</sup> through April 28<sup>th</sup>, 2001, "National Crime Victim's Rights Week." Seconded by Commissioner Vincent. None voting nay. Motion carried.

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One vacancy exists on the Rae Fire Service Area Board of Trustees. This is a three-year term, expiring on April 1, 2004. There was no public comment. Commissioner Mitchell moved to appoint Robert Towers. Commissioners Murdock and Vincent stated they were in favor of re-appointing David Lucas. The motion died for lack of a second. Commissioner Murdock moved to re-appoint Mr. Lucas. Seconded by Commissioner Vincent. Commissioners Murdock and Vincent voting aye. Commissioner Mitchell voting nay. Motion carried. One vacancy exists on the Belgrade City-County Planning Board. This is a two-year term, expiring on December 31, 2002. Commissioner Vincent moved to appoint Henry Parsons. Seconded by Commissioner Murdock. Commissioner Mitchell stated her support of Nadia Beiser. Commissioners Murdock and Vincent voting aye. Commissioner Mitchell voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider annexation into Belgrade Rural Fire District for Autumn Ridge Company LLC, located in the SW¼, excepting the N½ NW¼ SW¼ of Section 18, T1S, R6E, PMM, Gallatin County, Montana. Notice of the public hearing was published in the High Country Independent Press on April 5<sup>th</sup> and 12<sup>th</sup>, 2001. Ms. Vance offered to prepare the resolution and submit to the County Attorney, should the Commission annex the property. Belgrade Rural Fire District Assistant Chief Deputy Fire Marshall Bryan Connelley stated his support of the annexation. Commissioner Murdock moved to accept the annexation into the Belgrade Rural Fire District for the Autumn Ridge Company, as described in the petition and presented by the Clerk and Recorder. Seconded by Commissioner Vincent. Commissioner Mitchell added the finding that the Clerk and Recorder found the petition has met all the requirements. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the continuation and receipt of petition to annex property into Gallatin Canyon Consolidated Rural Fire District described as Tracts 2, 3, 7, 8, 9, 10 and 11 of COS 1732, Tract A of COS 1132A, all located in Section 34, T6S, R3E. (Antler Ridge Subdivision). Ms. Vance examined the petition and it does contain the signatures of 50% or more of the area of privately owned lands; who constitute a majority of the taxpayers who are freeholders; and whose names appeared on the last completed assessment roll. The tract of land for which annexation is being requested, is adjacent to the Gallatin Canyon Consolidated Rural Fire District. The Gallatin

230 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

Canyon Rural Fire District Board of Trustees has accepted this property for annexation. She certified that the petition met all the requirements, and suggested holding the public hearing on May 15, 2001, should the Commission chose to accept the petition. Finding that the Clerk and Recorder found the petition is in order, Commissioner Murdock moved to accept the petition and set the public hearing for May 15, 2001. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported on the consideration of a resolution of intent to increase tipping fees at the Logan Landfill. The public hearing is set for May 1, 2001. Commissioner Vincent moved to adopt the Resolution of Intention #2001-37, noting the scheduled process and the public hearing on May 1, 2001. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic reported on consideration of one-year extension of preliminary plat for Ramshorn View Estates Major Subdivision, Phases 3 and 4, located in Section 8, T7S, R4E, PMM, Gallatin County, Montana. Timothy Howard of Homelands Development Co. LLC has requested a one-year extension. The preliminary plat of this subdivision was approved by the Commission on May 5, 1998, with an expected expiration date of May 5, 2001. The Ramshorn View Estates Major Subdivision consists of a 72.55-acre parcel. The original proposal consisted of one commercial lot and 91 residential lots. The property is located within the Gallatin Canyon/Big Sky Zoning District and all lots comply with zoning. The Gallatin County Subdivision Regulations give the Commission the authority to grant a one-year extension of preliminary plat approval. If approved by the Commission, the preliminary plat of Phase 3 and 4 of the Ramshorn View Estates Major Subdivision would expire May 5, 2002. Justification for the request states weather conditions causing delays in construction. Ms. Madgic stated there was no response to the notices sent out. There was no public comment. Commissioner Vincent moved to approve the one-year extension request. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the consideration of two family transfer exemption requests for David and Marilyn Bos located in the SE¼ SE¼ SE¼ Section 9, T3S, R5E (Cottonwood Road and Kent Spur Road). Ms. Koozer requested that both family transfer exemption requests (agenda items 7 and 8) be held simultaneously. Ms. Koozer stated the Commission needed to determine whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. Dennis Foreman, Gaston Engineering explained the location of the two parcels. David and Marilyn Bos were sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination. There was no public comment. Commissioner Murdock moved to approve the Bos family transfer exemption requests, based on the testimony. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the consideration of a request for a family transfer exemption for Gordon R. Williams located in the SW¼ of Section 17, T1N, R1E (northeast of Willow Creek). Ms. Koozer stated the Commission needed to determine whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. Gordon R. Williams was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination. There was no public comment. Commissioner Murdock moved to approve the Williams family transfer exemption request. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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There was no one available to report on the presentation regarding Local Intelligence Transportation by Western Transportation Institute, MSU.

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There were no pending resolutions. There being no further business the meeting was adjourned at 10:00 A.M.

*Unavailable*  
*For Signature*  
CHAIRMAN APPROVAL

*Shelley Vance*  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 24th DAY OF APRIL 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:04 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**APRIL 16, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioner Mitchell and Vincent, and Executive Secretaries Stacy Johnston and Glenda Noyes. The Commission considered two budget transfer requests submitted by the Road and Bridge Department and the Office of Public Assistance. Commissioner Vincent made a motion to approve the budget transfer request submitted by the Road and Bridge Department, due to the transfer of rural addressing, in the amount of \$4,164.00; and, the request from the Office of Public Assistance in the amount of \$2,500.00, finding that the Fiscal Officer has recommended approval. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commission considered an expenditure transfer request from the Road and Bridge Department in the amount of \$4,165.00. Commissioner Vincent made a motion to approve the expenditure transfer request submitted by the Road and Bridge Department in the amount of \$4,165.00. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners discussed a renewal of an agriculture lease with John Ham for the County Rest Home annexation land. Due to pending construction, to begin in October, Deputy County Attorney Chris Gray recommended a disclaimer be added to the contract notifying the lessee of said activity. The Commissioners agreed to have the language added per Mr. Gray's recommendation.

**APRIL 17-20, 2001**

- The Commissioners conducted regular County business.

**The following items were on the consent agenda:**

1. Claims were presented for approval by the auditor, dated April 20, 2001 in the amount of \$4,232.39.
2. Consideration of Contract(s): Strategic Planning Services Agreement with Terry Radcliffe, Ph. D., d/b/a Transformation Consulting; Grant Award from Montana Board of Crime Control for Community Corrections Pilot Program; and Modification to Contract #1994-079, Extending Operator Agreement with Harvey VanDyken & Sons for Logan Landfill
3. Request for Final Plat Approval of KM Minor Subdivision. Preliminary plat approval was granted on February 27, 2001. A staff report submitted by Gallatin County Planner Jennifer Madgic states that the conditions for final plat approval have been met.
4. Request for Realignment of Common Boundaries between Lewis Rafferty and Gallatin County located in the W½ of Section 35, T2N, R1E, PMM, Gallatin County, Montana. Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Consideration of Zoning Improvements Agreement with Genesis Partners, LLC for Right Now Technology, Office Building #3 (L00-212). Consideration of an Improvements Agreement with Genesis Partners, LLC., for Right Now Technology's Office Building #3 currently under construction on lot 12A in the Genesis Business Park Subdivision (as amended), 40 Enterprise Blvd. The agreement and security have been reviewed and approved as to form by the Gallatin County Attorney's Office.

Commissioner Vincent read the consent agenda. Gallatin County Planner Jennifer Koozer requested Item #4, the request for realignment of common boundaries between Lewis Rafferty and Gallatin County be continued until May 15, 2001. Gallatin County Clerk and Recorder Shelley Vance requested the claims approval be placed on the regular agenda to be considered after 10:15 A.M. in order to meet the 48 hour notice. Commissioner Vincent moved adoption of the consent agenda as amended. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Susan Swimley reported on the public hearing and consideration of a resolution to create Meadow RID #378. Ms. Swimley noted Steve Barrett, the owner's representative, would discuss an issue of concern regarding the division of assessments raised by Gallatin County Treasurer Anna Rosenberry. When the resolution of intention was adopted Ms. Rosenberry requested that the division of assessments be attached to the resolution, creating a solid record of the percentage ownership's. Gallatin County Clerk and Recorder Shelley Vance stated that publication of this hearing was published in the High Country Independent Press on April 5<sup>th</sup> and 12<sup>th</sup>, 2001, and in addition a copy of the notice was mailed to owners on April 6, 2001. The protest period was April 5<sup>th</sup> through April 20<sup>th</sup>, and there were no protests to the creation of RID #378. Steve Barrett submitted and explained the assessment table, Exhibit "A". He noted on some parcels they were unable to determine all the information in order to make it complete, although the aggregate percentages were accurate. Mr. Barrett suggested adoption of this schedule would allow them time to gather the additional information, which they would then supplement. Ms. Rosenberry reiterated her concern and noted that the submitted assessment schedule lacked sufficient information for her to accurately assess the bond payments. She recommended the Commission not create an RID without a complete permanent record of parcels to be assessed. Discussion took place regarding the time frame needed to obtain the additional information. Commissioner Murdock moved to accept the Clerk and Recorder's findings that there were no protests to the creation of RID #378. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Murdock moved to continue the creation of RID #378, until May 1, 2001. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Susan Swimley requested that the bid opening for Meadow RID #378 be continued.

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Susan Swimley reported on the consideration of a resolution of intention to create Wildhorse RID #379. The Commission accepted this RID request solely creating a maintenance district without a petition based on the homeowner's survey. Since they will not be selling bonds the homeowners agreed to post the cost of the administrative fees with the County Treasurer. There was no public comment. Commissioner Murdock moved to approve Resolution of Intention RID-01-379A. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the consideration of order organizing River Rock County Water and Sewer District. Commissioner Murdock moved to approve Resolution #2001-38. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on behalf of Gallatin County Attorney Marty Lambert on the public hearing and consideration of a resolution concerning the decision to vacate or discontinue a portion of Webb Street and a portion of the alley in Gallatin Gateway. There was no public comment. Commissioner Vincent moved to adopt Resolution #2001-39. Commissioner Murdock stated the vacated portion of Webb Street would go to the Gallatin Gateway School District #35. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Belgrade City-County Planner Jason Karp reported on the continuation of the Landmark Subdivision described as COS 999, located in the NE<sup>1</sup>/<sub>4</sub> of Section 33 and the NW<sup>1</sup>/<sub>4</sub> and SW<sup>1</sup>/<sub>4</sub> of Section 34, T1N, R4E, PMM, Gallatin County, Montana. PC Development has requested preliminary plat approval of a 240-lot subdivision on 172 acres, and is being planned in 4 phases. The subdivision is located west of Belgrade off Thorpe Road, between Thorpe Road and I-90. The Belgrade City-County Planning Board voted at their March 28, 2001, public hearing to recommend preliminary plat approval of the subdivision. The Commission conducted a public hearing on April 10, 2001 to review the Landmark Subdivision and tabled the subdivision at that time to allow staff and the developer to address some of the issues raised at the hearing including, addressing future public safety and law enforcement planning, off site trails, perimeter fencing, groundwater monitoring, and improvements to Thorpe Road. Mr. Karp outlined the changes to the previous conditions. The County Commission needs to make the following determination: A determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Commission finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval. Staff proposed amendments to the Belgrade City-County Planning



Board's recommended conditions are show in *bold italics*: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat. Lot owners shall be required to participate with RID 367 for the joint maintenance of Thorpe Road. 5. The developer shall record covenants with the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and tenants of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c. All fences bordering agricultural lands shall be maintained by the Homeowners in accordance with State Law. d. All structures must meet the fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief. e. Site plans of all lots must be submitted for review and approval by the Belgrade Rural Fire District. f. A Property Owners Association shall be established and be required to maintain all interior subdivision roads and participate with Scottish Acres Subdivision for the shared maintenance of MacTavish Lane, *MacGregor Lane and Royal Road within the Scottish Acres Subdivision*. g. The Homeowners Association shall be responsible for the maintenance of all parks within the subdivision. h. No lot owner may remove water or cause to be removed water from irrigation ditches without deeded water rights, and before any maintenance or improvements are performed on any of the ditches, the owner of the waterway must give written permission for the work to be done. i. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 6. Two copies of the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval. 7. Fire and Road Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact fee regulations. 8.

Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval. 9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department. 10. The road names must be approved by the Gallatin County *GIS Department*. Interior subdivision roads shall be 60-foot right-of-ways, dedicated to the public, and be paved to County Standards. Roads ending at future phase boundaries or unsubdivided land shall terminate with a temporary cul-de-sac or "T" type turnaround constructed to Gallatin County Standards. 11. Taylor Drive shall terminate in a permanent cul-de-sac or "T" type turnaround at its east end, constructed to Gallatin County Standards. 12. Road name signs and Stop signs shall be installed as required by the County Road Superintendent or a bond must be posted with the Gallatin County Road Office to cover the cost of the signs, *including road name signs and Stop signs within Scottish Acres Subdivision as required by the Gallatin County Road Department*. 13. All required road construction shall be inspected and certified by a licensed engineer. Inspection and certification shall be provided to the County Road Department in writing, and the paving contractor shall submit a one-year written warranty to the County Road Office prior to final plat approval. Prior to any road construction, the developer shall schedule a pre-construction meeting with the Gallatin County Road Department. 14. Encroachment permits must be obtained from the Road Department for the access to Thorpe Road or any County maintained public roads. All internal lots are limited to one driveway access. Each access must be at least 75 feet from the nearest intersecting County road and 25 feet from the nearest internal street intersection. 15. Fire hydrants shall be installed in accordance with standards accepted by the Belgrade Rural Fire District. Fire hydrants shall be approved by the Belgrade Fire Department prior to final plat approval. 16. 45 feet of Thorpe Road north of the centerline shall be dedicated to the public along the entire width of the subdivision. 17. The final plat shall contain statements that include the following language: Lots abutting irrigation ditches may have water rights as described in deeds. No owner may remove water or cause to be removed water without deeded water rights. Irrigation ditches are hazardous to small children. 18. The final plat(s) shall show a maintenance easement

of a minimum of 15 feet on one side, and 5 feet on the other side of the irrigation ditches or as required by the ditch owner consistent with subdivision regulations, and before any maintenance or improvements are performed on any the ditches, the owner of the waterway must give written permission for the work to be done. 19. An agreement between River Rock and Landmark for the use of the River Rock water system shall be submitted to the Gallatin County Attorney's office for review and approval prior to final plat approval. 20. The developer shall be required to upgrade and pave MacTavish Lane to Gallatin County Standards from Landmark subdivision across to Royal Road, or *(change to "and")* upgrade and pave MacTavish Lane from Landmark subdivision to MacGregor Lane, and MacGregor Lane to Thorpe Road prior to final plat approval of Phase 1. *(note: as per the Scottish Acres Homeowner's request, the developer has agreed to pave both MacTavish and MacGregor prior final approval of phase 1).* 21. The developer shall be required to participate in the current area traffic study for Gallatin County, The City of Belgrade, The Montana Department of Transportation, and the Gallatin Airport Authority as approved by the Gallatin County Road Department. 22. The developer shall be required to overlay Thorpe Road from the intersection of Royal Road to the intersection of Amsterdam Road as required by the Gallatin County Road Department. *a). Prior to final approval of Phase 1, the developer shall overlay the north-south section of Thorpe Road from Amsterdam Road to the northeast corner of Summit Subdivision as approved by the Gallatin County Road Department. The cost of overlaying said section of Thorpe Road shall be credited toward the proportionate reimbursement amount for Summit Subdivision's paving of Thorpe Road (see Section 7-H-2(c) of the Gallatin County Subdivision Regulations). The remainder of the developers cost to overlay said portion of Thorpe Road shall be credited towards the impact fees for Landmark Subdivision Phase 1. b). Prior to final plat approval of Phase 2, the developer shall overlay the east-west section of Thorpe Road from the northeast corner of Summit Subdivision to Royal Road as approved by the Gallatin County Road Department. The cost of overlaying Thorpe Road from the northeast corner of Summit Subdivision to the east boundary of Landmark Subdivision shall be credited towards the impact fees for Landmark Subdivision Phase 2 (and Phase 3 if necessary).* 23. The developer shall be required to install turning lanes at the intersection of Thorpe Road and South Landmark as required by the Gallatin County Road Department prior to final plat approval of Phase 1. 24. The developer shall enter into an improvements agreement with Gallatin County for the future installation of a traffic signal at intersection of Thorpe and Amsterdam Road, including a provision for the developer to contribute \$750 from the sale of each lot in Landmark into an escrow account until the cost of the traffic signal is covered. Said improvements agreement shall be reviewed and approved by the Gallatin County Road Department and the Gallatin County Attorney's Office prior to final plat approval of Phase 1. 25. Phases within the subdivision shall be developed concurrently or in sequence starting with Phase 1. 26. *A six foot high solid wood fence will be installed along the entire eastern boundary, the portion of the western boundary that is common with Scottish Acres Subdivision and C.O.S.'s 555I, 555G, and 555F, and the portion of the southern boundary that is common with C.O.S.'s 555F, 555G, and 555H, as proposed by the developer. The fences will be installed in phases in correspondence with the phases of the subdivision. In order to ensure that neighboring land uses and owners are not hindered in their ability to maintain existing fences or construct new fencing, all perimeter boundary fencing for the Landmark project is to be constructed a minimum of 2 feet inside the perimeter boundary. The covenants for the development shall state that the Property Owner's Association is responsible for the maintenance of all development perimeter fencing.* 27. *Due to the high concentration of septic systems, the subdivider shall review the feasibility of creating a water and sewer district and a central sewer system for the entire subdivision. The review may include the consideration of a revised preliminary plat, which would be accepted under the original application.* 28. *The applicant shall participate with property owners including and between River Rock and Landmark Subdivisions and the Gallatin Valley Trails Committee regarding a countywide trails program.* 29. *The developer will provide the Local Water Quality District (LWQD) all monitoring information required by the Department of Environmental Quality regarding groundwater.* 30. *The final plat shall contain a waiver of right to protest inclusion of Landmark Subdivision in a public safety study or the inclusion in a special public safety or law enforcement district.* If the applicant elects to submit a final plat for each phase, on the conditions which apply to that phase must be completed before final plat approval. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. The applicant has no objection to the conditions with the exception of condition No. 22, regarding overlaying Thorpe Road and the amount of impact fee credits for that project. A new additional change to condition No. 22 would read as follows: 22. The developer shall be required to overlay Thorpe Road from the intersection of Royal Road to the intersection of Amsterdam Road as required by the Gallatin County Road Department. *a). Prior to final approval of Phase 1, the developer shall overlay the north-south section of Thorpe Road from Amsterdam Road to the northeast corner of Summit Subdivision as approved by the Gallatin County Road Department. The cost of overlaying said section of Thorpe Road shall be credited toward the proportionate reimbursement amount for Summit Subdivision's paving of Thorpe Road (see Section 7-H-2(c) of the Gallatin County Subdivision Regulations). The remainder of the developers cost to overlay said portion of Thorpe Road shall be credited towards the impact fees for Landmark Subdivision Phase 1. b). Prior to final*

*plat approval of Phase 2, the developer shall overlay the east-west section of Thorpe Road from the northeast corner of Summit Subdivision to Royal Road as approved by the Gallatin County Road Department. The cost of overlaying Thorpe Road from the northeast corner of Summit Subdivision to Royal Road with the exception of the portion of Thorpe Road adjacent to the south boundary of Landmark Subdivision shall be credited towards the impact fees for Landmark Subdivision Phase 2 (and Phase 3 if necessary).* Mike Potter, the applicant, was confident all the concerns were addressed. The project engineer Rick Carin explained the storm water treatment system and the use of the sump pumps. Discussion took place regarding a public safety study or a special public safety or law enforcement district. Commissioner Murdock had a number of concerns that were addressed to his satisfaction with the modified conditions. He stated he was going to vote in favor of the subdivision as it meets the requirements and the Gallatin County Subdivision Regulations. Commissioner Mitchell supported the proposal and suggested possibly at some point working with the Board of Corrections or the Montana Board of Crime Control on the safety issue regarding the law enforcement study. Commissioner Vincent stated he too, would support the proposal, although he had concerns regarding the lack of a central sewer system, groundwater contamination and public safety. He stated he would be voting against this subdivision if he had the data, relative to the inability of the Sheriff's Department letter stating they could not provide adequate protection for this subdivision. The Sheriff Department has indicated they cannot provide protection but have not provided the data to support their statement. Commissioner Murdock moved to approve the Landmark Subdivision with the conditions as amended and presented by staff and agreed to by the developer. Seconded by Commissioner Vincent. Commissioner Mitchell stated the findings were made in their discussion and included as required. None voting nay. Motion carried.

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The Commission considered the claims presented for approval, mentioning the installation of a new software system making the claims process more efficient. There was no public comment. Commissioner Vincent moved approval of the claims in the amount of \$4,232.39. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Planner John Shepard reported on the consideration and request for a conditional use permit for the Rae Sewer Treatment Facility (Essential Services, Type II) use non-conforming as to zoning. Rae Subdivision County Water and Sewer District No. 313, has made a request for a conditional use permit under 50.160 of the Gallatin County/Bozeman Area Zoning Regulation as amended, for a sewer treatment facility (Essential Services, Type II) which is non-conforming to the permitted uses in the R-3 zone (Residential Medium Density) and US 191 Entryway Corridor Overlay District. The 11+ acre parcel under consideration is described as COS 643 and Tract 4 of COS 1074, in the W $\frac{1}{2}$ NW $\frac{1}{4}$  of Section 16, T2S, R5E, PMM, Gallatin County, Montana. The facility is generally located north of the King Arthur Mobile Home Park, east of Gooch Hill Road and south of Huffine Lane (US Highway 191). Section 53 of the Gallatin County/Bozeman Area Zoning Regulations states that the Commission may authorize certain uses-not generally suitable in a particular zone-which under certain circumstances may be acceptable. Conditions may be applied to the issuance of the permit and periodic review may be required. Since a sewer treatment facility is not a listed use in the R-3 zone, it is considered to be "non-conforming". The use of the lot may stay as is, but may not change or increase. Section 50.150 of the zoning regulation provides specific restrictions on non-conforming uses and structures, including a provision to change one lawful non-conforming use to another through a conditional use permit. Section 50.160 states that: to approve the conditional use permit, the Commission shall determine that the proposed non-conforming use is more appropriate to the district than the existing non-conforming use, and that no unsafe or unhealthy conditions are perpetuated. In making, such a determination, the Commission shall weigh the following criteria: a. traffic impacts, both on-site and off-site; b. off-street parking and loading requirements; c. the visual impact of the surrounding area; d. the degree of compliance with the adopted master plan and Zoning Regulation; e. the level of conflict with other uses in the surrounding area; f. the presence of other non-conformities in the surrounding area; g. the degree to which any existing unsafe or hazardous conditions would be mitigated; h. the viability of the subject structure(s); and i. on-site and off-site impacts from noise, dust, smoke, surface or groundwater contamination, or other environmental impacts. The question before the Commission is: Given the circumstances involved and conditions suggested, is the proposed use appropriate for this zone and area and are additional conditions appropriate or necessary? On April 10, 2001, the Gallatin County Planning Board considered the staff report, including conditions required and suggested by staff, and public comment received. Having weighed the criteria of Section 50.160.F.2, the Planning Board found that the proposed use is reasonable, natural and incidental to the use of the lot, and meets the requirements of the regulation, voting 10:0 to recommend approval with conditions suggested and required. If the Commission, after hearing and considering all public testimony, determines that the request as proposed by the applicant is in the public interest and meets the criteria of

the Zoning Regulation, the following conditions are suggested: 1. The conditional use permit will be valid only for the Essential Services (Type II) use as proposed, and subject to approval of land use permits for each phase of construction; 2. Construction of a parking area as proposed for the permitted park use will require separate application for variances if not in compliance with the zoning regulation; and 3. In accordance with the US 191 Entryway Overlay Corridor requirements, temporary construction access to Huffine Lane (Tract 1B, COS 1074B) will be removed prior to occupancy of the new facility. The following conditions are required by the Zoning Regulation: 4. The right to a use and occupancy permit shall be contingent upon the fulfillment of all general and special conditions imposed by the conditional use permit procedure; 5. All of the special conditions shall constitute restrictions running with the land use, shall be binding upon the owner of the land, his successors or assigns, and shall be recorded as such with the Gallatin County Clerk and Recorder's office by the property owner prior to the issuance of any building permits, final site plan approval or commencement of the conditional use; 6. All conditions specifically stated under any conditional use listed in this title shall apply and be adhered to by the owner of the land, successors or assigns; and 7. All special conditions shall be consented to in writing by the applicant. Public comment in support of the proposal were as follows: David King manager of the Rae Water and Sewer; Al Lien and Dean Ridgeway. Mr. Lien expressed concern with capacity and quality of water in the irrigation ditches. Commissioner Murdock moved to approve the conditional use permit for the new Rae sewer system as proposed, finding it may be a non-conforming use but it is appropriate to the district because it has been there from day one. Stating he was surprised it was not zoned in the first place and the new process and design would make it a less unhealthy situation and make it better than the current condition. In looking at the criteria he did not think traffic and off road parking impacts would apply and the visual impacts according to the plan would be improved. He noted compliance with the adopted Master Plan would put it in greater compliance, and if the engineers and the State review do their job the level of conflicts with other uses in the area would be mitigated. He thought it was a mitigated unsafe and hazardous condition. Commissioner Murdock based his approval on the following: that it is essential to bring this site into compliance with environmental laws and regulations; it is not inconsistent with the Donut Master Plan; it will not increase off-site impacts; and it will be a general visual and functional improvement to the area. He added the conditions listed by staff. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Subdivision and Zoning Review Manager, W. Randall Johnson reported on the consideration of a request to modify the preliminary plat for the Big Sky Town Center Major Subdivision, and to consider the subdivision of an adjacent parcel located in the SW<sup>1</sup>/<sub>4</sub> of Section 36, T6S, R3E, PMM, Gallatin County, Montana. William L. Madden, on behalf of Gallatin Peaks Land and Development, LLC, has requested to modify the preliminary plat and conditions of preliminary plat approval for the proposed Big Sky Town Center Major Subdivision. The modifications are being requested to facilitate the "annexation" and subdivision of an adjacent 12.7-acre parcel into the proposed Big Sky Town Center subdivision. Because the application request proposes to create five new lots from the contiguous 12.7 acre parcel, the Commission must determine that the new lots comply with the Gallatin Canyon/Big Sky Zoning Regulations, the Montana Subdivision and Platting Act, and the Gallatin County Subdivision Regulations. This parcel is located immediately adjacent to the north boundary of the proposed Big Sky Town Center subdivision. Notice of this hearing was published in the Lone Peak Lookout and the High Country Independent Press on April 4, 2001, and adjacent property owners were provided notice by certified mail. On October 17, 2000, the Commission granted preliminary plat approval for the subdivision. Mr. Johnson stated the applicant is also requesting to add a condition of preliminary plat approval in response to the potential connection for the development's water system to the Big Sky Water and Sewer District. According to the applicant, a change in conditions of preliminary plat approval is necessary to accommodate the possibility that all, or part of, the domestic water supply for the Town Center Subdivision can, or will be, provided by connection to the Big Sky Water and Sewer District. That condition would read as follows: In any event that all, or any part of, the domestic water supply is provided by connecting to the Big Sky Water and Sewer District No. 363, installation of all water service lines, mains and connections, including all plans and specifications, shall also be approved by the Big Sky Water and Sewer District, in addition to any approvals required by the Montana Department of Environmental Quality, before commencement of construction. Section 13.G of the Gallatin County Subdivision Regulations addresses changes to conditions after approval as follows: Upon written request of the subdivider, the Commission may amend conditions of preliminary plat approval where it can be found that errors or changes beyond the control of the subdivider have rendered a condition unnecessary, impossible or illegal. The Commission needs to make the following determinations with this request: A determination as to whether or not to approve the proposed modification of the preliminary plat and change of conditions. The Commission may change conditions where it is found that errors or changes beyond the control of the subdivider have rendered a condition unnecessary, impossible or illegal; and a determination as to whether or not

the application complies with the Gallatin Canyon/Big Sky Zoning Regulations; and a determination as to whether or not the application meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act; and a determination as to whether or not the application complies with the provisions of the Gallatin County Subdivision Regulations. The staff report contained criteria for the Commission to evaluate for considering the subdivision. If the Commission approves the preliminary plat modification requests, and the subdivision and incorporation of the adjacent 12.7-acre parcel, the following conditions are suggested: 1. The final plat for the Big Sky Town Center Subdivision shall incorporate the adjacent 12.7-acre parcel, and the reconfigured parcels and new lots as submitted by the applicant on February 16, 2001. 2. The conditions for final plat approval for the Big Sky Town Center Subdivision shall be modified as described below (additions shown as underline; deletions shown as ~~strikethrough~~): 11.A. In the event that all, or any part of, the domestic water supply is provided by connecting to the Big Sky Water & Sewer District No. 363, installation of all water service lines, mains and connections, including all plans and specifications, shall also be approved by the Big Sky Water & Sewer District, in addition to any approvals required by the Montana Department of Environmental Quality, before commencement of construction. Required condition for the Residential Northeast Phase final plat recordation: 1. Proposed Lots 8, 9, and 10, as shown in the Residential Northeast Phase of the preliminary plat, shall be combined as one lot on the final plat for this phase. 3. The October 17, 2000, Commission Findings of Fact and Order and conditions for final plat approval for the Big Sky Town Center Subdivision shall apply to the modified preliminary plat, including the addition of the adjacent 12.7 acres. Discussion took place regarding access, cul-de-sac requirements and a traffic drainage impact study. Gallatin Peaks primary planning consultant Jim Pepper stated that they concurred with the conditions recommended by staff. Mr. Pepper outlined the proposed plan, including references in relation to the land exchange between Gallatin Peaks and the Big Sky Water and Sewer that unifies the Town Center. He clarified prior discussions regarding access and cul-de-sac length. There was no public comment. Finding that this application complies with the Gallatin Canyon/Big Sky Zoning Regulations and that it meets the requirements of the Montana Subdivision Platting Act and the Gallatin County Subdivision Regulations, Commissioner Murdock moved to approve the subdivision, subject to the conditions presented by staff. Seconded by Commissioner Mitchell. Commissioner Mitchell questioned if the finding that errors or changes beyond the control of the subdivider have rendered a condition unnecessary, impossible or illegal was included. Commissioner Murdock did not believe it applied, as it was not a technical change. Mr. Pepper stated that it did apply for making the application, as they did not own the property, which was a change in circumstance they could not control, and the Big Sky Water and Sewer District study had not been completed. He stated they were asking modification as a result of that study in making a favorable finding for the connection. Commissioner Murdock added that to his findings. None voting nay. Motion carried.

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Gallatin County Subdivision and Zoning Review Manager, W. Randall Johnson reported on the resolution of the Gallatin County Commission approving the Marlenee Variance. Commissioner Vincent moved to adopt Resolution #2001-40. Commissioner Murdock stated he would abstain because he did not attend the public zoning commission hearing. Seconded by Commissioner Mitchell. Commissioners Vincent and Mitchell voting aye. Commissioner Murdock abstained. Motion carried.

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Commissioner Mitchell announced the resolution of the Gallatin County Commission Approving Amendments to the River Rock Zoning Regulation. Commissioner Murdock stated he would abstain because he did not attend the public zoning commission hearing. Commissioner Mitchell moved to approve Resolution #2001-41. Seconded by Commissioner Vincent. Commissioners Mitchell and Vincent voting aye. Commissioner Murdock abstained. Motion carried.

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Commissioner Mitchell announced the resolution of the Gallatin County Commission approving changes to the River Rock Master Plan Map and River Rock Zone Map. Commissioner Vincent moved to approve Resolution #2001-42. Seconded by Commissioner Mitchell. Commissioners Vincent and Mitchell voting aye. Commissioner Murdock abstained. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 11:11 A.M.

238 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

*Unavailable  
for signature*  
CHAIRMAN APPROVAL

*Shelley Vance*  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 1st DAY OF MAY 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:00 A.M. Also present were County Commissioner John Vincent, and Acting Clerk to the Board Mary Miller. Commissioner Murdock was attending a conference.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**APRIL 23, 2001**

- The Commission attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell, Murdock, and Deputy County Attorney Chris Gray, and Executive Secretaries Stacy Johnston and Glenda Noyes. The Commission considered approval of two budget transfer requests submitted by Youth Probation and District Court #2. Commissioner Murdock made a motion to approve the budget transfer request from Youth Probation in the amount of \$12.00 and the budget transfer request from District Court #2 in the amount of \$545.00, finding that the Fiscal Officer has approved the transfers. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero. Commissioner Vincent joined the meeting following the previous action.

Discussion took place regarding the desire for Commissioner Mitchell to have a portable printer to accompany her lap top computer. Commissioner Murdock made a motion to fund a portable printer for Commissioner Mitchell, per the budget, as requested. Commissioner Vincent seconded the motion. Commissioners Murdock and Vincent voted in favor of the motion. Commissioner Mitchell abstained. Motion carried with a vote of two to zero, with one abstaining vote.

**APRIL 24-26, 2001**

- The Commissioners conducted regular County business.

**APRIL 27, 2001**

- A meeting was convened at 10:30 a.m. to consider approval of claims included in Voucher List dated 4/25/01. In attendance were Commissioners Mitchell and Vincent via conference call, Commission secretary Stacy Johnston, Accounting Clerk Brenda Morris, and County Auditor Joyce Schmidt. Commissioner Mitchell moved to approve claims #8000004 - 8000155 totaling \$249,180.42, finding that the Auditor and Fiscal Officer have recommended approval as well. Commissioner Vincent seconded the motion. All voting aye, motion carried 2-0.

**The following items were on the consent agenda:**

1. Minutes For Public Meetings April 20, and 27; May 4, 11, 18, and 25; June 1, 8, 15, 22, and 29; and, July 6, 13, and 20, 1999.
2. Claims were presented for approval by the auditor, dated April 27, 2001 in the amount of \$101,098.28.
3. Consideration of Contract(s): Grant Award from Montana Board of Crime Control for the Missouri River Drug Task Force; Agriculture Lease Agreement with John Ham for Rest Home Annexation Land; Gate Access Agreement with Cottonwood Creek Ranch Homeowner's Association; Financial Advisor Agreement with D.A. Davidson & Co. for Meadow Village RID in Big Sky; Propane Equipment Lease Agreement with Fall River Electric for Hebgen Lake Estates RID #316; Task Order #01-07-4-51-104-0 to Contract #1999-021 with DPHHS for STD/HIV Program; Task Order #01-07-5-21-053-0 to Contract #1999-021 with DPHHS for Lead Prevention Program; Task Order #01-07-4-11-041-0 to Contract #1999-021 with DPHHS for Tuberculosis Program; and Modification to Contract #1999-131 with Maxim Technologies.

Commissioner Vincent read the consent agenda. Gallatin County Auditor Joyce Schmidt requested the claims be placed on the regular agenda until 10:00 A.M., in order to meet the 48-hour notice. Commissioner Vincent moved to approve the consent agenda as amended. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Susan Swimley reported on the continuation of a public hearing and consideration of a resolution to create Meadow RID #378. Ms. Swimley summarized last week's decision to continue because of the

Treasurer's concern with regard to the accessible area and the breakdown of ownership. She noted Steve Barrett the homeowner's representative provided the Treasurer with the completed breakdown of ownership. Ms. Swimley stated that in order to attach the breakdown of ownership schedule to the resolution she would have the Clerk to the Commission insert a Section 5 to the resolution to read as follows: Attached to this Resolution is Exhibit "A" which is a representation of the percentage of ownership to be assessed. Gallatin County Treasurer Anna Rosenberry acknowledged receipt of the breakdown schedule and reported there was sufficient information to do the tax billing on these parcels. There was no public comment. Given Ms. Swimley's testimony and the affirmation of the schedule by the County Treasurer, Commissioner Vincent moved to adopt Resolution #RID-01-378B with the inclusion of Section 5, Exhibit "A". Seconded by Commissioner Mitchell. None voting nay. Motion carried. Ms. Swimley stated the resolution calling for the sale of bonds would be next week and along with that they needed to choose a registrar-paying agent. She solicited bids and received proposals from Wells Fargo and US Bank. It was her recommendation along with Gallatin County Fiscal Officer Ed Blackman and Ms. Rosenberry to award the registrar-paying agent to the US Bank. Given the recommendation of the Fiscal Officer and the Treasurer, Commissioner Vincent moved to award the contract to US Bank as the registrar-paying agent for RID-01-378B. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Commissioner Mitchell reported on the consideration of a resolution to change the location of the County Commission public meeting on May 8, 2001, to Big Sky. There was no public comment. Commissioner Vincent moved to approve Resolution #2001-43. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Subdivision and Zoning Review Manager, W. Randall Johnson, reported on behalf of Gallatin County Planner Jennifer Koozer on the consideration of a request for a family transfer exemption for Fred Ley located in the E½ NW¼ of Section 27, T2S, R5E (Blackwood Road). Mr. Johnson pointed out that there were questions concerning provisions for required access to each parcel because of the Gallatin County/Bozeman Area (Donut) Zoning District regulations have specific requirements for access to all properties. He noted if and when the property owner applied for a land use permit, they would have to make sure the access road was built to a standard that would be acceptable to the County Road Department. Fred Ley was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination. Discussion took place regarding the Road Department's request for the road easement between the lots. There was no public comment. Given the testimony and documentation, Commissioner Vincent moved to grant the Ley family transfer as presented. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Commissioner Mitchell announced the public hearing and consideration of a resolution to increase tipping fees at the Logan Landfill. Mayor Tom Hanel, representing the City of Big Timber stated he was there in support of the counsel and the citizen's task force for controlling the utility fees in Big Timber. He requested that their fees for the residential volume contract (Class 2) not be increased to \$31.00, and remain at \$28.00 due to their budget restraints. Mr. Hanel stated they had no contest to the other increases, only the residential volume. Logan Landfill Advisory Committee member Dr. Ed King spoke in support of the increase in tipping fees. Gallatin County Fiscal Officer Ed Blackman explained the calculations taken into account to determine the increase, and noted an error in the information sent to the volume contractors that should read \$30.00, rather than \$31.00. He explained the Commission could negotiate that amount with the volume contractors. BFI Waste Services District Manager, Dean Ulrich questioned the effective date of the increases. Mr. Blackman clarified the effective dates. Commissioner Vincent moved to adopt Resolution #2001-44, stating Item 4 in the resolution provides leeway to negotiate volume discounts for high utilization customers. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing and consideration of a resolution to dissolve the Reese Creek Fire Service Area. Ms. Vance explained that following the dissolution the property would be annexed into the Belgrade Rural Fire District. Notice of this hearing was published in the High Country Independent Press on April 12<sup>th</sup> and 19<sup>th</sup>, 2001, and in addition notices were mailed to property owners within the Reese Creek Fire Service Area on April 5, 2001. The area will be dissolved unless 50% of the landowners in the fire service area protest the dissolution in

**240 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46**

writing filed with the Clerk and Recorder on or before July 2, 2001. Commissioners Mitchell and Vincent both received phone calls regarding this issue. Assistant Chief Bryan Connelley, of the Belgrade Rural Fire District reported on the current mutual aid agreement they have with the Reese Creek Service Area. Reese Creek Fire Service Area Secretary/Treasurer Sandy Maher clarified that over 75% of the landowners and residents signed the petition and they did not anticipate many protests. Belgrade Rural Fire District Trustee Gilbert Moore requested the support of the Commission. Commissioner Vincent moved to adopt Resolution #2001-45. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider annexation of Reese Creek into the Belgrade Rural Fire District. Notice of this hearing was published in the High Country Independent Press on April 12<sup>th</sup> and 19<sup>th</sup>, 2001. Belgrade Rural Fire District Trustee Gilbert Moore stated this annexation would have no adverse affects on the Fire District and would be to their advantage in some of the outlying areas. Discussion took place regarding the fee differences. Reese Creek Fire Service Area Secretary/Treasurer Sandy Maher reported the fees were discussed when the petition was circulated and signed. Assistant Chief Bryan Connelley, of the Belgrade Rural Fire District clarified the differences in the fire service area versus the fire district fees and services. The public hearing was closed.

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Gallatin County Grants Administrator Larry Watson reported on the public hearing to consider proposed Community Transportation Enhancement Program (CTEP) Projects. Mr. Watson gave a brief reiteration of his prior presentation on the program requirements and the fund allocations. He noted they have since begun to solicit project for proposals. Mr. Watson stated this was the first of two hearings for the Commission to review proposals. The final review will be on May 15, 2001, and the Commission will make a decision on sponsorship of the proposals that are due by the end of the month. Mr. Watson summarized the requirements of the program. He received applications from the Town of Manhattan and the Town of Three Forks. The project for the Town of Manhattan would provide a safe pedestrian sidewalk between the new post office, downtown and residential areas. They submitted three separate plans that would be determined by the amount of money Gallatin County allocated. He pointed out the differences in allocations between the Town of Manhattan and the Town of Three Forks. The proposal for the Town of Three Forks would provide a trail system connecting the Headwaters Park with the trail system of Three Forks. He noted the Three Forks application is incomplete and could not say it was an eligible project for CTEP at this point. He stated he had been in contact with several others that did not submit proposals. There was no public comment.

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Gallatin County Treasurer Anna Rosenberry presented the Treasurer's quarterly report. Ms. Rosenberry stated it is required by statute to submit the quarterly report on the first Monday of January, April, July and October. Due to the banking agreements, prior reports were completed but not presented on the first Monday and she requested to continue this procedure. Ms. Rosenberry briefly summarized the report. Commissioner Vincent moved to accept the County Treasurer's quarterly report ending March 31, 2001. Seconded by Commissioner Mitchell, adding it is appropriate for the Treasurer to present the report when the information is available. None voting nay. Motion carried.

I, Anna Rosenberry, County Treasurer of Gallatin County, State of Montana, upon oath depose and say: That, at the close of business on March 31, 2000 there was on deposit to my credit in the following banks, balances as shown by the statements of cashiers of such banks herewith: that, from such balances, there should be deducted for checks outstanding, and added for deposits made, amounts as follows:

<u>BANKS</u>	<u>ACCOUNT NUMBER</u>	<u>BANK BALANCES</u>	<u>OUTSTANDING</u>		<u>TREASURER'S BALANCES</u>
			<u>CHECKS</u>	<u>DEPOSITS</u>	
Wells Fargo, Bozeman Branch	712386	\$1,776,904.75	\$4,574.68	\$969,710.23	\$2,751,189.66
	20491	\$0.00	\$0.00	\$0.00	\$0.00
	752756254	\$800,000.00	\$0.00	\$0.00	\$800,000.00
	315503	\$0.00	\$906,155.94	\$0.00	\$906,155.94
AMERICAN BANK	280102436	\$25,362.46	\$0.00	\$79.63	\$25,442.09



**GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 241**

VALLEY BANK OF BELGRADE	108103	\$16,463.31	\$0.00	(\$27,040.46)	(\$10,577.15)
MANHATTAN STATE BANK	4100013	\$14,194.42	\$0.00	(\$16,723.26)	(\$2,528.84)
SECURITY BANK, THREE FORKS	5200116	\$7,895.35	\$0.00	\$50.00	\$7,945.35
FIRST SECURITY BANK, WY	700351	\$19,784.09	\$0.00	(\$0.40)	\$19,783.69
BIG SKY WESTERN BANK	101710	\$23,163.80	\$0.00	\$0.00	\$23,163.80
FISCAL AGENT	N/A	\$100.00	\$0.00	\$0.00	\$100.00

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\$2,683,868.18	\$910,730.62	\$926,075.74	\$4,520,674.54

Cash	\$317,250.56
School Investments	\$10,185,686.06
Airport Authority	\$6,173,183.26
County and Pooled Investments	\$29,594,276.20
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TOTAL Cash on Hand	\$50,791,070.62
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Commissioner Vincent moved to approve consideration of claims dated April 27, 2001, as voucher 8000257 for \$552.50, and voucher 8000156 through 8000256 in the amount of \$100,545.78. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance presented three pending resolutions to annex property into the Belgrade Rural Fire District. Commissioner Vincent moved to adopt Resolution #2001-46 (Rahn & Pate). Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Vincent moved to adopt Resolution #2001-47 (Leadbetter). Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Vincent moved to adopt Resolution #2001-48 (Haugland). Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Commissioner Vincent moved to approve pending Resolution #2001-49, a resolution concerning decision to abandon a parcel of land running along the east side of Minor Subdivision 221 and now commonly known as Roxi Lane. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

There being no further business the meeting was adjourned at 10:30 A.M.

*Unavailable*  
*For signature*  
 CHAIRMAN APPROVAL

*Shelley Vance*  
 CLERK ATTEST

**PUBLIC MEETING TUESDAY THE 8th DAY OF MAY 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:13 A.M., at the Fire Hall in Big Sky. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

## 242 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

### APRIL 30, 2001

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell and Vincent, and Commission Secretary Glenda Noyes. Arlin Wentzel, Wentzel Custom Cabinets, submitted a quote of \$360.00 for refinishing the Commissioners' Conference Room table. Other quotes received were in the \$460.00 range. Commissioner Vincent made a motion to authorize an expenditure of \$360.00 to Wentzel Custom Cabinets for redoing the Commissioners' Conference room table. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

### MAY 1, 2001

The Commissioners conducted regular County business.

### MAY 2, 2001

- The Commissioners attended a regularly scheduled department head meeting. In attendance were Commissioners Murdock and Vincent, GIS Coordinator Allen Armstrong, Grants Administrator Larry Watson, ITS Director Ed Kawa, Fiscal Officer Ed Blackman, Facilities Director Bob Isdahl, Rest Home Director Connie Wagner, Personnel Director Kathy Nowierski, and Road and Bridge Superintendent Lee Provance. The format of the monthly meetings was discussed, and it was agreed that the department heads will meet monthly to discuss matters of common interest, address routine, non-policy matters and will meet quarterly with the Commissioners to make recommendations on policy matters or any other decisions necessary. The quarterly meetings will begin in July. Matters of interest for discussion will include, but are not limited to health and benefits, furniture policy, budget format, ITS matters, facilities management, grants administration, and landfill day-to-day operations. Elected officials from other areas will be included where appropriate.

### MAY 3, 2001

- The Commissioners conducted regular County business.

### MAY 4, 2001

- Commissioners Mitchell and Murdock convened a meeting at 8:45 a.m. to consider approval of the Southwest Regional Juvenile Detention (SWRJD) Board's grant application to the Montana Board of Crime Control (MBCC) in the amount of \$324,326.82. Grants Administrator Larry Watson and Commission secretary Stacy Johnston were also in attendance. Larry reported that all nine counties in the region approved this application at the SWRJD Board meeting on April 26th. MBCC's commitment is \$171,973.41, with a match from the region in the amount of 152,353.41. Commissioner Murdock moved to approve the grant application as presented, finding that the Board has approved it as well. Commissioner Mitchell seconded the motion. All voting aye, motion carried two to zero.
- A meeting was convened at 9:00 a.m. to consider approval of claims included in Voucher List dated 5/1/01. In attendance were Commissioners Mitchell and Murdock, Commission secretary Stacy Johnston, Accounting Clerk Brenda Morris, Jeanine Fillinger and Jackie Lamke of the Auditor's office. Commissioner Murdock moved to approve claims #8000258 - 8000423 totaling \$236,793.52, finding that the Auditor and Fiscal Officer have recommended approval as well. Commissioner Mitchell seconded the motion. All voting aye, motion carried two to zero.

Commissioners Mitchell and Murdock met with Youth Probation Officer Vicky Nelson to consider her proposal to allocate surplus Juvenile Accountability Incentive Block (JAIB) grant dollars to the City of West Yellowstone. Esther Berg, Director of the Community Youth Justice Council in West Yellowstone, Grants Administrator Larry Watson, and Commission secretary Stacy Johnston also attended. Esther reported that the CYJC would utilize these funds to purchase video arraignment equipment and provide counseling services for youth in West Yellowstone. A letter from Judges Salvagni and Guenther endorsing allocation of these funds to West Yellowstone was provided. Commissioner Murdock moved to authorize allocation of \$15,900 in JAIB surplus funding to the City of West Yellowstone; Commissioner Mitchell seconded the motion, finding Judges Salvagni and Guenther had endorsed as well. All voting aye, motion carried 2-0.

#### **The following items were on the consent agenda:**

1. Claims were presented for approval by the auditor, dated May 3, 2001 in the amount of \$28,077.77.
2. Consideration of Contract(s): Taylor Architects for Courthouse Renovation, Phases III and IV; and Montana Department of Transportation for DUI Task Force Funding.

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**GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 243**

Commissioner Murdock read the consent agenda. Commissioner Mitchell requested that the contract with the Montana Department of Transportation for DUI Task Force Funding be placed on the regular agenda for clarification. Commissioner Vincent moved to adopt the consent agenda as amended. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson clarified the contract with the Montana Department of Transportation for DUI Task Force Funding. This is an annual grant application through a traffic safety grant with the Montana Department of Transportation. The Task Force utilizes this money to supplement the traffic safety advertising promotional budget. There was no public comment. Commissioner Murdock moved to approve the contract as described. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Commissioner Mitchell announced the resolution relating to \$1,188,000 Rural Special Improvement District # 378 bonds; authorizing the issuance and calling for the public sale thereof. Dee Rothschilder stated the BSOA board was unanimously in favor. Commissioner Murdock moved to approve RID-01-378C. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported on the public hearing regarding the Big Sky pedestrian and bike path (per MDOT requirements). Mr. Watson commented on the history of the path proposal. The current issue is regarding the conditional seasonal use of snowmobiles on the path. Presently the only signage on the path are signs identifying the bike/pedestrian path and the traffic code also, requires signage prohibiting the use of motorized vehicles. Mr. Watson stated that MCA, 60.3.304 states the transportation commission and cities and counties shall restrict the use of foot paths and bicycle trails under their jurisdiction to pedestrians and non motorized vehicles to the maximum extent, except that the Transportation Commission in cooperation with local governments may authorize the operation of snowmobiles on designated portions of bicycle trails or foot paths when snow conditions permit. He noted the original intent of the group of citizens that proposed this project to the Commission did not want to close that corridor to snowmobile use during the winter months when it could not be of use to bicycles and pedestrians. The Transportation Commission held a meeting on March 29, 2001, making a motion approving the installation of snowmobile signs on the trail. Upon review the Transportation Commission found there had not been a public hearing specific to the solicitation for public comment for the use of snowmobiles during the winter months. The proposed sign would prohibit the use of motorized vehicles on the path with the exception of snowmobiles with dates that are yet to be determined. Richard Barton spoke in support of the snowmobile use and suggested the dates of use be November 1<sup>st</sup> to April 15<sup>th</sup>. Laura Larocco commented that she has witnessed the use of several motorized vehicles on the path causing gravel to be pushed on to the ends. She suggested the installation of removable metal posts in the center of the path that could be pulled out for maintenance and repair. Ed Hake suggested dates of November 1<sup>st</sup> through April 15<sup>th</sup> and commented on the use of the metal posts. Devon White on behalf of the Gallatin Valley snowmobile association spoke in favor of the use of snowmobiles. Bridget Kobell spoke in opposition to snowmobiles on the trail. Eric Ossorio questioned how maintenance for the trail could be addressed and suggested speed limit signs in some areas. Discussion took place regarding maintenance and speed limit signage. Carol Collins commented on the cost of hiring a sweeper to remove the gravel. Bea Doran questioned if it was possible that the businesses benefiting could donate. Commissioner Murdock moved to support the use of snow machines with signs dated November 1<sup>st</sup> through May 1<sup>st</sup>, and motorized vehicles would be prohibited every other time of year on the Big Sky pedestrian path. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Marilyn Hill suggested the motion be clarified as to the portion of the path included, in order to avoid future confusion if a proposed path becomes part of the Big Sky pedestrian path system. Commissioner Murdock clarified the motion to include the currently paved portion of the pedestrian path fronting Highway 191.

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Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider annexation of property into the Gallatin Canyon Consolidated Rural Fire District, Firelight Subdivision. The petition was received on March 14, 2001, to annex the Firelight Subdivision into the Gallatin Canyon Rural Fire District. Notice of this public hearing was published in the High Country Independent Press on April 19<sup>th</sup> and 26<sup>th</sup>, 2001. Ms. Vance reported on April 10, 2001 that the petition

did qualify with state statute and a letter was received from the Gallatin Canyon Rural Fire District agreeing to the annexation of this property. The Clerk and Recorder had not received any protests as of this date. Paul (Packy) Cronin questioned if the subdivision would be held to the same standards as other developers with regards to infrastructure, fire hydrants, and sewer and water systems. Firelight Subdivision homeowners association director Kieran Kobell clarified that the public is confusing the annexation of the Firelight Subdivision with the Firelight Meadows Subdivision. Fire Board Chairman Kirk Dige acknowledged that the fire district was in support of the annexation. Commissioner Murdock moved to approve annexation of the Firelight Subdivision into the Gallatin Canyon Rural Fire District as presented, and directed the Clerk and Recorder to prepare the resolution. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on a pending resolution to annex property into the Belgrade Rural Fire District, described as the SW ¼, excepting the N ½ NW ¼ SW ¼ of Section 18, T1S, R6E, P.M.M., Gallatin County, Montana. (Autumn Ridge Company LLC) Commissioner Vincent moved adoption of Resolution #2001-50. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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The Commission opened discussion to the general public.

Firelight Homeowners Association director Kieran Kobell questioned the Commission regarding a letter he hand delivered to them on February 22, 2001 requesting an interpretation on an item in a preliminary plat approval. He explained that on April 2, 2001 he made a second request and to date has not received a response. Commissioner Mitchell replied that the letters were referred to the County Attorney and that he would write a response. Discussion took place with regard to the process and time frame in which the response might take place. It was suggested Mr. Kobell contact Gallatin County Attorney Marty Lambert directly.

Dee Rothschiller, on behalf of the Big Sky Homeowners Association commented there is still a problem with traffic and kids on Little Coyote Road, and the gate did not work. She noted with new construction the traffic was only going to get worse. She contacted Gallatin County Road Superintendent Lee Provance about the possibility of placing removal speed bumps on the road. Mr. Provance did not think that would work and suggested two alternatives. He suggested they incorporate, which the BSOA has begun the process and the earliest that could happen would be 2003, and the other would be more enforcement. Ms. Rothschiller asked the Commission to send a letter to the Sheriff asking for additional enforcement on Little Coyote. She also, congratulated the Commission for getting Senate Bill 241 passed through this legislative session. She stated she would like to see the legal notices back in the Bozeman Daily Chronicle as they would also, then be in the Lone Peak Lookout and the West Yellowstone News. They do not get the High Country Independent Press in Big Sky. She thanked the Commission for coming. Commissioner Mitchell noted that she has contacted the High Country Independent Press and asked them to supply Big Sky. Commissioner Vincent commented that Senate Bill 241, calls for placing 2 citizen members on the Zoning Commission. He welcomed them to apply once they start advertising. It was noted there would be 2 citizen members for all 16 districts in the county.

The following spoke regarding the Firelight Meadows Subdivision: Bea Doran; Richard Barton; Eric Ossorio; Paul (Packy) Cronin; and Kieran Kobell. They spoke of their concerns and the impacts this subdivision will make on Big Sky. Mr. Barton an advisory board member stated that they were deprived of their right to conduct a public hearing. He explained the advisory board made a motion asking that this be reviewed and a formal opinion obtained from the County Attorney. He agreed to write a letter on behalf of the board to assure this was followed up. Discussion took place regarding the urgency of this issue as the approval from DEQ could take place any day. Commissioner Murdock suggested the Commission could override the Planning Director and put a stop to the issuance of the land use permit, if it has not already been issued, until they get a written opinion from the County Attorney. Mr. Barton stated that would please the community.

Commissioner Murdock suggested public comment for those who could not attend the zoning meeting planned for Thursday. Zoning Commission Chairman Shelley Vance stated that one of the zoning commission members was not present and it had not been legally advertised to take public testimony into consideration. She suggested if individuals have issues and cannot make the Thursday meeting they

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**GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 245**

could write it down and have the Commissioners make that available to all members of the Zoning Commission. Commissioner Mitchell stated they were welcome to fax comments.

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There being no further business the meeting was adjourned at 10:50 A.M.

*Unavailable For  
Signature*  
\_\_\_\_\_  
CHAIRMAN APPROVAL

*Shelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 15th DAY OF MAY 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:08 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**MAY 7, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell and Murdock, Chief Youth Probation Officer Vicky Nelson, Grants Administrator Larry Watson, and Executive Secretaries Stacy Johnston and Glenda Noyes. The Commissioners considered a contract with Montana Department of Administration for the Cadastral Database Project. This is a grant that will pay for the GIS Department to finish parcel mapping. Commissioner Murdock made a motion to approve the contract with the Montana Department of Administration for the Cadastral Database Project, finding that Mr. Blackman and Mr. Gray have recommended approval, in the amount of \$24,540.00. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commission considered approval of Gallatin Conservation District's HB223 Grant Application for Montana Wetlands. The County needs to confirm that the appropriate mills have been levied for the district. Fiscal Officer Ed Blackman has recommended approval. Commissioner Murdock made a motion to verify the levied mills for the Gallatin Conservation District's HB 223 Grant Application for Montana Wetlands. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a HUD Emergency Shelter Grant program work plan. Grants Administrator Larry Watson confirmed that the proposal is in line with the four-year plan. The grant will provide \$26,289.00 towards homeless services; prevention, services and shelter costs. Commissioner Murdock made a motion to adopt the proposal for the HUD Emergency Shelter Grant program. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered a Juvenile Accountability Incentive Block Grant (JAIB) application for Youth Probation. The City of Belgrade has allocated their JAIB Grant funds to Gallatin County, and in turn Ms. Nelson asks that the funds be allocated to Butte-Silverbow County to help make up for a loss of allocation that they have experienced this year. Commissioner Murdock made a motion to receive an allocation of \$11,927 of JAIB funds from the City of Belgrade, and allocate said funds to Butte-Silverbow County, contingent upon Deputy County Attorney Chris Gray's and Belgrade City Council approval. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

Two budget transfer requests were submitted to the Commission from Youth Probation, totaling \$4,450.55. Commissioner Murdock made a motion to approve the budget transfer requests from Youth Probation. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero. Two budget transfer requests were submitted to the Commission from the Road and Bridge Department totaling \$2,594.62. Commissioner Murdock made a motion to approve the budget transfer requests from the Road and Bridge Department. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

Deputy County Attorney Chris Gray presented a request for the Commission to memorialize a decision previously made regarding the Clark vs. Gallatin County settlement. Commissioner Murdock made a motion to pay the agreed upon \$1,000.00 settlement in the Clark vs. Gallatin County case, per the recommendation of Mr. Gray, contingent upon a confidentiality clause and release being signed by the Clarks. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

## 246 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

The Commissioners considered approval of Logan Landfill Settlement Stipulation. Commissioner Murdock made a motion to approve the stipulation, finding that County Attorney Marty Lambert has advised that this would be an appropriate action to take. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

### MAY 8, 2001

The Commissioners attended a special meeting for the purpose of support of Alcohol and Drug Services of Gallatin County, Targeted Capacity Expansion Grant Application. In attendance were Commissioners Mitchell, Murdock, and Vincent, Grants Administrator Larry Watson, Alcohol and Drug Services Director Roger Curtiss, and Commission secretary Glenda Noyes. This grant will provide for intensive outpatient for adolescents, to include family assistance, after care, and monitoring. There is no county match required, the County simply acts as the eligible entity for pass through of the funds. Mr. Watson will receive \$21,529.00 for administration of the grant. Commissioner Vincent made a motion to have Gallatin County support and sponsor the application to the Substance Abuse and Mental Health Administrator for a Targeted Capacity Expansion Grant. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

### MAY 9-10, 2001

- The Commissioners conducted regular County business.

### MAY 11, 2001

- The Commissioners attended a special meeting for the purpose of approving claims. In attendance were Commissioners Murdock and Vincent, Auditor Joyce Schmidt, and Commission Secretary Glenda Noyes. The claims voucher included check #s 8000467-8000713. Commissioner Vincent made a motion to approve claims from check number 8000467-8000713 totaling \$254,576.33. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

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- Landfill Revenue for April 2001: \$.
- A101's for April 2001: \$112.82.
- Payroll for April 2001: \$1,062,358.74.
- Clerk & Recorder's Fees Collected for April 2001: \$63,147.45.
- New Hire Report for April 2001: COMMUNITY CORRECTIONS – Teresa Flanagan; LWQD – Jon Rieck; REST HOME – Danielle Perry, Jami Sheppard, John McCormick, Amanda Bryant; ROAD & BRIDGE – Erin Howard.

Terminated Employees' Report for April 2001: 911 – Christina McCann 04/11/01; AUDITOR – Barb Chamberlain 03/16/01; CLERK OF COURT – Betty Figgins 04/14/01; REST HOME – Shawn Cardwell 04/03/01, Wesley Burroughs 04/08/01, John McCormick 04/24/01; SHERIFF – Bruce LaRue 03/28/01, Kelley Williams 04/05/01, John McCray 04/20/01.

### **The following items were on the consent agenda:**

1. Claims were presented for approval by the auditor, dated May 10, 2001 in the amount of \$177,444.76.
2. Consideration of Contract(s): Real Estate Transfer Agreement with Lewis Rafferty re Three Forks Airport; and Amendment to Contract #1998-03 with Davis Maintenance.
3. Request for Realignment of Common Boundaries between Lewis Rafferty and Gallatin County located in the W ½ Section 35, T2N, R1E (South of Three Forks). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Common Boundary Relocation Exemption for Lynda Caine and Gerald Yetter located in the NE ¼ Section 7 and NW ¼ Section 8, T12S, R4E (Southwest shore of Hebgen Lake). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Common Boundary Relocation Exemption for Anita D'Agostino, Pamela D'Agostino, Kelly Kruse and Patricia Kruse located in the SW ¼ Section 11 and NW ¼ Section 14, T2N, R5E (Rocky Mountain Road). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
6. Request for Realignment of Common Boundary Exemption for Montana Dream and Land, L.L.C. located in the N ½, SW ¼ and W ½, W ¼, SE ¼ of Section 16, T1S, R4E (Linney Road). Belgrade

City-County Planner Jason Karp reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

7. Request for Realignment of Common Boundary Exemption for Mae Freeman and Frederick Bradford located in the SE ¼, SW ¼, of Section 27 and the E ½, NW ¼ of Section 34, T1S, R4E (River Road). Belgrade City-County Planner Jason Karp reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
8. Request of Release of Credit for Hardin Major Subdivision.
9. Request for Final Plat Approval of Klompien Minor Subdivision located in the SW ¼ of Section 3, T1N, R3E, PMM, Gallatin County, Montana. Manhattan Planning Consultant Ralph Johnson reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Mitchell announced that consideration of a request for preliminary plat approval of the Webb Minor Subdivision, item #11 on the regular agenda would be continued until May 29, 2001. Commissioner Vincent read the consent agenda. Commissioner Mitchell asked Deputy County Attorney Chris Gray if the Real Estate Transfer Agreement with Lewis Rafferty re Three Forks Airport contract was ready for approval. Mr. Gray replied that it was in order and ready to be considered. Commissioner Murdock moved to approve consent agenda as read. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Undersheriff Christie read the proclamation declaring May 13<sup>th</sup> through 19<sup>th</sup>, 2001, "National Law Enforcement Week." Commissioner Vincent moved to accept and approve the proclamation. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Captain Rich Pease read the proclamation declaring May 14<sup>th</sup> through 20<sup>th</sup>, 2001, "Salvation Army Week." Commissioner Murdock moved to approve the proclamation. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Commissioner Vincent read the proclamation declaring the month of May, "Mental Health Awareness Month." Commissioner Vincent moved to adopt the proclamation, and commended the Commission for their continued work to keep the group home open in Bozeman. He recognized former Commissioner Phil Olson as having made the initial effort on behalf of the Commission. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Commissioner Mitchell announced the public hearing and consideration of a resolution restricting access to Bear Canyon Road. Commissioner Murdock stated the Commission both present and former have been working for many years on what to do with an un-maintained portion of Bear Canyon Road that accesses private land and abuts forest service land. This portion is accessible only by all-terrain vehicles or horseback because it is often muddy, deeply rutted, prone to land slides, and is generally impassable by regular cars and pickups. Noting there have been a number of conflicts with some of those uses, they came up with a plan to restrict access to motorized and non motorized vehicle uses with a track width of no greater than 50 inches in width between June 2<sup>nd</sup> through April 14<sup>th</sup> of every year. This temporary closure will be until such time this private land that is accessed by this road changes hands. In the mean time this closure would protect the environment and maintain recreational use. Commissioner Mitchell read the resolution. Public speaking in support of the resolution are as follows: Paul Gaffney; Barry Jacobsen; Mary Sadowski; Tom Skeelee; Fran Noel; John Maykuth; Joe Gutkoski (representing the Gallatin Wildlife Association); Karen Thomas; Blair Howze and Sonja Berg. Some of the concerns expressed were preservation; trash; vandalism; degradation; and water quality. Several suggested ideas and need for additional restrictions such as: seasonal restrictions for recreation; public/private efforts to restore the road; and complete restriction of ATV'S. Commissioner Mitchell stated that there was an email from Deb Berglund in support of the resolution. Mr. Howze suggested changing the words wheel base to track width in the resolution. Board discussion took place regarding anything that would preclude the Commission from revisiting this resolution should it prove to be inadequate at a later date. Susan Swimley, attorney at law advised the Commission that statute allows them to restrict use and temporarily close the road for its preservation, and as long as there is a temporary condition and it is determined these restrictions are insufficient they do have the authority to revisit the issue. Commissioner Murdock stated the forest service and state lands travel plan in that area does allow motorized vehicles, and for this resolution to restrict ATV'S would make it inconsistent

with that plan. Based on the testimony, Commissioner Murdock moved to adopt Resolution #2001-51, restricting the use of Bear Canyon Road as amended. There are two typos to be corrected. The first in line 4, of the second whereas, the word (of) is missing after the word portion, and in line 18, in the seventh whereas, the word (to) is missing after the word accesses. In the second to the last line change the words wheelbase to (track width). With the affirmation this issue can be revisited, Commissioner Vincent expressed his support and seconded the motion. None voting nay. Motion carried.

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Allison Foy on behalf of Gaston Engineering was in attendance for the receipt and opening of construction bids for Meadow RID #378. Commissioner Mitchell opened the two bids. A bid from Figgins Sand & Gravel, Inc., was received May 14, 2001. Ms. Foy confirmed the bid included the contractor #4075; bid bond; and the bid form was signed and the addendum was acknowledged. The total estimated bid price was \$600,289.00. A bid from JTL Group, Inc., was received on May 14, 2001. Ms. Foy confirmed the bid included the contractor #10089; bid bond; and the bid form was signed and the addendum was acknowledged. The total estimated bid price was \$630,081.00. Ms. Foy stated they would take the bids under advisement and return with a recommendation next week.

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Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider annexation of property into the Gallatin Canyon Consolidated Rural Fire District, described as Tracts 2, 3, 7, 8, 9, 10 and 11 of COS 1732, and Tract A of COS1732A, (Antler Ridge Subdivision) all located in Section 34, T6S, R3E, PMM, Gallatin County, Montana. Notice of this public hearing was published in the High Country Independent Press on April 26<sup>th</sup> and May 3<sup>rd</sup>, 2001. There was no public comment. Commissioner Murdock moved to approve the annexation of this property, and requested the Clerk and Recorder to prepare the resolution for consideration. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing and consideration of a resolution to create Wildhorse Trail Properties RID #379. Notice of this public hearing was published in the High Country Independent Press on April 26<sup>th</sup> and May 3<sup>rd</sup>, 2001, and in addition notice was mailed to all land owners named within the proposed district, on April 24, 2001. The protest period started on April 26, 2001 and ended on May 11, 2001. Ms. Vance stated there was one protest letter received protesting the creation of RID #379. There are 41 lots within the proposed district. This constitutes 2% of the owners protesting the creation of this RID. Susan Swimley the attorney representing the County on RID'S explained the process to the Commission. Commissioner Vincent moved to accept the Clerk and Recorder's report. Seconded by Commissioner Murdock. None voting nay. Motion carried. President of the Wildhorse Homeowners Association ReNae Grantier confirmed the homeowners were in support of the RID. Ms. Grantier submitted letters of support from Jay W. Bernasek and Curtis Fuchs. Commissioner Vincent moved to adopt RID-01-379B. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported on the continuation of a public hearing to consider proposed CTEP Projects. Mr. Watson gave a brief reiteration of his prior presentation on the program requirements and the fund allocations. The purpose of this hearing is to conduct the final review of projects and make recommendations of sponsorship before the application deadline. Total existing funds within the CTEP allocation is \$268,566.00. He recommended holding 15% (\$40,284.90) in a contingency fund, because of two outstanding projects that have yet to be bid. The total recommended allocation is \$228,281.10. A project is being proposed by a coalition of the State Department of Fish, Wildlife and Parks Division and the Headwaters Trail System of Three Forks. They are not ready to submit an application at this point, so they are asking to hold \$75,000.00 in reserve for a project to be prioritized for allocation next year. The project would be building a trail from the campground to the picnic area before the Lewis and Clark Bicentennial. The other proposal was submitted by the Town of Manhattan that would provide a safe pedestrian sidewalk between the new post office, downtown and residential areas. They submitted three separate plans that would be determined by the amount of money Gallatin County allocates. The following plans were submitted: Plan A - \$26,204.00; Plan B - \$41,424.00; and Plan C - \$70,204.00. The Town of Manhattan has proposed they will provide the 13.42% cash match for the project. Plan C was recommended by Mr. Watson as being the most cost effective. Another proposed future project was presented by Jerry Williams, Williams Bros. Construction on behalf of the Baxter Meadow project and FOR Parks. Mr.



Williams explained that they are working with FOR Parks on a conceptual 100 acre regional park project. Along with their monetary commitment they are assisting the FOR Parks in acquiring any additional funding for enhancing and building the park. He stated they were not prepared to apply for funds until the County owns the land. He expected they would spend a quarter to a half million dollars on this proposed project. Discussion took place regarding the eligibility of this project for CTEP funds and how the funds would be applied for if it was annexed into the city. Mr. Watson pointed out that the use of the old Milwaukee railroad bed for a trail was the key to eligibility, and if annexed CTEP funds could be requested from the City of Bozeman. Commissioner Murdock commented in favor of reserving funds for the Headwaters project this year, and moved to reserve a minimum of \$75,000.00 for the Headwaters trail project. Seconded by Commissioner Vincent. Commissioner Mitchell anticipated that once the project was put together and submitted they could be supported to a larger amount. None voting nay. Motion carried. Commissioner Murdock moved to pledge \$70,204.00 towards the Manhattan sidewalk CTEP project. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Attorney Marty Lambert reported on the consideration of a resolution of intent to amend the County Attorney department budget within the general fund for Gallatin County, Fund No. 1000 for the purchase of computers in the amount of \$10,008.00 with budget transferred from the County Attorney's personnel budget. There was no public comment. Commissioner Murdock moved to adopt Resolution of Intention #2001-52, finding the Fiscal Officer approved. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Belgrade City-County Planner Jason Karp reported on the consideration of a request for preliminary plat approval of the Graham Minor Subdivision, described as COS 727 situated in the NE ¼ of Section 28, T1N, R4E, PMM, Gallatin County, Montana. C & H Engineering on behalf of John and Joy Graham have requested preliminary plat approval of a 5 lot minor subdivision on 20 acres. The subdivision is located west of Belgrade north of the Old Place Subdivision. The Belgrade City-County Planning Board reviewed the preliminary plat for the Graham Minor Subdivision. The Planning Board unanimously voted to recommend that a variance be granted to allow the dead-end cul-de-sac to exceed 1000 feet subject to the conditions that the road be extended to the west boundary of Lot 3 and that the north-south and east-west lot lines to be squared off. The Planning Board unanimously voted to recommend preliminary plat approval of the subdivision subject to the conditions. The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the suggested conditions. The County Commission needs to make the following determinations: a determination as to whether or not to grant the variance to allow the cul-de-sac to exceed 1000 feet. The Planning Board recommended that variance contingent upon conditions 18 and 19 as listed; and a determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Board finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts, Water and Sewer Districts, and annexation into the City of Belgrade shall accompany the final plat. 5. The developer shall record covenants on the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and residents of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c. All fences bordering agricultural lands shall be maintained by the Homeowners in accordance with State Law. d. A Homeowner's Association shall be established. e. The Homeowner's

Association shall be responsible for the maintenance of the interior access road and the extension of North Old Place Lane. The Homeowner's Association shall also participate with the Old Place Subdivision for the maintenance of Old Place Subdivision roads used for access to the Graham Minor Subdivision. f. The Homeowners Association shall participate with the Old Place Subdivision for the maintenance of the Old Place Subdivision fill-site. g. All structures must meet the fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief. h. Site plans of all lots must be submitted for review and approval by the Belgrade Rural Fire District. i. No lot owner may remove water or cause to be removed water from irrigation ditches without deeded water rights, and before any maintenance or improvements are performed on any of the ditches, the owner of the waterway must give written permission for the work to be done. j. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 6. Two copies of the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval. 7. Road Impact fees and Fire Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact Fee Regulations. 8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval. 9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department. 10. Road names shall be approved by the *Gallatin County GIS Department*, and road name signs and STOP signs at all intersections as required by the Road Office shall be installed prior to final plat approval, or a bond covering the cost of the signs shall be deposited with the Road Office. 11. North Old Place Lane shall be a sixty-foot right-of-way, and shall be constructed to Gallatin County standards and be dedicated to the public or be a public easement approved by the Gallatin County Road Department and the Gallatin County Attorney's Office. 12. The access road to Lots 1,2,4&5 shall be a sixty-foot right-of-way, and shall be constructed to Gallatin County standards and be dedicated to the public or be a public easement approved by the Gallatin County Road Department and the Gallatin County Attorney's Office. The road shall be named with a name approved by the Gallatin County GIS Department. 13. All roadwork will need to be inspected and certified by a licensed engineer. The inspection and certification must be provided to the County Road Office in writing prior to final plat approval. 14. The developer shall pay a proportionate reimbursement of the costs of the Old Place Subdivision fill site to the Belgrade Planning Office, which will reimburse the Old Place Subdivision in accordance with the Gallatin County Subdivision Regulations. 15. The developer shall pay a proportionate reimbursement of the costs of the Old Place Subdivision road paving to the Belgrade Planning Office, which will reimburse the Old Place Subdivision in accordance with the Gallatin County Subdivision Regulations. 16. The final plat shall contain a statement that includes the following language: Lots abutting irrigation ditches may have water rights as described in deeds. No owner may remove water or cause to be removed water without deeded water rights. 17. The final plat(s) shall show a maintenance easement of a minimum of 15 feet on one side, and 5 feet on the other side of the irrigation ditches or as required by the ditch owner consistent with subdivision regulations, and before any maintenance or improvements are performed on any the ditches, the owner of the waterway must give written permission for the work to be done. 18. Interior access road off North Old Place Lane shall be extended and constructed to Gallatin County Standards to the west property line of Lot 3 with a temporary cul-de-sac or "T" type turnaround. 19. The lot lines between lots 1,2,4,&5 shall be squared off to 90 degree angles. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. Mr. Karp stated the developer was in agreement with the variance. The applicants representative Mark Chandler, C&H Engineering gave an overview of the proposal. Mr. Chandler requested to change condition #19 to read as follows: The lot lines between lots 1, 2, 4, & 5 shall be squared off to approximately 90 degree angles. There was no public comment. Commissioner Murdock confirmed that this subdivision was consistent with the Belgrade Area Master Plan. Mr. Karp was in agreement to Mr. Chandler's suggested change to condition #19. Assistant Fire Chief of the Belgrade Rural Fire District Bryan Connelley stated they were in agreement with the variance. Commissioner Murdock moved to grant the variance request to allow the dead-end cul-de-sac to exceed the 1000 feet, finding it would not be a detriment to the public, health and safety, and subject to the conditions that the road be extended to the west boundary of Lot 3 and the north-south and east-west lot lines be squared off. Seconded by Commissioner Vincent. None voting nay. Motion carried. Finding that the Graham Minor Subdivision meets the intentions, goals and objectives of the Belgrade Area Master Plan and is consistent with the Gallatin County Subdivision Regulations, Commissioner Murdock moved to approve the subdivision subject to the conditions as presented by staff with the amendment to condition #19 to add the word (approximately), before 90 degrees. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Gallatin County Planner Jennifer Madgic reported on the consideration of request for preliminary plat approval for the River Rock Major Subdivision Phases 6A and 6B described as a parcel of land being a portion of remainder Tract A of River Rock Subdivision, Phase 2B, located in the SE ¼ and SW ¼ of Section 3, T1S, R4E, PMM, Gallatin County, Montana; generally located north of Amsterdam Road, approximately two miles west of Belgrade. Potter-Clinton Development has requested preliminary plat approval for the River Rock Major Subdivision, Phases 6A & 6B, proposing the creation of 104 lots on approximately 34 acres in two phases: 6A & 6B. The property was originally zoned Residential-Manufactured Home and was changed on April 24, 2001 by resolution of the Gallatin County Commission at the applicant's request to Residential Single-Family Medium Density (R-2). The property is located in the River Rock Zoning District (formerly the Royal Village Zoning District). Ms. Madgic gave an overview of the staff report and conditions. She made clarification in reference to condition #15 and suggested changes to the following conditions: adding a sentence to condition #21 - Forty-five feet of Thorpe Road west of the centerline shall be dedicated to the public for the entire length of the development. Twenty-six feet of Thorpe Road shall be dedicated as indicated on the preliminary plat; and strike condition #23, and replace with the following: Applicant shall pay a proportionate reimbursement per Section H.2(c) of the Subdivision Regulations to be used for capital improvements to Thorpe Road (in lieu of paying directly to Summit Subdivision). The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the suggested conditions. The County Commission needs to make the following determination: a determination as to whether to approve the proposed subdivision. The basis for the Commission decision shall be whether the preliminary plat, and additional information demonstrate that development of the subdivision meets the requirements of the Montana Subdivision and Platting Act, Gallatin County Subdivision Regulations and River Rock Zoning Regulations. If the County Commission decides to approve the subdivision, the following conditions for final plat approval are suggested. Except as noted, conditions shall apply to all phases. Phases shall be completed sequentially. 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2. Applicant shall obtain approval from the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. Applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. 3. Two copies of the covenants, a copy of the conditions of preliminary approval, documents establishing the property owners' association, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants, documents establishing the property owners' association, cul-de-sac easement and certificate prior to final plat approval. 4. Applicant shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, fire district or fire service area and/or the creation of a sewer and/or water district. 5. All utility easements shall be shown on the final plat. Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat: *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* 6. A Memorandum of Understanding shall be signed between the Weed Control District and the applicant prior to final plat approval. All areas disturbed during construction shall be reseeded with vegetation types approved by the Weed Control Supervisor. 7. Applicant shall record the following covenants with the final plat: *a) The property owners' association shall be responsible for the control of County-declared noxious weeds. b) Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c) Individual lot access from County public roads shall be built to the standards of Section 7.G.2 of the Subdivision Regulations. d) The property owners' association shall be responsible for maintenance of interior subdivision roads. e) All fences bordering agricultural lands shall be maintained by the property owners' association, in accordance with state law. f) Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.* 8. All ditches shall be protected with minimum 30-foot ditch maintenance easements and shown on the final plat(s). 9. Written verification shall be provided regarding the abandonment of any ditches. 10. Applicant shall provide written approval from owners/users of the Stone Weaver Irrigation Ditch. 11. Road names for each phase shall be approved by the County Road and Bridge Department. 12. A detailed signage and drainage plan shall be submitted to the County

Road Department for approval, prior to the start of any construction. This plan should specifically address the requirement for road name signs to be installed at all intersections, as well as STOP sign(s) at all intersections with County-maintained roads. STOP signs and other regulatory or warning signs may also be needed on some internal roads, and this should be addressed in the plan. 13. Encroachment permit(s) shall be obtained from the County Road Department for any access points coming off of County-maintained roads. Additionally, all internal lots shall be limited to one driveway access. Each access must be at least 75 feet from Ridgeview Drive and Thorpe Road. 14. A no-access strip is required along all lot boundaries that border County-maintained roads. Exception to this will only be made for lots that do not border an internal subdivision road. Access to lots falling under this exception will require further review and the obtaining of an encroachment permit from the County Road Department. 15. A second access shall be required for each proposed phase. This access shall be a public easement constructed to County standards. 16. All interior roads shall be built to County paved standards, and have a 60-foot right-of-way, dedicated to the public. 17. A detailed traffic study shall be prepared to identify off-site traffic impacts on the following roads: Thorpe and Royal roads. The study shall identify primary and secondary access roads, as well as collectors and arterials in the area of impact. Additional right-of-way shall be provided if warranted by such study. 18. Applicant shall meet with the County Road Department prior to start of any construction. 19. All roadwork shall be inspected and certified by a licensed engineer. Such inspection and certification shall be provided to the County Road Department in writing. Final approval shall not be given until this documentation is received. 20. The property owners' association shall be responsible for maintenance of all interior roads. 21. Forty-five feet of Thorpe Road west of the centerline shall be dedicated to the public for the entire length of the development. 22. A waiver of protest for creation of future RIDs shall be required. 23. A proportionate reimbursement of paving costs shall be made to Summit Subdivision for paving of Thorpe Road. 24. Applicant shall make payment of road impact fees in accordance with the Gallatin County Subdivision Regulations. 25. Applicant shall make payment of fire protection impact fees in accordance with the Subdivision Regulations. 26. Applicant shall designate parkland according to Section 6.G.1 of the Subdivision Regulations prior to final plat and dedicate the land to the property owners' association. 27. All requirements of the Belgrade Rural Fire District shall be met prior to final plat approval. The fire district shall review and approve all fire protection measures prior to final plat approval. A copy of the final plat shall be provided to the Belgrade Rural Fire District. 28. The water main system and fire hydrants servicing all lots shall be installed. 29. The community sewer system, including all sewer mains and sewer service serving all lots shall be installed. 30. Applicant shall submit certified "as-built" plans for all water and sewer installations prior to final plat approval. 31. Applicant shall have three (3) years to complete the above conditions and apply for final plat approval. Mike Potter the applicant was in agreement with the clarifications and changes to the conditions. Sonja Berg an adjoining neighbor spoke in support of the subdivision although she had concerns with blowing garbage; sufficient water available for a third well they planned to drill; noxious weeds; paved interior roads; repairs to Thorpe Road; and a stop light on the corner of Amsterdam and Thorpe. She requested the Commission create more stringent regulations regarding garbage and weeds. Mr. Potter addressed current and future plans to mitigate Ms. Berg's concerns. Gallatin County Road Engineer Roy Steiner answered questions concerning the road right-of-way and repairs planned for Thorpe Road. Mr. Steiner was in agreement to the changes to conditions #21 and #23. Finding that this subdivision is consistent with the River Rock Zoning District Regulations and meets the Gallatin County Subdivision Regulations, Commissioner Murdock moved to approve the subdivision with the conditions as amended. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planning Director Bill Arnold reported on the consideration of an amendment of the Walker PUD, described as the Walker Property Subdivision, Portion of Tract 1, COS 1498, Tracts 2, 3 and Portion of Tracts 1 and 4, COS 1498B, located in the NE ¼ and SE ¼ of Section 26, T1S, R5E, PMM, Gallatin County, Montana. Beatrice R. Taylor has made application for a text amendment to the Walker Property Planned Unit Development (PUD). The subject property is located at the northeast corner of Spring Hill Road and Highway 10, near the US Interstate 90/19<sup>th</sup> Avenue interchange, and is within the jurisdiction of the Gallatin County/Bozeman Area Zoning District. The Walker PUD was originally approved by the City of Bozeman in 1990, and has developed consistent with the requirements of the Declaration of Restrictions and Protective Covenants. Any new development or redevelopment of property within the PUD must comply with the requirements of the Restrictions and Covenants, which regulate land uses, setbacks, easements, building allowances, open space, landscaping, etc. The overall zoning pattern within the PUD includes a mix of Residential-Office (RO), Neighborhood Service District (B-1), Residential Single-Family Medium Density (R-2), Residential Medium Density (R-3), and Agricultural-Suburban (AS). The specific request to amend the text of the Declaration of Restrictions and Protective Covenants is as follows: 1. Add "hotel/motel" as a permitted and approved conditional use within the B-1 zoning district; 2. Establish a maximum building coverage

of 30% of the lot area for commercial lots; and 3. Correct the jurisdictional authority from the City of Bozeman to Gallatin County. The request for a text amendment to the PUD must be processed as a conditional use, and in addition, according to Section 6.0 of the Declaration, which requires the written consent of 90% of the property owners within the PUD. Notice was published in the High Country Independent Press on April 5, 2001; posted three places on-site; and mailed to adjacent property owners, a required by regulation. The Gallatin County Planning Board held a public hearing on April 24, 2001, voting 7:0 recommending the County Commission approve the application by Beatrice R. Taylor to amend the Walker PUD. Mr. Arnold stated the key element for consideration was the intent, through the use of the PUD concept, to promote maximum flexibility and innovation in the development projects within the zoning jurisdiction. Specifically, with regard to the improvement and protection of the public health, safety and welfare, it shall be the intent of this title to promote the pursuit of the following community objectives: A. To ensure that future growth and development occurring within the zoning jurisdiction is in accord with the Gallatin County Plan, its specific elements and its goals, objectives and policies; B. To encourage innovations in land development and redevelopment so that greater opportunities for better housing, recreation, shopping and employment may extend to all citizens of the Gallatin County area; C. To foster the safe, efficient and economic use of land and transportation and other public facilities; D. To ensure adequate provision of public services such as water, sewer, electricity, open space and public parks; E. To avoid inappropriate development of lands and to provide adequate drainage and reduction of flood damage; F. To encourage patterns of development which decrease automobile travel and encourage trip consolidation, thereby reducing traffic congestion and degradation of the existing air quality; G. To promote the use of bicycles and walking as effective modes of transportation; H. To reduce energy consumption and demand; I. To minimize adverse environmental impacts of development and to protect special features of the geography; J. To improve the design, quality and character of new development; K. To encourage development of vacant properties within developed areas; L. To protect existing neighborhoods from the harmful encroachment of newer incompatible developments; and M. To promote logical development patterns of residential, commercial, office and industrial uses that will mutually benefit the developer, the neighborhood, and the community as a whole. The Commission, after hearing and considering all public testimony, needs to determine whether or not the request as proposed by the applicant is in the public interest and meets the following: 1. Whether or not the proposed text amendments correspond to the goals of the Gallatin County Plan; 2. Whether or not the proposed text amendments correspond with the Gallatin County/Bozeman Area Master Plan Update; 3. Whether or not the proposed text amendments correspond with the Gallatin County/Bozeman Area Zoning Regulations, specifically; a. Section 28: B-1 Neighborhood Service District; and b. Section 54: Planned Unit Development; and 4. Whether or not the proposed text amendments are compatible with the intent of the specific Walker Property PUD concept and accompanying regulations. Mr. Arnold pointed out a typo on page 5 of the Declarations of Restrictions and Protective Covenants. Striking the words, total gross floor area, Section 2.3.6 should read as follows: The maximum gross floor area for each commercial structure on Lot 3A of Block 4 is 5,000 square feet, except that, adjacent to the North 19<sup>th</sup> Crossroad, one structure will be allowed with a maximum footprint of ~~10,000~~ 17,500 square feet and a maximum ~~total gross floor area of 15,000 square feet~~ (building coverage) of 30% of the lot area. Bea Taylor, the applicant gave a brief background summary of the proposal. Ms. Taylor stated they obtained 100% support from the adjacent property owners and also, a letter of support from Jerry Cashman. There was no public comment. Commissioner Murdock moved to approve the text amendment to the PUD, finding that it corresponds to the goals of the Gallatin County Plan; and to the Gallatin County/Bozeman Area Master Plan Update, specifically to the B-1 Neighborhood Service District and the PUD sections, and is compatible with what they are doing. He added, the change to the Declaration of Restrictions and Covenants as amended. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 12:10 A.M.

*Unavailable*  
*FOR SIGNATURE*  
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 CHAIRMAN APPROVAL

*Shelley Vance*  
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 CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 22nd DAY OF MAY 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:05 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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## 254 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

### MAY 14, 2001

- The Commissioners convened their regularly scheduled office meeting. In attendance were Commissioners Mitchell, Murdock and Vincent, and Executive Secretary Stacy Johnston. Commissioner Mitchell called the meeting to order at 9:37 a.m.  
The Commissioners considered approval of a budget transfer request from District Court #1. Commissioner Murdock moved to approve the budget transfer request in the amount of \$2,200; Commissioner Vincent seconded the motion. All voting aye, motion carried 3-0.  
The Commission received a request from Personnel Services Director Kathy Nowierski to accrue compensatory time in excess of 40 hours. After a brief discussion, the Commission agreed they should meet with her personally regarding this matter. Stacy will contact Kathy to set up a date and time.  
Invoice 0101-1 from Taylor Architects was presented for payment in the amount of \$3,595. This is for work completed to date on Phases III & IV of the courthouse renovation. Commissioner Murdock moved to approve as presented, noting Commissioner Mitchell verifies the work has been done. Commissioner Vincent seconded the motion. All voting aye, motion carried 3-0.  
Invoice #144 BS from R. Dale Beland was presented for payment in the amount of \$571.83. This is for work completed to date on the Big Sky Transportation Study. Commissioner Vincent moved to approve the invoice as presented, noting Commissioner Murdock verifies the work has been done. Commissioner Murdock seconded the motion. All voting aye, motion carried 3-0.  
Executive Secretary Stacy Johnston presented the Commissioners with a draft of their FY 2002 budget. She noted that we were approximately \$2,300 beyond target level as currently proposed. She explained that this was due in part to the fact that she absorbed Commissioner Vincent's request for a computer (~\$2,500) and Glenda Noyes' salary increase (~\$4,500) effective July 1, 2001 within the target level. Each line item by object code and the amounts allocated were reviewed and discussed. Bill Murdock suggested changes to specific object codes to reduce the overage; all attendees concurred. Commissioner Murdock moved to adopt the draft FY 2002 budget as amended. Commissioner Vincent seconded the motion. All voting aye, motion carried 3-0. [*Please note this motion was later amended on 5/21/01*].  
Commissioner Mitchell gave a brief download of what we can expect in Phases III & IV of the courthouse renovation. The most obvious inconvenience will be the relocation of several departments for a period of 3-4 months. Given the cost to relocate those departments off-site, discussion was held as to the possibility of utilizing the Community Room as make-shift offices during the construction. Of course, this would mean the public meetings would have to be held elsewhere. The ideal scenario would be to find a suitable location to have the public meetings at least 3 weeks per month, and we could possibly have one meeting per month somewhere else in the county. Stacy will work with Glenda on options for meeting locations. Commissioner Mitchell will visit with the architect to narrow down a schedule for when construction will begin, relocation of offices, etc.  
Upon review of items under "old business," Commissioner Murdock moved to place the overpayment of the Manhattan School District on an upcoming public meeting. Commissioner Mitchell was opposed and stated she wanted an opinion from County Attorney Marty Lambert citing M.C.A. before any further action was taken.  
During general discussion, the Commission noted that due to the number of items appearing on our office meeting agendas, we never get to address the "discuss" items. Therefore, it was decided that the office meeting scheduled for Wednesday, May 16, at 1:30 p.m. would now be a "policymaking/discussion" meeting. Agenda items will be as follows: (1) Upcoming election possibilities; (2) Salary Compensation Committee appointments; and (3) Health Benefits Committee recommendation. Other discussion items will be included and addressed if time permits. In the future, we will decide at the Monday office meeting whether or not the Wednesday meeting will be dedicated to "policymaking/discussion" items or regular agenda items.
- The Commissioners attended a special meeting for the purpose of discussion Bear Canyon Road and the ensuing resolution regarding closure. In attendance were Commissioners Mitchell, Murdock, and Vincent, Attorney Susan Swimley, and Staff Engineer Roy Steiner. Ms. Swimley presented her research regarding Bear Canyon Road in a letter date May 11, 2001. No decision was made, however the Commission accepted the research and findings as presented.

### MAY 15, 2001

The Commissioners conducted regular County business.

### MAY 16, 2001

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell, Murdock, and Vincent, Planning Director Bill Arnold and Clerk and

Recorder Shelley Vance. The group discussed upcoming elections, the salary compensation board, a request from Kris Stoilov for a motor vehicle registration refund, and County Auditor processes and difficulties that departments are having with regards to accounts being closed. Commissioner Murdock made a motion to appoint Shelley Vance, Scott Wyckman, and Lorraine Van Ausdol as the elected officials for the County Salary Compensation Board. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously. Commissioner Murdock made a motion to appoint Jim Syth and Joe Bateson to the County Salary Compensation Board. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

Commissioner Vincent made a motion to pay the refund of \$213.94 for the registration costs on a totaled vehicle to Kris Stoilov, contingent upon a written statement from the County Treasurer that the County Commission has the discretion to make the refund. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

**MAY 17, 2001**

- The Commissioners conducted regular County business.

**MAY 18, 2001**

- The Commissioners attended a special meeting for the purpose of approving claims. In attendance were Commissioners Mitchell and Vincent, Auditor Joyce Schmidt, and Commission Secretary Glenda Noyes. The claims voucher included check #s 8000720-8000802. Commissioner Vincent made a motion to approve claims from check number 8000720-8000802 totaling \$110,042.71. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

**The following items were on the consent agenda:**

1. Claims were presented for approval by the auditor, dated May 17, 2001 in the amount of \$86,933.90.
2. Consideration of Contract(s): Intergovernmental Transfer Agreement with the State of Montana for Gallatin County Rest Home.
3. Request for Common Boundary Relocation Exemption for Deep Well Ranch (Trevor and Eleanor Povah) located in the W ½ NE ¼ and E ½ NW ¼ Section 21, T13S, R4E (Denny Creek Road). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Aggregation of Lots within a Platted Subdivision for Anthony and Robert Brengard located in the NE ¼ Section 19, T2S, R6E (Bradley Street and Sourdough Road). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Final Plat Approval for Garwood Subsequent Minor Subdivision (Amended Plat of Lot 4, Huffine Lane Business Park Minor Subdivision No. 287) located in the SW ¼ SE ¼ of Section 12, T2S, R4E. Preliminary plat approval was granted on March 27, 2001. A staff report submitted by Gallatin County Planner Jennifer Koozer states that the conditions for final plat approval have been met.
6. Request for Aggregation of Lots within a Platted Subdivision for Robert and Wanda Hargrove located in the SE ¼ Section 36, T2S, R5E (Flora Lane and Highway 10). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
7. Request for Final Plat Approval of Heckerman Minor Subdivision located in the S ½ of Section 21, T1N, R4E. A staff report submitted by Belgrade City-County Planner Jason Karp states that the conditions for final plat approval have been met.

Commissioner Murdock read the consent agenda. Gallatin County Planner Jennifer Koozer requested Item #4 be postponed and rescheduled for June 5, 2001. Commissioner Vincent approved the consent agenda as amended. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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On behalf of Gallatin County Planner Lanette Windemaker, Gallatin County Planner John Shepard presented certificates of appreciation to the Gallatin County Trails Advisory Committee. Mr. Shepard stated that the presentation of certificate of appreciation was to acknowledge 10 members of the Trails Committee and one other significant person out of the numerous people who worked on and provided input to Connecting Communities: Gallatin County Trails Report and Plan. The following received a certificate of appreciation: Gretchen Rupp; Cyndi Crayton; Michael Welch; Michele Corriel; Richard Charlesworth (not present); Greg Johnson (not present); Bill Olson; Sandra Smiley; Laurita Vellinga

(not present); and Gary Vodehnal. Kris Thomas (not present) for her volunteer work. Copies of the Plan and CD's are available in the Planning Office. The Commission thanked the Committee for their hard work and excellent report. Commissioner Murdock encouraged them to sign-up for the permanent Trails Sub-Committee for the Planning Board that is currently advertised.

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District Court Judge Mike Salvagni reported on the consideration of recommendation by the Criminal Justice Coordinating Council on Juvenile Detention. As Chairman of the Criminal Justice Council, Judge Salvagni outlined the resolution to close the Juvenile Detention Wing of the Gallatin County Detention Center. He explained that the use of the Youth Detention Center was 18% of its available space, between October 2, 2000 through March 27, 2001, and the Council did not believe that keeping the facility open at the cost that is required to maintain it, related to the use, would be a good governmental decision. The Council unanimously voted (as a member of the Council Bill Murdock abstained) after considering and compiling the facts and circumstances to recommend that the facility be closed to juveniles and re-opened to adults in FY 2002, while emphasizing that this should have no bearing on the Detention Center Project Team's proposal regarding future juvenile detention. They would then assess the costs and benefits of the Youth Services Center in Billings, Great Falls, Kalispell and Martin Hall Juvenile Detention Facility in Medical Lake, Washington. Discussion took place regarding rates and the facilities available to accept the juveniles from Gallatin County. Commissioner Mitchell suggested it might be prudent to keep the facility open a full year rather than closing it after only 7-1/2 months, due to the extensive cost, training and certification it took to open it. Judge Salvagni noted they were coming to the close of the fiscal year and a budget would have to be maintained for staff through September. He stated that although, it was his preference to keep the juveniles local, the justifications for opening the facility have not been met and there are alternatives available that are reasonable and used previously. District Court Judge Guenther joined in the words and recommendations of Judge Salvagni. He spoke of the good in the situation, in that the serious juvenile crime is substantially less than what was anticipated. Gallatin County Attorney Marty Lambert concurred with Judge Salvagni stating this space was badly needed for adult detainees that are currently being released due to the jail population exceeding its cap on a daily basis, and would help them deal with very important criminal justice and public safety issues. Chief Youth Probation Officer Vicky Nelson supported the resolution stating this facility was a convenience to her, however, she agreed it is a very costly and expensive facility and the cost is too great to pass onto taxpayers. She stated that this facility being a short-term facility versus the long-term did not offer education programs, therefore, other counties were bypassing and not using the facility because detainees were needing to stay longer than 10 days or required education programs. Gallatin County Fiscal Officer Mr. Blackman commented on the budgeting issues required to keep the facility open for a full year. Detention Center Administrator Anita Shaw-Tymrak commented on the staffing concerns. She requested to retain the two staff members from the facility until they could be absorbed, which would prevent paying lay off fees. Commissioner Vincent moved to adopt Resolution #2001-53. Seconded by Commissioner Murdock. Commissioner Murdock, as a member of the Criminal Justice Coordinating Committee stated he initially was a bit consternated but after hearing the discussion and reasons he was in support of the resolution. Commissioner Vincent agreed it would be best to keep the juveniles close, although he supported the resolution as the facts are indisputable, the rationale is sound, the status quo is neither economically or financially feasible nor justifiable and the public safety is at risk. Commissioner Mitchell was not comfortable with the proposal because the initial request for the facility was recognizing the need for the facility, regardless of the cost. She felt the short time the facility was open does not lend a feeling of stability and confidence to the taxpayers. Commissioners Murdock and Vincent voting in aye. Commissioner Mitchell abstained. Motion carried.

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Commissioner Mitchell announced that Item #4, receipt and opening of bids for the sale of bonds for Meadow RID #378 on the regular agenda would be discussed on May 24, 2001, at 11:00 A.M.

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Allison Foy of Gaston Engineering reported on the award of construction bids for Meadow RID #378. After reviewing the bids Ms. Foy made the recommendation to award the construction bid to Figgins Sand & Gravel, as they were the lowest responsible bidder. She requested permission from the Commission to issue the notice of award for the construction bid, contingent on the sale of bonds. Commissioner Murdock moved to accept the recommendation from Gaston Engineering, that Figgins Sand & Gravel appears to be the lowest responsible bidder on the Meadow RID #378, and issue the



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**GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 257**

"Notice of Award" for construction of RID #378 to them, contingent upon the sale of the bonds. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Bill Muhlenfeld a citizen volunteer of the Historic Preservation Board of Gallatin County presented an update and proposal. After recognizing other board members in attendance, Mr. Muhlenfeld summarized the Board's concerns that revolve around their interpretation of what the duties and responsibilities are under the original authorizing resolution. He read excerpts from Resolution 805, creating the Board, dated September 19, 1989. He stated the Board met and expressed their concerns with Commissioner Mitchell earlier in the year regarding their inadequacies in terms of performing the responsibilities in the authorizing resolution and by-laws. At that time Commissioner Mitchell suggested they review their goals and objectives as a board; evaluate other county efforts and support for the board; and meet and speak with officials from the State of Montana with regards to historic preservation efforts and money that might be available to the Board as well as to the County. They accomplished those suggestions and submitted a packet to the Commission, stating they are unable to fulfill the duties and obligations outlined in the resolution and by-laws and are looking for direction. Discussion took place regarding the suggestions to the County in assisting those historic preservation efforts. Suggestions by the Commission to secure funding where as follows: contact Gallatin County Grants Administrator Larry Watson concerning the CTEP funds; contacting the Chamber of Commerce for funding; and the grant process of the Department of Tourism.

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Gallatin County Fiscal Officer Ed Blackman reported on the consideration of a resolution of intent to amend the Montana Lead Grant, Fund No. 2898, for the County Health Department budget to include unanticipated grant revenues. The public hearing is scheduled for June 5, 2001. Commissioner Murdock moved to approve Resolution of Intention #2001-54. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Attorney Marty Lambert reported on the public hearing and consideration of resolution amending the County Attorney department budget within the General Fund for Gallatin County, Fund No. 1000 for purchase of computers in the amount of \$10,008 with budget transferred from the County Attorney's personnel budget. There was no public comment. Commissioner Murdock moved to approve Resolution #2001-55. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 10:44 A.M.

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signature*  
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CHAIRMAN APPROVAL

*Shelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 29th DAY OF MAY 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:05 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**MAY 21, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, and Commission secretaries Stacy Johnston and Glenda Noyes. Commissioner Vincent made a motion to approve the engineering services contract with Gaston Engineering for Meadow Village RID #378, finding that Fiscal Officer Ed Blackman and Deputy County Attorney Chris Gray have recommended approval. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

## 258 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

Gallatin Local Water Quality District submitted four budget transfer requests totaling \$1,330.96. Commissioner Vincent made a motion to approve the budget transfer requests as presented, finding that Mr. Blackman has recommended approval. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

Expenditure transfer requests were submitted from District Court #1 (Law Library) in the amount of \$6,185.02 and Junk Vehicle totaling \$2,594.62. Commissioner Vincent made a motion to approve the expenditure transfer requests as presented. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Open Lands Board submitted a request for the Commission to adopt their proposed definition of an "Ag-Producer" for Open Lands Board purposes, namely MCA 15-7-202. Commissioner Vincent made a motion to adopt the definition of "ag-producer" for purposes of appointing members to the Open Lands Board, as suggested by the Open Lands Board. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

Further consideration of citizen members to the Salary Compensation Committee took place due to the original invitees declining. Commissioner Murdock made a motion to extend the invitation to serve to George Mattson and Tom Simkins, noting that Mr. Syth has not responded, and Mr. Bateson will not be available to serve, the motion is contingent on Mr. Syth not responding by 5:00 pm today. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commission considered an additional expenditure transfer request from the Junk Vehicle program totaling \$2,594.62. Commissioner Vincent made a motion to approve the expenditure transfer request from the junk vehicle program. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

### MAY 22-23, 2001

The Commissioners conducted regular County business.

### MAY 24, 2001

- The Commissioners attended a special meeting for the purpose of opening and awarding the bids for RID #378 bond sale. In attendance were Commissioners Mitchell and Vincent, Clerk and Recorder Shelley Vance, Treasurer Anna Rosenberry, Attorney Susan Swimley, Bridget Ekstrom, Vice President for Public Finance with D.A. Davidson & Co., Allison Foy with Gaston Engineering, and Al Malinowski, representative of the majority property owners in the perspective district. The bid package and information was sent to 50 perspective bidders, and a notice of sale was published in the High Country Independent Press on May 10 and 17, 2001. Two bids were received from DA Davidson & Co. and US Bancorp Piper Jaffray, Inc. The award will be granted to the bidder with the lowest Total Interest Cost (TIC). Commissioner Mitchell opened the bids and Ms. Vance read them into the record. USBancorp Piper Jaffray, Inc. submitted a bid that included the following information: Total Interest Cost of 5.805%, Total Interest of \$714,609.17, Plus Discount of \$19,636.80, Less Premium -0- for a Total Dollar Interest Cost of \$734, 245.97. Ms. Ekstrom and Ms. Rosenberry confirmed that the Good Faith Deposit has been received. DA Davidson & Co. submitted a bid that included the following information: Total Interest Cost of 5.312%, Total Interest of \$646,349.71, Plus Discount of \$23,760.00, Less Premium -0- for a Total Dollar Interest Cost of \$670,109.71. Ms. Ekstrom and Ms. Rosenberry confirmed that the Good Faith Deposit has been received. Commissioner Vincent made a motion to approve RID Resolution 2001-378D, relating to \$1,188,000.00 special improvement district number 378 bonds; awarding the sale thereof to DA Davidson and Co. and approving certain matters with respect thereto. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

### MAY 25, 2001

- The Commissioners conducted regular County business.

#### **The following items were on the consent agenda:**

1. Minutes for Public Meetings July 25; August 1, 8, 15, 22, 29; September 12, 19; October 10, 17, 24, 31; November 14, 21, 31; December 5, 12, 19, and 27, 2000.
2. Claims were presented for approval by the auditor, dated May 24, 2001 in the amount of \$532,747.91.
3. Notification of Rate Adjustment for Gallatin County Rest Home for FY 2002.
4. Request for Common Boundary Relocation Exemption for Landmark Development and Terry Swart located Section 34, T1S, R4E (west of Belgrade on Thorpe Road).
5. Consideration of Contract(s): Contract with Community Mediation Center for Justice Court; Public Defender Contract with Schraudner & Hillier, LLP for Justice Court; and Public Defender Contract with Bowen & Parker for Justice Court.

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**GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 259**

Commissioner Vincent read the consent agenda and reported the claims would be considered at 4:00 P.M. There was no public comment. Commissioner Vincent moved to adopt the consent agenda as amended. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Commissioner Mitchell announced the public hearing and consideration of a resolution-awarding sale of bonds for Meadow RID #378 was considered at a special meeting on May 24, 2001.

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Belgrade City-County Planner Jason Karp reported on the consideration of a request for a family transfer exemption for John and Linda Rabel located in the N ½, N ½ of Section 17, T1S, R4E (Highline Road). Mr. Karp summarized the intended use of the family transfer. John Rabel was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. Commissioner Murdock moved to approve the Rabel family transfer based on the applicant's testimony, adding that he was satisfied this was not an attempt to evade the use of the family transfer. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the continuation of consideration of a request for preliminary plat approval of the Webb Minor Subdivision located in the SW ¼ of Section 14, T1N, R5E, PMM, Gallatin County, Montana. C & H Engineering and Surveying, Inc., on behalf of Linda and Sherman Webb, has requested preliminary plat approval to subdivide a ~163-acre parcel by creating two ~12-acre lots and one ~135-acre lot. The property is generally located at the intersection of Springhill Road and Springhill Community Road. The proposal site is located in the AR zone in the Springhill Zoning District. Under the Springhill Zoning Regulation, the creation of new parcels requires the transfer of development rights through the conditional use permit process. On March 8, 2001, the applicants obtained a conditional use permit allowing the transfer of two of their three development rights to the proposed two new ~12-acre parcels (Lots 2 and 3). Approval of such conditional use permit is contingent on the applicant's filing of a deed restriction prohibiting the further subdivision of Lot 1 at the time of filing the final plat for this Webb Minor Subdivision. As a minor subdivision, no public notice was required. As a courtesy, the Planning Department sent notice to adjacent property owners. Ms. Koozer stated that there was one phone call in support of the proposal and three phone calls from citizens with concerns about the effects this subdivision would have on the school district. A letter was received from the Springhill School District stating the subdivision did not pose any immediate problems at this time. Ms. Koozer stated this proposal does conform with the Springhill Zoning Ordinance and Plan. The County Commission has one determination to make with this application: A determination as to whether the proposed subdivision should be approved. The basis for the County Commission's decision shall be whether the preliminary plat and additional information demonstrate that development of the subdivision meets the requirements of the Montana Subdivision and Platting Act and the Gallatin County Subdivision Regulations. The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the following conditions:1.

The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2. A copy of the conditions of approval, documents establishing the property owners' association, covenants and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the required covenants and certificate prior to final plat approval.3. Applicant shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, or the creation of a sewer and/or water district.4. All utility easements shall be shown on the final plat. Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat:

*The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* 5. A Memorandum of Understanding shall be signed between the Weed Control district and the applicant prior to final plat approval. 6. A Property Owners' Association shall be established for the subdivision. 7. Applicant shall record the following covenants with the final plat: *The control of noxious weeds by the Property Owners' Association on those areas for which*

*the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District. The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. In the event a landowner does not control the noxious weeds, after 10 days notice from the Property Owners' Association, the Association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment. Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law. Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners and the County Commission.*

8. Encroachment permits shall be obtained from the County Road and Bridge Department for any access points on Springhill Community Road. Existing road approaches shall be brought up to current County standards which include culverts and require permits for change of use. 9. Approach permits shall be obtained from the Montana Department of Transportation for any access points on Springhill Road (S-411). 10. The final plat shall include a "no access strip" along all lot boundaries that border Springhill Road (except for any access points approved by the Montana Department of Transportation) and Springhill Community Road (except for any access points approved by the County Road and Bridge Department). 11. Thirty feet of Springhill Community Road, south of the centerline shall be dedicated to the public for the entire length of the development. 12. Applicant shall make payment of road impact fees in accordance with the Gallatin County Subdivision Regulations. 13. Applicant shall make payment of fire impact fees in accordance with the Gallatin County Subdivision Regulations. 14. Applicant shall provide an appropriate fire protection method in accordance with the Subdivision Regulations (section 6.E). Applicant shall have the Springhill Fire Service Area review and approve the fire protection method prior to final plat approval. Applicant shall obtain written verification from that all requirements have been met. 15. A deed restriction, prohibiting the further subdivision of Lot 1, shall be recorded at the time of filing the final plat. 16. Applicant shall have three (3) years to complete the above conditions and apply for final plat approval. The applicant's representative Mark Chandler with C&H Engineering and Surveying requested clarification of condition #10, regarding the access strip. He stated that it seemed too restrictive and was concerned with access off Springhill Community Road should the applicant construct a guesthouse. Linda Webb the applicant spoke regarding access and confirmed an existing access for farm machinery would remain. The Commission acknowledged that encroachment permits could be obtained from the County Road and Bridge Department for any future accesses. Richard Brown, an adjacent landowner questioned if a guesthouse was permitted. Ms. Koozer clarified that under the Springhill Zoning Regulations in the AR Zone it is possible with a conditional use permit to construct a guesthouse or caretaker house on any parcel that has one development right. Commissioner Murdock moved to approve the Webb Minor Subdivision as presented, finding it conforms with the Springhill Zoning District Master Plan and Ordinance, including the conditions that have been agreed to by the applicant, with the one question on condition #10, which has been clarified that the applicant has the opportunity for additional access. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic reported on the consideration of a request for a one-year extension of preliminary plat for Lakeview Condominium Minor Subdivision. Darwin Steffler has requested a one-year extension that is expected to expire on July 1, 2001. Commissioner Vincent moved to grant the request for a one-year extension, given the Planning Department's input and the applicant's letter. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Attorney Marty Lambert reported on the consideration of the 911 Administration Board recommendation for the future of 911 Administration and funding source. As Chair of the 911 Administrative Board, Mr. Lambert provided to the Commission the recommendations that the Board voted on at their April meeting as follows: Put a county wide mill levy vote to the public to establish a stable and secure funding source for 911 operations; terminate the current inter-local agreement between the City and the County for the operation and funding of the 911 Center; and place the operation under the auspices of the Gallatin County Sheriff. Putting the countywide mill levy to a vote would be contingent on the vote-taking place before November. In order to conduct a special election it would have to be coordinated with the Clerk and Recorder and budgets would have to be appropriated. Should

the vote pass, 100 percent of the funding would come from the County and the inter-local agreement could be terminated, freeing up \$400,000 that is being spent by the residents of the City of Bozeman. Mr. Lambert stressed the need for the Sheriff's experience and qualifications in operating the emergency communications. This proposal would also benefit Manhattan, Belgrade, Three Forks and all governmental services in Gallatin County currently being charged a user fee. Mr. Lambert presented to the Commission an amended inter-local agreement between Gallatin County and the City of Bozeman. The amendment addressed the reorganization of the public safety sector of the City of Bozeman. The reorganization caused two of the designations on the board, the Fire Chief and the Chief of Police to no longer exist as of July 1, 2001. The position of Fire Chief would be replaced with Assistant City Director of Public Safety-Fire Operations and the Chief of Police would be replaced with Director of Public Safety, City of Bozeman. Mr. Lambert recommended the Commission take action on the proposed changes to the inter-local agreement, so the City Commission could also take action. A brief discussion took place regarding the amount of mills recommended. Bozeman City Manager Clark Johnson stated he would advocate the City Commission to support the recommendations of the 911 Administrative Board. He recommended this be put to a vote before November as this was an essential public safety service need and the voters should decide at what level it should be funded. Commissioner Mitchell announced that the Commission would take the recommendations under advisement, and see if the City is in agreement with the proposals and the amended inter-local agreement. Mr. Lambert requested that the Commission take action today on the proposed amended inter-local agreement. Commissioner Mitchell replied that she was not prepared to take action at this time. Board discussion took place and it was decided the amended inter-local agreement would be considered at the June 5, 2001 public hearing, and the recommendations of the 911 Administrative Board would be considered at a later date.

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Gallatin County Planner Jennifer Madgic presented a pending resolution to correct Resolution #2001-41 that addressed amendments to the River Rock Zoning Regulation. Commissioner Murdock moved to correct Resolution #2001-41, by approving Resolution #2001-56 to replace it. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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There being no further business the meeting was adjourned at 10:00 A.M.

*Unavailable*  
*For signature*  
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 CHAIRMAN APPROVAL

*Shelley Vance*  
 \_\_\_\_\_  
 CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 5th DAY OF JUNE 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:08 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**MAY 28, 2001**

- The Commissioners' office was closed in observance of Memorial Day.

**MAY 29, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, Commission secretaries Stacy Johnston and Glenda Noyes, and Fiscal Officer Ed Blackman. The Detention Center submitted a request to transfer funds within their budget to pay for the bills received from the Yellowstone County Sheriff's Office for guarding inmate David Curtin while in the hospital in Billings. Commissioner Murdock made a motion to transfer funds from Juvenile Detention Personnel to Regular Detention Contracted Services, in the amount of \$8,480.61, to cover Yellowstone County bills associated with David Curtin. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

Mr. Blackman asked the Commission to consider approving a limited scope appraisal of the Planalp building, per the request of the CIP Committee. Commissioner Murdock made a motion to approve a limited scope appraisal of the Planalp building, not to exceed \$3,000.00. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

## 262 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

The Commissioners considered approval of expenditure transfer requests from the Road and Bridge Department totaling \$5,352.00, Grants Department in the amount of \$21.95, and a transfer of payment received from FEMA for Maudlow-Toston Fire costs in the amount of \$58,107.33. Commissioner Vincent made a motion to approve all expenditure transfer requests as presented. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a budget transfer request from Juvenile Detention in the amount of \$980.00. Commissioner Vincent made a motion to approve the budget transfer request from Juvenile Detention as presented. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The request from Kris and Andrea Stoilov to have their vehicle registration refunded was considered a second time. At the May 16, 2001 office meeting, a motion was made to make the refund contingent upon a written statement from the County Treasurer that the Commission has the discretion to make such refund. Treasurer Rosenberry provided such letter, recommending that the Commission make such refund under the given circumstances. Commissioner Vincent made a motion to refund/rebate \$213.94 to Mr. Kris Stoilov for registration paid on his vehicle that was totaled before it was registered. Commissioner Murdock seconded the motion. In discussion, Commissioner Murdock stated that a refund such as this should be made in all similar situations. All voted aye. Motion carried with a vote of two to zero.

Commissioner Vincent made a motion to appoint Tom Simkins to the Salary Compensation Committee. Commissioner Murdock seconded the motion. In discussion, Commissioner Murdock noted that Commissioner Mitchell had approved this choice verbally to him. All voted aye. Motion carried with a vote of two to zero.

ITS Director Ed Kawa submitted a request to obtain a credit card for the purposes of purchasing specialty software of emergency hardware. The Commissioners agreed to allow the ITS Department to obtain a credit card for office purposes, providing they obtain and use it within county policy.

The Commission received claims for consideration of approval from the Auditor. The claims are listed on the voucher list dated May 24, 2001, and include check numbers 8000890 through 8001170, and total \$532,747.91. Commissioner Vincent made a motion to approve claims as presented, finding that the Auditor and Fiscal Officer have recommended payment. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

- The Commissioners attended a meeting with the County Extension agents. In attendance were Commissioners Murdock and Vincent, and Extension agents Ron Carlstrom and Todd Kessner. The Commissioners voted unanimously to support the Food Stamp Nutrition Education Program for a period of one year, asking the agents to assess an appropriate time to evaluate the progress and success of the program.

### MAY 31-JUNE 1, 2001

- The Commissioners conducted regular County business.

#### **The following items were on the consent agenda:**

1. Claims were presented for approval by the auditor, dated May 31, 2001 in the amount of \$194,087.68
2. Request for Final Plat Approval of the South Fork Subdivision, Phase II located in the S ½ of the NE ¼ of Section 2, T7S, R3E, PMM, Gallatin County, Montana. Preliminary plat approval was granted on August 15, 2000. Gallatin County Planner Jennifer Madgic stated that the conditions for final plat approval have been met.
3. Request for Aggregation of Lots Within a Platted Subdivision for Anthony and Robert Brengard located in the NE ¼ of Section 19, T2S, R6E (Bradley Street and Sourdough Road). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Consideration of Contract(s): Amended 911 Inter-local Agreement with City of Bozeman.

Commissioner Mitchell outlined the process in which testimony would be taken for the Day Ranch Subdivision preliminary plat approval, stating that public comment would be accepted until June 19, 2001. Commissioner Vincent read the consent agenda. Gallatin County Auditor Joyce Schmidt rectified the claims total read by Commissioner Vincent. Commissioner Mitchell requested the Amended 911 Inter-local Agreement be placed on the regular agenda for further discussion. Commissioner Vincent moved to approve the consent agenda as amended. Seconded by Commissioner Murdock. None voting nay. Motion carried.

Commissioner Mitchell stated she would be voting against the amendment to the Inter-local agreement. She explained that this amendment is due to the reorganization of the City of Bozeman, which continues to give the City 4 members and the County 3 members on the board, and yet the City pays 45% and the County pays 55%. She noted the City members all work for the City Manager and the County members are all elected officials, causing this board to be dysfunctional. Commissioner Mitchell suggested the Board take the leap of faith and reorganize 911 as a separate Board and contract with the City of Bozeman before the mill levy is put on the ballot. Commissioner Murdock as a member of the Board was in support of the amendment stating this would allow status quo with the membership for only a few more months, until it is put to a vote. Gallatin County Attorney Marty Lambert reported on the accomplishments of the 911 Board, and stated this agreement has enabled them to go to computer assisted dispatch, making that leap in technology where the City and County alone would not of had the financial resources. Commissioner Vincent moved to adopt the amended Inter-local agreement with the City of Bozeman. Seconded by Commissioner Murdock. Commissioners Vincent and Murdock voting aye. Commissioner Mitchell voting nay. Motion carried.

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One vacancy exists for an at-large appointee to Yellowstone Country Montana, Inc. This is a three-year term, and would expire April 30, 2004. There was no public comment. Commissioner Vincent moved to reappoint Scott Johnson. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Chairman of the Gallatin County Audit Committee Susan Lang reported on the recommendation of a firm to perform auditing services for fiscal years ending June 30, 2001 and June 30, 2002. Requests for proposals were sent out to firms on the Department of Commerce's roster of independent auditors authorized to conduct audits for Montana local governments. The due date for receiving these proposals was May 4, 2001. Proposals were received from the following: Veltkamp, Stennabein & Bateson (Bozeman); Joseph Eve & Company (Billings); Knaub & Company, PC (Bozeman); and Denning, Downing and Associates (Kalispell). Using the criteria listed in the request for proposals the audit committee recommended the Commission pursue contract negotiation with Veltkamp, Stennabein & Bateson to be the external auditors for fiscal years ending June 30, 2001 and June 30, 2002. Ms. Lang requested the Commission begin work to secure a contract by June 22, 2001, as listed in the request for proposal should they accept the recommendation. The Commission commended Ms. Lang for her work on this project. Commissioner Murdock moved to accept the recommendation of the search committee, and directed the committee to begin work to secure the contract with Veltkamp, Stennabein & Bateson. Seconded by Commissioner Vincent. Commissioner Mitchell, added that the contract be presented to the Commission for approval by June 22, 2001. Commissioner Vincent amended the second. None voting nay. Motion carried.

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Gallatin County Auditor Joyce Schmidt reported on receipt of the County Auditor quarterly report of examination of books of County Officers-quarter ending March 31, 2001. Ms. Schmidt stated in accordance with MCA, 76-2409 the quarterly report ending March 31, 2001 was presented to the Commission on April 23, 2001. The information for April was presented on June 4, 2001, and the remainder of that quarter will be presented when available, prior to the first regular meeting in September. Ms. Schmidt noted that she did not detect any errors at this time, although some of the books still need reconciling. Commissioner Vincent moved to accept the auditors report as submitted for the quarter ending March 31, 2001. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Commissioner Mitchell announced that a pending resolution amending Resolution #2001-41 at the May 29, 2001, public hearing was numbered incorrectly as #2001-56. Commissioner Murdock moved to change Resolution #2001-56 to Resolution #2001-41A, amending Resolution #2001-41. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Health Officer Stephanie Nelson reported on the public hearing and consideration of a resolution to amend the Montana Lead Grant, Fund No. 2898 for the County Health Department FY 2001 budget to include unanticipated grant revenues. There was no public comment. Commissioner

Murdock moved to approve Resolution #2001-56. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the consideration of request for preliminary plat approval for the Day Ranch Subdivision. The property consists of approximately 2,820 acres, assembled from 21 existing tracts of record and is located in the W ½ of Section 3, the S ½ and NE ¼ of Section 4, the SE ¼ of Section 5, all of Sections 7 & 8, the W ½ of Section 9, the northern two-thirds of Section 17, and the N ½ and SE ¼ of Section 18, all within T3S, R4E, P.M.M., Gallatin County, Montana. In general, the property is located approximately 1.5 miles west of Gallatin Gateway. Joseph W. Sabol, Attorney at Law, and Morrison-Maierle, Inc., on behalf of Winchester Development Company, L.L.C., have requested preliminary plat approval for the development of the Day Ranch as a major, second home/recreational subdivision. The major subdivision application includes 114 single family lots, three lots for the development of 30 residential condominiums, equestrian center, and deed restricted open space tracts to accommodate a water fowl sanctuary and private 18 hole golf course with clubhouse. The subdivision will be serviced by on-site community water supply system and wastewater treatment systems. The Day Ranch property is not within the boundaries of an existing zoning district. No variances from the design standards of the Gallatin County Subdivision Regulations (Subdivision Regulations) have been requested. Notice of this public hearing was published in the High Country Independent Press on May 3 and 10, 2001. Adjacent property owners were notified by certified mail. The proposed subdivision consists of the following: 114 single family residential lots, with an average lot size of 5.46 acres; 30 condominiums in the form of cabins, located within three lots; Equestrian Center; Deed restricted common open space parcels totaling 2,032.41 acres; 18 hole golf course with clubhouse and associated support facilities; and 320 acre waterfowl sanctuary. On January 29, 2001, the Gallatin County Planning Department completed a pre-application review of the Day Ranch Development proposal. The pre-application review identified County Plan goals and policies relevant to the proposed subdivision. On May 22, 2001, the Gallatin County Planning Board conducted a public hearing for consideration of the preliminary plat for the proposed Day Ranch Subdivision. The Planning Board considered all submitted information and written and public testimony in reaching their decision. The Board recommended that the park dedication requirements be waived by the County Commission, and determined that the proposed Day Ranch Subdivision substantially complied with the Gallatin County Master Plan, and met the requirements of the Montana Subdivision and Platting Act and the Gallatin County Subdivision Regulations. A motion to forward a recommendation approving the preliminary plat application with staff conditions to the County Commission was passed by the Planning Board (six members voting in favor, three members voting against). Mr. Johnson summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision along with the suggested conditions. He referred to and noted several exhibits on display (1 through 13, and exhibits attached to the staff report (Exhibits A through E). In reviewing this subdivision application, the County Commission needs to make the following determinations: 1. A determination as to whether or not the application substantially complies with the Gallatin County Plan; and 2. A determination as to whether or not the application meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act; and, 3. A determination if the park dedication requirements shall be waived as provided under Section 6.G.6.a of the Gallatin County Subdivision Regulations. The Commission shall waive the park dedication requirement if the preliminary plat provides for a planned unit development or other development with land permanently set aside for park and recreation uses sufficient to meet the needs of the persons who will ultimately reside in the development; and the area of the land and any improvements set aside for park and recreational purposes equals or exceeds the area of the dedication required. (see Staff Finding No. 9); and, 4. A determination as to whether or not the application complies with the provisions of the Gallatin County Subdivision Regulations. If the County Commission approves the subdivision and the requested waiver, the following conditions are suggested: 1. The final plat shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates. 2. Building envelopes shall be included within each single-family lot, in locations as delineated on the preliminary plat. 3. A minimum 35 foot wide watercourse setback, along both sides of Maryott Creek and Goose Creek, shall be delineated on the final plat. 4. A minimum 20-foot wide irrigation ditch maintenance easement, along both sides of all irrigation ditches and canals located within the property, shall be delineated on the final plat. 5. The Applicant shall file and record ditch easements in accordance with Section 76-3-504(10) MCA. 6. Written confirmation shall be obtained from the Cockrell Ditch, Noble Ditch, and Highline Canal Companies, stating that the proposed development and maintenance easements will not create adverse impacts on the operation and maintenance of the ditches/canals within the subdivision. 7. The Applicant shall obtain all necessary state and federal wetland permits (310 and 404) prior to final plat approval. Copies of the required permits shall be submitted to the Gallatin County Planning Department with the final plat application. 8. A Restrictive Deed, transferring title of all common open space parcels within the subdivision to the Day Ranch Homeowners' Association, shall be recorded in the Office of the Clerk and Recorder of Gallatin County simultaneously with the filing of the final plat for the subdivision. The Deed shall contain the



following restrictions: a. That all open space shall be perpetual in nature. b. That further construction of residential dwellings in the open space is prohibited. c. That the open space shall not be further divided or subdivided. d. One of the purposes of the Deed restrictions, among other things, is to enhance wildlife habitat and to integrate that habitat with agricultural production on the property. e. That any violation of the terms and conditions of the Deed restrictions shall be reported to the Board of Directors of the Homeowners' Association. f. The Deed may not be amended or revoked without the mutual consent of the Homeowners' Association and the governing body of Gallatin County. 9. The Applicant shall contact the Montana Historical Society Historical Preservation Office if any item of historic potential significance is discovered during site construction within the subdivision. 10. All road names for interior subdivision roads shall be approved by the Gallatin County GIS Department. 11. Road name signs shall be installed at all intersections. 12. STOP sign(s) shall be installed at all intersections with county maintained roads. 13. Interior subdivision road plans, road maintenance plans, drainage plans, lot access plans, and sign plans shall be submitted to the Gallatin County Road & Bridge Department prior to the construction of the interior subdivision roads. 14. Encroachment permit(s) shall be obtained from the Gallatin County GIS Department. 15. The final plat shall delineate a "no access" strip around the entire boundary of the development, except for utility easements and permitted approaches. 16. A "no access" strip on the west side of Lot 109 shall be delineated on the final plat, with lot access gained off Wounded Bunkie Trail for Lots 108 and 109. 17. The final plat shall delineate shared access locations for Lots 110 and 111, and Lots 112 and 113. 18. Within the Applicant's property, the following additional right-of-way along county maintained roads affected by the development shall be dedicated to the public: thirty (30) feet of Gateway Foothills Road west and north of the centerline to the edge of the property boundary; thirty (30) feet of Axtell-Anceney Road on each side of the centerline on the western edge of the property boundary; and, forty-five (45) feet of Cottontail Road on each side of the centerline within the property boundary. 19. *Cottontail Road from its intersection with Montana Club Trail to U.S. Highway 191 at Gallatin Gateway shall be paved to full county collector/arterial standards. Cottontail Road north from the intersection with Montana Club Trail to the north property boundary shall be paved to full county road standards.* 20. The portion of Axtell-Anceney Road from the intersection with Rattlesnake Road to the intersection with Cottontail Road, which is not currently improved to county gravel standards, shall be improved to county gravel standard as determined by the Gallatin County Road and Bridge Department. 21. Cottontail Road from the end of the new pavement by Lot 113 (north property boundary) to its intersection with Axtell-Anceney Road, and then continuing north and east along Axtell-Anceney Road to its intersection with U.S. Highway 191, shall be improved to full county standards as determined by the County Road Department. Full credit for any improvements on the above mentioned section of Axtell-Anceney Road and Cottontail Road would be given against impact fees collected from the Day Ranch. 22. *All interior subdivision roads and cul-de-sacs, excluding the "emergency access" connection roads, shall be built to county paved standards, and have a sixty (60) foot right-of-way, dedicated to the public.* 23. The Applicant shall pave that portion of Gateway Foothills Road in the SW ¼ of Section 18 to Gallatin County standards within a 60 foot public right-of-way easement. This section of road is part of the interior road system and as such must be paved to county standards. 24. The Applicant shall either: a) construct all interior and off-site roads as required prior to final plat approval or; b) enter into an improvements agreement with the County for the completion of all required road construction. The improvements agreement shall comply with all requirements of the Gallatin County Subdivision Regulations. 25. A pre-construction meeting shall be conducted with the Gallatin County Road and Bridge Department prior to the start of any road construction. 26. All road work shall be inspected and certified by a licensed engineer. Such inspection and certifications must be provided to the Gallatin County Road and Bridge Department in writing. Final approval will not be given until this documentation is received. 27. With respect to paving of county maintained roads, a two (2) year written warranty, from the contractor, is required. This warranty must be submitted to the Gallatin County Road and Bridge Department prior to final plat approval. 28. A written cost breakdown on all paving done on county roads shall be submitted for future payback reimbursements to the Gallatin County Road and Bridge Department prior to final plat approval. 29. The final plat shall contain a statement requiring lot access to be built to the standards of Section 7.G.2 of the Gallatin County Subdivision Regulations. 30. The Applicant shall construct a striped asphalt walking, jogging, bicycle path six (6) feet in width along Mill Street from U.S. Highway 191 to Cottontail Road. 31. The Applicant shall install signage designating the existence of the Gallatin Gateway School when traveling from east to west. 32. The Applicant shall install a signed and painted designated crosswalk twelve (12) feet in width at the entrance to Gallatin Gateway School. 33. The Applicant shall construct a two (2) inch thick asphalt parking area for the full width of the property occupied by the Gallatin Gateway Community Center. 34. The Applicant shall construct a two (2) inch thick asphalt roadway from the entrance of the Gallatin Gateway Fire Station to Mill Street. 35. Areas disturbed by construction shall be seeded and controlled for noxious weeds. 36. State Department of Environmental Quality approval shall be obtained for the subdivision. The Applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The Applicant shall obtain the Gallatin County Health Officer's approval. 37. The Applicant shall obtain written confirmation of water right use allocations/appropriations within the subdivision from the Department of Natural Resources and Conservation. 38. The Applicant shall provide the Local Water Quality District

(LWQD) all monitoring information required by the Montana Department of Environmental Quality regarding groundwater. 39. The Applicant shall consult with the US Postal Service with regard to mail service, and the type and location of mail receptacles. If a central located bank of mail receptacles is to be used, the location and access shall be shown on the final plat. 40. All utility easements are to be shown on the final plat. Utility easements shall be centered along side and rear lot lines wherever possible, and shall be twenty (20) feet wide. Underground utilities, if placed in the road right-of-way, shall be located between the roadway and the right-of-way line. Such underground facilities shall be installed or utility culverts provided before the road is surfaced. In addition, the following statement must appear on the final plat: *"The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as 'Utility Easement' to have and to hold forever"*. 41. National Fire Protection Association standard fire hydrants shall be installed within the subdivision at locations as determined by the Gallatin Gateway Rural Fire District Officials. Plans for the fire hydrants shall be submitted to the Gallatin Canyon Rural Fire District for review prior to installation. The Gallatin Canyon Rural Fire District shall approve the final installation and operation of the fill site. 42. Gallatin Gateway Rural Fire District Officials shall provide written final approval of all required fire protection measures for the subdivision prior to final plat approval. 43. The Applicant shall provide a grant in the form of cash in the amount of Fifty Thousand dollars (\$50,000.00) to the Gallatin Gateway Fire District to be used solely toward the purchase of a new fire truck. 44. The Applicant shall provide funding for the mailing effort of the Fire District relative to a bond issue they intend to put forth for the purchase of a new fire truck. 45. The Applicant shall enter into an agreement with the Fire District to allow the use of the ponds and pressurized water system within the subdivision for firefighting on all adjacent properties. 46. The Applicant shall contribute Fifty Thousand dollars (\$50,000.00) to the Gallatin Gateway School District for the expansion of the Gallatin Gateway School. 47. The Applicant shall establish an Endowment Fund to be funded by each lot purchaser in the amount of One Thousand Dollars (\$1,000.00) per lot, payable at the closing of the lot purchased. The Endowment Fund will be administered by the trustees of the Gallatin Gateway School District for the sole purpose of providing scholarships to worthy students of the Gallatin Gateway School District at institutions of higher learning or technical schools from the interest derived from the fund. 48. The Applicant shall record on the final plat a Waiver of Right to protest inclusion of the Day Ranch Subdivision in a special public safety study or law enforcement district. 49. The Agricultural-Wildlife Plan shall be submitted to the Montana Department of Fish, Wildlife & Parks for their review and approval prior to final plat approval. 50. The Applicant shall record on the final plat a waiver of right to protest creation of rural improvement districts and local improvement districts. 51. The Applicant shall make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. 52. The Applicant shall make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. 53. A Homeowners' Association for the subdivision shall be created. 54. Covenants for the subdivision shall include the following provisions: a. Membership in the private golf club shall be limited to 350 regular members. b. All structures shall be constructed in compliance with the current Uniform Building Codes. c. All permanent structures on all lots within the subdivision shall be constructed within the designated building envelope. Balance of the lot shall remain in its natural state and act as a buffer between the permanent structures on the lots and the common open space. d. No permanent structure shall be constructed on slopes in excess of 25% e. No permanent structure shall be erected on any prominent ridgeline which creates a silhouette with the sky unless the silhouette can be mitigated through the use of berming and planting large coniferous trees, that is to say trees in excess of 16 feet on a staggered spacing that substantially diminishes the view of the permanent structure. f. No permanent structure shall be constructed within the viewshed from U.S. Highway 191 in excess of 26 feet in height from the average finished grade around the structure. g. All permanent structures within the subdivision shall be landscaped in accordance with the Design Standards. h. All landscaping shall be maintained, sufficiently watered, and replaced as necessary. i. All exterior lights shall be low-pressure sodium lights. j. Glare from exterior lights shall be minimized through the use of design characteristics. k. The control of noxious weeds by the Homeowners' Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (7-22-2101 through 7-22-2153 MCA) and the rules and regulations of the Gallatin County Weed Control District. The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. In the event a landowner does not control the noxious weeds, after 10 days notice from the Homeowners' Association, the Association may cause the noxious weed to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment. l. The Homeowners' Association shall be responsible for the operation and maintenance of all interior subdivision roads, open space and all other common amenities within the subdivision. m. The Property Owners' Association shall be responsible for the operation and maintenance of the waterfowl sanctuary. n. Title to the common open space within the subdivision shall vest in the homeowners' association and be maintained

and controlled by the Board of Directors of the Association. o. Common open space shall be preserved and maintained for passive and active recreation, wildlife habitat, protection of scenic, unique or important natural features, and agricultural pursuits in accordance with the Agricultural-Wildlife Management Plan. p. Membership in the homeowners' association shall be mandatory for each lot owner. Each lot owner shall be required to pay such fees as the Board of Directors of the Association deem appropriate for real estate taxes, insurance, and the maintenance of the common open space. q. The homeowners' association shall be responsible for liability insurance in an amount to be determined by the Board of Directors of the Association, which insurance shall name Gallatin County as a loss payee. r. A portion of the assessments levied by the Board of Directors of the homeowners' association shall become a lien on the lots within the subdivision in the event the taxes on the open space become delinquent. The board of Directors shall adjust the assessments as the taxes on the common open space increase. s. Ownership shall be structured in such a manner that real property taxing authorities may satisfy tax claims against the common open space lands by proceeding against individual owners in the Association and the dwelling units they own. t. Property owners of the subdivision are informed that nearby uses may be agricultural. Property owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. u. The maintenance of all exterior boundary fences shall be shared equally with adjacent property owners. v. All structures shall be constructed in compliance with NFPA codes. w. All dwellings and the clubhouse shall be constructed with an automatic fire sprinkler system meeting the requirements of the NFPA 13D/Uniform Fire Code. The Fire District shall receive a stamped set of engineered sprinkler system plans for review and approval prior to construction. Inspections shall be scheduled, with 48 hours notice, during construction and after completion. x. Class A or B fire rated roofing materials or other materials approved by the Gallatin Gateway Fire District shall be used. y. Spark arrestor screens shall be placed on all fireplace and woodstove chimneys. z. Smoke detectors shall be installed on each level of dwelling units. aa. The vegetative reduction and clearance guidelines of the *Fire Protection Guidelines for Wildfire Residential Interface Development* shall be used. bb. The artificial feeding of all big game wildlife shall be prohibited. cc. All garbage shall be stored in animal-proof containers or be made unavailable to animals. dd. Owners acknowledge that wildlife damage to landscaping will occur. Owners shall accept that risk and shall not file claims against the Owners Association or any other governing body for such damages. ee. No permanent on-site fencing shall be allowed except for livestock containment and on the perimeter of the building envelopes to ensure the free and unhampered movement of wildlife through the area. ff. Pets shall be controlled by each homeowner, and not allowed to roam within the subdivision. gg. The planting of wildlife attracting vegetation shall be prohibited. hh. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 55. A fully executed and notarized copy of the Restrictive Deed for the common open space and the Protective Covenants for the Day Ranch Subdivision shall be recorded among the records in the Office of the Clerk and Recorder of Gallatin County simultaneously with the filing of the Final Plat. 56. Two copies of the following documents shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. a. Articles of Organization or Incorporation for the property owners' association approved by the Secretary of State of the State of Montana. b. Bylaws controlling the operation of the Homeowners' Association. c. Restrictive and Protective Covenants encumbering the real property contained within the subdivision. d. Restrictive Deed transferring title of all common open space parcels within the subdivision to the Day Ranch Homeowners' Association. e. Public road easements. f. Improvements agreements. g. Certificate of a Licensed Title Abstractor. The Gallatin County Attorney's Office shall review and approve the above documents prior to final plat approval. 57. The developer shall have three (3) years to complete all conditions, and apply for final plat approval for the subdivision. Joseph W. Sabol, Attorney at Law on behalf of Winchester Development Company, L.L.C., introduced the applicants Craig Bryant and John Shaw. He entered into the record 13 exhibits on display. He stated the applicant and several of the consultants have reviewed the staff report and find it to be acceptable, along with the conditions contained of both the staff and the applicant to be appropriate and acceptable. Mr. Sabol gave an overview of the projects thorough review process, pointing out additional information provided by the applicant that is not required by the subdivision regulations. Mr. Sabol suggested the Commission hold any questions for the consultants until after the public testimony. This was contrary to the normal process and the Commission requested that the applicant summarize their presentation. Mr. Sabol was in agreement to present an abbreviated overview of the proposal. Geologist Michael Kaczmarek, Morrison-Maierle gave an overview of the ground water application. Mr. Kaczmarek referred to Exhibit "6", pointing out the test well for the purpose of determining the effect the pumping would have on the surface flow and the down stream water rights on Fish Creek. He stated the proposed pumping would be substantially less than the test rates and in his professional judgment there would not be a negligible effect on downstream users. Since the Commission asked that the presentations be brief, Commissioner Vincent asked each representative if there were any additional comments they felt they needed to make in order to assure that they presented, by their prospective the

information the Commission needs to evaluate the applicant's proposal. Mr. Kaczmarek's answer was affirmative, although he commented on a letter submitted by three of the downstream water users that contained inaccurate information. Commissioner Vincent suggested he could respond to the letter in writing, which would be included in the testimony. Senior biologist Lynn Bacon, Wetland West, Inc., reported on the wetlands delineation of the Day Ranch Property. She stated she did not have any concerns with mitigating wetland losses. Commissioner Vincent asked if there were any additional comments needed in order to assure that she presented, by her prospective the information the Commission needs to evaluate the applicants proposal. Ms. Bacon commented on the wetlands being created and stated there may not be any wetland impacts. Certified Wildlife biologist Bob Eng, addressed the agricultural and wildlife relationships with the proposed area and stated there was potential for greater diversity than what is currently present. Commissioner Vincent asked if there were any additional comments needed in order to assure that he presented, by his prospective the information the Commission needs to evaluate the applicant's proposal. Mr. Eng stated no. Day Ranch Manager Ken Visser spoke of the ranch history stating the proposed project will maintain a cattle herd, and through deed restriction a western way of life. He noted with the help of Wildlife Biologist Kurt Alt and MSU Extension Officer Ron Carlstrom they outlined a plan to continue agricultural uses while enhancing wildlife habitat. He pointed out the area surrounding the proposed project on Exhibit "2". Commissioner Vincent asked if there were any additional comments needed in order to assure that he presented, by his prospective the information the Commission needs to evaluate the applicants proposal. Mr. Visser stated no, and asked if there was anything further he could answer for the Commission. Bayliss Ward, Bayliss Architects P.C., addressed visual impacts, referring to Exhibits "8" through "12". He told of plans to mitigate with trees and berms in order to blend with the natural environment. Commissioner Vincent asked if there were any additional comments needed in order to assure that he presented, by his prospective the information the Commission needs to evaluate the applicant's proposal. Mr. Ward stated none. Engineer James Nicholson, Morrison-Maierle commented on the sewage disposal and water system. He noted that the sewage system, water and traffic impacts for this project have been evaluated based on full time occupancy. He referred to 5 locations on Exhibit "5", where treatment and disposal will take place. In summary, he found the sewage disposal site posed no limitations, as the development is proposed. Commissioner Vincent asked if there were any additional comments needed in order to assure that he presented, by his prospective the information the Commission needs to evaluate the applicant's proposal. Mr. Nicholson stated the application spoke for itself. He gave a brief account of the water supply, pointing out the wells on Exhibit "6", located on the 320 and the upper booster station on Exhibit "5". The project will provide full fire protection, and as required by DNRC and DEQ all water will be metered. The water use for the project is minimized in two ways: limited amount of irrigated landscape area to 6000 sq. ft; and the golf course irrigation system will be monitored by and controlled by soil moisture sensors. In closing he stated the investigation of this site showed that the development as proposed is not restricted in any way by the proposed water supply system. Commissioner Vincent asked if there were any additional comments needed in order to assure that he presented, by his prospective the information the Commission needs to evaluate the applicant's proposal. Mr. Nicholson referred him to the application. Engineer Phil Forbes, Morrison-Maierle prepared a traffic impact study that addresses peaks periods. He based his study on both a recreational home subdivision with a golf course and calculations based on county regulations using traffic generation figures from a more conventional subdivision. He noted a primary concern identified was left hand turning movement at the location of Mill Street and US 191. The most common solution is to install a traffic signal, and at this time a signal is neither warranted nor justified, of which both would have to be met before a signal could be installed on a facility under the jurisdiction of the MDOT. With or without this development the delays at that intersection will increase over time as general traffic levels increase. Another concern that was discussed at the Planning Board meeting was the school crossing at Mill Street and speed. The applicant agreed to sign and mark the crosswalk in accordance with the manual on uniform traffic control devices. The speed could be controlled through enforcement or an adult crossing guard. In conclusion, Mr. Forbes stated there will be no operational problems as a result of this development. Commissioner Vincent asked if there were any additional comments needed in order to assure that he presented, by his prospective the information the Commission needs to evaluate the applicant's proposal. Mr. Forbes stated the traffic impact study, the record of the Planning Board meeting, and today's presentation should answer any questions. The Commission recessed for lunch and Commissioner Mitchell announced the Commission would continue to accept written correspondence, phone calls and possibly additional verbal testimony on June 19, 2001, depending on today's hearing. Archeologist consultant Steve Aaberg reported on the findings of his historic and archaeological investigation. He told of recording 15 new cultural sites, and pointed out on Exhibit "5", areas not yet inspected for cultural resources. Commissioner Vincent asked if there were any additional comments needed in order to assure that he presented, by his prospective the information the Commission needs to evaluate the applicant's proposal. Mr. Aaberg stated none. Engineer Greg Stratton, Morrison-Maierle discussed community services and emergency services as they relate to the project. He noted the applicant is mitigating the response concerns of the Sheriff by providing a waiver of right to protest to the inclusion of a law enforcement district, on site security services to coordinate with the Sheriff department to insure a secure environment, and facilities for emergencies. The applicant provided covenants and conditions to meet

the requirements of the fire district, along with providing extensive assistance to the fire district to upgrade their facilities, and allowing the use of the ponds and pressurized water system. Commissioner Vincent asked if there were any additional comments needed in order to assure that he presented, by his prospective the information the Commission needs to evaluate the applicant's proposal. Mr. Stratton stated with the information presented in the application, the testimony before the Planning Board and the Commission they have provided everything at this time, and would like to address any question during rebuttal. Landscape architect Mike Potter commented on his work as a consultant with the team members to mold and shape the master plan for the Day Ranch. He felt that they created a good viable plan, and the approach is similar to a planned unit development design approach where there are variables to come up with the best plan. He pointed out the land use pattern in the Gateway area on Exhibit "2". Commissioner Vincent asked if there were any additional comments needed in order to assure that he presented, by his prospective the information the Commission needs to evaluate the applicant's proposal. Mr. Potter agreed with the other team members, and requested to answer any further questions in rebuttal. Applicant Craig Bryant told of his history in the Gallatin Valley, and his current involvement in developing high-end private golf courses. He commented on the limited impacts this project would have on the school and traffic, and the significant tax benefits it would provide. Mr. Bryant stated he agreed to the conditions of approval, of which he believed were good for Gallatin Gateway and the County. Commissioner Mitchell asked Mr. Bryant if he could explain why Gallatin County needs a high-end private golf course closed to the public and high-end homes, other than the tax benefits and the services provided to the community of Gallatin Gateway. He replied that he did not know if it needs it, but compared it to a small clean industry that would provide permanent jobs with health benefits and competitive salaries, and a benefit to the construction industry. Mr. Sabol briefly commented on the Master Plan, known as the Growth Policy Plan in relation to the compliance of this proposed project. He stated this project exceeds the goals in the 1993 Master Plan and revisited in 1998 update, and should be a model for all future proposed subdivisions in un-zone areas of the County. He also, addressed the question that this plan violates the leapfrog provision of the Growth Policy. He referred to Exhibit "2", pointing out the 97 separate tracts west of Gallatin Gateway, of which the County has no control over. He stated the proposed project is probably better defined as residential in-fill. In his opinion the leap frog matter is a non- issue, and there was no question that this project substantially complied with the Growth Policy. Based on the presentation that the applicant's representatives gave, Mr. Sabol respectively requested the Commission give consideration on June 19, 2001, approving this application based on the conditions set forth in the staff report. Public comment in support of the proposed project were as follows: RJ Cain; Wade Peck; Ellen Saputo; Dave Barmore; Carole Sisson (also, speaking for her husband Gary Sisson); Bonnie Lynn; Larry Wyatt; Joan Monforton; Linda George; Lynnelle Oseroff; Phil Olsen; Don Vaniman; Dallas Thomas (also, speaking for his wife Karen Thomas, submitted testimony in writing Exhibit, "C"); Dean Douglas; Ron Jarrett; Merle Adams; Richard Smith; Linda Vrooman; Hayden Ferguson (also, speaking for Dr. Lloyd Milkey); Glenna deRham; John Randall; Bruce Wilson; Jim Anderson; Bill Keshishian; Tom Sabo (representing the group COG, and speaking for Suzy Day); Alice Jones; George Rabel; Dane Gamble; Lee Hart; Lee deRham; Brad Stratton; and Ed Goodfriend. John deMaine (also, speaking for his wife Karen deMaine), of Victor, Montana both members of the Stockfarm Club, a similar project of the applicant's spoke of the benefits of this project. Public comment in opposition of the proposed project were as follows: Paulette Neshiem (submitted testimony in writing, Exhibit "A"); Mick Seeburg (also, speaking for wife Kathryn Seeburg); Francis Vargo; Patti Steinmuller (also, speaking for her husband David Steinmuller, submitted testimony in writing, Exhibit "D"); Mark Haggerty. Paulette Neshiem submitted written testimony in opposition (Exhibit "B") for Ron Davis. Scott Harvey spoke taking no stance, but questioned the future of the Gallatin Gateway community and suggested a comparative analysis be done by an independent firm as to other subdivisions close to a rural community. Public signed up to speak but unavailable: Leah Olson; Don Chery; Richard Allison; John Alberda; Mary Sadowski; and Richard Shanahan. A letter was submitted by Pamm Davis in opposition. Commissioner Mitchell continued the public hearing until the June 19, 2001.

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There were no pending resolutions. There being no further business the meeting was adjourned at 5:47 P.M

*Unavailable*

For signature  
 CHAIRMAN APPROVAL  
**PUBLIC MEETING**

*Shelley Vance*  
 CLERK ATTEST

**TUESDAY THE 12th DAY OF JUNE 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:04 A.M. Also present were County Commissioner Bill Murdock, and Acting Clerk to the Board Mary Miller. Commissioner Vincent was on vacation.

## 270 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

### JUNE 4, 2001

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell, Murdock, and Vincent, and Commission secretaries Stacy Johnston and Glenda Noyes. Grants Administrator Larry Watson presented a request for grant sponsorship for the Guardian Ad Litem program. The program applied for and received an award of \$2,800.00 from the United Way of Gallatin County for FY 2001. As the 501C3 status required to receive their award has not yet been obtained, the County Commission needs to serve as a "pass through agent" for these funds. Commissioner Murdock made a motion to allow Gallatin County to act as a pass through agent for a grant to the Guardian Ad Litem program from United Way. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commission considered an expenditure transfer request submitted from Environmental Health in the amount of \$34.00. Commissioner Murdock made a motion to approve the expenditure transfer request as submitted by Environmental Health. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

Ms. Johnston presented a request for approval of a resolution adopting the authorized purchasers list for MT Property and Supply Bureau. This allows various county departments to purchase from State surplus. Commissioner Murdock made a motion to approve the authorized purchasers list for MT Property and Supply Bureau. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

Commissioner Murdock made a motion to appoint Road and Bridge Superintendent Lee Provance to the Belgrade Transportation Coordinating Committee. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

### JUNE 5, 2001

The Commissioners conducted regular County business.

### JUNE 6, 2001

- The Commissioners attended a special meeting for the purpose of approving a resolution setting the form of bonds by statute and regulations for RID #378. In attendance were Commissioners Mitchell, Murdock, and Vincent, and Commission Secretary Glenda Noyes. Commissioner Murdock made a motion to pass RID Resolution 01-378E, a Resolution relating to \$1,188,000.00 Rural Special Improvement District #378 bonds; fixing the form and details and providing for the execution and delivery thereof and security therefore. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.
- The Commissioners attended a special meeting for the purpose of approving Gallatin County as the lead agency for Gallatin County's Enforcing Underage Drinking Laws Discretionary grant, and approve receipt of the grant from the Montana Board of Crime Control. In attendance were Commissioners Mitchell, Murdock, and Vincent, Grants Accounting Clerk Jennifer Blossom and Commission Secretary Glenda Noyes. This grant will provide a School Resource Officer to assist with underage drinking prevention. The grant will pay the salary of the officer for two years, provide the officer with a patrol car, uniform, office space, and the county administration fee. This grant has been offered to only Gallatin and Ravalli Counties. No match is required, and after two years if the program has proven productive and beneficial, the County can reapply for the grant. Commissioner Vincent made a motion to accept the grant in the amount of \$241,720.00, and serve as the lead agency for the grant. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

### JUNE 7, 2001

- The Commissioners attended a special meeting for the purpose of approving hand issued claims. In attendance were Commissioners Murdock and Vincent, Auditor Joyce Schmidt and Commission Secretary Glenda Noyes. The claim is for check #8001367, in the amount of \$8,616.30 and is for postage for a mail ballot election. Commissioner Murdock made a motion to approve claim #8001367 totaling \$8,616.30. Commissioner Vincent seconded the motion. All vote aye. Motion carried with a vote of two to zero.

### JUNE 8, 2001

- The Commissioners conducted regular County business.

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- Payroll for May 2001: \$1,036,216.02.
- Clerk & Recorder's Fees Collected for May 2001: \$66,506.80.
- New Hire Report for May 2001: 911 – Angela Bauman; CLERK OF COURT – Korrin Brown; DISTRICT COURT – Joshua Zugish; FAIR – Anna Volkorsz, Lorna Simard; REST HOME – Mickey Wallace; ROAD & BRIDGE – Dwayne Shearman; SHERIFF – Valerie Vaught; WEED – Dylan Zauher, Chris Boe, Paul Graslie, David Rickett, Kyle Wasson, Sasha Brady, Sarita Cantu.

Terminated Employees' Report for May 2001: 911 – Jesse Moore 05/14/01, Sarah Miller 05/15/01; DISTRICT COURT – Jed Fitch 04/30/01, Joshua Zugish 05/22/01; FAIR – Anna Volkorsz 05/15/01, Lorna Simard 05/17/01; MOTOR VEHICLE – Carolyn Wilmont 05/18/01; REST HOME – George Greenwood 04/24/01, Amanda Bryant 04/27/01, Thomas Brown 04/28/01, Daniel Perry 05/02/01, Erin Arnst 05/03/01, Amanda Miller 05/04/01, Mickey Wallace 05/11/01, Jody Stucky 05/14/01; SHERIFF – Phillip Hettinger 04/13/01, Laura Heisel 05/12/01, Gerald Adams 05/19/01; TREASURER – Gretchen Moore 05/18/01; WEED – Ryan Limb 05/15/01.

**The following items were on the consent agenda:**

1. Minutes for January 6, 13, 20 and 27; February 3, 17 and 24; March 3, 10, 17, 24 and 31; and April 7, 14 and 21, 1998.
2. Claims were presented for approval by the auditor, dated June 7, 2001 in the amount of \$173,684.00.
3. Consideration of Contract(s): Transportation Agreement with Montana Department of Corrections; and Reimbursement Agreement with USDOT for In-Car Video for GC Sheriff's Office.
4. Request for Agricultural Exemption for Pat Kinney located in the NE ¼ and NW ¼ Section 21, T13S, R4E. Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Correction Plat for Minor Subdivision No. 180 for Peter J. Rieke and Sally Rieke Maison, Arthur E. and Mary K. Barbiche, and David P. and Esther Anna Garber located in the SE ¼ Section 29 and the NE ¼ Section 32, T2S, R6E (John May Lane). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Murdock read the consent agenda. There was no public comment. Commissioner Murdock moved to approve the consent agenda. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Executive Director Roger Curtis of Alcohol and Drug Services announced the proclamation declaring June 23-24, 2001 as Bozeman Montana All American Soap Box Derby Weekend. Communities that Care Coordinator Carol Faree provided hats and T-shirts for the Commissioners, and explained the events planned for the weekend. Thane Richard, a derby entrant read the proclamation. Commissioner Murdock moved to proclaim June 23-24, 2001, Bozeman Montana All American Soap Box Derby Weekend in Gallatin County, as read by Mr. Richard. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Assistant Superintendent of Schools Jerry Vanderpan reported on receipt of a petition to rearrange the Belgrade School District. Mr. Vanderpan stated this petition provides the ability to file title one applications for targeting, allows to them to separate out free and reduced lunch counts for grants and apply for e-rate funds. Commissioner Murdock moved to approve Resolution #2001-57. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on receipt of petition requesting annexation into the Sourdough Rural Fire District located in the NE ¼ Section 32, T2S, R6E, P.M.M., Gallatin County, Montana. The petition was received on May 23, 2001. Ms. Vance examined the petition and it does contain the signatures of 50% or more of the area of privately owned lands; who constitute a majority of the taxpayers who are freeholders; and whose names appeared on the last completed assessment roll. The Sourdough Rural Fire District Board of Trustees has accepted this property for annexation. Ms. Vance suggested holding the public hearing on July 10, 2001, should the Commission chose to accept the petition. Commissioner Murdock moved to accept the petition requesting

**272 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46**

annexation into the Sourdough Rural Fire District, and hold a public hearing on July 10, 2001. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported on consideration of a resolution of intent to increase the Gallatin County FY 2001 budget to include unanticipated grant revenues for the CTEP-Fort Ellis program activities, Fund #4310-000-33-10-54. Commissioner Murdock moved to approve Resolution of Intention #2001-58. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported on the consideration of a resolution of intent to increase the Gallatin County FY 2001 public safety budget to include unanticipated grant revenues for the Juvenile Accountability Incentive Block Grant program activities, Fund #2309-000-33-11-85. Commissioner Murdock moved to approve Resolution of Intention #2001-59. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported on the consideration of a resolution of intent to increase the Gallatin County FY 2001 budget to include unanticipated grant revenues for the Three Forks Airport program activities, Fund #2170-000-33-20-25. Commissioner Murdock moved to approve Resolution of Intention #2001-60. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported on the consideration of a resolution of intent to increase the Gallatin County FY 2001 public safety budget to include unanticipated grant revenues for the FEMA project impact program activities, Fund #2309-000-33-11-12. Commissioner Murdock moved to approve Resolution of Intention #2001-61. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported on the consideration of a resolution of intent to increase the Gallatin County FY 2001 budget to include unanticipated grant revenues for the DNRC West Yellowstone Hebgen Basin Solid Waste District program activities, Fund #2865-000-33-41-25. Commissioner Murdock moved to approve Resolution of Intention #2001-62. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported on the consideration of a resolution of intent to increase the Gallatin County FY 2001 public safety budget to include unanticipated grant revenues for the Bullet Proof Vest Partnership activities, Fund #2309-000-33-11-87. Commissioner Murdock moved to approve Resolution of Intention #2001-63. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported on the consideration of a resolution of intent to increase the Gallatin County FY 2001 District Court budget to include unanticipated grant revenues for the Guardian Ad Litem program activities, Fund #2180-000-33-40-15. Commissioner Murdock moved to approve Resolution of Intention #2001-64. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Commissioner Mitchell announced the consideration of a resolution of intent to increase the Gallatin County FY 2001 911 budget to include unanticipated grant revenues for the City-County 911 program activities, Fund #6100-000-33-10-2211, would not be considered at this time.



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Belgrade City-County Planner Jason Karp reported on consideration of a request for preliminary plat approval for the Cameron Bridge Estates Minor Subdivision No. 1 and Cameron Bridge Estates Minor Subdivision No. 2, located west of Belgrade at the northeast corner of Linney Road and Cameron Bridge Road. Subdivision No. 1 property is described as Tract 1 of COS 2219 in the S ½, SW ¼ of Section 16, T1S, R4E, P.M.M., Gallatin County, Montana. Subdivision No. 2 property is described as Tract 2 of COS 2219 in the N ½, SW ¼ of Section 16, T1S, R4E, P.M.M., Gallatin County, Montana. Mr. Karp explained these were two separate minor subdivisions, which the owners planned to connect. Gaston Engineering on behalf of Thomas E. Rapp (No. 1) has requested preliminary plat approval of a five lot minor subdivision on 72 acres and Peter Krauser (No. 2) has requested preliminary plat approval of a five lot minor subdivision on 57 acres. The Belgrade City-County Planning Board reviewed these preliminary plats and voted at their May 23, 2001, public meeting to recommend preliminary plat approval subject to the conditions. Mr. Karp noted the concerns raised at the Planning Board meeting were the effects on traffic and speed once Linney Road is paved and that the Road Department would like to have a look at the speeds after build out. The staff reports contained criteria for the Commission to evaluate for considering the subdivisions along with the suggested conditions. On Cameron Bridge Estates Minor Subdivision No. 1 the County Commission needs to make the following determination: a determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Board finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat. 5. The developer shall record covenants on the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and tenants of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c. All fences bordering agricultural lands shall be maintained by the Homeowners in accordance with State Law. d. All structures must meet the fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief. e. Site plans of all lots must be submitted for review and approval by the Belgrade Rural Fire District. f. A Homeowners Association shall be established and be required to maintain Rocking Horse Drive. g. No lot owner may remove water or cause to be removed water from irrigation ditches without deeded water rights, and before any maintenance or improvements are performed on any of the ditches, the owner of the waterway must give written permission for the work to be done. h. Further subdivision of the lots is prohibited with the exception of Lot 5 which is permitted to be divided once. i. Lots are for residential purposes only. j. The homeowners association shall participate in the maintenance of the fill site in accordance with Belgrade Fire District Standards. k. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 6. Two copies of the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval. 7. Applicant shall make payment of road impact fees and fire impact fees in accordance with the Gallatin County Subdivision Regulations. 8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval. 9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department. 10. The road names must be approved by the Gallatin County GIS Department. Rocking Horse Drive shall be a 60-foot right-of-way, dedicated to the public, and be paved to County

Standards with a temporary cul-de-sac at its north end unless the road is constructed as designed in the adjacent minor subdivision to the north. 11. A detailed signage and drainage plan shall be submitted to the Gallatin County Road Department. Road name signs and Stop signs shall be installed as required by the County Road Superintendent or a bond must be posted with the Gallatin County Road Office to cover the cost of the signs and the developer shall submit a speed limit study after the road is paved. 12. All required road construction shall be inspected and certified by a licensed engineer. Inspection and certification shall be provided to the County Road Department in writing, and the paving contractor shall submit a two-year written warranty to the County Road Office prior to final plat approval. 13. Encroachment permit must be obtained from the County GIS office for the Rocking Horse Drive intersection with Linney Road. Each individual lot access must be at least 75 feet from the nearest intersecting County road. 14. Linney Road is required to be paved to Gallatin County Standards from Cameron Bridge Road to Amsterdam Road. A copy of the final costs of paving the road shall be submitted to the Road Department. 15. Forty-five feet of Cameron Bridge Road north of the centerline and Linney Road east of the centerline shall be dedicated to the public on the final plat. 16. The final plat shall show a no access strip prohibiting vehicles direct access to Cameron Bridge Road or Linney Road. 17. A fill-site shall be installed in accordance with Belgrade Fire Department specifications. The location and Fire Department access to the fill site must be approved by the Fire Department. A final cost of the fill site shall be submitted to the Belgrade City-County Planning Office. 18. The final plat shall contain a statement that includes the following language: Lots abutting irrigation ditches may have water rights as described in deeds. No owner may remove water or cause to be removed water without deeded water rights. 19. The final plat(s) shall show a maintenance easement of a minimum of 15 feet on one side, and 5 feet on the other side of the irrigation ditches or as required by the ditch owner consistent with subdivision regulations, and before any maintenance or improvements are performed on any the ditches, the owner of the waterway must give written permission for the work to be done. 20. Intersections to Linney Road shall be placed so as not to conflict with driveways and residences on the west side of Linney Road as approved by the Gallatin County Road Office. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. Mr. Karp stated the Road Department recommended deleting the following words in condition 11: and the developer shall submit a speed limit study after the road is paved. Condition 11 would read as follows: A detailed signage and drainage plan shall be submitted to the Gallatin County Road Department. Road name signs and Stop signs shall be installed as required by the County Road Superintendent or a bond must be posted with the Gallatin County Road Office to cover the cost of the signs. On Cameron Bridge Estates Minor Subdivision No. 2 the County Commission needs to make the following determination: a determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Board finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat. 5. The developer shall record covenants on the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and tenants of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c. All fences bordering agricultural lands shall be maintained by the Homeowners in accordance with State Law. d. All structures must meet the fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief. e. Site plans of all lots must be submitted for review and approval by the Belgrade Rural Fire District. f. A Homeowners Association shall be established and be required to maintain Rocking Horse Drive and Waterfowl Way. g. Further subdivision of the lots is prohibited. h. Lots are for residential purposes only. i. The homeowners association shall participate in the maintenance of the fill site in accordance with Belgrade Fire District Standards. j. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without

the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 6. Two copies of the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval. 7. Applicant shall make payment of road impact fees and fire impact fees in accordance with the Gallatin County Subdivision Regulations. 8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval. 9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department. 10. The road names must be approved by the Gallatin County GIS Department. Rocking Horse Drive and Waterfowl Way shall be a 60 foot right-of-ways, dedicated to the public, and be paved to County Standards with a temporary cul-de-sac at the north end of Rocking Horse Drive. A temporary cul-de-sac must also be constructed at the south end of Rocking Horse Way unless the road is constructed as designed in the adjacent minor subdivision to the south. 11. A detailed signage and drainage plan shall be submitted to the Gallatin County Road Department. Road name signs and Stop signs shall be installed as required by the County Road Superintendent or a bond must be posted with the Gallatin County Road Office to cover the cost of the signs and the developer shall submit a speed limit study after the road is paved. 12. All required road construction shall be inspected and certified by a licensed engineer. Inspection and certification shall be provided to the County Road Department in writing, and the paving contractor shall submit a two year written warranty to the County Road Office prior to final plat approval. 13. Encroachment permit must be obtained from the County GIS office for the Rocking Horse Drive intersection with Linney Road. Each individual lot access must be at least 75 feet from the nearest intersecting County road. 14. Linney Road is required to be paved to Gallatin County Standards from the south boundary of the subdivision to Amsterdam Road. A copy of the final costs of paving the road shall be submitted to the Road Department. 15. Forty-five feet of Linney Road east of the centerline shall be dedicated to the public on the final plat. 16. The final plat shall show a no access strip prohibiting vehicles direct access to Linney Road. 17. A fill-site shall be installed in accordance with Belgrade Fire Department specifications. The location and Fire Department access to the fill site must be approved by the Fire Department. A final cost of the fill site shall be submitted to the Belgrade City-County Planning Office. 18. Intersections to Linney Road shall be placed so as not to conflict with driveways and residences on the west side of Linney Road as approved by the Gallatin County Road Office. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. Mr. Karp stated the Road Department recommended deleting the following words in condition 11: and the developer shall submit a speed limit study after the road is paved. Condition 11 would read as follows: A detailed signage and drainage plan shall be submitted to the Gallatin County Road Department. Road name signs and Stop signs shall be installed as required by the County Road Superintendent or a bond must be posted with the Gallatin County Road Office to cover the cost of the signs. Mr. Karp stated these projects conformed to the Belgrade Master Plan. Mr. Foreman stated the applicant's are in agreement with all the conditions of approval and concur with the recommendation that condition 11 be changed as suggested by Mr. Karp. Public comment with concerns on the proposed projects were as follows: Paula Posey; Rebecca Sheehan; and Lorraine Klompien. The following concerns and requests were discussed: if the existing water rights would be made available to the new land owners; a request that the location of the road be moved 100 to 150 feet further south in order to maintain a current driveway; reassurance that the right to farm is included in the covenants; and a recommendation to not take out the speed study on Linney Road. Mr. Foreman stated the water rights will be split between the two developments for each lot. He referred the question of shifting the road to the south to Gallatin County Road Engineer Roy Steiner. It was determined that condition 20 addressed the road issue and that it could be worked out with all parties. Mr. Steiner stated he would like to wait on the speed study at this point because it would not accurately reflect what it would be once the road is paved and the subdivision is built out. Commissioner Murdock was satisfied that Cameron Bridge Estates Minor Subdivision No. 1, met the criteria of the Subdivision Regulations, the Belgrade Area Master Plan and the conditions as written with the exception of condition 11, and the following words be deleted: and the developer shall submit a speed limit study after the road is paved. Commissioner Murdock moved to approve the subdivision with the conditions as amended, finding the public concerns could be met with water and the location of the Waterfowl Way encroachment. He stated they were in discussion with the Sheriff on attaching a patrol car to the Road Department for speed enforcement issues or increasing the capacity. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Murdock made the same findings and comments on Cameron Bridge Estates Minor Subdivision No. 2, and moved to approve the subdivision with the conditions as written and the amendment to condition 11. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Belgrade City-County Planner Jason Karp reported on consideration of a request for preliminary plat approval for the Leibrand Minor Subdivision, located west of Belgrade on the south side of Amsterdam

Road near the KGVW radio towers. The property is described as Tract 1 of COS 1779B situated in the NW ¼ of Section 10, T1S, R4E, P.M.M., Gallatin County, Montana. Kerin and Associates P. C. on behalf of Gary Leibrand has requested preliminary plat approval of a five lot minor subdivision on 12 acres. The Belgrade City-County Planning Board reviewed the preliminary plat for the Leibrand Minor Subdivision, and voted at their May 23, 2001 public meeting to unanimously recommend preliminary plat approval subject to the conditions. Mr. Karp made a correction on page 2, of the staff report under the section Effect on Agriculture, to read as follows: The site is used for agricultural purposes. A covenant is suggested that affirms neighboring landowner's right-to-farm. The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the suggested conditions. The County Commission needs to make the following determination: a determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the County Commission finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat. The lots are also required to join the Amsterdam Road RID Improvement District. 5. The developer shall record covenants on the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and residents of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c. All fences bordering agricultural lands shall be maintained by the Property owners in accordance with State Law. d. The Property Owners Association shall be responsible for the maintenance of Royal Road along the length of the subdivision. e. A Property Owners Association shall be established. f. Plans must be submitted to the State of Montana, Building Codes Division, and the Belgrade Rural Fire District for review and approval for all commercial structures. g. All structures must meet minimum fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief. h. All exterior lighting shall be directed downward so as not to effect neighboring residential properties. i. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 6. Two copies of the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval. 7. Road Impact fees and Fire Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact Fee Regulations. 8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval. 9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department. 10. The developer must obtain an encroachment permits from the Gallatin County GIS Department for the Royal Road intersection with Amsterdam Road. 11. Road names shall be approved by the Gallatin County GIS Department, and a detailed signage and drainage plan shall be submitted to the Gallatin County Road Office. Road name signs and STOP signs are required at all intersections as required by the Gallatin County Road Office shall be installed prior to final plat approval, or a bond covering the cost of the signs shall be deposited with the Road Office. 12. Royal Road shall be a sixty foot right-of-way, and shall be paved to Gallatin County standards with a temporary cul-de-sac or "T" type turnaround at its south end. 13. All roadwork will need to be inspected and certified by a licensed engineer. The inspection and certification must be provided to the County Road Office in writing prior to final plat approval along with a two year written warranty from the contractor. 14. The final plat(s) shall show a no access strip for vehicles along all lots adjacent to Amsterdam Road except at County approved road encroachments. 15. 20 additional feet of Amsterdam Road south of the centerline is shall be dedicated

to the public on the final plat for the entire length of the subdivision. 16. The road approach to Amsterdam Road for the adjacent veterinarian office, radio station, and Lot 1 must be combined into one common road access point in accordance with County encroachment permit standards. 17. An NFPA compliant fill-site or other Fire Department approved water supply is required. If the developer chooses the High K fill site to provide water for fire protection, the developer shall be required to pay a proportionate reimbursement of the total construction cost of the fill site to the Belgrade City-County Planning Office which will reimburse the entity responsible for maintaining the fill site. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. Mr. Karp stated the proposal was consistent with the Belgrade Area Master Plan. Discussion took place regarding the inclusion into the maintenance RID for Royal Road. The applicant's representative Rich Kerin, Kerin and Associates P. C. stated they found the conditions acceptable, and agreed with the Planning Board regarding the inclusion of the road into the maintenance district, as opposed to putting it on the onus of the homeowners association. Gallatin County Road Department Engineer Roy Steiner stated that including this in the Royal-Thorpe maintenance RID #367, or into the Amsterdam RID made sense. Discussion took place regarding the modification of condition 4, and accesses. Mr. Kerin pointed out that they did consolidate approaches on to Royal Road. Finding that this subdivision is located in an area where in-fill and development should be encouraged and that it is consistent with the Belgrade Area Master Plan, Commissioner Murdock moved to approve the subdivision with all the conditions as written, including the modification to condition 4 to read as follows: A waiver of right to protest creation of, or inclusion in, Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat. The lots are also required to join the Amsterdam Road RID Improvement District. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic reported on the public hearing for consideration of request to modify the preliminary plat and conditions of final plat approval for the Elk Grove Major Subdivision located in the S ½ and SE ¼ of Section 23; and the S ½ and SW ¼ of Section 24; and the N ½ and NW ¼ of Section 25; and the N ½ and NE ¼ of Section 26, T2S, R4E, P.M.M., Gallatin County, Montana. The property is generally located east of Highway 191, north of Blackwood Road, south of Violet Road, approximately one and a half miles south of Four Corners. Fluidyne, Inc., representing Concinnity Corp., has requested changes to the preliminary plat of the Elk Grove Planned Unit Development and changes to the conditions of preliminary plat approval pertaining to all phases of the subdivision. Notice of this public hearing was published on May 24, 2001, in the High Country Independent Press. In general the changes to the preliminary plat concern a revision to access along US Highway 191 and; a reconfiguration of lot lines, exterior boundaries and interior roads within the proposed Phase 4 (as shown on the revised preliminary plat). The proposed condition modifications concern the highway access and use of Violet Road, the timing of construction of Violet Road, and Blackwood Road traffic impact study. Ms. Madgic stated the applicants were proposing to change 4 original conditions that read as follows: 13. All interior roads (except as noted) shall be constructed to County paved standards with a minimum of 60-foot rights-of-way dedicated to the public. Roads within Block A shall be constructed to County paved standards and have 40-feet of right-of-way dedicated to the public. Road improvements shall correspond with applicants' phasing schedule as shown on the submitted preliminary plat and as explained in the submitted Environmental Assessment. 14. A 30-foot wide dedicated right-of-way shall be required on the north edge of the property line including Violet Road, running from US 191 in an eastward direction to a point located at the southeast property corner of Lot 530 (Rainbow Subdivision) and the property to the north (owned by Cok) (Phases 1 & 4). 27. Encroachment permits from the Montana Department of Transportation must be obtained for access onto US Highway 191. Primary entrance into the proposed subdivision shall be moved .15 miles to the south where there is already an existing entrance. 28. Approved plans for any improvements and/or construction completion of this condition shall be obtained from the Montana Department of Transportation. Ms. Madgic noted a correction on page 3 of the staff report on the second bullet under the County Road Department section to read as follows: Because Violet Road will have in excess of 400 ADT's per day, it is required that the following location along said road be paved to County standards: collector/arterial (28-foot-wide pavement). Ms. Madgic stated there was concern regarding conceptual approval from the MDOT in condition 27. She noted additional right-of-way is needed and they are in the process of obtaining that information, and since part of the right-of-way is County owned, the Commission will have to give a public statement at some point accepting that they are giving right-of-way to accommodate that approach. She referred to a letter dated June 7, 2001, from Jason Girard, MDOT stating they are in agreement with the conceptual plans thus far regarding that approach, but they want to make sure that right-of-way is secure prior to signing off on Phase 1. Representing the County Attorneys Holly Brown and Susan Swimley are working to make sure easements and right-of-way are secure and in place prior to final plat. The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the suggested revised conditions. The County

Commission has one determination to make with this application: A determination as to whether to approve the proposed changes to conditions, including accompanying changes to the preliminary plat. The Commission may change conditions where it is found that errors or changes beyond the control of the subdivider have rendered a condition unnecessary, impossible or illegal. If the Commission decides to approve the modifications, the following revised conditions of approval are suggested: 13. All interior roads (except as noted) shall be constructed to County paved standards with a minimum of 60-foot rights-of-way dedicated to the public. Roads within Block A shall be constructed to County paved standards and have 40-feet of right-of-way dedicated to the public. A temporary emergency access to Blackwood Road shall be constructed prior to final plat of Phase 1. Said access shall be eliminated within one year or after improvements to Violet Road are completed, whichever comes first. Road improvements shall correspond with applicant's phasing schedule as revised and as shown on the submitted preliminary plat. 14. Violet Road shall be constructed to 28-foot-wide County standards and paved from a location to be determined by the County Road Department to US Highway 191 (pavement not to extend further than Lot 506, Rainbow Subdivision). A 70-foot-wide dedicated right-of-way will be required on the north edge of the property line, running from US 191 in an eastward direction to a point located at the southeast property corner of Lot 530 (Rainbow Subdivision) and the property to the north (owned by Cok). 27. Applicant shall obtain approval of the conceptual plan from the Montana Department of Transportation for use of and the design of access from US Highway 191 into Elk Grove at Violet Road. Applicant shall obtain commitments from all necessary property owners for necessary right-of-way to accommodate the proposed highway approach and appropriate turn lane(s) at Violet Road and US Highway 191. Said commitments shall be reviewed and approved by an attorney representing Gallatin County. 28. For Phases 2, 3, and 4, applicant shall provide improvements to US Highway 191 pursuant to approved plans from MDOT, and in a manner satisfactory to MDOT. A letter satisfying completion of this condition shall be obtained from the Montana Department of Transportation. Ms. Madgic stated as a result of the applicant's proposed subdivision re-design and condition modifications, and as a result of existing circumstances, staff suggests the following additional conditions A through J included in the staff report and in addition K and L: A. Applicant shall assume responsibility for mitigation of dust on unpaved roads within the project, as well as primary access roads adjacent to the project (Blackwood and Violet roads) as appropriate per phase; and shall enter into an agreement with the County Road Department. B. In accordance with the Subdivision Regulations, applicant shall make provisions to remove any construction, including highway access, which contradicts conditions of approval. Applicant shall provide a letter of explanation regarding such removal (Phase 1.) C. Applicant shall provide a second means of access within each phase prior to the final plat of each development phase. The second access shall be constructed to County standards as deemed appropriate by the County Road Department. D. Applicant shall provide a two-year written warranty with respect to paving of County-maintained roads. Applicant shall submit warranty to the County Road Department prior to final plat approval. (Phase 1.) E. Applicant shall obtain encroachment permit(s) from the County GIS Department for any access points off County-maintained roads. F. Applicant shall pave Elk Grove Lane and Violet Road prior to final plat approval of Phase 2; or, in the event the applicant requests a change in the phasing sequence, whichever phase is filed after Phase 1. G. Applicant shall prepare and submit detailed traffic studies, prior to the final plat of each development phase, which identifies off-site traffic impacts the development will have on the following existing County roads: Violet Road, Upper Rainbow Road, Blackwood Road and US Highway 191. The study will be used to identify primary and secondary access roads, as well as traffic impacts on the above-named roads. H. Applicant shall cause to be removed any extraneous approaches off of Blackwood Road which are not being used for agricultural purposes prior to final plat of Phase 2. Applicant shall provide a letter of explanation regarding use of such approaches. (Phase 1.) I. Applicant shall submit all road plans, including those anticipated along US Hwy 191 for review by the County Road Department as appropriate per phase. J. Phases shall be completed sequentially as follows: Phase 1, Phase 2, Phase 3 and Phase 4. K. Applicant shall conduct a traffic impact analysis on Violet Road and shall participate in improvements to such road as deemed warranted by the County Road Department prior to final plat approval of each phase. L. Applicant shall provide berms and landscaping to help mitigate effects of headlights upon the Carl Francis' property directly north of Violet Road. The berms and landscaping shall be completed in conjunction with the construction of Violet Road improvements. Ms. Madgic stated the applicant was consulted on the changes. Mike Dockery representing Concinnity LLC confirmed that all of the conditions including the two new ones have been reviewed and agreed to by Concinnity. Mr. Dockery noted they are currently working on commitments in condition 27, with the County's representative Holly Brown and should have an agreement prior to final plat approval. Public comment with concerns regarding the modification of conditions: Franklin Culver (submitted testimony in writing); Shawn Sime; and Frank Silva. Public comment speaking in support of the Violet Road access: Carl Francis and Mike Monforton. Mr. Dockery replied to the concerns regarding the words conceptual approval used in condition 27, stating the actual final design, review and approval will take months. After prior meetings the understanding was that MDOT would indicate that they are approving the concept submitted with the right-of-way being acquired, and after final plat approval go forward in

conjunction with Phase 1, and install the improvements. The improvements will be completed before any homes are built in Phase 1. He responded to other concerns of the public such as the improvements to Blackwood and Violet Road, stating those agreements relating to additional improvements are already conditions, therefore, don't need to be added, and paving and improvements to the portion of Blackwood Road is part of the bonded improvements. Discussion took place regarding the wording of condition 27. Ms. Madgic stated that both she and MDOT felt comfortable with the condition, although she stated she did have a suggested change to the condition as follows: Applicant shall obtain approval of the conceptual plan from MDOT. Commissioner Murdock asked if the improvements agreement included that there would be no occupancy until the improvements were complete. Ms. Madgic referred the question to Ms. Brown. Ms. Brown replied after conferring with the applicant's representative Mr. Dockery that they were in agreement to stipulate that the occupancy condition could be contained in the improvements agreement. Condition M, would read as follows: The applicant shall include in the improvements agreement a provision that no structure located in Phase 1 shall be occupied prior to completion of all required improvements to both Blackwood Road and Violet Road, and the required improvements to Highway 191 will be completed prior to approval of the final plat for Phase 2. Commissioner Murdock asked Environmental Health Director Tim Roark to respond to a concern addressed by Mr. Sime regarding the applicant and engineer being one and the same. Mr. Roark stated this issue had not been addressed until now. He explained the process, and although this application would not apply he noted that the Board of Health just adopted new septic regulations that will be effective July 1, 2001, where the County will be permitting public systems, giving them the opportunity to look at the site. Ms. Madgic stated the subdivision regulations speak to bodies having a financial interest in a project, and Concinnity Corp. is separate from Fluidyne. Fluidyne has engineers and surveyors signing off on these projects separate from Concinnity and they have checks and balances for that situation. Representing the developer and the engineering company, Justin Buchanan stated that Dick Anderson Construction is constructing the systems, and they are insuring that the work meets the specifications as it was in their best interest to test the infrastructure. Mr. Buchanan suggested adding a condition that they obtain a County permit for the wastewater treatment as they would still be working on it after July 1, 2001. It was determined this was already included in the original findings of fact. Discussion took place regarding some of the road improvement conditions that the applicant is proposing to bond in the improvements agreement. Mr. Dockery confirmed they reviewed and accept condition M, as written and he also agreed to the change of wording in conditions 27. Ms. Madgic clarified condition M. Ms. Brown commented the reason for the Highway 191 ambiguity was because they don't know what is going to be required by MDOT. Finding that the applicant has agreed to the amended conditions, Commissioner Murdock moved to make the proposed changes to the preliminary plat, finding that there have been errors or changes beyond the control of the subdivider which rendered the original condition unnecessary, impossible or illegal, including all conditions prepared by staff: condition 13 and 14 as written; amend condition 27 as follows: Applicant shall obtain approval of the conceptual plan from the Montana Department of Transportation for use of Violet Road as access into the Elk Grove Planned Unit Development. Applicant shall obtain commitments from all necessary property owners for necessary right-of-way to accommodate the proposed highway approach at Violet Road and US Highway 191. Said commitments shall be reviewed and approved by an attorney representing Gallatin County; condition 28 as written; and conditions A through M. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 11:55 A.M.

*Unavailable  
for Signature*  
\_\_\_\_\_  
CHAIRMAN APPROVAL  
**PUBLIC MEETING**

*Shelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

**TUESDAY THE 19th DAY OF JUNE 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:10 A.M. Also present were County Commissioner Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**JUNE 11, 2001**

- At 9:40 a.m., Commission Chairman Jennifer Smith Mitchell called to order a regularly scheduled office meeting. In attendance were Commissioners Mitchell and Murdock, and Commission Secretary Stacy Johnston.

The following budget transfer requests were considered for approval: Detention Center in the amount of \$8,480.61; County Fire in the amount of \$2,455.78. Commissioner Murdock moved to

## 280 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

approve; Commissioner Mitchell seconded the motion. All voting aye, motion carried 2-0.

Invoice #9917-19 from Taylor Architects for \$174.60 was presented for payment for services rendered to Phase II of the Courthouse Renovation. Commissioner Murdock moved to approve Invoice #9917-19, contingent upon verification of funds from Fiscal Officer Ed Blackman. Commissioner Mitchell seconded the motion. All voting aye; motion carried 2-0.

Invoice #0101-2 from Taylor Architects in the amount of \$5,392.50 was presented for payment for services relating to Phases III & IV of the Courthouse Renovation. This includes previously balance of \$3,595 from Invoice #0101-1 approved for payment on 5/14/01. Commissioner Mitchell would like to withhold remaining balance of \$1,797.50 until she speaks with Jerry Taylor to confirm that the design phase is 75% complete as indicated on the invoice. Stacy Johnston will submit claim for \$3,595 only.

- A special meeting was held to discuss improvements agreement and impact fees for Elk Grove. As litigation matters will be discussed, Commissioner Murdock moved to close the meeting to the public. Commissioner Mitchell seconded the motion; motion carried 2-0. In attendance were Commissioners Mitchell and Murdock, Attorney Holly Brown, County Planning Director Bill Arnold, County Planner Jennifer Madgic, and Road & Bridge Superintendent Lee Provance.

### JUNE 12-13, 2001

- The Commissioners conducted regular County business.

### JUNE 14, 2001

- At 1:45 p.m., Commission Chairman Jennifer Smith Mitchell called to order a regularly scheduled office meeting. In attendance were Commissioners Mitchell and Murdock, Commission Secretary Stacy Johnston, and Grants Administrator Larry Watson.

The commissioners considered approval of 911's COPS More Technology 2001 grant application to the Department of Justice in the amount of \$598,680. These grant monies will be used to upgrade transmitter equipment. (Note: This money will not cover installation and site facilities that will be required.) Given that a substantial amount of time will be spent by the Grants Department administering this grant, Larry Watson was instructed to deduct 5-7% to recoup administrative fees if funds are available. Commissioner Murdock moved to approve submittal of the COPS More Technology 2001 grant application, finding Fiscal Officer Ed Blackman and Deputy County Attorney Chris Gray have both reviewed and recommended approval. Commissioner Mitchell seconded the motion. All voting aye, motion carried 2-0.

Change Order #1 to Contract 2001-048 with Big Sky Asphalt for RID Maintenance Overlay Program was considered for approval. Commissioner Murdock moved to approve this change order, finding Fiscal Officer Ed Blackman has verified funding and recommended approval. Commissioner Mitchell seconded the motion. All voting aye, motion carried 2-0.

The following budget transfer requests were considered for approval: Justice Court in the amount of \$402.36, and two requests from Victim Witness totaling \$594.60. Commissioner Murdock moved to approve; Commissioner Mitchell seconded the motion. All voting aye, motion carried 2-0.

An expenditure transfer request was submitted by the Grants Department in the amount of \$183.49. Commissioner Murdock moved to approve, finding County Auditor Joyce Schmidt has recommended approval. Commissioner Mitchell seconded the motion. All voting aye, motion carried 2-0.

### JUNE 15, 2001

- The Commissioners conducted regular County business.

#### **The following items were on the consent agenda:**

1. Minutes for February 6, 13, 20 and 27; March 6, 13, 20 and 27; April 3, 10, 17 and 24; and May 1, 2001.
2. Claims were presented for approval by the auditor, dated June 14, 2001 in the amount of \$369,327.97.
3. Consideration of Contract(s): Amendment to Contract No. 2001-071 with Morrison-Maierle for RID Weed Spraying; and Amendment to Road Cooperative Agreement with Gallatin National Forest, 2001 Road Maintenance Schedule.
4. Request for Common Boundaries Relocation Exemption within a Platted Subdivision for Roger Kirk and Sherwood Developers, LLC located in the E ½, Section 26, T1S, R5E. (Riverglen Condominiums on Kean Drive in Walker Property Subdivision (PUD)). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.



5. Consideration of a Request for Relocation of Common Boundaries Exemption for Duck Creek Partners, LLC located in Sections 16 and 21, T12S, R5E. (Intersection of Highway 191 and Highway 287). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
6. Request for Final Plat Approval for the Sorensen Minor Subdivision. Preliminary plat approval was granted September 12, 2000. A staff report submitted by Belgrade City-County Planner Jason Karp states that the conditions for final plat approval have been met.

Commissioner Murdock read the consent agenda. There was no public comment. Commissioner Vincent moved to adopt the consent agenda. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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One vacancy exists for a County appointee on the Pedestrian and Traffic Safety Committee. This is a two-year term beginning July 1, 2001, and expires on June 30, 2003. There was no public comment. Commissioner Vincent moved to appoint Frank Manseau. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution restricting light and heavy construction waste at the Logan Landfill. There was no public comment. Commissioner Vincent moved to adopt Resolution #2001-65. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Belgrade City-County Planner Jason Karp reported on the consideration of a request to amend the preliminary plat for the High K Subdivision, Phase 2 located west of Belgrade off Royal Road. The property is described as Tract 3 of COS 1538 and Lots 33, 34, and 37 of the High K Subdivision situated in the SE ¼ of Section 4, T1S, R4E, P.M.M. Gallatin County, Montana. Nadia Beiser of High K, L.L.C. has requested to amend the preliminary plat approval of the High K Subdivision Phase 2 to split the subdivision into an additional phase. The developer is requesting that Lots 33A, 34A, 37A, and 62 become Phase II-A and the remainder of the Lots be designated as Phase II-B. The Belgrade City-County Planning Board reviewed the request to amend the High K Subdivision. The Planning Board voted unanimously at their May 23, 2001 public meeting to recommend that the request be approved. Mr. Karp stated that Bryan Connelley of the Belgrade Fire Department and Gallatin County Road Engineer Roy Steiner stated concern that if Phase II-A is approved Buckskin Road will have 8 lots and be over 1000 feet, therefore, requiring a second access. Both the Road Department and Fire Department recommend that a second access, built to county gravel standards be constructed prior to final plat approval of Phase II-A. Mr. Karp noted in order to reflect the Road Department and Fire Department's concerns, the following condition 34 is recommended by staff if the phasing modification is approved: 34. Skipper Street shall be constructed to at least Gallatin County gravel standards from Buckskin Road to Doe Road prior to final plat approval of Phase II-A. There was no public comment. Finding that this is basically the same subdivision that went through the process and review four years ago, with a minor change, Commissioner Murdock moved to approve the change as presented by staff with the addition of condition 34. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Belgrade City-County Planner Jason Karp reported on the consideration of a request for a family transfer exemption for Robin and Larinda Spaulding located in the N ½, of Section 17, T1S, R4E (4180 Highline Road). Mr. Karp briefed the Commission on the request. Robin Spaulding was sworn in and testified under oath answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption was an appropriate claim or an attempt to evade subdivision review. There was no public comment. Finding it is the proper use of the exemption, with the information submitted Commissioner Murdock moved to approve the family transfer exemption. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Belgrade City-County Planner Jason Karp reported on the continuation of a request for preliminary plat approval of the Wylie Creek Ranch 2 Subdivision located southeast of Belgrade at the southeast corner of Valley Center Road and Love Lane, adjacent to the Wylie Creek Estates Subdivision. The property is located in the NW ¼ of Section 29, T1S, R5E, P.M.M., Gallatin County Montana. Fluidyne on behalf

of Richard Thomson has requested preliminary plat approval of a 6-lot subdivision on 27.6 acres. The Belgrade City-County Planning Board voted unanimously at their September 20, 2000 public hearing to recommend preliminary plat approval of the subdivision subject to the conditions. The Gallatin County Commission conducted a public hearing to review the Wylie Creek Ranch 2 Subdivision on October 3, 2000. After taking public comment and hearing from the applicant's representative, the Commission agreed to table the review of the subdivision to allow the developer to meet with members of the Wylie Creek Estates Subdivision Homeowner's Association to come to an agreement about park, road, and fire protection water supply maintenance. The two parties were also going to explore the feasibility of including Wylie Creek Ranch and Wylie Creek Ranch 2 subdivisions in the Wylie Creek Estates Subdivision Homeowner's Association instead of having 3 separate Homeowner's Associations. Mr. Karp noted that the applicant's representative indicated that maintenance agreements have been written, and the developer and Wylie Creek Estates Homeowner's are in agreement. Commissioner Mitchell stated she received a letter yesterday from the Wylie Creek Estates Homeowner's Association with concerns, and suggested Mr. Karp review the letter in order to determine if the conditions and agreement addressed their concerns. The applicant's representative Justin Buchanan stated that they did come to agreement with the Wylie Creek Estates Homeowner's Association that the three things they had in common were the roads, parks and fire fighting facilities. They worked together and drafted agreements of which they are now satisfied. Mr. Buchanan suggested adding a condition stating that prior to final plat Mr. Thomson sign the agreements on behalf of Wylie Creek Ranch 2 Subdivision. He had not viewed the letter, and due to some unresolved issues there was a meeting scheduled with the Homeowner's Association for June 25, 2001. Representing the Homeowner's Association, Rosanne Nash requested that the preliminary approval be conditioned on the following: 1. Execution of the joint maintenance agreements for parks, roads and fire protection facilities between the Wylie Creek Estates, Ranch and Ranch 2 Homeowner's Association; 2. Completion of the pond conveyance ditch per the requirements of the water appropriation permit 97905H. The pond conveyance ditch is a feature noted on the plats for all of the subdivisions in the Wylie Creek development complex. Water flowing in the ditch is intended for the beneficial use of Fish & Wildlife, and enhances the recreational value of the public parks that it passes through. The DNRC has threatened to revoke the water appropriation permit due to excessive seepage losses from the conveyance ditch. If this permit is lost it will be to the detriment to the entire local community including Ranch 2; and 3. Completion of the public parks and recreational facilities described in the preliminary plat submittals for Wylie Creek Estates and Wylie Creek Ranch. Section 8 of the Gallatin County Subdivision Regulations in effect at the time of the original Wylie Creek Subdivision proposal; stipulate that the park and recreation facilities to be provided within the proposed subdivision be described. As required the Environmental Assessments and other documents submitted for the Wylie Creek Estates and Ranch Subdivisions did describe landscape parks and recreational facilities, which were to be provided. These parks and facilities were only partially completed. Lack of the developed parks and facilities is to the detriment to the entire local community including the Ranch 2 Subdivision. She commented at the October 3rd, meeting Fluidyne did make a verbal commitment to seal the ditch, so they want to have that in writing. Mr. Buchanan responded they had no problem with the conveyance ditch as that is part of the fire fighting facilities and they are currently working on it. He commented on the improvements that were in place and stated the developer indicated that he did not promise more. Commissioner Murdock asked if Mr. Buchanan would be in agreement to postponing this until after the scheduled meeting with the Homeowner's Association. Mr. Buchanan was in agreement to a continuance until June 26, 2001. Commissioner Mitchell stated she would like answers to all three suggested conditions by the Homeowner's Association and the language on the maintenance agreement.

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Planning Consultant for the Town of Manhattan Ralph Johnson reported on the consideration of a request for preliminary plat approval for the Marc Pierce and Robert L. and Dana M. Emery 1 Lot Minor Subdivision located approximately 2.5 miles southeast of the Town of Manhattan, south of Meadow View Cemetery Road in a Zoning district designated agricultural. The intent of the subdivision is to separate a 40-acre lot from the existing 180-acre property. The proposed 40-acre subdivision currently contains two homes and several agriculture-related outbuildings. The principle use of land within this vicinity is active agriculture production. The Town of Manhattan Planning and Zoning Board held a public hearing on May 22, 2001, for the purpose of reviewing the proposal. There was no public comment. The Planning Board noted that the proposed subdivision is in keeping with the existing conditions of the zoning district and no new buildings are proposed. The Environmental Assessment was reviewed by the board with the following comment: 1. The proposed subdivision will be in substantial conformance with the Town of Manhattan Comprehensive Plan and Zoning Ordinance; 2. The proposed subdivision will have no significant impact on congestion in the streets of Manhattan; 3. The proposed subdivision will satisfactorily secure safety from fire, panic and other dangers; 4. The proposed subdivision promotes health and the general welfare of the community; 5. The proposed subdivision provides for adequate light and air; 6. The proposed subdivision prevents the overcrowding

of land; 7. The proposed subdivision avoids undue concentration of population; 8. The proposed subdivision facilitates the adequate provisions of transportation, water, sewage, schools, parks and other public requirements; 9. The proposed subdivision conforms to the existing character of the district; 10. The proposed subdivision is suitable for the particular uses for which it is zoned; 11. The proposed subdivision will conserve the value of existing buildings; and 12. The proposed subdivision will encourage the most appropriate use of land throughout the municipality. The Manhattan Planning and Zoning Board voted unanimously to recommend approval of the application with the following conditions: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates; 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to and within the subdivision. The location of the easements should be acceptable to the affected utility companies; 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval; 4. A waiver of right to protest creation of Rural Improvements Districts and Water and Sewer Districts shall accompany the final plat; 5. The developer shall record covenants with the final plat including the following provisions: *a. The property owner shall be responsible for the control of County-declared noxious weeds; b. Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening; c. All fences bordering agricultural lands shall be maintained by the Homeowners in accordance with State Law; d. All structures must meet the fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief; e. Site plans of all lots must be submitted for review and approval by the Manhattan Rural Fire District; f. All structures shall be constructed in compliance with the Uniform Building Codes, and the National Fire Protection Association (NFPA) codes; and g. Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.* 6. Two copies of the covenants, a copy of the preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval; 7. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between the Weed Control District and developer prior to final plat approval; 8. A copy of the final plat shall be submitted to the Manhattan Fire Department and the Gallatin County Road Department; 9. An Encroachment Permit must be obtained from the Gallatin County Road Department; 10. The developer shall obtain an approval weed management plan from the Gallatin County Weed Control District prior to any construction projects within the site. The approval weed management plan shall be submitted to the Gallatin County Planning Department prior to final plat approval. Areas disturbed by construction shall be seeded and controlled for noxious weeds; 11. The sub divider shall provide a water supply for fire protection in accordance with the Gallatin County Subdivision Regulations. The sub divider shall have the fire district review and approve the water supply prior to final plat approval. The sub divider shall obtain written verification from the fire district that the required water supply has been provided; 12. Two copies of the covenants, a copy of the preliminary approval document, documents establishing a homeowners' association, road easement documents, deed restrictions, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants, documents establishing a homeowners' association, road easements documents, deed restrictions, and certificate of title abstract prior to final plat approval; and 13. The developer shall have three (3) years to complete the above conditions and apply for final plat approval. Mr. Johnson acknowledged that he was unaware of the format for preliminary plat, and future submittals would be done accordingly. He noted that condition 3 was not required, and condition 6 and 12 are duplicates, so he recommended deleting condition 3 and 12. The applicant's representative Dennis Foreman, Gaston Engineering gave a brief overview of the proposal and stated they were in agreement with the conditions. There was no public comment. Finding this subdivision conforms to the Manhattan Area Master Plan and the Gallatin County and Manhattan Area Subdivision Regulations, Commissioner Murdock moved to approve the subdivision, subject to the conditions as presented. Seconded by Commissioner Vincent. Commissioner Murdock amended his motion to include, that conditions 3 and 12 be deleted. Commissioner Vincent amended his second. None voting nay. Motion carried.

Gallatin County Planner Jennifer Madgic reported on the consideration of a request for final plat approval of the Elk Grove Major Subdivision, Phase 1. The Elk Grove Planned Unit Development consists of a 300-acre parcel located in the S ½ and SE ¼ of Section 23; and the S ½ and SW ¼ of Section 24; and the N ½ and the NE ¼ of Section 26; T2S, R4E, PMM, Gallatin County, Montana. The property is generally located east of Highway 191, north of Blackwood Road, south of Violet Road, approximately one-and-a-half miles south of Four Corners. The proposed Elk Grove Planned Unit Development received preliminary plat approval on June 27, 2000, for development of 299 residential lots and 12 commercial lots on approximately 300 acres to be constructed in four phases. Applicants requested a modification to original Conditions #13, 14, 27 and 28 of the Findings of Fact. The request was approved by the County Commission on June 12, 2001. Ms. Madgic pointed out that prior to granting final plat approval the Commission needed to make a decision regarding acceptance of the applicant's improvements agreement and the independent fee calculation study on road impact fees. The Commission would also need to agree to grant the County owned right-of-way to MDOT to accommodate the proposed highway approach and appropriate turn lanes at Violet Road and US Highway 191. She gave a brief overview of the tenuous issues to be dealt with such as road impact fees; right-of-way agreements on 191; and the length of time regarding completion of improvements. Ms. Madgic pointed out that the Road Impact fee offers the applicant a choice in determining the amount of such fee. They can pay the flat fee of \$1,596, or submit an independent fee calculation. The applicant chose to submit an independent fee calculation study and calculated that road impact fee "associated with full development of Elk Grove" to be: \$4,085.66. That calculates out to \$1,302.86 for Phase 1. At \$1,596 per 145 lots proposed in the Phase 1 development, the fixed per-lot road impact fee would be: \$231,420. In addition to the road impact fees, the applicants have offered to pay a capital improvements contribution in the amount of \$75,000 to be paid over a three-year period. The payment schedule would be: \$25,000 to be paid one year after final plat of Phase 1; \$25,000 to be paid in two years or with final plat of Phase 2, whichever comes first; and \$25,000 to be paid in three years or final plat of Phase 3. The County Commission has one determination to make regarding road impact fees: The Commission may accept, reject or accept with modifications the applicant's road impact independent fee study. Ms. Madgic provided the Commission with a copy of the Improvements Agreement and gave a brief overview. The County's representative Attorney Holly Brown stated the agreement for the provision of right-of-way between the Coks (represented by Mike Cok) and Concinnity has been signed and reviewed. It states the Coks will provide an easement for access as required by MDOT on the entire length of the 900 feet to the north of the Concinnity property. When MDOT notifies both the County and the Coks what is required for the right-of-way then the final documents and easements will be drafted, filed and made public record. Ms. Brown stated that Gallatin County Road Superintendent Lee Provance was in agreement to the improvements agreement and conditions, along with the capital improvements contribution for road expenses. She stated impact fees will be re-evaluated for all future phases. Mike Dockery, representing Concinnity stated all conditions have been met for the purposes of final plat approval, and agreements have been drafted and finalized. He briefly addressed the potential conflict of interest issue regarding Concinnity's developer doing its own engineering. He stated Concinnity checked over a year ago with the Profession Board of Engineers and Land Surveyors, and the Board did not see a problem. To his knowledge it does not violate any laws or regulations, or violate any provisions of the Montana Subdivision and Platting Act. He stated his clients would not jeopardize their professional licenses by designing a substandard project. In addition the project is being designed to the Montana Public Works specifications and reviewed by DEQ and will meet those same specifications. Public comment with concerns regarding the proposal: Franklin Culver (submitted testimony in writing, Exhibit "A"); and Frank Silva (submitted 6 photos of the DEQ violation regarding stream water quality practices and required erosion control feature, Exhibits "B" through "G"). Mr. Dockery responded to the public's concerns with regard to the reduction of road impact fees; impacts to Blackwood and Violet Road; dispute with the road department; completion of Highway 191 turn bay improvements; public participation in the process; lack of documents available to the public; and the DEQ violation. He stated that dismissal of the lawsuit is not a condition of approval, although the attorneys are discussing it, and Concinnity has agreed to dismiss the lawsuit. Discussion took place regarding the conflict of interest issue. Ms. Brown stated since the issue was not raised prior to final plat, it could not be included as a condition and would have to be done with the consent and volunteer of the applicant, although it could be addressed at Phase 2 for future phases. She commented that the Road Department will continue to monitor traffic in the area and if they feel other mitigation measures are required they have the authority under the conditions to address those mitigation requirements. Commissioner Murdock stated he took to heart the public's concerns, specifically the ones Frank Culver and Frank Silva mentioned. Although, he reminded them that condition M was talked about at an informal meeting with himself and members of the public. The part of condition M, stating to not allow occupancy of Phase 2 until turning lanes were installed, was the result of that conversation and participation by the public. Most importantly Highway 191 is an MDOT responsibility and they indicated they did not want those turn bays until Phase 2. The condition was added as a protection for the public and to reflect MDOT, not Gallatin County's responsibility for those

improvements to Highway 191. He commented on the conflict of interest issue, and although it troubled him, it had happened before with previous subdivisions. Commissioner Murdock stated he was satisfied that MDOT engineers will review the plan for acceptability on the highway improvements, State DEQ will review all the plans for the sewer and water, and the County will review the plans for any County road improvements, and until the policy is changed it will remain. Commissioner Mitchell state she received written correspondence and telephone calls from other engineers, so this engineering firm is definitely under the scrutiny of their own professionals. She stated it came down to the issue of public health and safety, and we would have to rely on the faith of the Engineering License Bureau. Commissioner Murdock stated it was not unusual that the improvements agreement is not completed until the day of hearing, and as far as public input regarding improvements is concerned, he felt there was ample public comment. As far as impact fees he is satisfied, and as the conditions are written there will be studies done on traffic counts on Blackwood for each phase and if the numbers are there they can either raise the impacts fees or require different improvements. He stated as far as the impact fees go, it is a bit like the professional licensing bureau, if we don't like the methodology in what was adopted as an impact fee ordinance and alternative fee calculation, then we should change it. He stated he did have a problem with the way it is written, and will probably revisit that study, but until that is done the developer has acted in good faith following the policy by preparing an alternative fee calculation done by an independent engineer. Commissioner Murdock stated he would support accepting the study. Commissioner Mitchell added the finding that the County will be granting a right-of-way on County property for an easement to MDOT pursuant to their request for the entrance on Violet Road and the Commission would direct the County Attorney to draft the right-of-way for use of access. She thanked the County staff that helped make this a better subdivision, as the County has bent over backwards to help this developer out and continue to do so, and she felt they did the best they could to mitigate the impacts that this rather large development is going to create. Commissioner Vincent concurred, stating this is not a perfect world and that in his eyes this document does represent a compromise, although he does not approve of every aspect. It is a compromise to resolve a very difficult and long standing issue. He stated at one point the issue was safety on Highway 191 and still remains the focus of his attention and concern. He felt they alleviated that and made the right decision, as the newly proposed access is infinitely safer than the old one would have been. He felt it was a good faith effort on the part of the Commission, the developer and the staff and he was going to support it. Commissioner Murdock moved to approve the improvements agreement as prepared by the attorney and staff for Elk Grove, Phase 1. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Murdock moved to accept the impact fee calculation as presented by the developer. Seconded by Commissioner Vincent. None voting nay. Motion carried. Based on the Commission's action on the improvements agreement Commissioner Murdock asked Ms. Madgic if all the conditions have been met. Ms. Madgic stated to the best of her knowledge. Commissioner Murdock moved to grant final plat approve to the Elk Grove Subdivision with all the conditions having been met or bonded. Seconded by Commissioner Vincent. Commissioner Mitchell stated the conditions include 1 through 53 and, A through M, on a staff report by County Planning, dated June 19, 2001. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on two pending resolutions to annex property into the Gallatin Canyon Consolidated Rural Fire District. Commissioner Murdock moved to adopt Resolution #2001-66. (Antler Ridge) Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Murdock moved to adopt Resolution #2001-67. (Firelight) Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Commissioner Mitchell announced the continuation of consideration of a request for preliminary plat approval of the Day Ranch. On June 5, 2001, the applicant gave their presentation, and public testimony was left open. Commissioner Mitchell stated that today was the last calendar day by law that the Commission has to make a decision unless the developer grants an extension, and in order to achieve that, public testimony will only be taken from those who did not get to speak last time and it will be limited to three minutes. Public comment in support of the proposed project were as follows: Larry Rogers; Judy Brenner; Ellen Anderson; Karen Thomas (submitted testimony in writing, Exhibit "A"); Lain Kay; Lloyd Mielke; Jon Alberda; and Bonnie Lynn. Public comment in opposition of the proposed project was as follows: Bill Mitchell; Franklin Culver; Steve Davis; and Ron Davis. Public comment was closed. Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson stated the Planning Department received a substantial amount of written testimony and they have been forwarding copies to the Commission. Commissioner Vincent stated that written testimony was received in the Commissioner's office by fax, letter, and email. Mr. Johnson stated the Commissioner's office has provided him with copies and he has a complete record of written testimony. Commissioner Mitchell stated that three more letters were just received. Joseph W. Sabol, Attorney at Law on behalf of

Winchester Development Company, L.L.C., stated that he would like the record to reflect that their appearance today and participation in this continued hearing is not intended to, nor does it waive their rights under Section 76-3-604(2). Mr. Sabol noted that since the continuation of this hearing on June 5, 2001, he received one letter from the Commission, and did not receive any indication, comment or substance of any phone calls or private conversations the Commission may have received. He stated they would have five of the applicant's consultants speak in response to those areas of concern addressed in public testimony on June 5, 2001. Geologist Mike Kaczmarek, Morrison-Maierle spoke regarding various issues contained in the water issue relative to the project. Mr. Kaczmarek referred to: Exhibit "5", pointing out the only part of the property that overlies the alluvial valley aquifer on the 320 acre parcel; Exhibit "6", a detail of the 320 acre parcel; and Exhibit "13" water rights. He summarized his letter to the Commission dated June 14, 2001, and discussed water usage, and down stream water users. He stated the applicant's demands are less than the water rights they hold and if diverted from wells they will have a lot less impact on surface water. Discussion took place regarding the return flow. Mr. Kaczmarek noted that Winchester is required by DEQ to do two things: demonstrate on the basis of detailed evidence that the amount of water use planned for the development is adequate, reasonable and not deficient or excessive; and demonstrate on the basis of verifiable evidence that the source of the water to satisfy that the use is of reliable adequate water supply and that the supply is not only physically but legally available. In addition, the applicant is required by state law, for any use of ground water in excess of 35 gallons a minute or 10 acre feet per year and for all use of surface water to file an application for a beneficial use permit from the Montana DNRC. Mr. Kaczmarek stated the issues of reasonable water requirements for the subdivision, availability of source and the effects on existing water rights will be carefully reviewed by two state agencies, both of which require provision of factual evidence that the proposed amount of use is reasonable and the proposed source of water is adequate and the senior water rights using the source will be satisfied. It is their opinion that the technical view of the proposed water wells for this project, the professional staff of DEQ and the DNRC is the most suitable form to resolve the concerns raised by the down stream water users and their consultant. He believed that a review by the technically and legally confident authorities responsible for these matters would result in a favorable finding for the proposed use of ground water and subsequent permits for the beneficial use of the water. Engineer Phil Forbes Morrison-Maierle spoke regarding traffic and the accuracy of the traffic study. He assured the Commission that the study was conducted by a professional engineer in accordance with industry standards and guidance. Mr. Forbes outlined the traffic impact study. Discussion took place regarding the types of traffic included in the trip generation figures. Certified Wildlife biologist Robert Eng outlined aspects in the plan that will enhance wild life habitat. He explained the implementation of the agricultural wildlife plan that will allow recovery of riparian habitat. Mr. Eng is confident the proposed changes that will be implemented with this proposal will improve the overall wildlife habitat for a variety of species, more so than it is today. Day Ranch Manager Kenneth Visser spoke to the concerns raised that this project would detrimentally affect agriculture. Senior biologist Lynn Bacon, Wetlands West, Inc., spoke in opposition to a letter received from Mr. Seeburg regarding water rights, addressed to the Commissioners. She stated DNRC specialists regarded the letter as a statement concerning the well (the new appropriation) and not at all related to the adjudication process, which is what the letter seemed to indicate. She explained the adjudication process and the procedure should down stream water users have a complaint regarding effects of a permitted well on their ground surface water availability. She stated there would be no loss of a minimum of 3 years of agricultural production as stated in the letter. Mr. Sabol briefly summarized and clarified other issues of concern such as: off site improvements, referring to Exhibit "1"; on site hunting; matter of need of the proposed project; law enforcement, referring to Exhibit "C"; golf course chemicals, referring to Exhibit "A"; costs to the County; part-time versus full-time residents; implication that the project is commercial in nature; taxation; and the Canal Company objections, referring to Exhibit "5". Mr. Sabol commented on the Growth Policy in relation to the compliance of this proposed project. He also, spoke regarding the following goals and policies of the Growth Policy: Water Goal II, regarding de-watering; Agricultural Goal I, maintain important farm land and agricultural production and support the right to farm and ranch; Agricultural Goal II, encourage location of residential and commercial development next to existing development where appropriate, so as to preserve important farm land; Agricultural Goal III, preserve open space and retain rural atmosphere; Residential Goal I, locate residential development next to existing development where possible; Residential Goal III, encourage additional residential development in exiting residential areas; Residential VII, discourage leap frog residential subdivision to strengthen the visual distinction between city and countryside and retain existing agriculture; and Residential Goal VI, encourage compact or clustered residential development. Mr. Sabol stated there was no creditable evidence to show or indicate that the proposal does not substantially comply with the Master Plan. He offered an explanation to an alternative plan in response to the prior questions raised should this proposal be denied. He commented that it would still be golf orientated, with two golf courses, one private and one public and in addition 350 to 450 rental units dispersed throughout the 2500 acres east of Cottontail. This plan would also, include restaurants, spas and cross country skiing. He provided the Commission with a June 11, 2001, Forbes article, titled

Living large on less. Mr. Sabol offered into the record of these proceedings the following: application volumes 1 through 3; the Planning Board's staff report, recommendations and findings; County Commission staff report; 13 large graphics and the list of those graphics; the summary of the second pump test; the aquifer analysis; and the letters of support. In noted a proposed condition was left out of the application in the Visual Section and suggested adding the following condition: The applicant shall build the berms and plant the trees on lots 2 through 7, prior to or simultaneously with the construction of homes on those lots. In addition, he suggested adding the following three conditions: 1. That the applicant obtain the necessary and appropriate permits from DNRC for the wells prior to final plat approval; 2. That if the County impact fees are found to be unlawful, that there won't be a rebate; and 3. That in the event the school board determines a need for a human crossing guard, the applicant will share 50 percent of the cost of the guard. Mr. Sabol stated he felt comfortable with the application in all respects. Commissioner Vincent stated that any phone calls and he received regarding this proposal were cut off and requested to be put in writing. Discussion took place regarding the obligation to forward information received by the Commission and Planning Department on to the applicant. Due to the new information and testimony received, Commissioner Vincent requested the applicant grant a one-week extension in order to fairly evaluate the proposal. Commissioners Murdock and Mitchell concurred. Mr. Sabol, on behalf of the applicant stated they were willing to grant a one-week extension, subject to the fact they were not waiving their rights relative to his letter dated June 15, 2001. Discussion took place regarding questioning the applicant and the consultants, and if questions could be submit in writing. Further questioning of the applicant's consultants covered the following issues: tributary water rights and the process to follow should water rights be adversely impacted; golf course; cattle grazing and future ag pursuits; ag exemption; condominiums; number of structures on golf course; berming and landscaping; and wildlife. It was determined that additional questions would be submitted in writing. Gallatin County Attorney Marty Lambert recommended imposing a deadline for submitting questions, and receiving the applicant's reply. Commissioner Vincent stated he would submit his questions by June 20, 2001, 5:00 P.M. The applicant agreed to respond by June 22, 2001, 5:00 P.M. Commissioner Mitchell stated this issue would be first on the agenda for next weeks hearing.

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There being no further business the meeting was adjourned at 3:40 P.M.

*Unavailable*  
*For signature*  
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 CHAIRMAN APPROVAL

*Shelley Vance*  
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 CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 26th DAY OF JUNE 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:00 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Glenda Noyes.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**JUNE 18, 2001**

- At 9:39 a.m., Commission Chairman Jennifer Smith Mitchell called to order a regularly scheduled office meeting. In attendance were Commissioners Mitchell and Murdock, Commission Secretary Stacy Johnston, and County Auditor Joyce Schmidt. The Commission considered approval of a request for reimbursement from Mike Wells of the West Yellowstone Volunteer Fire Department. Joyce explained that the request totaling \$5,136.50 is for use of their equipment in responding to the 2000 Beaver Creek Fire; all payments to personnel have already been made. Had their equipment and staff been certified, the Forest Service would have covered all expenses incurred as the fire started and ended on Forest Service land. To date, they have not sought certification, nor are there any plans in the future to do so to the best of our knowledge. Commissioner Murdock moved to deny the request for reimbursement; Commissioner Mitchell seconded the motion. All voting aye, motion passed unanimously 2-0. Stacy Johnston was directed to write a letter to Mike Wells informing him of the Commission's decision regarding this request. Copies of the letter will be sent to Rural Fire Chief Brett Waters and County Auditor Joyce Schmidt.

A contract with Advanced Municipal Web Services was considered for approval. This vendor will provide document management services for the Virtual Town Hall link on Gallatin County's website. Commissioner Murdock moved to approve the contract, finding it has been reviewed and recommended for approval by Deputy County Attorney Chris Gray, Fiscal Officer Ed Blackman,

## 288 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

and Information Technology Services Director Ed Kawa. Commissioner Mitchell seconded the motion. All voting aye, motion passed unanimously two to zero.

Harvey VanDyken and Sons submitted a request for authorization to dispose of records at the Logan Landfill. Commissioner Murdock moved to approve request to dispose of Landfill records contingent upon Ed Blackman's approval; Stacy Johnston verified that Ed Blackman has recommended disposal. Commissioner Mitchell seconded the motion. All voting aye, motion passed unanimously two to zero.

### JUNE 19-22, 2001

- The Commissioners conducted regular County business.

#### **The following items were on the consent agenda:**

1. Claims were presented for approval by the auditor, dated June 22, 2001, in the amount of \$307,907.48.
2. Consideration of Contract(s): Mail and Courier Services Agreement with Same Day Delivery; and Paying Agency and Registrar Series 2001 Bond Agreement with US Bank, RID #378.

Commissioner Murdock read the consent agenda. He noted that the claims have been continued until a meeting at 2:00 P.M. today. Commissioner Vincent made a motion to approve the consent agenda as amended. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Commissioner Mitchell presented the continuation of consideration of request for preliminary plat approval of the Day Ranch Subdivision. She gave an overview of the history of the consideration of the Day Ranch proposal, and stated that the Commission is now in board discussion. Commissioner Murdock stated that he has spent a lot of time thinking about this proposal and will not be supporting it. He noted that many people have supported the proposal, but in his opinion it does not comply with the Master Plan, which he considers to be a legal document. This is consistent with his views in the past, and in his opinion the Day Ranch proposal contributes to sprawl. A subdivision that is not adjacent to other developments costs more money to provide services. Because the proposed property is not in a zoning district, and there has been no indication that the public in this area desires to create a zoning district, Commissioner Murdock stated that he could not vote for this subdivision. Commissioner Vincent gave his comments and findings with relation to the Day Ranch subdivision proposal. Commissioner Vincent seconded Commissioner Murdock's comments with regards to non-compliance with the Master Plan, and that the Master Plan must be adhered to. He also stated that he has investigated this proposal to the best of his ability, attempting to form an opinion without reaching one. Commissioner Vincent read his findings into the record, noting that these were based on state statute, Gallatin County Subdivision Regulations and the Gallatin County Master Plan. The following is an abbreviated list of Commissioner Vincent's findings and his basis for reaching them: The proposal does not satisfy the public health and safety criteria, and is such that the County cannot provide for the efficient delivery of public services. The Sheriff has stated that his office can no longer continue to promise an acceptable level of service to any new major subdivision due to a major shortage in staffing. Also, to this effect, a private security force fails to mitigate the impacts of the development on public safety. Condition 48, waiving the right to protest the creation of a special public safety study or law enforcement district, fails to mitigate the impacts of the development on public safety because there is no way to reasonably assess the likelihood that a study will be undertaken or that a district will be created. The Day Ranch is not, in Commissioner Vincent's estimation, a clustered development. The housing in the development is not compressed, condensed or oppressed in its configuration. Additional information was provided to substantiate this finding. Gallatin County Master Plan Water Goal II, which encourages water use practices that avoid dewatering, cannot be met especially during the high water demand months of July and August. The only possible mitigation would require a fail-safe voluntary agreement between the applicant and the downstream appropriators guaranteeing that if the water rights of the downstream users were adversely affected, pumping would be immediately adjusted or stopped until the appropriated water was restored. The Day Ranch proposal constitutes leapfrog development. The development does not fit within the Master Plan Residential Goal I, VII or the primary goals: Locate residential development next to existing development where possible, discourage leapfrog residential subdivision to strengthen the visual distinction between city and countryside and retain existing agriculture, locate residential developments next to existing residential areas where appropriate, and provide for orderly development and provide for the efficient delivery of public services. The most tangible, objective, verifiable and justifiable reasons for rejecting leapfrog development are the impacts the sprawl it inevitably produces has on public health and safety and the efficient delivery of public services. The Gallatin County Master Plan, view-shed goal I states a desire to protect views within the County. The applicant has made a good faith effort to mitigate view shed impacts. However, serious doubts remain as to the long-term effectiveness of those mitigations. There is no mitigation offered to assure the survivability of landscaping stock, especially trees used for



screening. The covenants and conditions do not offer adequate assurances that lighting impacts will be adequately mitigated. On the basis of the above statements, the Day Ranch proposal fails to meet the stipulations in Chapter 3 of the Montana State statute fails to satisfy Gallatin County Subdivision Regulations, and the Master Plan. Commissioner Murdock stated his findings, noting that he concurred with many of Commissioner Vincent's findings. The problem with the review of this subdivision, Commissioner Murdock stated, is that the Commission has to review the proposal with specific P.U.D. type issues without the benefit of a zoning district. Without zoning in place, there is no assurance that this particular development scheme will take place and remain as such in three to seven years. Commissioner Murdock stated that this is a dangerous precedent to set, approving a subdivision of this magnitude in the Gateway area without zoning and land use permits to assure that water, traffic, view shed, farmland, sprawl and cost of service delivery are addressed and mitigated. There is no guarantee to the public to provide mitigation of failed landscaping berms, light pollution and dust control on Axtel Anceny Road; and no guarantee that there will be a golf course and cattle ranch on the premises. Leapfrog development is not something that can be mitigated, and approval would only set a precedent for future development proposals of the same sort. Leapfrog development and the associated sprawl costs more money for the provision of public services than developments located next to existing developed areas. The Day Ranch proposal does not meet agricultural goals of encouraging location of residential and commercial development next to existing developments, so as to preserve important farmlands either. This development would also stretch response times for emergency calls, demonstrating the fact that this development is not in the best interest of the public, a clear duty of subdivision review. The proposal does not meet Air Quality goals, whereby dust and auto emissions are reduced by contiguous development. Commissioner Mitchell stated that the Master Plan was designed by the Planning Department with a substantial amount of input from the public. It was voted on and approved by the public, and it is a living, breathing document that has proved itself out for the many subdivisions that have been seen in Gallatin County over the last few years. The public has asked the Commission to look to the Master Plan for guidance when it comes to growth. Commissioner Mitchell stated that she shares the concerns and findings that were stated by Commissioners Murdock and Vincent, and noted that she also has additional concerns and view points that she wished to share. With regards to the loss of agriculture, she stated that she is significantly bothered by the lack of a conservation easement on this property for protection of the land. There are no buffer zones between the residential, commercial and agricultural lands. The best farmland has been designated for the golf course, and it is difficult to see how agriculture is being promoted in this proposal. The leapfrog idea, public health and safety, and security issues have been spelled out by the other Commissioners. There is not adequate wildlife protection provided on this important wildlife rich property that also adjoins other wildlife conservation areas. The parks and trails goals are not complete. There is a trail going to the proposal, but not continuing on into the development, disallowing the public to have access and removing the development from being a part of the community. On the visual end of this proposal, the road cuts for driveways are on side hills. The trees that are proposed do not grow out there naturally and they will not provide adequate visual protection. Commissioner Mitchell also stated that she does not have a comfort level with regards to water and the needed mitigation for allowing adequate supply for users below the development. The proposal does meet some of the transportation goals, but this does not outweigh all of the other land problems and concerns that do exist. This development does not support the goals in the Master Plan. This does not mean that it is not a pretty design that might work somewhere else, but in this location, it does not work. Commissioner Murdock made a motion to deny this subdivision request for all of the reasons read into the record. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Road and Bridge Department Staff Engineer Roy Steiner, presented bids for road improvements on East Cameron Bridge, Frank and Thorpe Roads for opening. The first bid, received from JTL Group on June 25, 2001 @ 2:30 P.M., contained a bid bond for 10%, acknowledgment of Addendum #1 and had a total bid price of \$125,515.00. The second bid, received from Big Sky Asphalt on June 25, 2001 @ 8:30 A.M., contained a bid bond for 10%, acknowledgment of Addendum #1 and had a total bid price of \$192,280.00. Mr. Steiner requested the Road and Bridge Department be given a week to take the bids under advisement. No public meeting will be held on July 3, therefore consideration of this matter is continued until July 10, 2001.

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Gallatin County Planner Jennifer Koozer reported on the consideration of a resolution to deny Abel text amendment to Hebgen Lake Zoning Regulations. The public hearing on this matter was held on May 20, 2001. The advisory committee recommended denial of the proposed amendment, citing concerns about road capacity and quality, conflicts with covenants and neighborhood character, and a comprehensive revision to the regulation in 1996 that eliminated bed and breakfast inns. The applicant's representative, Tom Anacker, spoke on their behalf, stating that the inn was a use in the

zoning district initially and was not a problem for a number of years. Mr. Anacker also stated that a conditional use permit could be allowed in this situation, and lawful uses cannot be excluded. Commissioner Mitchell noted that the public hearing was held concurrently with the Zoning Commission meeting, and public comment was closed at that time. However, as a courtesy to Mr. Anacker, he was allowed to speak today. Commissioner Murdock stated that with all due respect to Mr. Anacker, no new information was entered into the record today, and so moved to approve Resolution #2001-68, for all the reasons stated previously at the Hebgen Lake/Bridger Canyon Planning Zoning Commission public hearing held on May 20, 2001/June 14, 2001. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the consideration of a resolution approving the Coughlin variance for a detached accessory structure. The public hearing was held on this matter on June 14, 2001, and the Bridger Canyon Planning and Zoning Commission recommended approval. Commissioner Murdock made a motion to approve Resolution #2001-69, for all the reasons stated previously at the Hebgen Lake/Bridger Canyon Planning Zoning Commission public hearing held on May 20, 2001/June 14, 2001. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported on the consideration of a resolution increasing the Gallatin County FY 2001 budget to include unanticipated grant revenues for the CTEP – Fort Ellis Program Activities, Fund #4310-000-33-10-54. This resolution will modify the county budget by an increase of \$420.00 with no match required. Commissioner Murdock made a motion to approve Resolution #2001-70, per the recommendation of Mr. Watson. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported on the consideration of a resolution increasing the Gallatin County FY 2001 Public Safety budget to include unanticipated grant revenues for the Juvenile Accountability Incentive Block Grant program activities, Fund #2309-000-33-11-85. During the third quarter of FY 2001, the Montana Board of Crime Control made additional monies available and the Southwest Region Juvenile Detention Board applied for and was awarded \$166,801.00. Commissioner Vincent made a motion to approve Resolution #2001-71, per the recommendation of Mr. Watson. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported on the consideration of a resolution increasing the Gallatin County FY 2001 budget to include unanticipated grant revenues for the Three Forks Airport Program Activities, Fund #2170-000-33-20-25. Gallatin County received funds from a grant loan program on behalf of Three Forks Airport Board in the amount of \$253,000.00 in order to improve the Progreba field. Commissioner Murdock made a motion to approve Resolution #2001-72, per the recommendation of Mr. Watson. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported on the consideration of a resolution increasing the Gallatin County FY 2001 Public Safety budget to include unanticipated grant revenues for the FEMA Project Impact Program activities, Fund #2309-000-33-11-12. This resolution will increase the FEMA budget by \$50,000.00. The match is required from the community, and as different private sector entities participate in Project Impact programs they will contribute to the match. Commissioner Vincent made a motion to approve Resolution #2001-73, per the recommendation of Mr. Watson. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported on the consideration of a resolution increasing the Gallatin County FY 2001 budget to include unanticipated loan and grant revenues for the DNRC West Yellowstone Hebgen Basin Solid Waste District Composting program activities. This resolution will adjust the administration fee for management of the grant in the amount of \$99,000.00, and increase of \$2,000.00 in administrative revenue. Commissioner Vincent made a motion to approve

GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 291

Resolution #2001-74, per the recommendation of Mr. Watson. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported on the consideration of a resolution increasing the Gallatin County FY 2001 Public Safety budget to include unanticipated grant revenues for the Bulletproof Vest Partnership program activities. This resolution will increase the Sheriff Department budget by \$6,733.00. A match is required, but has been secured from within the department's budget. Commissioner Vincent made a motion to approve Resolution #2001-75, per the recommendation of Mr. Watson. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported on the consideration of a resolution increasing the Gallatin County District Court FY 2001 budget to include unanticipated loan and grant revenues for the Guardian Ad Litem program activities. The County acted as a sponsor for the receipt of a United Way allocation to the Guardian Ad Litem program. This resolution will increase the Guardian Ad Litem budget by \$2,800.00. Commissioner Murdock made a motion to approve Resolution #2001-76, per the recommendation of Mr. Watson. Seconded by Commissioner Vincent. None voting nay. Motion carried unanimously.

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Gallatin County Fiscal Officer Ed Blackman presented the discussion on the reconciliation of the Motor Vehicle taxes distribution error. Motor Vehicle funds were distributed to County Funds and primarily Manhattan School District in excess of their allotted monies. The City of Bozeman, City of Belgrade, School District #7 did not receive the total funds due them. The total error was approximately \$136,000.00 and was for prior fiscal years, not fiscal year 2001. Discussion has taken place between the various entities on how to resolve the problem, and it has been determined that the error would be broken into two fiscal years for county budget purposes, and an agreement would be entered into with Manhattan School District for their repayment of all or a portion of the funds overpaid. Before the close of business on June 30, 2001, the monies will be reimbursed to all entities with the exception of Bozeman School District, which has agreed to wait until 2003 budget for their funds. This decreases \$80,000 from next year's budget, available cash, and \$56,000 in the future year's budget. This will be offset by payments received from Manhattan School District is able to pay before the end of FY 01 and into FY 02. The Treasurer and Fiscal Officer have agreed that the accounting of this arrangement should not be difficult. Commissioner Mitchell asked how much of the underpayment was the County's share. Mr. Blackman stated that approximately \$10,000.00 of the \$136,000.00 was a loss from the County. The remaining \$126,000.00 will have to be repaid, and discussions of late have been such that Manhattan School District may repay half with the County absorbing the other half. Gallatin County Attorney Marty Lambert requested that his legal opinion be put on record for this matter. He noted that he has received a legal opinion from MACo Attorney Jack Holstrum, and he values his advise and input. Mr. Holstrum stated that this case could result in unjust enrichment for Manhattan School District, and Mr. Lambert agrees that this could be the case. However, the County is not bound to seek this legal course of action. You have authority to determine when and under what circumstances the County involves itself in litigation. There have been many times in the past that the Commission has chosen not to pursue a claim for relief when you have chosen not to do this. This situation could have been turned around and various offices and officials could be held responsible for this error and be deemed negligent in the handling of this money. Determining responsibility is not necessary, and a 50/50 split of the repayment of these funds is a fair resolution to the problem. Manhattan School District has less taxing ability than the County does, and a decision to split repayment would be legally defensible. Mr. Lambert offered to work with the school district to draft a contract whereby Manhattan School District would pay the \$63,000.00 over time. Ramona Stout, Superintendent of Manhattan School District, stated that the school district would like to indicate that they do feel those people who did not receive the funds are due them, and should be owed the funds. They have concerns about the repayment, and would like to do so in such a way that it does not negatively affect the taxpayers in Manhattan and not affect the children in the school system. Ms. Stout mentioned the proposal that was suggested to split the repayment 50/50 with the County is something that they would like to have considered. Commissioner Mitchell inquired about the options that have been considered, and Ms. Stout explained that in discussions with the School District Board, Commissioners and Mr. Blackman, the 50/50 split of repayment has been the primary option considered. However, they will do whatever they are asked to do, if they have the option of repaying the funds over a number of years. As soon as

the Gallatin County Treasurer has the June statements available for the District to be able to determine how much revenue they will be receiving, they will be able to look better into repayment options. The monies were distributed in excess to three funds: transportation, debt service and the general fund. Most of the excess was paid to the general fund, and this will take the longest to repay from. The school district believes they will be able to repay whatever funds they are required to pay within five years. Depending on the year-end balance, the district anticipates being able to pay  $\frac{1}{4}$  of the total amount in FY 2001, and possibly more. Treasurer Anna Rosenberry urged the Commission to make a decision today. She explained that the error occurred three years ago and it is of essence that some solution be in the process before the end of the Fiscal year so that statements can reflect what will be happening. Responsibility for the repayment of this error lies in the hands of the taxpayers of Manhattan and the management of the County. The school district should not be required to help correct the error to the detriment of the current students in the district. The 50/50 resolution is proper and fair. Mr. Blackman requested that a decision be made and instruction be given to officials involved to work out a budget so that year-end transfers can be made. Commissioner Murdock made a motion that the County enter into an agreement with Manhattan School District for them to pay 50% of the error in the Motor Vehicle Distribution (\$128,182.13) spread out over five years, with a minimum of  $\frac{1}{5}$  paid each year, directing the County Attorney and other staff to draw up the agreement and design budgeting and accounting actions to correct the problem. Seconded by Commissioner Vincent. In discussion, Commissioner Mitchell noted that she has not been included in the previous discussions on this matter. She also stated that in her own research, she has found that several other Counties that have experienced similar situations and they have all required the entities to repay. Local government makes mistakes and the County has shared in the responsibility of rectifying the situation with extra audits and countless hours or work. The FY 2002 budget is the tightest yet, and this needs to be considered. Commissioner Mitchell noted that she is very willing to work with the district over as many years as necessary for them to refund the money, but that she feels it necessary for them to refund it in full. Commissioner Vincent noted that he appreciates the attention to this matter that Commissioners Mitchell and Murdock have given, however they have come to different conclusions and that he will support the motion because it appears reasonable, legally viable and fair. Commissioners Murdock and Vincent voted in favor of the motion. Commissioner Mitchell voted nay. Motion carried with a vote of two to one.

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Gallatin County Attorney Marty Lambert presented consideration of a resolution to establish long-term, stable funding for 911 through a voted levy. He explained that it has taken a number of years of discussion by the 911 Administration Board and Commissioners to get to this point. The interlocal agreement between the County and City of Bozeman for 911 Communication services was always meant to be a temporary funding solution. Double taxation of City of Bozeman residents is a problem that this funding source created. Currently, the needs of the center and repeater sites are going to be met with grant funds, however, this is a year-to-year solution, and there are other needs such as computer infrastructure that do not have funding sources. 911 Communications is a critical need that has to be funded and cannot fall within the realm of competing with every other county department for available funds. At this time we still do not have a 24-hour a day, seven day a week records center, and our license is in jeopardy because of this. Commissioner Murdock inquired about the continuing need for capital improvements, and stated that perhaps it would be a good idea to add an additional mill, as a cushion for such future needs. Mr. Lambert stated that the eleven mills proposed should be sufficient and will provide for capital purposes. Eleven mills will result in approximately \$1,300,000, and this should be sufficient. Commissioner Mitchell asked for verification that this resolution does not address the reorganization, but funding only. Mr. Lambert confirmed this. He noted that this resolution is looking to the voter for funding support for emergency communications and records only. The Sheriff needs to take over the records function as he is the authorized contributor of the criminal justice information network. We are light on staff in the records department, and this resolution does propose that the Sheriff take over this function in order to rectify some of the shortfalls occurring in this area. Commissioner Mitchell asked if the resolution precludes the Commission from being able to reconsider the reorganization of 911 and records. Mr. Lambert assured her that it does not, and the resolution does allow the County Commission to lower the mills levied in future years if they deem necessary. Once the interlocal agreement goes away and the County holds the purse strings for this area, they will be able to determine how 911 Communications and the Records Department are organized. The retreats, meetings, and discussions with staff and public have all resulted in 100% support for the County taking responsibility for 911, but this is not a part of the resolution. Commissioner Mitchell inquired about the proposed November 6<sup>th</sup> date for election, and whether or not this was a regularly scheduled election date. Mr. Lambert confirmed that it is a scheduled election day for many cities. Commissioner Mitchell inquired as to whether or not the City Commission supported the resolution at their meeting on June 25<sup>th</sup>. Mr. Lambert stated that he did not, but City Commissioner Jarvis Brown could speak to that question. Mr. Brown addressed the Commission and stated that the City Commission supported the

resolution and the placing of the mill levy question to the voters unanimously. 911 has been very complicated and many capable people have worked hard to resolve the issues at hand. He noted that in his opinion things would run much more smoothly if 911 were under one entity, and supports the Sheriff serving as the overseer of it. Commissioner Mitchell inquired as to whether the resolution passed by the Bozeman City Commission matched the one currently being considered. Mr. Brown stated that it does not, but the Commission would be glad to revisit and pass a matching resolution if necessary. The 911 Center is the backbone of our system and this proposed resolution would put us on the road to taking care of the problems currently existing. Sheriff Cashell also requested that the election be held as soon as possible in order to begin making use of the funding and to free up county funds for other needed areas. Gallatin County Fiscal Officer Ed Blackman spoke, noting that the 11 mills is based on \$1,160,000.00 being the current proposed budget for the 911/Records activity and it does not have any reserves in it for buildings, replacing equipment, etc. Under the proposal, an additional \$150,000.00 has been set aside for future years replacement of equipment wherever the Commission approves. Mr. Blackman further explained how the 11 mills were derived, reducing non-tax revenues and what would be needed to fund the department over the next two years. After two years the Commission will have the flexibility to reduce the levies as able. Mr. Blackman also noted that he supports having the election for the levy in September so that the mills can be placed on the tax roles for FY 2002, if the election does not take place until November, the mills cannot be levied until November 2003. Commissioner Mitchell inquired about the reserves that 911 used to have. Mr. Blackman stated that they have been used for operating costs throughout the year. We have gotten away from having to have those reserves because the City pays one-half of their contribution the last week of July and the County pays one-half of our contribution in August, therefore the reserves aren't needed at that point. If we go back to using tax monies, we will have to go back to having the reserves or there won't be sufficient tax monies to support from June until November. Commissioner Murdock stated that there is a number of reasons that he feels this question should be put to the voters on September 11 if the City of Bozeman is required to hold a primary election. Discussion took place regarding the time frames for approving the resolution, and the need to have the certified ballot to the Secretary of State 75 days prior to the election, which is June 29 for a September 11 primary. The group also discussed changing the resolution to include alternate dates. Mr. Lambert requested time to review such language were this was the choice the Commission made. Commissioner Mitchell made a motion to approve Resolution #2001-77, a resolution of the Board of Commissioners of the County of Gallatin, Montana, submitting to the qualified electors of the County of Gallatin in conjunction with the regular election on November 6, 2001, the question of authorizing the Gallatin County Commission to make a levy of eleven (11) mills in addition to the mill levy limit imposed by law for the purpose of funding operations and capital expenditures for Gallatin County's Emergency Communications and Records functions. Seconded by Commissioner Murdock. During discussion, Commissioner Vincent asked if this resolution precludes the September 11, 2001 option. Commissioner Murdock stated that it would. The primary argument for putting this question to the voters in September rather than November is being able to levy the mills a full year sooner. This would free up approximately half of the funds currently levied by the City and County that are being deposited into 911. Commissioner Murdock noted that he wants the resolution to state alternative dates with the chance that the question could be placed to voters in September. Commissioner Mitchell voted in favor of the motion. Commissioners Murdock and Vincent voted nay. Motion failed with a vote of one to two. Commissioner Murdock made a motion to approve Resolution #2001-77 as written, with an amendment to the fifth "Now therefore..." to state "...does hereby call and direct to be held in the County of Gallatin on either the date in September that a City of Bozeman Primary Election would be held if necessary or on November 6 if the Bozeman City Primary Election is not necessary..." Seconded by Commissioner Vincent. Commissioner Mitchell asked Mr. Lambert if this wording would work on his resolution. Mr. Lambert stated that he would like time to look at the language and does not think that it is worth the hassle to change it and does not know if it would work or not. Commissioner Mitchell asked if either/or language is appropriate for a resolution such as this. Mr. Lambert stated that it puts the County at risk, and unnecessarily so. Contingencies in a resolution involving a ballot question are not advised. It was determined that this item would be continued until Thursday @ 2:00 P.M.

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There were no pending resolutions. There being no further business the meeting was adjourned at 11:30 A.M.

*Unavailable*  
*For Signature*  
 CHAIRMAN APPROVAL

*Shelley Vance*  
 CLERK ATTEST

**294 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46**

**PUBLIC MEETING**

**TUESDAY THE 10th DAY OF JULY 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:08 A.M. Also present were County Commissioner Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**JULY 2-3, 2001**

- The Commissioners conducted regular County business.

**JULY 4, 2001**

- The Commissioners' office was closed in observance of Independence Day.

**JULY 5, 2001**

- A special meeting was called to order on July 5, 2001 by Chairman Jennifer Smith Mitchell at 9:00 A.M. Also present were County Commissioner John Vincent and Gallatin County Fiscal Officer Ed Blackman. Commissioner Murdock was absent. Mr. Blackman presented a resolution adopting the preliminary Gallatin County FY 2002 operating budget as determined by the County Commission. Commissioner Vincent moved to approve Resolution #2001-78. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Mr. Blackman presented a resolution of intent to increase the G.I.S. Department Fiscal Year 2001 operating budget to include grant revenues. Commissioner Vincent moved to approve Resolution #2001-79. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Mr. Blackman presented a resolution of intent to amend the Gallatin County FY 2001 final operating budget for receipt of unanticipated revenues for the Amsterdam Rural Fire District. Commissioner Vincent moved to approve Resolution #2001-80. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Mr. Blackman presented a resolution of intent authorizing the Belgrade Rural Fire District Board of Trustees to use fire impact fees for the purchase of a coach type 1 ambulance and upgrade vehicle pursuant to the district resolution #000109. Commissioner Vincent moved to approve Resolution #2001-81. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Mr. Blackman presented a resolution of intent authorizing the Gallatin Canyon Consolidated Rural Fire District Board of Trustees to use fire impact fees for the purchase of a water tender pursuant to the district resolution #2001-02. Commissioner Vincent moved to approve Resolution #2001-82. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

**JULY 6, 2001**

- The Commissioners conducted regular County business.

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- Payroll for June 2001: \$1,084,752.29.
- Clerk & Recorder's Fees Collected for June 2001: \$65,677.88.
- New Hire Report for June 2001: 911 – Janet Gies; ATTORNEY – Catherine Dinwiddie; AUDITOR – Judith Idol; DISTRICT COURT – Gerry Higgins; REST HOME – Katie Brandon, Janeen Welch, Melissa Boyles, Paula Stanford, Patricia Steiner, Deanna Obrecht, Traci Braun, Sari Huyser, Adam Klocke, Krista Gaines, Rachel Marker; MOTOR VEHICLE – C. Renee Huyser; SHERIFF – Alex Fuller, Douglas Longfellow, Steven Hinderer.
- Terminated Employees' Report for June 2001: ITS – Robert Neely 05/23/01; REST HOME – Mechelle Holmes 05/31/01, Patricia Steiner 06/05/01, Traci Braun 06/06/01, Deanna Obrecht 06/13/01, Pamela Ohs 06/22/01; SHERIFF – Randy Reber 05/31/01.
- Received and Approved Applications for Cancellation of Taxes in the Amount of \$19,094 for June 2001 (#'s 4449-4452, 4454-4456, 4458-4468, 4470-4473).

**The following items were on the consent agenda:**

1. Claims were presented for approval by the auditor, dated July 05, 2001 in the amount of \$345,361.02.
2. Consideration of Contract(s): Juvenile Accountability Incentive Block (JAIB) Grant from the Montana Board of Crime Control to the Gallatin County Youth Probation Office for Probation Officer Training; Grant Allocation Agreement from the Montana Board of Crime Control for the Gallatin County Freedom From Fear Program; Financial Advisor Services Contract with D. A.

- Davidson for Open Space Lands Bonds; Cooperative Law Enforcement Agreement between GCSO and USFS; and Amendment to Contract No. 2000-072 with Teton Communications for 911.
3. Request for Common Boundaries Relocation Exemption for Robert Naert and W. James Anderson located in the NE ¼ , Section 9, T3S, R4E. (Cottontail Road, west of Gallatin Gateway). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
  4. Request for Common Boundaries Relocation Exemption for Dewin and Rochelle Madill located in the SW ¼ , Section 23, T2S, R6E. (Mount Ellis Lane). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
  5. Request for Common Boundaries Relocation Exemption for Scathat Properties, LLC and Big Sky Equities Family LP located in Section 19, T7S, R4E. (Beaver Creek area). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
  6. Request for Aggregation of Lots within a Platted Subdivision for the Gardner Living Trust described as Lots 7 and 8, Block 3, Hebgen Lake Subdivision Division No. 2, Section 4 and 5, T12S, R4E (Lakeview Loop, off Hwy 287). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
  7. Request for Partial Release of Credit for the Garden Center Major Subdivision (Page Amended Plat) A staff report submitted by Gallatin County Planner Jennifer Madgic recommends that the Commission approve the requested release and authorize the Chairman to sign the request documentation. All other terms and conditions of the original Improvements Agreement remain in full force and effect.
  8. Request for Final Plat Approval of the Bonnie and David Kallestad Minor Subdivision described as the amended plat of Lot 1, Minor Subdivision No. 114 located in the E ½ , E ½, of Section 27, T1N, R4E, P.M.M., Gallatin County, Montana. Preliminary plat approval was granted on August 31, 1999. Belgrade City-County Planner Jason Karp states that the conditions for final plat approval have been met.
  9. Request for Final Plat Approval of the Ross Creek Subsequent Subdivision, Lot 38, (Steiner Subsequent). Preliminary plat approval was granted on December 7, 1999. Gallatin County Planner Jennifer Madgic states that the conditions for final plat approval have been met.
  10. Request for Boundary Realignment for O. Wendell Townsend located in the E ½ , NE ¼ of Section 3, T1N, R3E. Town of Manhattan Planning Consultant Ralph Johnson reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
  11. Request for Boundary Realignment for Robert W. and Virginia A. Bos located in the E ½ , NE ¼ of Section 3, T1N, R3E. Town of Manhattan Planning Consultant Ralph Johnson reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Gallatin County Planner Jennifer Koozer requested Item 4 on the consent agenda, Common Boundaries Exemption for Madill be placed at the end of the regular agenda in order to correct an error on the survey. Gallatin County Planner Jennifer Madgic requested Item 7 on the consent agenda, Request for partial release of credit for the Garden Center Major Subdivision be continued until next week. Gallatin County Auditor Joyce Schmidt noted the claims for consideration were split into two groups. The first was in the amount of \$345, 361. 02, and the second was \$145, 918.71. Due to a software glitch she requested the second group be considered today after 1:30 P.M. Commissioner Mitchell requested the Cooperative Law Enforcement Agreement between GCSO and USFS be placed on the regular agenda for further clarification. Commissioner Murdock read the amended consent agenda, and moved to approval as amended. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Sheriff Jim Cashell provided additional information on the Cooperative Law Enforcement Agreement between GCSO and USFS. Discussion took place regarding the review of Gallatin County's assistance to USFS, given the demands for deputies in county lands rather than forest lands. Sheriff Cashell stated this was a standard contract in most counties of the State of Montana that have forest service property within their boundaries. They are only required to have people work on the Fourth of July and Labor Day, otherwise it is all overtime and voluntary. Commissioner Vincent moved to adopt the agreement. Seconded by Commissioner Murdock. Commissioner Mitchell stated she would support the contract this year, although she was going to request that the Sheriff re-visit this in relation to information that he can no longer provide adequate law enforcement to the citizens of Gallatin County. She stated there needs to be a more equitable situation worked out with the USFS to

provide law enforcement as needed but not to the detriment of Gallatin County taxpayers. None voting nay. Motion carried.

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One vacancy exists on the Airport Authority (Gallatin Field) Board. This is a five-year term, expiring on June 30, 2006. Jack Bolls spoke in opposition to the re-appointment of Richard Roehm to this board. Mr. Bolls also commented that the Airport Authority has no accountability to anyone not even the Commission. Gilbert Moore spoke in support of Mr. Roehm being re-appointed to the board. Thomas Nagorski (submitted testimony in writing) an applicant for the board expressed his interest to serve on the board. Commissioner Mitchell stated she received a phone call from Marsha Edsall on behalf of Wayne Edsall supporting new members, and three faxes in support of Thomas Nagorski from the following: Anthony E. Beebe; David D. Douglas; and John H. Tarlow. Commissioners Murdock and Vincent spoke in support of Mr. Roehm. Commissioner Mitchell spoke in support of Mr. Nagorski, stating new insight brings discussion, and with discussion there is progress. Commissioner Murdock moved to re-appoint Mr. Roehm. Seconded by Commissioner Vincent. Commissioners Murdock and Vincent voting in favor. Commissioner Mitchell voting nay. Motion carried. One vacancy exists on the Meadow View Cemetery board. This is a three-year term, expiring on June 30, 2004. There was no public comment. Commissioner Vincent moved to re-appoint Grant Ballantyne. Seconded by Commissioner Murdock. None voting nay. Motion carried. One vacancy exists on the Three Rivers Mosquito Control District. This is a three-year term, expiring on June 30, 2004. There was no public comment. Commissioner Murdock moved to re-appoint Mel Obrigewitch. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the protests for the dissolution of the Reese Creek Fire Service Area. Ms. Vance stated on May 1, 2001, the Commission passed resolution #2001-45 to dissolve the Reese Creek Fire Service Area, which began a 60 day protest period. Ms. Vance stated there were no protests received to dissolve this district. Commissioner Murdock moved to accept the Clerk and Recorder's report, that she has not received sufficient protests to prevent dissolving the Reese Creek Fire Service Area, therefore, the motion is to dissolve it pursuant to the terms of Resolution #2001-45. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on consideration of resolution to annex Reese Creek Fire Service Area into the Belgrade Rural Fire District. Commissioner Vincent moved to adopt Resolution #2001-83. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider annexation into the Sourdough Rural Fire District property described as the NE ¼, Section 32, T2S, R6E, P.M.M., Gallatin County, Montana. Notice of this hearing was published in the High Country Independent Press on June 21<sup>st</sup> and 28<sup>th</sup>, 2001. There was no public comment. Commissioner Murdock moved to direct the Clerk and Recorder to work with the County Attorney in preparing a resolution for this annexation into the Sourdough Rural Fire District. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Commissioner Mitchell announced the consideration of a resolution to change the location of the County Commission public meeting on July 17, 2001, to West Yellowstone. Commissioner Vincent moved to adopt Resolution #2001-84. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported on consideration of a resolution authorizing the Gallatin Canyon Consolidated Rural Fire District Board of Trustees to use fire impact fees for the purchase of a water tender pursuant to the District's Resolution No. 2001-02, and reported on the consideration of a resolution authorizing the Belgrade Rural Fire District Board of Trustees to use fire impact fees for the purchase of a Coach Type 1 ambulance and upgrade vehicle pursuant to the District's



**GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 297**

Resolution No. 000109. Gilbert Moore clarified there were two separate fire districts involved, as Mr. Blackman inadvertently combined them. Mr. Moore urged the Commission to support the resolution for the Belgrade Rural Fire District. Commissioner Vincent moved to adopt Resolution #2001-85. Seconded by Commissioner Murdock. None voting nay. Motion carried. Finding there was public comment in support, and acknowledgment the district is aware the impact fees will have to be repaid, Commissioner Murdock moved to approve Resolution #2001-86. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported on the consideration of a resolution to amend the Gallatin County FY 2001 final operating budget for receipt of unanticipated revenues for the Amsterdam Rural Fire District. There was no public comment. Commissioner Vincent moved to adopt Resolution #2001-87. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported on the consideration of a resolution to increase the GIS Department FY 2001 operating budget to include grant revenues. There was no public comment. Commissioner Murdock moved to approve Resolution #2001-88. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Commissioner Mitchell announced the request for improvement and access to a portion of Sappington Road at Sappington was removed from the agenda, stating it may not be an issue depending on the economics of today's energy world.

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Gallatin County Planner Jennifer Koozer reported on the consideration of a request for final plat approval of the Madden Minor Subdivision located in Sections 17 and 20, T1N, R6E. The property is generally located in the Springhill Zoning District, south of the Springhill Community Road and north and west of Forswall Road. The Madden Minor Subdivision was granted preliminary plat approval on April 3, 2001. The subdivision creates Lot 1 (20 acres), leaving a 220 acre remainder. Ms. Koozer explained that condition H., which was recommended by the Road Department as follows: For the entire length of the development (both and new Lot 1 and remainder), 30 feet north of the centerline along the east-west portion of Forswall Road and 30 feet west of the centerline along the north-south portion of Forswall Road shall be dedicated to the public, and fences shall be moved to conform with right-of-way lines. However, in trying to met that condition the applicant found that it was not possible because another landowner owned a portion of the roadway that was to be dedicated. The Planning Department has determined that the condition has gone above and beyond what is required by law, and what should be required is that the road be dedicated for the entire length of the new lot and not the remainder of the parcel. In the opinion of the Planning Department and the Road Department this condition has been met to the extent required under the regulations. There was no public comment. Satisfied with the Planning staff's explanation that condition H has been met, Commissioner Murdock moved to find all the conditions have been met and granted final plat approval. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the request for the Madden Agricultural exemption located in the SW ¼ of Section 17, T1N, R6E (Forswall Road), creating a 95 acre agricultural tract. Ms. Koozer stated there would be a covenant that requires no structures other than agricultural uses allowed and since this is in the Springhill Zoning District this agricultural parcel will have no development rights. There was no public comment. Finding this is the proper use of the agricultural exemption, Commissioner Murdock moved for approval. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic reported on the consideration of a request for preliminary plat approval for the Blue Grouse Subsequent Subdivision located in the NW ¼ of the NE ¼ of Section 2, T7S, R3E, P.M.M., Gallatin County, Montana. Terry Threlkeld of Allied Engineering, on behalf of Paul

J. and Janet C. Cronin, has requested preliminary plat approval to subdivide Lot 3 of the Blue Grouse Subdivision, Phase II, into five lots. The Blue Grouse Hills Subdivision, Phase II, was granted preliminary plat approval on September 16, 1991. Lot 3 presently includes approximately 25 acres and the lots are sized as follows: Lot 1, 6.92 acres; Lot 2, 12.87 acres; Lot 3, 1.94 acres; Lot 4, 1.02 acres; and Lot 5, 2.35 acres. Total density would not change with this application. There were no variances requested. Legal notice was published June 21, 2001 in the High Country Independent Press and certified mail was sent to adjacent property owners. The Planning Department has not received any letters on this project. The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the suggested conditions. The Commission has one determination to make with this application: A determination as to whether the proposed subdivision should be approved. The basis for the Commission's decision shall be whether the preliminary plat, and additional information demonstrate that the development of the subdivision meets the requirements of the Montana Subdivision and Platting Act, as well as the requirements of the Gallatin Canyon/Big Sky Zoning Regulation. If the Commission decides to approve the subdivision, the following conditions for final plat approval are suggested: 1. All pertinent conditions of approval, including covenants, from original subdivision approval (findings of fact, 9/16/91) shall apply. 2. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 3. Department of Environmental Quality approval shall be obtained for the subdivision. Applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. Applicant shall obtain the Gallatin County Health Officer's approval. 4. Two copies of the covenants, a copy of the conditions of preliminary approval, documents establishing the property owners' association, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants, documents establishing the property owners' association, and certificate prior to final plat approval. 5. Applicant shall record with the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, fire district or fire service area and/or the creation of a sewer and/or water district. 6. All utility easements shall be shown on the final plat. Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat: The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever. 6. A Memorandum of Understanding shall be signed between the Weed Control District and applicant prior to final plat approval. 7. Applicant shall record the following covenants with the final plat (also including any covenants recommended by the Gallatin County Weed Control District and Gallatin Canyon/Big Sky Rural Fire District): *a. The control of noxious weeds by the Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District. b. The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds after 10 days notice from the property owners' association, the association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment. c. A site specific soil analysis and geotechnical study, prepared by a licensed professional engineer, shall be required in connection with proposed construction of any single-family dwelling. d. The artificial feeding of all big game wildlife shall be prohibited. e. All garbage shall be stored in bear-proof containers to be made unavailable to bears. f. Owners acknowledge that wildlife damage to landscaping will occur. Owners shall accept that risk and shall not file claims against the owners' association or any other governing body for such damages. g. The taking of any wildlife species within the property is prohibited. h. Pets shall be controlled by each homeowner and not allowed to roam within the subdivision.* 8. Applicant shall establish a property owners' association or join an existing association for enforcement of the required covenants. 9. Applicant shall submit a detailed signage and drainage plan to the County Road Department for approval, prior to the start of any construction. This plan should specifically address the requirement for road name signs to be installed at all intersections, as well as STOP sign(s) at all intersections with County-maintained roads. STOP signs and other regulatory or warning signs may also be needed on some internal roads, and this should be addressed in the plan. 10. Applicant shall provide a second means of access to all proposed lots with over six residential units. This access will need to be a public easement constructed to County standards. 11. All interior roads shall be built to County paved standards, and have a 60-foot right-of-way, dedicated to the public. 12. Applicant shall participate in a pre-construction meeting with the County Road Department prior to the start of any construction. 13.

All road work shall be inspected and certified by a licensed engineer. Such inspection and certification shall be provided to the County Road Department in writing. Final approval will not be given until this documentation is received. 14. A property owners' association shall be formed for the maintenance of all interior roads. Applicant shall submit a copy of the property owners' association by-laws to the County Road Department prior to final approval. 15. Property owners shall enter into a joint agreement with the homeowners association of West Fork Meadows, for the joint maintenance of Spruce Drive. 16. After the Big Sky Coordinated Transportation Study, or a successor study in the absence of the named study, has been adopted by the County Commission, determination of mitigation required of the developer for traffic impacts caused by this subdivision shall be made by the County Commission at a hearing specifically conducted for that purpose in accordance with applicable subdivision regulations governing preliminary plat approval. If the study is not completed or adopted by the County Commission prior to the developer seeking approval of a final subdivision plat, after first obtaining a detailed technical review of traffic impacts from the Montana Department of Transportation, determination of mitigation required of the developer for traffic impacts caused by this subdivision shall be made by the County Commission at a hearing specifically conducted for that purpose in accordance with applicable subdivision regulations governing preliminary plat approval. 17. Applicant shall make payment of road impact fees in accordance with the Gallatin County Subdivision Regulations Road Impact Fee Policy. 18. Applicant shall make payment of fire protection impact fees in accordance with the Gallatin County Subdivision Regulations Impact Fee policy. 19. Applicant shall meet the fire protection requirements in accordance with the Subdivision Regulations and the Gallatin Canyon/Big Sky Fire District. Applicant shall obtain written verification from the District that the required water supply and any other conditions required of the Gallatin Canyon/Big Sky Fire District have been provided. Inspections shall be scheduled, with a 48-hour notice, during construction and completion. 20. Applicant shall provide a final plat to the Gallatin Canyon/Big Sky Fire District prior to final plat approval. 21. Applicant shall have three (3) years to complete the above conditions and apply for final plat approval. Ms. Madgic made the following corrections to the staff report: on page 1, it should read Lot 2 , 12.87 acres; and page 11, condition 19 should read as follows: Applicant shall meet the fire protection requirements in accordance with the Subdivision Regulations and the Gallatin Canyon/Big Sky Fire District. Applicant shall obtain written verification from the District that the required water supply and any other conditions required of the Gallatin Canyon/Big Sky Fire District have been provided. Inspections shall be scheduled, with a 48-hour notice, during construction and completion. She also, requested adding the following condition: Density is proposed as follows: Lot 1: 44 condominium units; Lot 2: 19 condominium units; Lot 3: 1 single-family unit; Lot 4: 4 condominium units; and Lot 5: 4 condominium units. Discussion took place determining if it was required as a conditional use permit in the zoning district if they are going to go on central sewer. Terry Threlkeld, Allied Engineering briefly summarized the project. Mr. Threlkeld noted the Road Department added a condition that the roads be paved, and he requested permission to bond those improvements. The reason for this is because the Water and Sewer District will be constructing water lines and installing a new tank over the next 2 years, causing the road to be re-paved. In addition he wanted to modify condition 11, and request that they not be required to pave at all unless ADT's are in excess of 100. He suggested the condition contain specific road names, and state that any paving be bonded and allow Bob Sled Trail in its entirety to remain gravel, and Partridge Drive from its intersection with Bob Sled Trail to the north remain gravel. There was no public comment. Ms. Madgic clarified that the Subdivision Regulations require that interior roads of major subdivisions be paved, so there is no opportunity to separate out roads, unless the applicant requests a variance. She stated the applicant was not willing to request a variance and would be willing to bond the paving requirements for all roads. Finding that it conforms with the Zoning District, the conditions have been met, it has gone through proper review, and it meets the Subdivision and Platting Regulations, Commissioner Murdock moved for approval with the change in condition 19, and adding condition 22 to read as follows: Density is proposed as follows: Lot 1: 44 condominium units; Lot 2: 19 condominium units; Lot 3: 1 single-family unit; Lot 4: 4 condominium units; and Lot 5: 4 condominium units. Seconded by Commissioner Vincent. Commissioner Mitchell added the finding that it meets the requirements of the Gallatin Canyon/Big Sky Zoning Regulations. Commissioner Vincent expressed concern relative to the capacity of law enforcement to provide police protection in Gallatin County. He noted that given the status of this application and the fact the densities have already been pre-approved, the legal rational does not apply so with reservation he supported the motion. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson announced the public hearing and report of recommendations from the Detention Center Project Team. Mr. Watson introduced the members of the project team, professional consultants and the staff who have worked together to prepare the recommendation for the new adult and juvenile detention facilities for Gallatin County. Project team: Sam Hofman, Chair; Bruce Gerlach, Vice Chair; Roger Curtis; Jim Paugh; and Darrell Behrent.

Professional consultants: Architect-Prugh and Lenon Architecture (Dick Prugh); Correctional Consultant-Integras Architecture (Bill James); Financial Advisor-D.A. Davidson (Bridget Eckstrom); Bond counsel (Bob Murdo); Planning Associate for the needs assessment-Matrix Planning Associates. Staff: Grants Administrator Larry Watson; Sheriff Jim Cashell; Detention Administrator Anita Shaw-Tymrak; Fiscal Officer Ed Blackman; Deputy County Attorney Chris Gray; and secretary Donna Morgan. Team member Roger Curtis, Executive Director of Alcohol and Drug Services presented a brief historical overview of the Detention Center planning process. The outcome of several meetings and appointed committees concluded with project goals and a site assessment of 3 potential sites for the proposed Detention Center. Those sites were: Oak Street; South 16<sup>th</sup>; and Baxter Lane. Initially the Project Team identified the Oak Street site as the preferred location, which was rejected. Following recommendations and re-evaluating the available information the Project Team facilitated planning for the new location on South 16<sup>th</sup>. The Project Team along with the valuable assistance of the non-voting team members reviewed all available information including needs assessments done by Matrix and the project manual done by Integras and Prugh and Lenon. They have reviewed and incorporated what is believed to be the most viable strategies to meet the needs of the South 16<sup>th</sup> location for a new adult/juvenile facility, and that these recommendations will meet the needs of Gallatin County now and into the future. Vice Chairman Bruce Gerlach gave a synopsis of the projects Mission statement and vision to facilitate and coordinate the construction and planning of the new direct supervision adult/juvenile detention facility. The Project Planning team includes the following: County Attorney; Grants Administrator; Fiscal Officer; Sheriff or designee; and 5 citizens. The four county staff appointees will be non-voting members of the project. Dick Prugh, Prugh and Lenon Architects explained that they were charged from a planning and design prospective to do the following: to look at the Master Plan potential of the South 16<sup>th</sup> site; and develop a building diagram and schematic plan for the adult/juvenile detention center. From the Master Plan prospective one of the major goals was to look at future possibilities and potential that allow for growth in the Detention Center, Law and Justice Center and law enforcement. He pointed out the future potential build out of the long term site on one of the four schematics on display. There would be 3 pods, comprised of 48 adult beds (total 144), 16 juvenile beds (total 32), and service facilities. Mr. Prugh stated there was a cost estimate done on the project, and within this budget he felt very comfortable there was enough money designated to build the facility that included engineering, site utilities, parking, site development, lighting, landscaping, and impact fees should they occur. Incorporated into the estimate were two years of inflation and options to look at the specific costs of building materials. Sheriff Jim Cashell reported on the building plan and its function and the operational budget. He further expanded on the facility, programs, and the direct supervision type of detention. Gallatin County Fiscal Officer Ed Blackman stated that based on the best estimates and programs that were developed by Integras and Matrix it will cost significantly more at the outset. The personnel costs for the 144 bed facility is estimated at \$2,050,000 and for the 16 bed juvenile facility an additional \$330,000 approximately. The operational costs based on current expenses and taking into consideration the prisoners preparing the meals, which reduced the meal costs was \$612,000 for the 144 bed facility and \$163,000 approximately for the 16 bed facility. The operational cost for the current facility is \$1,066,000 and the operational cost for the new facility will be approximately \$2,650,000, and \$480,000 to \$490,000 for the juvenile facility. In addition, there would be the debt costs and in the case of the 144 bed facility it would be \$1.5 million per year for 20 years and for the 16 bed facility approximately \$220,000 per year for 20 years. For the bond the taxpayers would have to approve about a 15 mill increase for both the juvenile and the adult facility, which equates to approximately \$54.00. This was based on the programming which includes the medical facility, programs and other costs associated as far as the increased cost for liability insurance as result of having a full blown medical facility and other activities. Bridget Ekstrom, representing D.A. Davidson as the financial advisor to the County on the jail bond issue provided information related to the bond impact issue. Ms. Eckstrom stated that the average homeowner in the City of Bozeman is looking at about \$100.00 (\$46 bond issue and \$54 operating costs) based on the current taxable value. That amount would include the 144 bed facility, the 16 bed facility and the operating costs. From her financial perspective, based on the interest rate environment she stated they should look at locking into a long term interest rate, because currently this is the lowest interest rate environment seen in 30 years. There are two costs to the financing, the principal amount which is \$20,890,000, and the interest costs attached. Total interest at the life of the bond issue at an interest rate of 5.5% would be \$14,000,000. Those two numbers equate to an annual mill of about 15, (14.84). She pointed out if looking at the costs, one of the major components is interest and discussed the importance and savings of locking into a lower interest rate. Discussion took place regarding the increased operating costs. Mr. Blackman stated that in discussion with the group it was decided the bond levy and mill levy vote should be together and showing the public the total cost of the project. Sam Hofman presented the official report on facilitating, coordinating and the planning of the new direct supervision adult/juvenile facilities for Gallatin County at the present South 16<sup>th</sup> location. Giving an overview of their May 9, 2001 meeting, the following recommendations were put forth to propose a 3 pod, adult/juvenile detention facility for the approximate cost of \$21 million dollars, and recommended the Commission ask the voters for

bonding authority to construct the 3 pods plus a juvenile facility. It was moved to stipulate that the proposal of the 3 pods plus the juvenile detention facility assumes this continuing use of the current detention center when the new facility opens. He noted the team endorses the South 16<sup>th</sup> Law and Justice Center draft site design concepts as presented by Integres Architects, Criminal Justice Consultants and Prugh and Lenon Architects. The team also, recommended having the votes via mail ballot in September 2001. To complete the report the team asked Mr. Blackman to prepare a spread sheet of three options, covering each of the options construction costs, estimated operating budget and including the bond issue mill levy impact figures. Ms. Ekstrom the financial advisor and Mr. Prugh the architect of record assisted in compiling this information. This proposal process included comprehensive and in-depth reviews of various options and many discussions utilizing a wide variety of resources and personnel. Mr. Hofman stated the citizen team members wished to recognize and thank the County staff appointees for their professional input and experienced assistance throughout the process. The team presented this proposal for the Commissions consideration and action. In addition, he stated the main emphasis of the team was to put together a proposal for the new jail that would fill the need and still be useful in the future. Public comment: David Pruitt and Brian Leland. Mr. Pruitt spoke in support of the new facility, while making the suggestions that the bond issue presentation on the operating millage be made clear to the public and that this is based on \$100 of valuation. Brian Leland spoke in opposition to the chosen site for the facility, explaining the increased costs for the eventual upgrades to the Law and Justice Center. Mr. Leland was in favor of building on the Oak Street site stating this could potentially save millions of dollars in construction costs and operating costs. He seen this as a political proposal and not having anything to do with functionality. Commissioner Mitchell stated she was not prepared to vote on the resolution regarding the ballot issues at this time. Commissioner Vincent concurred and suggested setting a time certain for two weeks from today. Commissioner Murdock stated that although he was ready to make a decision he would respect the thoughts of the other Commissioners. He stated the Commission owed it to all the citizens involved in the committees and project teams to honor the process and recommendations made by the committee, noting there are some options that will have to be looked at, particularly the juvenile one. He stated they have spent exhaustive years with a cross section of citizens from all over the County, and have come up with the exact same recommendation with the exception of the location, and he would honor those recommendations. He commented that it has cost the taxpayers several million dollars in delays whether they vote or not and he felt they owed it to residents to put this question before them soon. Commissioner Mitchell stated they are still waiting to hear if Butte got the contract from the Feds to build a juvenile detention center which would save Gallatin County taxpayers money, and that would have a lot to do with how the resolution reads. She thanked the committee for their many hours and devoted efforts and concise and direct report. Commissioner Mitchell stated this was the most expensive item that the Gallatin County taxpayers will ever build or support in operating costs and will go on forever, so it is not a decision to be taken lightly. Commissioner Murdock moved to continue item #15, the public hearing and consideration of a resolution regarding a ballot question of issuing General Obligation Bonds for the equipping and financing of an Adult and Juvenile Detention facility and item #16, the public hearing and consideration of a resolution relating to reimbursement of appropriate costs in the financing of the acquisition, design, construction, equipping and financing of an Adult and Juvenile Detention facility until July 24, 2001. Seconded by Commissioner Vincent. It was brought to the attention of Commissioner Murdock that he will not be in attendance that day, so he modified the motion to continue until July 31, 2001. Commissioner Vincent modified the second. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the request for a common boundaries relocation exemption for Madill that was continued from the consent agenda. Ms. Koozer stated she received the corrections to the plat and it was ready for signature. Commissioner Vincent moved to approve the request for the common boundaries exemption for Madill. Seconded by Commissioner Mitchell. Commissioner Murdock was absent. None voting nay. Motion carried.

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At 11: 55 A.M., the meeting was adjourned until 1:30 P.M. in order to consider the remaining claims.

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The meeting resumed at 1:30 P.M. for the claims approval. Commissioner Mitchell commented on a note from Gallatin County Fiscal Officer Ed Blackman stating that because the Eden system is 2 months behind he can not assure the Commission availability of budget for all items. Commissioner Vincent moved to approve the claims dated July 6, 2001, 8002386-8002517 in the amount of

**302 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46**

\$145,918.71. Seconded by Commissioner Mitchell. Commissioner Murdock was absent. None voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 1:35 P.M.

*Unavailable*  
*For Signature*  
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CHAIRMAN APPROVAL

*Shelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 17th DAY OF JULY 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:16 A.M., at the West Yellowstone Court Room. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**JULY 9, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell, Murdock, and Vincent, Grants Administrator Larry Watson, Road and Bridge Superintendent Lee Provance, and Commission secretaries Stacy Johnston and Glenda Noyes. The Commissioners considered acceptance of a grant award in the amount of \$58,513.00, from Montana Board of Crime Control for Victim Witness Assistance Program. The amount is down a bit from prior years, and the \$19,505.00 match will come from the Victim Services Program budget. Commissioner Murdock made a motion to accept the Grant award from the MBCC for the Victim Witness Assistance Program. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

Mr. Provance asked the Commission to consider asking the County Attorney's office to look into drafting a blanket speed limit ordinance for gravel and subdivision roads. The Commission agreed to send a letter requesting the CA's office addresses this matter.

The Commission considered approval of an animal impound month-to-month agreement with the Humane Society. This is an extension of the existing agreement that will expire on August 30. The extension will allow the Human Society to meet with the Sheriff and County Commissioners to ask for funding consideration in the next fiscal year, from the Sheriff's Department. Commissioner Murdock made a motion to approve the extension of the Animal Impound month-to-month agreement with the Human Society. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commission considered approval of Invoice #0101-2 from Taylor Architects for Phases III & IV in the amount of \$1,797.50. Commissioner Murdock made a motion to approve said invoice. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

**JULY 10-11, 2001**

The Commissioners conducted regular County business.

**JULY 12, 2001**

- The Commissioners attended a special meeting for the purpose of awarding the paving bids for FY 2001 for Cameron Bridge, Frank and Thorpe Road. In attendance were Commissioners Mitchell via conference call, Commissioner Murdock, and Commission secretary Glenda Noyes. Two bids were received and opened on June 26, 2001. JTL Group bid \$125,515.00 and Big Sky Asphalt bid \$192,280.00. Road and Bridge Superintendent Lee Provance reviewed the bids, noting that all requirements have been met by both of the bidding parties. He recommended the Commission accept JTL's bid of \$125,515.00, for a savings of \$66,765. Commissioner Murdock made a motion to accept the JTL Group bid in the amount of \$125,515.00 for the paving of Cameron Bridge, Frank and Thorpe Roads in FY 2001. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

**JULY 13, 2001**

- The Commissioners conducted regular County business.

**The following items were on the consent agenda:**

1. Claims were presented for approval by the auditor, dated July 13, 2001 in the amount of \$531,327.42.
2. Continuation of a Request for Partial Release of Credit for the Garden Center Major Subdivision (Page Amended Plat) submitted with the Garden Center improvements agreement. Based on review of the original Improvements Agreement, the submitted request and the certifications/approval, Gallatin County Planner Jennifer Madgic recommends that the Commission approve the requested release and authorize the Chairman to sign the request documentation. All other terms and conditions of the original Improvements Agreement remain in full force and effect.
3. Consideration of Contract(s): Amendment to #1999-065, Lease Agreement with Gallatin Community Clinic.

Commissioner Murdock read the consent agenda, noting that the claims were to be continued until 10 A.M., in order to satisfy the 48-hour notice. There was no public comment. Commissioner Vincent moved to adopt the consent agenda as amended. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Two vacancies exist on the Community Corrections Board. These are four-year terms, expiring on July 14, 2005. There was no public comment. Commissioner Vincent moved to re-appoint Gwen Massey. Seconded by Commissioner Murdock, stating they would continue to advertise to fill the remaining position. None voting nay. Motion carried. Four vacancies exist on the Search & Rescue Advisory Board. These are three-year terms, expiring on June 30, 2004. These vacancies were not advertised, as the members are selected/nominated by their respective organizations and then appointed by the County Commission. There was no public comment. Commissioner Murdock moved to accept the nominations from the respective groups for Carolyn Robinson, Scott Gill and C.J. Hanan all of whom accepted nominations for re-appointment. The Commission will contact the Whitewater Rescue Unit about selecting a new representative to replace Scott Dreblow. Seconded by Commissioner Vincent. None voting nay. Motion carried. Three vacancies exist on the West Yellowstone/Hebgen Basin Refuse District Advisory Board. These are three-year terms, expiring on June 30, 2004. Clyde Seely encouraged anyone who might be interested to apply for the vacant position. Commissioner Vincent moved to re-appoint Gale Ford and Brad Loomis, and to continue advertising to fill the vacancy left by Jim Micklewright's passing. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Representing the Painted Hills Homeowner's Association and the County Greg, Stratton of Morrison-Maierle reported on the receipt of construction bids for the Painted Hills RID #376. The first bid, received from JTL Group on July 16, 2001, contained a bid bond, acknowledgment of Addendum #1 and had a total bid price of \$432,596. The second bid, received from Big Sky Asphalt on July 16, 2001, contained a bid bond, acknowledgment of Addendum #1 and had a total bid price of \$289,655. Mr. Stratton recommended that Morrison-Maierle take the bids under advisement for tabulation and review and making a recommendation to the Commission on July 24, 2001. Discussion took place regarding the review process. Mr. Stratton stated the engineer's estimate was \$454,000.

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the consideration of Minor Subdivision No. 221 (Davis Minor Subdivision) improvements agreement. An improvements agreement for the Davis Minor Subdivision was established following final plat approval on November 19, 1997. The improvements required by the agreement were to Roxi Lane and Westlake Road. An irrevocable letter of credit was issued by Valley Bank Belgrade in the amount of \$35,283.34 to provide a guarantee for those improvements. However, subsequent to the original approval, Gallatin County has abandoned Roxi Lane. The applicant has requested that the improvements agreement be modified to only address improvements to Westlake Road. Mr. Johnson noted that the County Attorney has approved the improvements agreement and the Planning Department is in agreement. Discussion took place regarding the dead line to complete the improvements. This would be releasing the original letter of credit in the amount of \$35,283.34, and establishing a new letter of credit for 150% (current subdivision requirement) of new estimate for improvements to Westlake Road only. There was no

public comment. Commissioner Murdock moved to accept the addendum to the improvements agreement as described by Mr. Johnson for the Davis Minor Subdivision. Seconded by Commissioner Vincent. Commissioner Mitchell added that this was reviewed and approved by the County Attorney. None voting nay. Motion carried.

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the consideration of a request by Gallatin Peaks Land and Development, LLC, for a waiver of fire protection impact fees to be paid for the Big Sky Town Center Major Subdivision. The proposed subdivision is located within two parcels: Parcel 1 (148.423 acres) is located in Section 1, T7S, R3E, PMM, Gallatin County, Montana; and Parcel 2 (5 acres) is a tract of land in the S1/2 of the NE1/4 of Section 2, T7S, R3E, PMM, Gallatin County, Montana. William L. Madden, Attorney at Law, on behalf of Gallatin Peaks Land and Development, LLC, has submitted a written request that the Commission waive the required fire protection impact fee payments. On October 17, 2000 the Gallatin County Commission granted preliminary plat approval. Specifically, the applicant is requesting a waiver of fees for 8 lots within Phase 1 of the proposed subdivision, which are for parking and/or upon which no structures will be erected. Section 10 of the Fire Protection Impact Fee Regulation addresses impact fee waivers, as follows: 10.0 Subdividers otherwise required by this Regulation to pay Fire Protection Impact fee may receive a waiver of that requirement if the subdivider can demonstrate to the County that (a) the land when subdivided and built out with at least one structure per lot will produce no greater demand for fire protection that would have been produced if such land had not been subdivided; or, (b) a fire protection facilities fee for such land has previously been paid in an amount that equals or exceeds the Fire Protection Impact Fee that would be required by this Regulation. 10.3 The County Planner Director or his designee shall determine the validity of any claim for waiver pursuant to the criteria set forth in Section 10.1 According to the applicant, since no structure will, or can, be constructed upon these lots, there will be no greater demand for fire protection after platting than would have been produced if such land had not been subdivided. Gallatin County Planner Bill Arnold has recommended that the Commission grant the requested waiver with the following condition: A covenant be placed on those specific lots that runs with the land and is only revocable by consent of the Board of County Commissioners. The covenant should clearly state that the lots may only be used for parking lots, and as such, they qualify for a waiver of the fire impact fees. Language should also be included that clearly states that any proposed future development of these lots for anything other than a parking lot will require approval of the Commissioners and that fire impact fees will be assessed at that time according to the regulation in effect. Discussion took place regarding the addition of a condition without having a hearing to amend the conditions of approval. Commissioner Mitchell questioned if the definitions were clear that the land must be used as a parking lot and not a parking structure. Mr. Johnson stated that he would like to see this as an added condition or a requirement as an individual restriction filed on this plat. In order for the County Commission to grant a waiver from the required fire protection impact fees, the Commission must determine that the waiver request meets the provisions of Section 10 of the Gallatin County Fire Protection Impact Fee Regulation. If the County Commission grants the requested waiver, the following condition is requested: 1. Prior to final plat approval, a covenant shall be placed on Lot 1, Block 1; Lots 2 and 3, Block 2; Lot 9, Block 5; Lot 9, Block 8; Lot 1, Block 12; Lot 5, Block 13; and Lot 5, Block 14 of Phase 1 of the Big Sky Town Center Subdivision. The covenant shall clearly state that the lots may only be used for parking lots, and any proposed future development of these lots for anything other than a parking lot will require approval of the Commissioners and that fire protection impact fees will be assessed at that time according to the regulation in effect. The applicant's representative Brian Gallik stated that 7 of the 8 lots are parking lots and the other lot, which is Lot 1, Block 1 is a little triangular piece of property that is not buildable due to acreage limitations. Gallatin Peaks has received an exemption from DEQ restrictions and no sanitary facility can be located on that lot, which is noted on the plat to prohibit structures. Mr. Gallik provided a proposed covenant prepared by Mr. Madden regarding the waiver of impact fees that addressed concerns raised by the Commission. The covenant would run with the land and cannot be modified without the consent of the Commission. The covenant would read as follows: No structure requiring fire protection may be erected upon the following Lots without approval of the Board of County Commissioners of Gallatin County, Montana and payment of any fire protection impact fees required by applicable Gallatin County Subdivision Regulations then in affect: Lot 1, Block 1; Lots 2 and 3, Block 2; Lot 9, Block 5; Lot 9, Block 8; Lot 1, Block 12; Lot 5, Block 13; and Lot 5, Block 14. Commissioner Murdock questioned why the lot was being created and not aggregated, as it served no purpose. There was no public comment. The fire district was advised of this proposed waiver of fire impact fees, and to date they have not responded. Discussion took place regarding the addition of a condition to Lot 1, Block 1 that would require the applicant to aggregate it, or place a prohibition in the covenants that this lot never be built on. Mr. Gallik stated he would need to confer with his clients and agreed to continue this until July 24, 2001.



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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the consideration of a request by Gallatin Peaks Land and Development, LLC, for acceptance of an independent fee calculation study for road impact fees to be paid for the Big Sky Town Center Major Subdivision. William L. Madden, Attorney at Law, on behalf of Gallatin Peaks Land and Development, LLC, has requested that the County Commission accept the independent impact fee calculation studies for the reduction of required road impact fee payments for the Big Sky Town Center Major Subdivision. On October 17, 2000, the Gallatin County Commission granted preliminary plat approval for the subdivision. Appendix E of the Gallatin County Subdivision Regulations addresses Gallatin County's Road Impact Fee Regulations. 4.1 A subdivider who submits a complete application for preliminary plat approval after the effective date of this Regulation shall pay a Road Impact Fee in the amount specified in this Regulation prior to final plat approval. The effective date of this Regulation is May 1, 1997. 4.2 The duty to pay such Road Impact Fee shall be attached as a condition to any preliminary plat approval of a subdivision. Condition 19, of the Big Sky Town Center Subdivision Findings of Fact and Order of October 17, 2000, requires the applicant to "make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation." Section 5.1 of Appendix E offers the applicants a choice in determining the amount of such fee. Applicants can either: (1) accept the County's fixed per-lot fee of \$1,596 or; (2) prepare and submit an independent fee calculation study. The applicant has chosen to submit an independent fee calculation study in the amount of \$12,610 for the entire subdivision. At \$1,596 per 181 lots proposed in the development, the fixed per-lot road impact fee would be \$288,876.00. The applicant's final plat application for Phase 1 of the Big Sky Town Center Subdivision deducts an additional \$10,000 from the road impact fee as credit paid for funding of the Big Sky Area Transportation Study. Total road impact fees submitted by the applicant is \$2,610. Mr. Johnson stated that during the final plat hearing the Commission could take a closer look at the additional \$10,000. The County Commission has one determination to make with this application: The Commission may accept, reject or accept with modifications the applicant's independent fee calculation. The applicant's representative Brian Gallik pointed out that finding No. 3 in the letter (attached to the staff report) from Gallatin County Planning Director Bill Arnold was not necessary to include because all encroachment permits have been obtained by Gallatin Peaks and no separate study has been requested or required by MDOT. If however, additional mitigation or fees were required that would be resulting from the Big Sky Transportation Study, of which Gallatin Peaks is a participant. Mr. Gallik submitted Exhibit "A", a copy of the contract that states the Local Officials agree that each contributing Property Owner shall receive a credit for amounts paid in funding the Study against either the Gallatin County Road Impact Fee or any traffic mitigation that may be required of the Property Owner as a result of the Study. Commissioner Murdock stated it has been discussed that the impact fee waiver process and analysis is going to be reviewed, and regardless of any personnel feelings he felt they would have to abide by the analysis or ordinance as it is presently written. Commissioner Murdock noted the County Attorney has reviewed this and advised them that this is proper and they need to accept it. Commissioner Murdock moved to accept the waiver. Seconded by Commissioner Vincent with reluctance. Commissioner Vincent stated the key is re-evaluating the road impact fee structure and policy, as this is not the first time a developer has stated that in their case the impact on county roads is zero or negligible, when in fact the County roads are taking a beating and the traffic is increasing. He stated if we don't get it from impact fees we don't get it in order to handle the roads and then we get complaints about bad County roads. He stated that what is legal is not always right and he did not think this was right but it was legal. Commissioner Mitchell stated she had mixed feelings, as impact fees have very specific guidelines, as they must be used in 10 years, and used in the area for which they were collected. The developer is paving the roads and a good share of the roads getting there are state highways. She is not sure the impact fees are the answer although she did agree that it is not right but appears to be legal. None voting nay. Motion carried.

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Jack Clarkson gave a presentation on the Clean Cities Update. Mr. Clarkson stated the Clean Air Act of 1990 and the Energy Policy Act of 1992 both had provisions to operate vehicles on something other than fossil fuel. The end result of that is there are now about 116 Clean Cities Coalitions in the states. The importance of this is to reduce our dependence on foreign oil; lessen operating costs; and reduce air pollution. It was an effort to protect the class one air shed of Yellowstone National Park and the Grand Teton National Park, and at the same time looking into the future to provide refueling capabilities for people in the Town of West Yellowstone who would be coming from other areas that would be operating vehicles on E85 or propane. One major goal is to reduce automobiles and pollution in the park and maintain the class one air shed. Mr. Clarkson stated that Gallatin County was a participant but was dropped for non-payment. He encouraged the Commission to include some type of remittance in their budget to the Clean Cities Coalition that would allow them to be once again on the membership rolls. He told of plans to form a transportation district and current projects providing alternative fuels, noting

that Clyde Seely applied for and received a grant that would provide an E85 refueling station in West Yellowstone. Mr. Clarkson thanked the Commission for the opportunity to update them on the Clean Cities Coalition effort. Clyde Seely commented that Ford Motor Company has two automobiles that are compatible to use E85 fuel and convert.

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Claims in the amount of \$531,327.42 were considered. Commissioner Vincent moved to approve the claims. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Fred Rice presented the West Yellowstone Community Visioning Group Update. Mr. Rice outlined the goals and results of the Community Visioning Process, Exhibit "A". He thanked the Board for visiting the Town of West Yellowstone and also, thanked the Board for allowing Commissioner Vincent to participate and various representatives of the Health Department for their help. There was no public comment.

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Clyde Seely a member of the West Yellowstone/Hebgen Basin Refuse District presented the Update. Mr. Seely thanked the County for the support over the years for the project and especially the support leading toward the development of the compost facility. He reported on the feasibility and advantages of the composting facility, noting the Park has been very supportive of the process and will be increasing the amount of solid waste brought in, and Big sky is also interested in bringing sewage sludge. He gave a breakdown of the project costs of which the total budget will be \$2.75 million, and will be funded through the state revolving loan fund at 4 percent, and payable over 20 years. He stated Tim Hudson helped to attain an \$80,000 grant through the Department of Interior. He commented the meetings are open to the public and invited everyone interested to join them.

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Dee Rothschiller a member of the Hebgen Lake Zoning Advisory Committee presented an update on the Hebgen Zoning Ordinance. Ms. Rothschiller stated they are in the process of updating their 1977 development plan and the Hebgen Lake Zoning Regulations. She gave a brief overview of the process and funding sources to date. They held their first education forum on March 18, 2001 and subsequent meetings at the Northside Fire Station on April 21, May 20 and June 17, 2001, discussing discrepancies in the plan; definitions; PUD's; commercials; and conservation easements. Most recently they have started their visioning meetings, identifying their values and the vision of what they want the Hebgen Basin to look like 10 years from now. Their goal is to come back before the Commission with a completed document in September. She invited the Commission to attend their August 19<sup>th</sup> meeting. Discussion took place regarding the Duck Creek Y property.

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Clyde Seely reported on the Yellowstone Park Winter Use/Snowmobile Update. Mr. Seely briefly summarized the status to date on the eventual banning of snowmobiles in the Park and the EIS report. He went on to say that the International Snowmobile Manufacturers Association filed a lawsuit in federal court appealing the outcome of the EIS, alleging that it was flawed. A settlement agreement has been published which provides that a new altered supplemental EIS is to be completed and a final decision made on November 15, 2002. He pointed out that the park service will prepare and post on the National Park Service Website a draft supplemental EIS on or before January 21, 2002, and by March 15, 2002 the park service will make available printed copies of the draft supplemental EIS and issue proposed rules if applicable. A 60-day comment period will commence on March 15, 2002. The park service will issue a final SEIS on or before October 15, 2002, and issue the record of decision and promulgate the final regulations on or before November 15, 2002. Mr. Seeley believed this is good and will allow new technology not considered during the last EIS that is now available. Further discussion took place regarding what is being implemented to reduce pollution. He believes the park needs to be protected, yet the public needs to have access to the park on their preferred mode of transportation and the economic viability of the gateway communities of the park service also, needs to be protected. He felt with the new technology, EIS and studies it will show that snowmobiles on existing roadways in the park will be a viable and appropriate use of Yellowstone. He is concerned that the snow coach is not going to provide the access to the numbers of people coming based on the past. He noted they are currently doing some aggressive things in marketing to increase and enhance the snow coach viability

and make it more accessible. Another concern of Mr. Seely was the perception that it was being propertyed by some agencies that the citizens of West Yellowstone support the banning of snowmobiles as result of a petition that was circulated. Apparently some of those that signed the petition were unaware of what they were signing as it did not specify the banning of snowmobiles. They circulated a countering petition and over 400 people and businesses signed that were in favor of keeping some form of snowmobiles in the park. They are in agreement that there needs to be a change but they do believe that snowmobiling must remain and should remain a viable mix to the transportation needs for Yellowstone in the wintertime. Mr. Seely commented the phase-in is going to happen to fast in order to implement a viable alternative. Public comments regarding the snowmobile ban were as follows: Jack Clarkson; Bill Howell; Jerry Johnson; Hope Sieck (Greater Yellowstone Coalition); and Pat Povah.

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The Commission opened public comment. Pat Povah requested the Commissioners to address repairs to Denny Creek Road because of its poor condition and heavy use. The Commission commented this was discussed with the Road Department and it was most recently suggested that Denny Creek Road be swapped with the forest service to maintain. Mr. Povah invited the Commission to drive the road. Jack Clarkson commented that he grades his own road. Mr. Povah also, commented on a serious problem with noxious weeds. The Commission stated they would mention it at next weeks meeting. Ms. Rothschiller commented weeds were also an issue with the Hebgen Lake Zoning Advisory Committee. Discussion took place regarding the notice of this week's public meeting and it was requested that next time the notification be published sooner in order to notify the residents. Bill Howell commented that the local snowmobile organization funded \$5,000 to the forest service to spray weeds on the snowmobile trails and next year they intend to double that amount. Tom Dolezal commented on a problem with the reappearance of bears in the basin. He stated he was asked by the Montana Fish, Wildlife and Parks to take a look at the dumpsters in the basin, and found that a significant number of them are out of compliance along with non-approved dumpsters being used by local citizens and BFI. He suggested getting a notification out because of the public safety issue. Mr. Seeley suggested Mr. Dolezal come to the Refuse District meeting as there is an ordinance requiring bear proof dumpsters. Dee Rothscilller stated that Big Sky too, is having bear problems. The Commission suggested they contact the County Attorney for enforcement provisions, as both areas have ordinances requiring bear proof dumpsters. There was comment of a Bread and Breakfast that the Commission denied, conducting business along with running horses into town that is against the zoning law. The Commission suggested contacting the County Attorney and the Health Department.

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There were no pending resolutions. There being no further business the meeting was adjourned at 11:58 A.M.

*Unavailable*  
*For Signature*  
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 CHAIRMAN APPROVAL

*Shelley Vance*  
 \_\_\_\_\_  
 CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 24th DAY OF JULY 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:10 A.M. Also present were County Commissioner John Vincent, and Acting Clerk to the Board Mary Miller. Commissioner Murdock was at a retreat for the Criminal Justice Coordinating Committee.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**JULY 16, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell and Murdock, Auditor Joyce Schmidt, Grants Administrator Larry Watson, Accounting Clerk Brenda Morris, and Commission secretaries Stacy Johnston and Glenda Noyes. The Commission considered approval of claims listed on the voucher list dated July 10, 2001 and include check numbers 8002519 through 8002545, totaling \$102,545.47. Commissioner Murdock made a motion to approve said claims. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

Mr. Watson presented his recommendation on the Gateway CTEP engineer. Three firms prepared and submitted proposals, Allied Engineering, Morrison-Maierle, and Stahly Engineering.

## 308 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

Following review of the proposals, interviews with the representatives from each firm, and contact with references for all three, Mr. Watson and Fiscal Officer Ed Blackman recommended Stahly Engineering for the project. Beaverhead County, CTEP in Helena, and the City of Bozeman all gave good references for Stahly, and they had the most qualifications and experience with CTEP projects. The Commission continued this item for four days in order that they might review the proposals themselves.

The Commission considered a contract with All Valley Cab and the Community Corrections Board. Commissioner Murdock made a motion to approve the contract between the Community Corrections Board and All Valley Cab, pending approval from Fiscal Officer Ed Blackman and finding that Deputy County Attorney Chris Gray has signed his approval. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commission considered signing a Winter Use EIS Cooperative Agreement between the County and Yellowstone Park. Mr. Gray noted that the only obligation in the agreement is for participation in meetings, and responsibility for copy costs of any applicable documents. He recommended a slight change in language to one section, stating that the law cited was incorrect. Commissioner Murdock made a motion to sign the Winter Use EIS Cooperative Agreement with the changes made by Deputy County Attorney Chris Gray, and have it forwarded to the remaining signers. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commission considered approval of Invoice 0101-3 from Taylor Architects in the amount of \$9,784.00 for Phases III & IV. Commissioner Murdock made a motion to approve said invoice. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commission considered approval of the BRW Invoice #1 in the amount of \$27,511.00 (less 5%, \$26,135.45) for the Big Sky Transportation Study. Commissioner Murdock made a motion to approve said invoice, less the 5%, which will aid in rectifying the problems with this study. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commission considered approval of a contract between the Montana Board of Crime Control and the Southwest Regional Juvenile Detention Board. The contract is for the funds from the MBCC to the region for FY 2002, and the amount is comparable to FY 2001. Commissioner Murdock made a motion to approve said contract. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

### JULY 17-18, 2001

The Commissioners conducted regular County business.

### JULY 19, 2001

- Commissioners Mitchell, Murdock and Vincent convened a meeting for the purpose of considering owner participation refunds in the amount of \$25,000 for the Big Sky Transportation Study project. Commissioner Murdock noted that on 7/12/01, he met with Consultant R. Dale Beland, Madison County Commissioner Ted Coffman, and Deputy County Attorney Chris Gray. At that time, it was determined that \$75,000 in contributions had been made to date, a 40% surplus over the required \$50,000 in local match. It was recommended and agreed that excess funding be refunded to each property owner for a total combined refund of \$25,000, prorated based on amount of individual contributions. Commissioner moved to refund property owners for excess contributions. Those who contributed \$10,000 will receive refund of \$3,333.34; those contributing \$5,000 will receive refund of \$1,666.66. Commissioner Vincent seconded the motion. All voting aye, motion passed 3-0.
- Commissioners Mitchell, Murdock and Vincent met with Grants Administrator Larry Watson to render their final decision on the CTEP Interview Committee's recommendation to contract with Stahly Engineering for the Gateway Bike and Pedestrian Path CTEP project. Executive Secretary Stacy Johnston also attended. This recommendation was made to the Commission on July 16, 2001. At that time, the Commission indicated that the Planning Department had not been satisfied with Stahly's performance in the past on subdivision review and requested a few days to consider the recommendation. At today's meeting, Jennifer Mitchell stated she still had not had time to review the presentations submitted by the three applicants, but, like Bill, was very concerned about the negative reports she'd heard about Stahly from the Planning Department and other sources. Commissioner Murdock stated that Dave Albert, a surveyor for Stahly, was the person with whom the Planning Department had problems. He added that he was willing to go with the Committee's recommendation as long as Albert was not the Project Engineer. According to the organizational chart, Albert would be involved on a minimal level for surveying purposes only. Jennifer mentioned that Terry Threlkeld of Allied Engineering lived only 200 yards from the proposed trail and felt he would have a more vested interest in the trail and seeing it got done right. Bill expressed his

disappointment that the Committee had not chosen a local firm. Larry noted that although Dave Stahly, proposed project engineer was based in Helena, they did have a local office here in Bozeman. Larry indicated an advantage to having the firm in Helena, noting they could go over to the CTEP offices if there were any problems. Larry finally noted that, based on the CTEP-oriented interview questions required, Stahly Engineering was the most qualified as they had experience in CTEP reporting, processes and procedures that the others didn't have. Bill emphasized that he wanted a firm that would do a good job, not necessarily be good at the bureaucracy. He also commented that he'd probably get phone calls from Phil Forbes (Morrison-Maierle) and Terry Threlkeld (Allied Eng) as to why a local firm wasn't selected. After further discussion along these lines, he stated he was rethinking his decision and moved to appoint Allied Engineering; Commissioner Mitchell seconded the motion. Commissioner Vincent made a substitute motion to appoint Stahly Engineering; Commissioner Murdock seconded the motion. Commissioners Mitchell and Murdock voting nay, motion died 2-1. The first motion by Commissioner Murdock to appoint Allied Engineering was put to a vote. All voting aye, motion passed 3-0.

**JULY 20, 2001**

- The Commissioners attended a special meeting for the purpose of approving claims. In attendance were Commissioners Mitchell, Murdock, and Vincent, Auditor Joyce Schmidt and Commission secretary Glenda Noyes. Commissioner Murdock made a motion to approve the claim listed on the voucher list dated July 18, 2001, for check number 8002720 for a total of \$110.98. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

**The following items were on the consent agenda:**

1. Claims were presented for approval by the auditor, dated July 20, 2001 in the amount of \$172,624.91.
2. Request for Common Boundaries Relocation Exemption for Garth and Carolyn Sime (Sime Construction) located in the SW ¼, Section 36, T2S, R4E. (Zachariah Lane). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
3. Request for Final Plat Approval of the Ramshorn Major Subdivision, Phases 3A & 3C located in the E ½, of Section 8, T7S, R4E, P.M.M., Gallatin County, Montana. Preliminary plat approval was granted on August 31, 1999. Belgrade City-County Planner Jason Karp states that the conditions for final plat approval have been met.

Commissioner Vincent read the consent agenda, noting that the claims were to be continued until 1:15 P.M., in order to satisfy the 48-hour notice. Gallatin County Planner Jennifer Madgic requested Item 3, Final plat approval for the Ramshorn Major Subdivision be continued until next week. Commissioner Vincent moved approval of the consent agenda as amended. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Commissioner Mitchell announced that Items 8 and 9 on the regular agenda were continued until July 31, 2001, and the applicant has requested Item 3 on the regular agenda to be continued until August 7, 2001.

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Representing the Painted Hills Homeowners Association and the County, Greg Stratton of Morrison-Maierle reported on the continuation of receipt of the construction bids for Painted Hills RID #376. Mr. Stratton noted that Big Sky Asphalt was the low bidder for the project, and after discussion with them it was determined there was an error in the bid. Big Sky Asphalt has requested in writing to withdraw their bid. Based on reviewing the bids and discussion with the bidders Morrison-Maierle recommended that the low bid of Big Sky Asphalt, Inc., be rejected. In conclusion, Morrison-Maierle recommended that the second low bid received from JTL Group, Inc., be accepted for the Painted Hills RID, contingent on the sale of bonds for the project. There was no public comment. Finding that Big Sky Asphalt has admitted making an error in their bid proposal and requested that their bid be withdrawn, Commissioner Vincent moved to accept the JTL Group, Inc., bid in the amount of \$432,596., contingent on the sale of bonds for RID #376 road improvements. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Subdivision and Zoning Manager W. Randall Johnson reported on the continuation of consideration of a request by Gallatin Peaks Land & Development, LLC, for a waiver of fire protection impact fees to be paid for the Big Sky Town Center Major Subdivision. Mr. Johnson briefly summarized last week's discussion regarding Lot 1, Block 1, a triangular piece of property that was a result of new road alignments and dedications that is not buildable due to acreage limitations. The applicants do not have the opportunity to remove that lot without having to go back and request an amendment. The concern of the Commission was the intended use of this lot and would it require any type of variance should a structure be built. The Planning Director recommended that the fees be waived, with the provision that a covenant be placed on these lots and in the event that any structure be built they would have to come back to the governing body to have that restrictive covenant removed and pay the appropriate fire impact fee at that time. Mr. Johnson stated he received a fax from the Gallatin Canyon Consolidated Rural Fire District regarding this application, requesting that the waiver not be granted. After reviewing the application and given the overall density of this major subdivision they did not feel it was appropriate to grant a waiver of any fire protection impact fees, even on the 8 lots requested for parking. Mr. Johnson noted that the proposed covenant received last week could be filed independently of the final plat to meet the concerns of the Planning Director. The applicant's representative Brian Gallik stated the applicant has no intention of building on Lot 1, although they are willing to delete that lot from the request if the Commission is not comfortable with the covenant as drafted. He provided the Commission with a modification of the covenant with that specific deletion. In response to the letter from the fire district, Mr. Gallik stated that the fees for fire impact are not based upon density, but they are based upon the number of lots. Gallatin Peaks is paying the full impact fees based on the number of lots in the entire subdivision, with the exception of the parking lots, which were created at the request of DEQ. He noted that Section 10.1 sets forth the criteria by which these fees can be waived and the Planning Director under Section 10.3 reviewed the request and applied that criteria to the application and agreed the fee waiver request was appropriate. Discussion took place regarding the process to aggregate Lot 1. Commissioner Vincent voiced concern and felt the full assessment of the fees would be appropriate given the overall density, however, he was inclined to grant the waiver request because they may be inconsistent with the policy if not granted. He reiterated that the policies for fire and road impact fees need to be revised in order to more accurately reflect the real demands on public services than they do today. Commissioner Mitchell concurred stating the impact fee is clear that it is per lot and not according to density. She commented that the covenant is written so that there will be no structures requiring fire protection erected on these lots, and she was comfortable this lot was not buildable and it would be almost a hardship to go back and try absorb it into another lot. Commissioner Mitchell stated that she was prepared to grant the waiver with the proposed covenant as originally suggested including Lot 1, Block 1. Commissioner Vincent moved to approve the request for waiver of fire impact fees as requested on the basis of Section 10.1, and the Planning Director's recommendation that the decision would be consistent with the policy, and with the addition of the following condition: No structure requiring fire protection may be erected upon the following Lots without approval of the Board of County Commissioners of Gallatin County, Montana and payment of any fire protection impact fees required by applicable Gallatin County Subdivision Regulations then in effect: Lot 1, Block 1; Lots 2 and 3, Block 2; Lot 9, Block 5; Lot 9, Block 8; Lot 1, Block 12; Lot 5, Block 13; and Lot 5, Block 14. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the receipt of a petition to annex property into the Belgrade Rural Fire District. The petition was received on June 11, 2001, to annex property described as the W ½ and W ½ E ½ of Section 1, T1S, R5E, P.M.M., Gallatin County, Montana, excepting a parcel of land described in the plat recorded in Film 12 pages 482 and 483. Ms. Vance reviewed the petition and based upon the requirements of 7-33-2125, the property is adjacent to the fire district; that the petition contains the signatures of 50% or more of the area of privately owned lands included within the area to be annexed into the fire district; who constitute a majority of the taxpayers who are freeholders of such area; and whose names appear upon the last completed assessment roll. The Board of Trustees of the fire district has accepted the property for annexation. She suggested holding the public hearing on August 21, 2001, should the Commission choose to accept the petition. Belgrade Rural Fire District Assistant Chief Bryan Connelley clarified the boundaries and details pertaining to the proposed annexation. There was no public comment. Finding that the petition is in order and meets the requirements for annexation, and that the Clerk and Recorder's report indicates the same, Commissioner Vincent moved to accept the petition and set the public hearing for August 21, 2001. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution amending resolution #2001-86 authorizing the Belgrade Rural Fire District Board of Trustees to use fire impact fees for the purchase of a coach type 1 ambulance and upgrading this vehicle pursuant to the district resolution No. 000109. Mr. Blackman explained that the original resolution implied there were two separate vehicles and the fire district has informed him that the \$65,000 was to purchase and upgrade the coach type 1 ambulance. This does not change the utilization of the money. There was no public comment. Commissioner Vincent moved to approve Resolution #2001-86A. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Commissioner Vincent reported on the public hearing and consideration of a resolution creating a Mental Health Local Advisory Council in Gallatin County. Commissioner Vincent explained that the Commission was authorized by the state to form a mental health local advisory council, which is a ticket to the overall state effort in mental health care. The council is authorized to provide the Commission with the best advice and counsel that it can in regards to the delivery of mental health care services in the community. He felt the formation of the council is critical and that it will be a big help to the Commission in making sure the money spent for mental health services in Gallatin County is for the best service possible. There was no public comment. Commissioner Mitchell concurred, stating that mental health has been an issue that is real hard to get a grasp on and she hopes this will be a good place to start where they can see something is being done and the taxpayers are getting something for their money. Commissioner Vincent moved that the Commission adopt Resolution #2001-89. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Commissioner Vincent reported on the appointment of members to serve on the Mental Health Local Advisory Council from classifications categorized at the state level. The composition of the LAC Board (voting members): 12-14 members are as follows: (1)- County Commissioner, John Vincent; (6-7)- 50% consumers, family, advocates (The goal will be to have at least three primary or actual consumers of mental health services) Primary Consumers, Jacob Wagner, Beverly Dodman-Mosback, Kathy Berg, Dorothy Nichols; Family of Consumers, Tom Peluso, Mona Stenberg, Diane Thompson; (1)- Adult provider of mental health services, Frank Seitz; (1)- Child provider of mental health services, Suzie Saltiel; and the following were recommended to the Commission by the agency: (1)- Criminal Justice, Dorothy Bradley; (1)- Bozeman Deaconess Health Services, John Nordwick; and (1)- Alcohol and Drug Services of Gallatin County, Rodger Curtis. Discussion took place regarding the size of the council and the urgency to create the council. There was no public comment. After discussion it was agreed to continue the appointments until next week.

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Belgrade City-County Planner Jason Karp reported on the consideration of a request for preliminary plat approval of the Zisch Minor Subdivision located west of Belgrade on Stagecoach Trail. The property is described as the amended plat of Lot 7, Baker Creek Meadows in the NW ¼, Section 5, T2S, R4E. C&H Engineering on behalf of Steve Zisch has requested preliminary plat approval of a two lot minor subdivision on 10 acres with a variance request for road paving. The Belgrade City-County Planning Board reviewed the preliminary plat for the Zisch Minor Subdivision. The Board voted at their June 27, 2001 public meeting to unanimously recommend granting the requested variance and approval of the minor subdivision. The developer has requested a variance from the Gallatin County Subdivision Regulations Section 7-H which requires roads with over 100 average daily trips (adt) to be paved. The reason for the request is because only one additional lot is being created and paving the entire road would be a hardship for the developer. The applicant will submit a waiver of right to protest future RID's to improve the road, and the developer will pay a road impact fee to the county. Mr. Karp noted that staff finding on page 2 and the staff report, no longer applied. The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the suggested conditions. The Commission needs to make the following determinations: A determination as to whether or not the variance from Section 7 should be granted. According to Section 13 of the Gallatin County Subdivision Regulations, the County Commission may grant reasonable variances from the design and improvement standards of the regulations where it is found that strict compliance would result in undue hardship and is not essential to the public health, safety, and general welfare; and a determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Commission finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval. If the Commission decides to approve the subdivision, the following conditions for final plat

approval are suggested: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat. 5. The developer shall record covenants on the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and residents of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c. All fences bordering agricultural lands shall be maintained by the Homeowners in accordance with State Law. d. The Homeowners shall participate with the other property owners in the Baker Creek Meadows Subdivision for the shared maintenance of Baker Creek Meadows Subdivision roads. e. Lot owners shall adhere to the recorded covenants of the Baker Creek Meadows Subdivision. f. The proper permits must be obtained from the Gallatin County Floodplain Administrator for any proposed development in the floodplain. g. The residence for Lot 7A shall be required to access Baker Creek Lane. h. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 6. Two copies of the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval. 7. Road Impact fees and Fire Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact Fee Regulations. 8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval. 9. A copy of the final plat shall be submitted to the Amsterdam Fire Department and the Gallatin County Road Department. 10. The developer shall provide one of the following standards to ensure a reasonable level of fire protection and life-safety to the public and firefighters. The following requirements must meet the specifications of Gallatin County Subdivision Regulations Section 6-E-5 and be reviewed and approved by the Amsterdam Rural Fire District. The subdivider shall obtain written verification from the Amsterdam Rural Fire District that one of the following requirements has been met. a. A single 10,000-gallon water supply for each home and associated structure meeting the requirements of Section 6-E-5 (a). b. A single 20,000 gallon water supply meeting the requirements of Section 6-E-5(b). c. A rural fill site meeting the requirements of Section 6-E-5(c). d. R-3 occupancies as defined by the Uniform Fire Code may be protected by automatic fire sprinkler systems meeting the requirements of NFPA 13D. If the sprinkler options is used the covenants must include the following provisions. 1. Automatic fire sprinkler systems shall be installed in all structures, which are used for living and home business which people normally occupy. The fire sprinkler system must meet the requirements of NFPA 13D. 2. A stamped set of engineered sprinkler system plans and covenants requiring the installation of sprinklers shall be submitted to the Belgrade Rural Fire District for review and be approved prior to construction, and the sprinkler system must be inspected by the Belgrade Rural Fire Department during construction and at completion as required by the Belgrade Fire Chief. e. A pressurized fire hydrant system meeting the requirements of Section 6-E-5(e). 11. A building envelope outside of the floodplain for the new residence on Lot 7A shall be shown on the final plat. 12. The Baker Creek flood plain shall be shown on the final plat. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. Discussion took place regarding the paving requirements. There was no public comment. Finding that the strict application of the policy Section 7-H would present a hardship to the applicant, Commissioner Vincent moved to grant the variance requested in the staff report. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Finding that the application now as amended, meets the criteria of Section 76-3-608, MCA, Commissioner Vincent moved to approve the preliminary plat. Seconded by Commissioner Mitchell. None voting nay. Motion carried.



GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 313

Gallatin County Clerk and Recorder Shelley Vance reported on the resolution of the Board of Commissioners of the County of Gallatin, Montana, amending resolution 2001-77 and submitting to the qualified electors of the County of Gallatin at a special election on September 11, 2001, the question of authorizing the Gallatin County Commission to make a levy of eleven (11) mills in addition to the mill levy limit imposed by law for the purpose of funding operations and capital expenditures for Gallatin County's emergency communications and records functions. Ms. Vance explained that this resolution includes the motion and result of the action taken by the Commission on July 23, 2001, and this was merely a formality of that action. The Commission acknowledged receipt of Resolution #2001-77B, per the promise of the County Attorney's office.

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There being no further business the meeting was adjourned at 10:19 A.M.

*Unavailable  
For Signature*  
\_\_\_\_\_  
CHAIRMAN APPROVAL

*Shelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 31<sup>st</sup> DAY OF JULY 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:06 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**JULY 23, 2001**

- The special meeting was called to order by Chairman Jennifer Smith Mitchell at 9:11 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller. Gallatin County Clerk and Recorder Shelley Vance stated the purpose of the meeting was to consider a resolution rescinding Resolution #2001-77, passed on June 28, 2001, which would cancel a special election to hold a 911 mill levy question to the voters in conjunction with the primary election on September 11, 2001. Ms. Vance noted that the Secretary of States office has advised that the primary election for the City of Bozeman is not needed, so therefore, there would not be a September 11<sup>th</sup> primary election. In response to inquires as to when the earliest an election could be held for 911, Ms. Vance as election administrator for Gallatin County stated it was her duty to advise political entities to hold their questions during regularly scheduled elections, based upon trying to stay as accountable as possible to the taxpayers of Gallatin County. However, the legislature has recognized there are certain times that waiting is not practical and there are provisions to allow for special elections. The next best suggestion would be to piggy back another election in order to share costs. The urgency for Ms. Vance's request to the Commission to consider rescinding the resolution calling for the primary election of September 11<sup>th</sup>, was that the resolution states there will be an election held, and in order to conduct elections there are publication deadlines that would have to be met today. Discussion took place regarding the time frame in which to certify the taxable values in order to get it on this years tax rolls, should the September 11<sup>th</sup> election take place. Gallatin County Fiscal Officer Ed Blackman reported as of this morning he found another \$5 million error in one of the taxable valuations, of which he thought might be a typo. It was currently being checked out, and he stated it could be 45 days from the date the final valuations are received before the final budget is adopted, and the certified mill levies come off the adopted budget, so September 11th may be the soonest the certified letters would be sent out. It was determined that if the errors were corrected and the mill levy passes the additional millage could be added to the November tax bills. Mr. Blackman confirmed that \$50,000 was set-aside in this years budget for a special election on this issue. Sheriff Jim Cashell urged the Commission to continue with the plans to have the special election on September 11<sup>th</sup>. He stated if this issue is not put to a vote at this time it will be another 18 months before the changes can be implemented that the Administrative Board is recommending to the 911 system. He noted the current situation with the city being double taxed is unfair, as 911 is a County-wide service that should be provided and paid for by everybody. Commissioner Mitchell questioned if Sheriff Cashell considered this as an emergency situation. Sheriff Cashell stated he did not know if it was an emergency situation and that the 911 Center was functioning but the problem is these decisions tend to be delayed until the implementation period is down the line, which in time will affect

emergency services in the County. Commissioner Mitchell stated she did want the 911 ballot to pass although she was concerned with low turn out because of a special election and the additional costs to taxpayers. Deputy County Attorney Chris Gray appearing on behalf of County Attorney Marty Lambert stated it was the advice of Mr. Lambert that the Commission support the rescinding resolution as is, and not go forward with the September 11<sup>th</sup> election. Mr. Gray stated if the resolution is not rescinded, there is a facial inconsistency in the document itself that calls for the election on September 11<sup>th</sup> as a special election held in conjunction with the primary election, and there will not be a primary election. Mr. Gray conveyed the questions for Mr. Lambert regarding the funding source for the special election and what was wrong with holding the election in November. Discussion took place regarding the adjustment of the millage. Mr. Blackman reiterated the funding source for both the September and November elections is in the general fund for the County. From a financial standpoint he recommended leaving it at 11 mills or at the maximum adjust it no more than half a mill. Commissioner Murdock stated they were in agreement that the 911 administrative structure and funding structure has been flawed. It was meant to be an interim solution back in 1995, and now the 911 Board has come up with a recommendation for a permanent structure. It is clear that it would be a countywide funding source; therefore, it should be accountable to the County. He noted that if we hold the election now there is not much time, and there is the question of has this issue been adequately aired with the public on the 911 funding problems and equities structure. If we wait until the November election the City of Bozeman will pay an additional \$400,000 towards funding it and then they will be taxed again as Gallatin County taxpayers to pay their share of the County's \$488,000. He believed that inequity should not continue so he supported the September election. Commissioner Vincent stated it was a difficult decision when the County Attorney recommends against holding the election, the chief law officer recommends it and the chief election official suggests it is best to hold elections on the regularly scheduled days. He stated it was no secret should this be put on the ballot in September and it passes that we would have a new funding source for 911 and free up some general fund dollars currently going to 911 that could go elsewhere. He stated the 18 month delay was a concern, although it can rationally be argued that a November election date is safer, given some of the uncertainties we face he felt the compelling need for attention to public safety pushed him toward the September election. Commissioner Mitchell stated that this is not an emergency and she was bothered by the Sheriff's comment that there was no plan. She did not see how the voters would have the confidence to give a positive vote if there is no plan. She stated she received public input from people that are disgusted with so many elections. She felt that another 18 months would not be that crucial since 911 has already been budgeted. Commissioner Mitchell stated to have a special election would be a waste of taxpayer's money and she was not going to support the September date. Commissioner Murdock moved that the Commission not pass Resolution #2001-77A. Seconded by Commissioner Vincent. Commissioner Mitchell confirmed that Ms. Vance had her notice of election prepared. Commissioners Murdock and Vincent voting in favor. Commissioner Mitchell voting nay. Motion carried. Commissioner Murdock moved to affirm the action that was taken on the previous resolution, setting an election for the 911 question on September 11, 2001, and to direct the County Attorney to amend the language that said to the affect "in conjunction with the Bozeman primary election." Mr. Gray confirmed that this is related to Resolution #2001-77. Seconded by Commissioner Vincent. Commissioners Vincent and Murdock voting in favor. Commissioner Mitchell voting nay. Motion carried. There being no further business the meeting was adjourned at 9:59 A.M.

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell, Murdock and Vincent, Deputy County Attorney Chris Gray and Commission secretaries Stacy Johnston and Glenda Noyes. The Commission discussed the Holnam Interest Property Release, as recommended by Mr. Gray. The County cooperated with the predecessors to Holnam, Inc. on bonds for pollution control devices. In the cooperation, the County took interest in land to back the transaction. The proposed document releases that interest, as the bonds have been paid off. The original documentation includes a \$1,000.00 consideration to be handed back to the County upon the release. The County can sell their liability in this site to someone else. Mr. Gray recommended that the liability be sold for the consideration of \$1,000.00 to the next party. Holnam is willing to do this as well. The Commissioners agreed to have Mr. Gray proceed with drafting the paperwork to release the liability and the consideration.

#### JULY 24, 2001

- The Commissioners attended a special meeting for the purpose of approving claims. In attendance were Commissioners Mitchell and Vincent, Auditor Joyce Schmidt and Commission secretary Glenda Noyes. The voucher list dated July 20, 2001, including check numbers 8002721 through 8002822, totaling \$172,624.91. Commissioner Vincent made a motion to approve the before mentioned claims. Commissioner Mitchell seconded the motion, adding the finding that the

## GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 315

Auditor and Fiscal Officer have recommended approval of said claims. All voted aye. Motion carried two to zero.

### JULY 25, 2001

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, Treasurer Anna Rosenberry, Grants Administrator Larry Watson and Commission secretaries Stacy Johnston and Glenda Noyes. The Commission considered approval of a urinalysis grant reimbursement agreement between Gallatin County and Alcohol Drug Services of Gallatin County. The grant total is \$3,500.00, with a \$1,500.00 match, half coming from District Court 1 and half coming from District Court 2. Commissioner Murdock made a motion to approve the urinalysis grant reimbursement agreement as recommended by Mr. Watson. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commission considered approval of an agreement with Alcohol Drug Services of Gallatin County to enforce the Underage Drinking Laws Project. This is a contract to provide educational activities, similar to that performed by Drug Court. Commissioner Vincent made a motion to approve the agreement with ADSGC to enforce the Underage Drinking Laws Project as recommended by Mr. Watson. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commission discussed a draft letter proposed by Ms. Rosenberry to the Department of Revenue regarding tax bills, timing and errors. The Commission agreed for the letter to be finalized and signed by themselves, the Treasurer, Fiscal Officer and Clerk and Recorder.

### JULY 26-27, 2001

- The Commissioners conducted regular County business.

#### **The following items were on the consent agenda:**

1. Claims were presented for approval by the auditor, dated July 26, 2001 in the amount of \$708,324.57.
2. Request for a Mortgage Exemption for Jamison and Leandra Hill located in the SW ¼ Section 22, T1N, R2E (Buffalo Jump Road). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
3. Request for Relocation of Common Boundaries Exemption for Harvey L. Shein and Beaver Creek Properties LP located in Section 24, T7S, R3E. (Beaver Creek Area). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Relocation of Common Boundaries Exemption for Mitchell and Patricia Simon and Jerry and Linda Wortman located in Sections 32 and 33, T6S, R4E. (Highway 191, north of Highway 64). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Relocation of Common Boundaries Exemption for Section 17 LLC, Richard B. Duff and James and Loren Muscat located in the NE ¼ of Section 17, T7S, R4E and the SE ¼ of Section 8, T7S, R4E (Northside of Porcupine Park subdivision). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
6. Request for a Relocation of Common Boundaries Exemption for Roger Wells and Edwin Hahn located in the SE ¼ of Section 4, T1S, R4E (west of Belgrade High K Subdivision Phase 2). Belgrade City-County Planner Jason Karp reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Mitchell announced that Item 9, on the regular agenda would be postponed for at least two weeks, possibly longer. Commissioner Murdock read the consent agenda. Commissioner Murdock requested that Item 3, on the consent agenda be placed on the regular agenda for clarification by staff. Commissioner Vincent moved to approve the consent agenda as amended. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the request for relocation of common boundaries exemption for Shein/Beaver Creek Properties LP. Ms. Koozer clarified the intended recipients

disposition and use of the parcel for Commissioner Murdock. She stated this was the proper use of the exemption. Commissioner Murdock moved to approve the request for relocation of common boundaries for Shein/Beaver Creek Properties. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Deputy Gallatin County Attorney Chris Gray reported on the consideration of a resolution of the Board of Commissioners of Gallatin County, Montana, calling for sale of its rural special improvement district No. 376 bonds in the principal amount of \$540,000. Mr. Gray appearing on behalf of Ms. Swimley who is contracted to deal with RID matters, clarified a misnomer regarding the publication notice does not create an infirmity in his opinion. There was no public comment. Commissioner Murdock moved to adopt Resolution RID-01-376C. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Commissioner Mitchell announced this was the continuation for appointment of members to serve on the Mental Health Local Advisory Council. Board discussion took place regarding the consideration of council member appointees recommended at last week's public hearing. Vicki DeBoer, the local community director for Aware Incorporated expressed their public commitment to working with the local committee in developing the best practices and setting models in Gallatin County. The composition of the LAC Board by statute requires the nomination of members from specific categories. Commissioner Murdock nominated the following as members of the council: (1)- County Commissioner, John Vincent; (6-7)- 50% consumers, family, advocates (The goal will be to have at least three primary or actual consumers of mental health services) Primary Consumers, Jacob Wagner, Beverly Dodman-Mosback, Kathy Berg, Dorothy Nichols; Family of Consumers, Tom Peluso, Mona Stenberg, Diane Thompson; (1)- Adult provider of mental health services, Frank Seitz; (1)- Child provider of mental health services, Suzie Saltiel; and the following were recommended to the Commission by the agency: (1)- Criminal Justice, Dorothy Bradley; (1)- Bozeman Deaconess Health Services, John Nordwick; and (1)- Alcohol and Drug Services of Gallatin County, Rodger Curtis. Seconded by Commissioner Mitchell. Commissioner Vincent stated the principal obligation of the council is to provide the best solid advice to the Commission on how to wisely and efficiently as possible direct the allocation of provider dollars in this community. Commissioner Mitchell hoped this group would organize and create an efficient management system for our mental health needs in Gallatin County. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution establishing elected official's salaries for FY 2002. Mr. Blackman explained this resolution was the compilation of work done by the Compensation Board that was appointed by the County Commission as required by HB 345 enacted by the 2001 legislature. The Board was comprised of 2- public members; 3- elected officials; 3- County Commissioners and the County Attorney, and held duly noticed meetings throughout June and July. He briefly outlined the memorandum of findings, attached to the resolution as Exhibit "A", that were used to determine an appropriate salary for the elected officials. The recommendation includes a \$7,981 increase for all full time elected officials. This also affects the salaries of 32 deputies associated with the Sheriff's salary, but does not officially affect chief deputies in the Clerk and Recorder and Clerk of District Courts at this time. Public comment in opposition were as follows: Othar Mitchell; Orville Christenot; Albert Lamke; and Brian Leland. Commissioner Murdock noted that he received about 15 phone calls, and those comments were close to the comments received by the public today. The Commission replied to public comment, each speaking in support of the resolution. Commissioner Vincent moved that the Commission adopt Resolution #2001-90. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman requested an extension for at least two more weeks on the approval of the proposed FY 2001-02 budget. The request was based on a letter sent to the Department of Revenue indicating serious concerns with the taxable valuations that were received by the County, and Senate Bill 138, which changed the entire budget document requiring more information in different formats.

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The Commission discussed the decision to continue the public hearing and consideration of a resolution regarding a ballot question of issuing general obligation bonds for the equipping and financing of an Adult and Juvenile Detention facility, and a resolution relating to reimbursement of appropriate costs in the financing of the acquisition, design, construction, equipping and financing of an Adult and Juvenile Detention facility. The decision to continue was based on whether or not the Galen Youth Detention Center was going to be funded. The Commission was in agreement to the continuance but not indefinitely. Commissioner Mitchell stated she would check on the status of the Youth Detention facility. Thomas Thornburg spoke regarding the necessity for public commentary and possibly voting on the proposed new jail. Gallatin County Clerk and Recorder Shelley Vance as the election administrator requested that the Commission contact her before selecting a date for the mail ballot election once they have figured out if there is a question that will be asked of the voters, because she could not support the resolution as it now reads. Discussion took place regarding a potential election date. It was agreed that the consideration of these two resolutions would be placed on the agenda for August 14, 2001.

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Gallatin County Planner Jennifer Madgic reported on the continuation of a request for final plat approval for the Ramshorn Major Subdivision, Phase 3A and 3C, (15 lots on approximately 20 acres). The property is located in the E ½ of Section 8, T7S, R4E; or generally located west of Highway 191 and south of the entrance to Big Sky Resort in Gallatin County, Montana. The proposed Ramshorn Major Subdivision, Phases 1-4, was granted preliminary plat approval on May 5, 1998, with a one-year extension approved on April 10, 2001. Ms. Madgic stated the applicant is requesting acceptance of an improvements agreement, which has been reviewed and approved by the County Attorney, noting that all conditions have been met. Commissioner Murdock moved to accept the improvements agreement as prepared by the County Attorney's office for the improvements in the Ramshorn Major Subdivision, Phases 3A and 3C. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Murdock moved to grant final plat, finding that staff has recommended that all the conditions have been met, and is in agreement with the sequence of the phases, and that the Commission has agreed to the improvements agreement. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic reported on the consideration of a request for preliminary plat approval for the River Rock Major Subdivision, Phase 7C located in the River Rock Zoning District (formerly the Royal Village Zoning District) and described as the amended plat of Tract B, Block 37, River Rock Subdivision, Phase 4. The property is located in the SW ¼ of Section 3, T1S, R4E, PMM, Gallatin County, Montana; generally located north of Amsterdam Road, approximately two miles west of Belgrade. Potter-Clinton has requested preliminary plat approval for the River Rock Major Subdivision, Phase 7C, proposing the creation of 11 lots on approximately six acres. The property is zoned Residential Single-Family Medium Density (R-2). The applicant is requesting a variance by proposing all 11 lots being served with one cul-de-sac. Staff had no problem with this request and noted that it has been discussed with the Road Department and the Fire Department and they had no concerns. She stated Belgrade Assistant Fire Chief Bryan Connelley commented there were a sufficient number of fire hydrants in the area and the vicinity to accommodate service to the lots. The application was properly noticed with no response, although prior to the meeting she did speak with a member of the public who has some concerns that were previously expressed for the garbage and noxious weeds in the area. Ms. Madgic recommended the following corrections to the staff report: strike reference (n) on page 5 from the Road Department that would affect condition #20, as it would not apply to this subdivision, per the applicant and the Road Department; and strike condition #20, leaving a total of 27 conditions. She also, noted that if the variance is granted she would ask to strike condition #12. The Commission has two determinations to make: A determination whether or not to approve the applicant's requested variance regarding the provision of a second access. According to the Gallatin County Subdivision Regulations, the County Commission "may grant reasonable variances ... where it is found that strict compliance would result in undue hardship and such strict compliance is not essential to the public health, safety, and general welfare"; and a determination as to whether or not to approve the proposed subdivision. The basis for the Commission's decision shall be whether the preliminary plat, and additional information demonstrate that development of the subdivision meets the requirements of the Montana Subdivision and Platting Act, Gallatin County Subdivision Regulations and River Rock Zoning Regulations. The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the following conditions: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2. Applicant

shall obtain approval from the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. Applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. 3. Two copies of the covenants, a copy of the conditions of preliminary approval, documents establishing the property owners' association, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants, documents establishing the property owners' association, cul-de-sac easement and certificate prior to final plat approval. 4. Applicant shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, fire district or fire service area and/or the creation of a sewer and/or water district. 5. All utility easements shall be shown on the final plat. Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat: *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* 6. A Memorandum of Understanding shall be signed between the Weed Control District and the applicant prior to final plat approval. All areas disturbed during construction shall be reseeded with vegetation types approved by the Weed Control Supervisor. 7. Applicant shall record the following covenants with the final plat: *a) The property owners' association shall be responsible for the control of County-declared noxious weeds. b) Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c) Individual lot access from County public roads shall be built to the standards of Section 7.G.2 of the Subdivision Regulations. d) The property owners' association shall be responsible for maintenance of interior subdivision roads. e) All fences bordering agricultural lands shall be maintained by the property owners' association, in accordance with state law. f) Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.* 8. Road names for each phase shall be approved by the County Road and Bridge Department. 9. A detailed signage and drainage plan shall be submitted to the County Road Department for approval, prior to the start of any construction. This plan should specifically address the requirement for road name signs to be installed at all intersections, as well as STOP sign(s) at all intersections with County-maintained roads. STOP signs and other regulatory or warning signs may also be needed on some internal roads, and this should be addressed in the plan. 10. Encroachment permit(s) shall be obtained from the County Road Department for any access points coming off of County-maintained roads. Additionally, all internal lots shall be limited to one driveway access. 11. A no-access strip is required along all lot boundaries that border County-maintained roads. Exception to this will only be made for lots that do not border an internal subdivision road. Access to lots falling under this exception will require further review and the obtaining of an encroachment permit from the County Road Department. 12. A second access shall be required to serve proposed 11-lot subdivision unless the County Commission approves the applicant's requested variance. 13. All interior roads shall be built to County paved standards, and have a 60-foot right-of-way, dedicated to the public. 14. A detailed traffic study shall be prepared to identify off-site traffic impacts on the following roads: Thorpe and Royal roads. The study shall identify primary and secondary access roads, as well as collectors and arterials in the area of impact. Additional right-of-way shall be provided if warranted by such study. 15. Applicant shall meet with the County Road Department prior to start of any construction. 16. All roadwork shall be inspected and certified by a licensed engineer. Such inspection and certification shall be provided to the County Road Department in writing. Final approval shall not be given until this documentation is received. 17. The property owners' association shall be responsible for maintenance of all interior roads. 18. Forty-five feet of Royal Road east of the centerline shall be dedicated to the public for the entire length of the development. 19. A waiver of protest for creation of future RIDs shall be required. 20. Applicant shall pay a proportionate reimbursement per Section H.2(c) of the Subdivision Regulations to be used for capital improvements to Royal Road. 21. Applicant shall make payment of road impact fees in accordance with the Gallatin County Subdivision Regulations. 22. Applicant shall make payment of fire protection impact fees in accordance with the Subdivision Regulations. 23. Applicant shall designate parkland according to Section 6.G.1 of the Subdivision Regulations prior to final plat and dedicate the land to the property owners' association. 24. All requirements of the Belgrade Rural Fire District shall be met prior to final plat approval. The fire district shall review and approve all fire protection measures prior to final plat approval. A copy of the final plat shall be provided to the Belgrade Rural Fire District. 25. The water main system and fire hydrants servicing all lots shall be installed. 26. The community

sewer system, including all sewer mains and sewer service serving all lots shall be installed. 27. Applicant shall submit certified "as-built" plans for all water and sewer installations prior to final plat approval. 28. Applicant shall have three (3) years to complete the above conditions and apply for final plat approval. The applicants representative Jason Leep reported on the River Rock Subdivision progress and the recent and future plans for weed spraying and garbage pickup. Sonja Berg stated the following concerns: cul-de-sac without a second access; noxious weeds; plastic strips blowing in the wind; closeness to the septic and odors; displaced wildlife; and solid waste collection. Ms. Berg asked the Commission to support the Weed Department with more money and enforcement. Ms. Berg noted an error in Condition #18. Ms. Madgic stated that Condition #18 should read as follows: Forty-five feet of Royal Road east of the centerline shall be dedicated to the public for the entire length of the development. Mr. Leep addressed the following concerns regarding the mitigation of the cul-de-sac variance by placing two fire hydrants instead of just one and that the weeds are continually being sprayed and mowed. Mr. Leep explained the hardship in relation to the variance. Ms. Magic noted she had verbal conformation regarding the variance from the Belgrade Fire Department and will get it in writing. Commissioner Murdock moved to approve the variance, finding that strict compliance is not essential to the public health, safety, and welfare of the County, based upon the generally accepted standard of 1000 feet and this being only half that distance. Even though the public today expressed concern, it is well within the norm and consistent with past experience, noting there is a letter of support from the Fire and Road Department, along with an additional fire hydrant. Seconded by Commissioner Vincent. Commissioner Mitchell added the finding that the second access, given that there is already two onto Royal Road would increase the hazards for the public by having so many close together and that would meet the hardship requirement for the variance. None voting nay. Motion carried. Commissioner Mitchell noted that Condition #12 would be stricken, since the variance was approved. Finding that the River Rock Subdivision, Phase 7C is consistent with the Zoning District Master Plan, Zoning Regulations and the Gallatin County Subdivision Regulations, Commissioner Murdock moved for approval with all the conditions presented and the following amendments: strike Condition #12; amend Condition #18 to read Royal Road; and strike Condition #20. Seconded by Commissioner Vincent, adding that he would take them at their word that there is a good faith effort for anything the applicant can do relative to weeds, plastic and garbage and there is always room for improvement. He reiterated his concern regarding law enforcement in major subdivisions, although he did not feel that standard was applicable as this is part of a subdivision that has been in existence for some time and it is close enough to Belgrade for mutual assistance. None voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 10:47 A.M.

*Unavailable  
For Signature*  
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CHAIRMAN APPROVAL

*Shelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 7th DAY OF AUGUST 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:06 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**JULY 30, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell and Murdock, Deputy County Attorney Chris Gray, and Commission secretaries Stacy Johnston and Glenda Noyes. Mr. Gray presented information regarding the possibility of rescinding the purchasing policy and furniture standards. On July 1, 1993, the Board of County Commissioners adopted a "purchasing policy," to the best of everyone's knowledge said policy was rarely if ever used at all. Under the policy, the Fiscal Officer is delegated with much of the responsibility. The current Fiscal Officer, Ed Blackman, was not aware of the policy until a few years after his employment, approximately the beginning of FY '95 (July 1, 1994). Commissioner Murdock made a motion, based on the foregoing discussion, to rescind the "purchasing policy" retroactive to July 1, 1994. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

## 320 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

Commissioner Murdock made a motion that the September 6, 1994 furniture standards adopted by the Board of County Commissioners be rescinded and such rescission shall include all past purchases, whether paid or unpaid. When purchasing in the future, every effort shall be made to obtain system/modular furniture and components as well as executive and secretarial chairs that have compatible connections and parts to existing items. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with vote of two to zero. The Commission directed Mr. Gray to create a small group to draft a new purchasing policy.

### JULY 31, 2001

- The Commissioners conducted regular County business.

### AUGUST 1, 2001

- The Commissioners conducted regular County business.

### AUGUST 2, 2001

- The Commissioners attended a special meeting for the purpose of approving claims. In attendance were Commissioners Mitchell and Murdock, Auditor Joyce Schmidt and Commission Secretary Glenda Noyes. Consideration was given to claims listed on the voucher list dated July 27, 2001, including check numbers 8002824-8002950, totaling \$58,214.36. Commissioner Murdock made a motion to approve said claims, finding that Fiscal Officer Ed Blackman and Auditor Joyce Schmidt have recommended approval. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

### AUGUST 3, 2001

- The Commissioners conducted regular County business.

#### **The following items were on the consent agenda:**

1. Claims were presented for approval by the auditor, dated July 30, 2001 in the amount of \$8,420.18.
2. Consideration of Contract(s): Modification to RID Maintenance Contract #2000-071 with Morrison-Maierle; Modification to Contract #1999-021 with DPHHS, Amendment #1 to Task Order 01-07-4-31-015-0, Immunization Action Plan; and Modification to Contract #1999-021, Task Order 02-07-5-01-016-0, Maternal Child Health (MCH).
3. Request for Relocation of Common Boundary Exemption for Timothy and Karla Coder and Michael Groff located in Section 36, T1N, R5E (Penwell Bridge Road). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Relocation of Common Boundary Exemption for the estate of Elwin Kundert- c/o RoAnne Kundert, Craig and Deborah Barber, David Berghold, Michael and Jane Torok and William Haff located in Sections 20, 21, 28 and 29, T3S, R5E (West of Cottonwood Canyon Road). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Vincent read the consent agenda. There was no public comment. Commissioner Murdock moved to approve the consent agenda. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Commissioner Mitchell announced there would be a bid opening for two Road Department projects that failed to be placed on today's agenda. Gallatin County Road Department Superintendent Lee Provance reported on the receipt of bids for the Jackson Creek Road Paving project and the Chip sealing and crack sealing for County roads project. Bids received for the Jackson Creek Road Paving were received on August 6, 2001, from JTL, Group for \$111, 530.80; and Big Sky Asphalt for \$121, 528.80. Bids received for the Chip sealing and crack sealing for County roads were received on August 6, 2001, from Big Sky Asphalt for \$407, 451.20; and JTL Group for \$415, 830.00. The engineers estimate was approximately \$100,000.00 Mr. Provance stated the bids appeared to be in order. He took the bids under advisement for review stating he would report back to the Commission in a couple of days with a recommendation, noting there would be a 48 hour notice.

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Four vacancies exist on the Gallatin County Planning Board. These are two-year terms, expiring on July 31, 2003. Of the four, Steve Forrest was the only one to apply for reappointment, and there were three new applications received, but only one met the residency requirement. Commissioner Murdock stated since that time they have received a buy/sell agreement from Travis Schnicke indicating he may reside in the area within the next 45 days, and suggested holding a position for Mr. Schnicke and continue advertising. Commissioner Mitchell stated she would like to review previously received applications to see if they were still interested, and it would be in the public's best interest to continue this for a week. Commissioner Murdock disagreed, stating that by not appointing someone today was not in the public's best interest, and he had no problem re-appointing Steve Forrest. Gallatin County Planning Board President Nick Salmon stated that the Board of 11 was down to 7 with a required quorum of 6. His concern was if there were members absent they would not have enough people on the Board to conduct business. He encouraged the Commission to appoint members to the Board. Commissioner Vincent moved to re-appoint Steve Forrest. Seconded by Commissioner Murdock. Commissioner Mitchell reiterated that she would like to get a fresh prospective on the boards, giving the public an opportunity to participate. Commissioner Murdock and Vincent voting aye. Commissioner Mitchell abstained. Motion carried. One vacancy exists on the Logan Landfill Advisory Board. This is a three year-term, expiring on July 31, 2001. There was no public comment. Commissioner Vincent moved to re-nominate James Hassler. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the continuation of a public hearing to determine traffic impact mitigation for the Big Sky Town Center Major Subdivision. William L. Madden, on behalf of Gallatin Peaks Land & Development, LLC, has submitted a Traffic Mitigation Plan for the Big Sky Town Center Major Subdivision, as required of a developer under Condition No. 4 of the Findings of Fact and Order approving the preliminary plat, dated October 17, 2000. Condition No. 4 states as follows: After the Big Sky Coordinated Transportation Study, or a successor study in the absence of the named study, has been adopted by the County Commission, determination of mitigation required of the developer for traffic impacts caused by this subdivision shall be made by the County Commission at a hearing specifically conducted for that purpose in accordance with applicable subdivision regulations governing preliminary plat approval. If the study is not completed or adopted by the County Commission prior to the developer seeking approval of a final subdivision plat, after first obtaining a detailed technical review of traffic impacts from the Montana Department of Transportation, determination of mitigation required by the developer for traffic impacts caused by this subdivision shall be made by the County Commission at a hearing specifically conducted for that purpose in accordance with applicable subdivision regulations governing preliminary plat approval. Mr. Johnson briefly summarized the subdivision background, noting that the Transportation Study has not yet reached any consensus, conclusions or any identified measures to mitigate traffic impacts. He stated in order to follow through with this condition, the applicant is before the Commission to assess and mitigate traffic impacts pertaining to this subdivision in its entirety. In lieu of the Study, the applicant proposes that traffic mitigation for the Town Center, and all other developments in the Big Sky traffic shed, be accomplished by requiring the developers to join the existing Big Sky/Gallatin Canyon Area Transportation District, or any successor joint Gallatin and Madison County Urban Transportation District that may be formed in the future to address transportation needs and services at Big Sky. In support of the Traffic Mitigation Plan alternative, the applicant proposes the following conditions for approval of the final plat of the Big Sky Town Center Subdivision: 1. The owner (subdivider) shall petition to have the land proposed to be subdivided included within the existing Big Sky/Gallatin Canyon Area Transportation District, or any successor joint Gallatin and Madison County Urban Transportation District that may be formed for the Big Sky area; 2. The owner (subdivider) shall agree to waive the right to remove land proposed to be subdivided from the Big Sky/Gallatin Canyon Area Transportation District; the right to object to expansion of the area of the District; and the right to protest any taxes that may be levied against all property in the District, provided that such waiver of tax levy protest shall not include waiver of any right to comment on and/or appeal any levy that is unlawful or inequitable. This waiver shall be binding upon the owner (subdivider), its heirs, assigns, successors-in-interest and all purchasers of lots within the subdivision; and 3. At the time of platting that phase of the Big Sky Town Center Subdivision that includes the intersection of Flats Drive with Highway 64, the subdivider shall either construct, or bond construction under an improvements agreement, of necessary traffic lane and signage improvements on Flats Drive outside of the Highway 64 right-of-way. The applicant's proposed conditions for final plat approval exclude improvements to the intersection of Ousel Falls Road and Highway 64 as required by MDOT, in a letter dated May 30, 2001. In reviewing this request, Staff suggests that the County Commission consider an appropriate traffic mitigation alternative, which can ensure and guarantee that the required road and access improvements are installed to serve the Big Sky Town Center Major Subdivision. Staff offered the following options for the County Commission to consider: 1. Accept the Applicant's Traffic

Mitigation Plan and proposed new conditions for approval of the Preliminary Plat(s) for the Big Sky Town Center Subdivision; 2. Do not grant final plat approval for any subdivision phase until a Big Sky/Gallatin Canyon Area Transportation District has been established, and has adopted appropriate taxing provisions for highway traffic improvements; 3. Require the Applicant to install traffic lanes and other traffic control measures for the Big Sky Town Center Subdivision as required by MDOT prior to final plat approval of the first phase. If the Commission chooses this option, Staff suggests the following conditions for final plat approval be applied to the first phase: a. The Applicant shall provide the necessary traffic improvements and control measures to Highway 64 pursuant to approved plans from the Montana Department of Transportation (MDT), and in a manner satisfactory to MDT. A letter satisfying completion of this condition shall be obtained from MDT; 4. Accept the Applicant's Traffic Mitigation Plan and proposed new conditions for approval of the Preliminary Plat for the first phase, and restrict final plat approval for subsequent phases until either: a) a Big Sky/Gallatin Canyon Area Transportation District has been established, and has adopted appropriate taxing provisions for highway traffic improvements; b) the Applicant provides the necessary traffic improvements and control measures for the Big Sky Town Center Subdivision as required by MDOT; 5. Accept the Applicant's Traffic Mitigation Plan and proposed new conditions for approval of the Preliminary Plat for the first phase, and do not issue any Land Use Permits for construction within the subdivision until either: a) a Big Sky/Gallatin Canyon Area Transportation District has been established, and has been adopted appropriate taxing provisions for highway traffic improvements; or b) the Applicant provides the necessary traffic improvements and control measures for the Big Sky Town Center Subdivision as required by MDOT; and 6. Any other option as determined by the County Commission. Principal Planner with Gallatin Peaks, Jim Pepper reported that when it became clear the Transportation Study was not going to be completed on the timetable for the applicant's submittal for final plat for Phase 1, they went forward preparing a Traffic Mitigation Plan per the provisions in Condition No. 4. After extensive research and discussion with the Transportation Advisory Committee and the Planning staff they submitted that plan to the Planning Department on May 25, 2001, with an addendum on July 13, 2001. Mr. Pepper summarized the components of the plan, along with the existing subdivision and development context in Big Sky. Mr. Pepper referred to Exhibit "A", pointing out the geographic area surrounding the Town Center; Exhibit "B", pointing out various roads. He stated after collecting data it was concluded that 50% of the development at Big Sky had already received approval without any mitigation requirements resulting in inadequate funding to make necessary improvements. Their concern was to have a mitigation program to build improvements, not simply meet conditions of approval. He referred to Table "1A" and "1B", traffic improvements identified by Marvin and Associates for the entire Highway 64 and Ousel Falls Road traffic shed over the next 20 year period. He commented that MDOT was in agreement with the improvements but not in agreement with the timing. Discussion took place regarding the bonding of the improvements. He pointed out on Table "A", a formulated plan of funding sources that they determined could generate revenue from the existing 50% of the development for their share of improvement contributions, as the County has no legal means of retroactively imposing traffic mitigation conditions on these existing subdivisions. He summarized the criteria used to evaluate the following sources: 1. Property owner or developer bonds; 2. County RID's; 3. Montana Department of Transportation; and 4. Urban Transportation District. Mr. Pepper described how they determined levels of revenue generation that would be possible under the Urban Transportation District. They believe the analysis and evaluations support their conclusion that the Transportation District alternative is superior to any other. Mr. Pepper submitted letters from the following to the Commission in support of the Traffic Mitigation Plan for the Big Sky Town Center Subdivision: Big EZ Ranch, LTD; Moonlight Basin, LP; CGV Montana LLC; and Blue Grouse Development Co. He commented to a recent letter dated August 2, 2001, from Moonlight Basin questioning the operation of the Gallatin Canyon Big Sky Transportation District. Attorney William Madden on behalf of the developer commented on the review, MDOT authority and legal aspects of the Urban Transportation District. He commented on the following issues: toll roads; MDOT and Urban Transportation District proportionate share; their proposed conditions; and the resort tax district. Mr. Madden stated that the Urban Transportation District has greater latitude and more authority to provide transportation services than the Commission could require of any developer under a bond, and RID or MDOT. He reviewed the MDOT proposal letter, dated March 30, 2001, displayed on Table "D" and read from a letter dated June 29, 2001. He addressed an evaluation of staff's suggested options listed on Table "C". Attorney Steve Barrett representing Boyne USA, Inc., spoke in support of staff recommendations, and the concept of spreading the mitigation costs over the largest possible base. Architect Nick Salmon speaking on behalf of Boyne USA, Inc., stated if the district is to be expanded they believe the boundary should reflect the developed subdivided and certificate of survey lands within that area and not the open lands, and that MDOT should pay 100 percent of the costs of improving, maintaining and dealing with any traffic impacts on the road. Packy Cronin, representing the Blue Grouse Development Company stated he saw the Transportation District as the best way to encompass everyone who impacts the roads. Attorney Mike Lilly on behalf of Firelight Meadows Subdivision spoke in support of the Town Center. Jerry Scott resident and developer in Big Sky spoke in support of

the Town Center. Mr. Scott did oppose, part of the applicants plan process, stating that it was the developers responsibility to pay for MDOT impacts for their projects. He told the Commission to not give final plat without knowing that the improvements for the impacts that are determinable from their project are taken care of and if it requires bonding, then require bonding. Commissioner Murdock gave the applicant credit for all the research done on the Transportation District, stating that he liked the conditions proposed by the developer and the idea of having future developments waive their right to protest the creation or inclusion in the Urban Transportation District, and the proposed amendment. He stated he would like to get the developer to agree to bond for 30 percent of the requirements to Table 1A, if the Commission agrees. He also, suggested that language be worked out so that the amount is credited towards future improvements so they are not double charged, and if the improvements aren't made that the money go into a fund for improvements, for if and when they are identified. He felt they would be a good model for the future developments. Commissioner Vincent supported Commissioner Murdock, along with stating that he wanted to make sure the details are figured out. Commissioner Murdock stated the Improvements Agreement would have those details. Discussion took place between Mr. Madden and Commissioner Murdock regarding the suggestion of substituting a proportionate share towards the improvements identified by Mr. Pepper on Table 1A (TC), and bonding for the 30 percent of those improvements and replacing that for condition 3. Mr. Pepper clarified the road in question was Flats Drive, rather than Manzanita Drive. Mr. Pepper stated he felt that bonding for 30 percent of the improvements reflected a fair share. Mr. Madden stated his research indicates that the 30 percent bond could not be credited toward the Urban Transportation District, and if assessments were levied for those identified improvements they will have to pay for them, plus they would have the bond. Commissioner Murdock stated if that happens the Commission will have to work them in some way to make it whole. They discussed the wording of the condition to that effect, and the issue that the term of the bond can't exceed the statute of the improvements bond, which is 4 years. Commissioner Murdock wanted the money to go into a fund, as one-day improvements will be needed and if a developer paid too much or too little, as shown by the transportation study there would be an adjustment. Commissioner Vincent stated he had no objection to the direction in which Commissioner Murdock was heading, although he was uncomfortable negotiating precedent setting terms such as this, when he had no objective way to determine whether or not a bond of 30 percent is in fact a fair share or not. Commissioner Mitchell concurred, stating that it needs to be reviewed by the County Attorney and staff. In discussion it was decided to continue the issue for a couple of weeks for further research and analyze the information and data that was used to conclude the amount of improvements needed to mitigate the impacts of the Town Center by the applicant. Commissioner Murdock also, suggested they provide a draft of the improvements agreement. Mr. Madden stated that the applicant was in agreement to the continuance. He commented that he had some legal questions that he needed to discuss with the County Attorney, relative to how the bond would operate. Mr. Lilly requested to be included in the discussions. The Commission informed him the discussions were public and whoever is impacted could attend.

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Gallatin County Long-Range Planning Manager Lanette Windemaker reported on the receipt of the Planning Board Resolution No. PB-2001-03 "Resolution of Recommendation of Adoption and Implementation of the Gallatin County Growth Policy". Ms. Windemaker stated the resolution was passed on July 24, 2001, forwarding a recommendation, the adoption and implementation of the Growth Policy, dated May 15, 2001. She stated that it was time for the Commission to review the Growth Policy, and draft any proposed revisions. When the Commission is ready to take the draft Growth Policy through the legal process, it will be noticed for the passage of a resolution of intention in accordance with 76-1-604. The policy is on the Internet, and available on CD or hard copy for checkout or purchase at various locations. President of the Gallatin County Planning Board Nick Salmon spoke of the substantial amount of public input received throughout the community of which he hoped the Commission would consider when reviewing the Policy. He asked that the Planning Board be kept apprised of any changes. The Commission thanked Mr. Salmon for a job well done. Mr. Salmon commented that resolving the Interlocal agreement with the City of Bozeman would also help accelerate the process, as that would address issues of growth in and around Bozeman. Gallatin County Planning Director Bill Arnold recognized the efforts of the Board for their countless hours in producing this document. He also, recognized and commended the work of the long-range planners Ms. Windemaker and John Shepard. Commissioner Murdock moved to acknowledge receipt of the Growth Policy and publicly state that they intend to take the bulk of the policy and go forward, although there will probably be revisions. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Commissioner Mitchell stated that consideration of a resolution of intention to adopt the Hinesley Urban Residential Node Text Amendment to the 1990 Bozeman Area Master Plan Update portion of the Gallatin County Master Plan was to be continued until October 9, 2001.

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Gallatin County Planner Jennifer Madgic reported on the following three separate applications: consideration of a request for a variance to allow a non-conforming lot size and width in the Agricultural Suburban District in the Gallatin County/Bozeman Area Zoning District; consideration of a request for preliminary plat approval for a one-lot minor subdivision created for lease purposes; and consideration of a request for a conditional use permit to expand an existing non-conforming use for Richard and Kristie Kountz (BFI Waste Systems). Applicants property is described as Tract 1 of COS 2229 situated in the NW ¼ of Section 15, T2S, R5E, PMM, Gallatin County, Montana; or generally located south of Huffine Lane, east of Cottonwood Road (8600 Huffine Lane). The purpose of these applications is to accommodate a request to expand BFI Waste Systems, an existing non-conforming use as defined under the Gallatin County/Bozeman Area Zoning Regulation. The request to expand requires the following process: 1. Approval of variance requests for adjusted lot width and size; 2. Approval of a preliminary plat to create Lot L; and 3. Approval of a conditional use permit to accommodate expansion. BFI Waste Systems presently violates the Montana Subdivision and Platting Act in illegally creating a lot by lease. Tract 1 of COS 2229 which includes BFI presently includes a number of unrelated uses. The purpose of these applications is to remedy this conflict and to allow BFI the opportunity to expand. Dennis Foreman of Gaston Engineering, on behalf of Richard and Kristie Kountz, has requested a Conditional Use Permit (CUP) to allow the proposed expansion of an existing non-conforming use in the Agriculture-Suburban (AS) District in the Gallatin County/Bozeman Area Zoning District. To accommodate this expansion, applicants are requesting to create Lot L, a parcel created for lease purposes, and are requesting two variances to accommodate proposed Lot L; and has requested preliminary plat approval for a 5.835-acre parcel created by lease (Lot L). Minimum lot size in the AS District is 20 acres and minimum lot width is 660 feet. Applicants are requesting two variances from the Gallatin County/Bozeman Area Zoning District regarding lot size and lot width. The County Commission has two determinations to make with this application: 1. A determination as to whether to approve the applicants' proposed variance to reduce the minimum lot width from 660 feet to 520 feet. The basis for the Board's decision shall be based on the following criteria: that the variance will not be contrary to the public interest; that literal enforcement of this title will result in unnecessary hardship owing to conditions unique to the property; and that the spirit of this title is observed and substantial justice done; and 2. A determination as to whether to approve the applicants' proposed variance to reduce the minimum lot size from 20 acres to 5.8 acres. The basis for the Board's decision shall be based on the following criteria: that the variance will not be contrary to the public interest; that literal enforcement of this title will result in unnecessary hardship owing to conditions unique to the property; and that the spirit of this title is observed and substantial justice done. If the Commission decides to approve the requested variances, the following conditions are suggested: 1. Applicant shall obtain approval for Conditional Use Permit as proposed for expansion to BFI Waste Systems building; and 2. Applicant shall obtain Preliminary Plat approval for proposed Lot L (lot created for lease purposes). Applicants are intending to create a 5.835-acre parcel for lease, 520 feet in width, in the AS District. The Gallatin County Planning Board held a hearing July 24, 2001 on the project and voted 5:0 with one abstention to approve the applicants' variance request. The Board expressed concern regarding the provisions of the lease, including the length of time of the lease and the dissolution of the parcel. The Board also voted to recommend approval of the proposed preliminary plat and the CUP request. Notice of the hearing was published in the High Country Independent Press on July 5, 2001; letters were sent to adjacent property owners; and notice was posted on site and in a location visible to the general public. No comments have been received to date. Dennis Foreman representing the applicant summarized the background of the requests and explained why the variance would not be contrary to the public's interest. There was no public comment. Commissioner Murdock moved to approve the applicant's proposed variance to reduce the minimum lot width from 660' to 520', finding that it would be the minimum variance to meet the condition; that it is not contrary to the public's interest; and it is an on going commercial operation in the AS zone, which there is a conflict with the plan and zoning; and literal enforcement would result in unnecessary hardship because of the unique conditions in separating it out with the lease. He stated substantial justice would be done and he recommended granting the variance subject to the conditions written by staff and agreed to by the applicant. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Murdock moved to grant the second variance to reduce the minimum lot size from 20 acres to 5.8 for the same reasons stated and subject to the same conditions. Seconded by Commissioner Vincent. None voting nay. Motion carried. Ms. Madgic stated the only concern with the request for preliminary plat approval for the creation of a lease parcel was the fire, and that has gone to the Rae Fire District. They received a letter from Brian Crandell with a list of conditions regarding fire stipulations required of the lot, that the applicant has

agreed to. The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the suggested conditions. The County Commission has one determination to make with this application: A determination whether or not to approve the proposed subdivision. The basis for the Commission's decision shall be whether the preliminary plat, and additional information demonstrate that development of the subdivision meets the requirements of the Montana Subdivision and Platting Act. If the Commission decides to approve the subdivision, the following conditions for final plat approval are suggested: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2. Two copies of the covenants, a copy of the conditions of preliminary approval, documents establishing the property owners' association, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants, documents establishing the property owners' association, and certificate prior to final plat approval. 3. Applicant shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, fire district or fire service area and/or the creation of a sewer and/or water district. 4. A Memorandum of Understanding shall be signed between the Weed Control District and the applicant prior to final plat approval. 5. Applicant shall record the following covenants with the final plat: *a) The property owners association shall be responsible for the control of County-declared noxious weeds. b) Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c) All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law. d) Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.* 6. Applicant shall record with the Clerk and Recorder's Office an explanation regarding proposed Lot L and the dissolution of such "lot" upon termination of lease agreement. 7. Applicant shall submit a copy of the lease agreement and any language regarding proposed Lot L for review and approval by the Gallatin County Attorney Office. 8. Applicant shall provide a water supply for fire protection in accordance with the Subdivision Regulations. Applicant shall have the Rae Fire Chief review and approve the water supply prior to final plat approval. Applicant shall obtain written verification from the fire district that the required water supply has been provided. Inspections shall be scheduled, with a 48-hour notice, during construction and completion. 9. The leaseholder shall not be denied easements for provision of utilities. 10. Applicant shall have three (3) years to complete the above conditions and apply for final plat approval. Mr. Foreman stated the applicant was in agreement with the conditions as proposed. There was no public comment. Commissioner Vincent moved to grant the request for preliminary plat approval, finding that the application meets the conditions of the Montana Subdivision and Platting Act, other relative provisions of the Master Plan and Subdivision Regulations. Contingent upon the acceptance as stated by the applicant of conditions 1-10. Seconded by Commissioner Murdock. None voting nay. Motion carried. Ms. Madgic explained the applicant was adding on to the existing BFI building, a non-conforming use in the AS District, but it is grandfathered in. She further explained Section 53 of the Regulations that addresses the procedures for the conditional use permit. If the Gallatin County Commission, after hearing and considering all public testimony, finds that the establishment, maintenance, and operation of the proposed expansion of the BFI Waste Systems building will not be detrimental to the health, safety, peace, morals, comfort and general welfare of the Zoning District; and that the expansion is reasonable, natural and incidental to the growth of an existing non-conforming use; and that the proposal meets Section 53 of the Gallatin County/Bozeman Area Zoning District; then the following conditions are suggested by Staff: 1. Applicant shall submit a site plan, which complies with all conditions in the Gallatin County/Bozeman Area Zoning Regulation found in Section 46 (parking); Section 47 (landscaping); and Section 50 (general building and development standards). 2. Applicant shall submit a site plan, which complies with appropriate entryway corridor requirements of Section 43 of the Gallatin County/Bozeman Area Zoning Regulation. 3. Applicant shall obtain variance from the minimum lot size requirements of the Agriculture Suburban District to accommodate proposed 5.8-acre lot. 4. Applicant shall obtain variance from the minimum lot width requirements of the Agriculture Suburban District to accommodate proposed 520-foot lot width. 5. Applicant shall obtain preliminary plat and final plat approvals for proposed Lot L. Applicant shall file a certificate of survey showing the proper boundaries of proposed Lot L with the Gallatin County Clerk and Recorder's Office. 6. Applicant shall submit copy of lease agreement. The Gallatin County Attorney shall review and approve the applicant's lease agreement. 7. Applicant shall record with the Clerk and Recorder's Office an explanation regarding proposed Lot L and the dissolution of such "lot" upon termination of lease agreement. 8. Applicant shall provide evidence that existing septic system can accommodate existing use and that septic permit is valid. 9. Applicant shall comply with the requirements of the Rae Fire District. Applicant shall provide letter from District demonstrating such

compliance. 10. Applicant shall comply with all state and federal laws. Mr. Foreman stated they reviewed the CUP and had no problem with the conditions imposed. There was no public comment. Commissioner Murdock moved to approve this conditional use permit, finding that it won't be detrimental to the health, safety, peace, morals, comfort and general welfare of the Zoning District; and that the expansion is reasonable, natural and incidental to the growth of an existing non-conforming use; and that it meets Section 53 of the Zoning District, subject to the 10 conditions proposed by staff. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the consideration of a request for preliminary plat approval for the Sime/Cook/Lyons Minor Subdivision located in the NW ¼ of Section 12, T2S, R6E, PMM, Gallatin County, Montana. Allen and Associates, on behalf of Garth and Carolyn Sime, Kevin Cook and Dave Lyons, have requested preliminary plat approval to subdivide a 15-acre parcel by creating four commercial lots (ranging in size ~ 1.5 acres to ~ 8.6 acres). The property is located in the NW ¼ of Section 12, T2S, R6E, PMM, Gallatin County, Montana. The property is generally located off Durston Road, adjacent to the Shedhorn Subdivision, northeast of the Four Corners intersection. No variances are being requested. Ms. Koozer briefly outlined the proposal, noting that on July 24, 2001 the Gallatin County Planning Board reviewed the proposal and recommended approval. She suggested a modification to condition 10(c) to read as follows: Paving of Durston, twenty four feet, wide from the east property line to Jackrabbit Lane; and adding condition 12(a) to read as follows: Applicant shall provide proportionate reimbursement to the Shedhorn Subdivision fire fill pond maintenance entity in accordance with the Gallatin County Subdivision Regulations. The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the suggested conditions. The County Commission has one determination to make with this application: A determination as to whether the proposed subdivision should be approved. The basis for the County Commission's decision shall be whether the preliminary plat and additional information demonstrate that development of the subdivision meets the requirements of the Montana Subdivision and Platting Act and the Gallatin County Subdivision Regulations. If the Commission decides to approve the subdivision, the following conditions for final plat approval are suggested: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2.A Property Owners' Association shall be established for the subdivision. 3.A copy of the conditions of approval, documents establishing the property owners' association, covenants and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the required covenants and certificate prior to final plat approval. 4. The final plat shall include a waiver of right to protest creation of rural improvement districts, local improvement districts, and the creation of sewer and/or water districts. 5. The final plat shall show all utility easements. Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat: *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* 6. Applicant shall record the following covenants with the final plat: *The control of noxious weeds by the Property Owners' Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District. The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. In the event a landowner does not control the noxious weeds, after 10 days notice from the Property Owners' Association, the Association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment. Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law. Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners and the County Commission.* 7. The final plat shall show a fifteen-foot irrigation ditch easement along any ditch along the north and east boundaries of the subdivision. 8. The final plat shall show a sixty-foot right-of-way, dedicated to the public, for the interior subdivision road. 9. The property owners' association shall be responsible for the maintenance of the interior subdivision road. 10. Applicant shall complete the following requirements, and provide confirmation that each of the following meets the

approval of the County Road Department: a. Detailed drainage plan. b. Road name and stop sign at the intersection of Durston and the subdivision road. c. Paving of Durston, twenty-eight feet wide, from the east property line to Jackrabbit Lane. d. Construction of interior road and cul-de-sac to County paved standards. 11. Applicant shall make payment of road impact fees in accordance with the Gallatin County Subdivision Regulations. 12. Applicant shall make payment of fire impact fees in accordance with the Gallatin Subdivision Regulations. 13. Applicant shall provide an appropriate fire protection method in accordance with the Subdivision Regulations (section 6.E.). Applicant shall have the Belgrade Rural Fire District review and approve the fire protection method prior to final plat approval. Applicant shall obtain written verification from that all requirements have been met. 14. A Memorandum of Understanding shall be signed between the Weed Control district and the applicant prior to final plat approval. 15 Applicant shall have three (3) years to complete the above conditions and apply for final plat approval. Surveyor for the applicant Ron Allen with Allen and Associates stated that the applicant was in agreement with all the conditions. Mr. Allen further clarified the ditch and fire fill requirements. There was no public comment. Ms. Koozer suggested after Mr. Allen's clarification of the ditch easement, condition 7 should read as follows: The final plat shall show a fifteen-foot irrigation ditch easement along the ditch along the east boundaries of the subdivision. Commissioner Vincent moved to approve the request for preliminary plat approval, finding that it meets the requirements the of Montana Subdivision and Platting Act and the Gallatin County Subdivision Regulations, noting changes to conditions number 7, 10(c) and the addition of condition 12(a). Seconded by Commissioner Murdock, finding it substantially complies with the Gallatin County Master Plan. Commissioner Mitchell added that the motion included all the other conditions, along with the modifications and additions. None voting nay. Motion carried.

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the consideration of a request to modify a condition of preliminary plat approval for the Firelight Meadows Subdivision. The property consists of 40.54 acres, located in the SE ¼ of Section 2, T7S, R3E, P.M.M., Gallatin County, Montana. The Gallatin County Commission approved the preliminary plat of this proposal on March 13, 2001. Michael J. Lilly, on behalf of Firelight Meadows L.L.C., has requested a modification to the conditions of preliminary plat approval for the Firelight Meadows Subdivision. Mr. Johnson stated the applicant has submitted a formal petition to delete condition 3 of the Findings of Fact and Order issued by the Gallatin County Commission on March 13, 2001. Condition 3 reads as follows: The applicant shall obtain a provisional, Beneficial Water Use Permit for the community water supply from The Department of Natural Resources and Conservation. According to the applicant, the Montana Department of Environmental Quality has required as a condition of its final approval that the subdivision obtain the same Beneficial Water Use Permit as is required by condition 3 of the Commission's Finding of Fact and Order. Since both conditions 2 and 3 require Firelight Meadows, LLC, to obtain a Beneficial Water Use Permit for its central water system, condition 3 is redundant. Section 13.G of the Gallatin County Subdivision Regulations addresses changes to conditions after approval as follows: Upon written request of the subdivider, the Commission may amend conditions of preliminary plat approval where it can be found that errors or changes beyond the control of the subdivider have rendered a condition unnecessary, impossible or illegal. The County Commission has one determination to make with this request: A determination as to whether to approve the requested change of condition. The Commission may change conditions where it is found that errors or changes beyond the control of the subdivider have rendered a condition unnecessary, impossible or illegal. Commissioner Murdock questioned if this had been verified with the DNRC or DEQ. Mr. Johnson stated that he had seen a draft and that it is a typical condition from DEQ when subdivisions have central water supply systems. The Commission discussed that this condition was intentional because of complaints by neighbors that this proposal might affect their water supply. Mr. Johnson noted that if it is a stand-alone condition of the preliminary plat, the workload with DNRC is one year out, and DEQ as part of their conditional approval can approve it letting them go forward with filing the final plat. Commissioner Mitchell stated that the reason for the condition was to assure adequate water supply and she did not see anything impossible or illegal. Mr. Lilly stated that two days after receiving preliminary plat approval, they received a response from the DNRC to their application for a Beneficial Water Use. The letter stated that they won't even act on the application for up to 12 months, and that was not known at the hearing. He noted that Commissioner Murdock stated that he had visited with Jan Mack at the DNRC and they could process the application within about 30 days, which was obviously a misunderstanding on someone's part. Mr. Lilly stated with all the studies they have done that there was no concern over the adequacy or availability of water and explained that construction of 40 units, is underway of which does not require a permit but they can not build a second or third phase without a permit. The Commission observed a letter of final approval from DEQ referencing Mr. Lilly's testimony. There was no public comment. Mr. Johnson stated that one of the requirements unique to Big Sky with the land use permit is concurrency with fire, sewer, water and access. If the developer cannot demonstrate they have water they will not be issued a permit, nor will the fire department sign

**328 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46**

off. Commissioner Mitchell did not have a comfort level in granting this request as they purposely put this condition in as a fail safe. Commissioner Murdock differed, stating because of what he found today with DEQ requiring the DNRC Beneficial Permit, and the fact that they can't get it for a year and do not need it up to a certain amount of units anyway. Finding that they have a change beyond the control of the subdivider that renders the condition basically impossible for them to meet, Commissioner Murdock moved that they remove condition 3, stating that he did not think they did anything contrary to the public's interest by doing it. Seconded by Commissioner Vincent. Commissioners Murdock and Vincent voting aye. Commissioner Mitchell voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 2:35 P.M.

*Unavailable*  
*For Signature*  
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CHAIRMAN APPROVAL  
**PUBLIC MEETING**

*Shelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

**TUESDAY THE 14th DAY OF AUGUST 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:11 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**AUGUST 6, 2001**

- The Commissioners attended a regularly schedule office meeting. In attendance were Commissioners Mitchell and Vincent, Commission Secretaries Stacy Johnston and Glenda Noyes, and Road and Bridge Superintendent Lee Provance. The Commission considered approval of the proposal for Gallatin County road improvement projects for East Cameron, Frank, and Thorpe Roads. The bids were awarded for this project on July 12, 2001. The routing sheet is missing, but Mr. Provance assured the Commission that Deputy County Attorney Chris Gray has seen and approved the contract, and noted that Fiscal Officer Ed Blackman has signed off his approval. Commissioner Vincent made a motion to approve the proposal for the Gallatin County road improvements projects for East Cameron, Frank, and Thorpe Rods, finding that Mr. Blackman has approved the proposal, and contingent on an actual signature of Mr. Gray. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.  
The Commissioners discussed a reconsideration of selection of engineer for the Gateway CTEP project. Previous discussions with Mr. Gray and Mr. Watson have determined that the decision was not made based on the appropriate criteria, and will need to be reconsidered. Commissioner Vincent made a motion to withdraw the previous decision to select Allied Engineering as the designer for the Gateway CTEP project, for reconsideration of selection. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.  
Commissioner Vincent made a motion to authorize Gallatin County's membership in the Northern Rockies RC&D. Commissioner Mitchell seconded the motion. In discussion, Commissioner Mitchell stated that she will continue to attend the meetings in Livingston as a representative for Gallatin County. All voted aye. Motion carried with a vote of two to zero.

**AUGUST 7, 2001**

- The Commissioners conducted regular County business.

**AUGUST 8, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell, Murdock, and Vincent, and Commission Secretaries Stacy Johnston and Glenda Noyes. The Commissioners considered approval of the Findings of Fact and Conclusions and Order for the Sidder's Property Floodplain Appeal. Commissioner Murdock made a motion to adopt, sign and send the findings as prepared by County Attorney Marty Lambert. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.  
The Commissioner considered approval of Invoice # 2001-130 from Transformation Consulting and Seminars (Terry Radcliffe) in the amount of \$2,860.00. Commissioner Vincent made a motion to approve said invoice. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.



## GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 329

The Commission considered approval of a budget transfer request from the Clerk and Recorder's Office in the amount of \$400.00. Commissioner Murdock made a motion to approve said budget transfer request. Commissioner Vincent seconded the motion. All voted aye.

Commissioner Murdock made a motion to impose a burn ban in Gallatin County, retroactive to Sunday, August 5, 2001, on the advise of the Rural Fire Chief. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered payment of an invoice to Saint Paul Insurance Co. for services rendered by Attorney Holly Brown on the Concinnity LLC claim, in the amount of \$4,658.37. Commissioner Murdock made a motion to pay said invoice. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

### AUGUST 9, 2001

- The Commissioners attended a special meeting for the purpose of awarding the chip seal bids and Jackson Creek Road Paving bids. In attendance were Commissioners Mitchell, Murdock, and Vincent, Road and Bridge Superintendent Lee Provance, and Commission Secretary Glenda Noyes. Mr. Provance explained that the road department has found themselves short on funds in the budget for chip sealing, and is having trouble determining which bidder would be most suitable. He asked that the awarding or declining of this bid be continued until a later time.

Mr. Provance recommended that the bid for Jackson Creek Road Paving be awarded to JTL, as the lowest responsible bidder with a bid of \$111,530.80. Commissioner Murdock made a motion to approve this recommendation and award the paving of Jackson Creek Road to JTL. Commissioner Vincent seconded the motion. Motion carried unanimously.

### AUGUST 10, 2001

- The Commissioners conducted regular County business.

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- Payroll for July 2001: \$1,101,307.31.
- Clerk & Recorder's Fees Collected for July 2001: \$82,819.45.
- New Hire Report for July 2001: 911 – Brian Boehm; CLERK & RECORDER – Kathy Sinnema; FAIR – Lucas Andersen, Tammy Andersen, Michael Bandolato, Dennis Boehler, Michael Haedez, Luigi Mostefa, Coral Wade, David Wade, Elizabeth Robbins, Patrick Robbins; HEALTH – Neil Squires; LWQD – Mary Greenup; REST HOME – Will Jacobs, Dawn Hamilton, Lillian Dunayer, Reed Beall, Jocelyn Hansen, Terry Spinks, Heather Dale, Vicki Jones; SHERIFF – Bradley Hickok, Jeffrey Bragg.
- Terminated Employees' Report for July 2001: 911 – Jenny Hansen 07/31/01, Sharon Holladay 07/31/01; CLERK & RECORDER – Tammy Barnett 06/29/01, Brenda Morris 07/27/01, Bitsy DiGidio 07/31/01; DISTRICT COURT – Matt Putzier 07/31/01; REST HOME – Marti Bryan 06/21/01, Erica Eckerson 06/29/01, Carol Pajak 07/14/01, Pamela James 07/15/01, Dawn Hamilton 07/19/01, David Knoll 07/23/01, Jocelyn Hansen 07/25/01; ROAD & BRIDGE – Roy Steiner 07/13/01; SHERIFF – Kara Vashey 06/26/01, Adam Pankratz 07/01/01, Valerie Vaught 07/09/01, Kristine Evans 07/20/01; TREASURER – Sharon Boucher 06/29/01.

Received and Approved Applications for Cancellation of Taxes in the Amount of \$99,405 for July 2001 (#'s 4286, 4292, 4448, 4473-4481).

#### **The following items were on the consent agenda:**

1. Claims were presented for approval by the auditor, dated August 9, 2001 in the amount of \$344,974.45.
2. Consideration of Contract(s): Grant Award for the Local Law Enforcement Block Grant (LLEBG); Cleaning Services Contract with Nook & Cranny Cleaning Specialists; and Modification to Engineering Services Contract #2001-148 with Gaston Engineering for Meadow Village RID 378.
3. Request for Final Plat Approval for the Stoppel Minor Subdivision described as the amended plat of Lot 34-A of the Outlaw Country Subdivision in the NW ¼ of Section 10, T1S, R5E, P.M.M., Gallatin County, Montana. Preliminary plat approval was granted on April 10, 2001. Belgrade City-County Planner Jason Karp states that the conditions for final plat approval have been met.

Commissioner Murdock read the consent agenda, noting that the claims would be continued until after 10:45 A.M., in order to satisfy the 48-hour notice. Belgrade City-County Planner Jason Karp stated that item #8 on the regular agenda; continuation of a request for preliminary plat approval of the Wylie

### 330 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

Creek Ranch II Subdivision was to be continued indefinitely. Commissioner Murdock moved to approve the consent agenda as amended. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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One vacancy exists on the North Side Rural Fire District due to the death of Howard (Jim) Micklewright. This applicant would be appointed until the next regular election in May 2002. There was no public comment. Commissioner Murdock moved to appoint Robert Godwin. Seconded by Commissioner Vincent. None voting nay. Motion carried. Two vacancies exist on the Tax Appeal Board. This is a two-year term, expiring on December 31, 2002. There was no public comment. Commissioner Vincent moved to appoint Thomas Goodpastor. Seconded by Commissioner Murdock. They will continue to advertise for the remaining vacancy. None voting nay. Motion carried. Commissioner Mitchell stated that the West Yellowstone TV District would be continued until a later date.

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Attorney Susan Swimley stated that item #2, consideration of a resolution of intention calling for the sale of bonds for RID #376 already took place on July 31, 2001, and item #3, consideration of award of bond bids for RID #376 was noticed for 1:30 P.M., so the Commission will reconvene at that time to open the bids.

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Gallatin County Grants Administrator Larry Watson reported on the consideration of an application to the Montana Board of Investments Infrastructure Loan Program on behalf of Zoot Enterprises. Mr. Watson stated that Zoot Enterprises was requesting County sponsorship of a loan application and the purpose of the application is to secure \$4 million in financial assistance to become part of a financing plan of \$18.4 million for the construction of the Zoot Galactic Park in the Four Corners area. This is a job creation type program and Zoot Enterprises is pledging to create one full-time job for every \$16,666 that is received. Mr. Watson stated that aside from the sponsorship requirement of this application for the Board of Investments, is a legal opinion, that will be completed by the application date by Deputy County Attorney Chris Gray. Executive Director of the Gallatin Development Corporation Alicia Bradshaw spoke in support of the application, submitting Exhibit "A", a letter asking for the County's support. Chris Nelson, founder of Zoot Enterprises spoke regarding the business background, its growth and future plans for development. Board discussion took place regarding the County's obligation, responsibility and legal considerations that go along with the endorsement of the application. Mr. Watson stated this was a very strong financial plan and proposal. Ms. Bradshaw confirmed that August 17, 2001, is the deadline for receiving the information and on September 17, 2001, the Montana Board of Investments will meet to make their decision. Commissioner Murdock moved to support and endorse the Zoot Enterprise loan application to the Montana Board of Investments Infrastructure Loan Program in the amount of \$4 million. Seconded by Commissioner Vincent. Commissioner Vincent stated this is encouraging because it carries with it several key components of what we really need to do in regard to economic development. He commended Zoot for having the foresight and vision to pursue a plan of this nature. Commissioner Murdock concurred and stated he was pleased with the location. None voting nay. Motion carried.

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Attorney Susan Swimley on behalf of developer Nadia Beiser requested to continue item #5, consideration of a request for approval of an independent road impact fee calculation for High K Phase II, and item #6, consideration of a request for final plat approval of the High K Phase II for one week to clear up issues raised regarding the traffic study. She noted that Ed Hahn was signed up to comment on item #5, and she informed him of the request for continuance. Commissioner Mitchell asked Mr. Hahn to return next week for comment.

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Belgrade City-County Planner Jason Karp reported on the consideration of a request for preliminary plat approval for the Andres Minor Subdivision located east of Belgrade on Airport Road, west of the Springvale Subdivision. The property is described as the E ½, W ½ NE ¼, SE ¼, of Section 4, T1S, R5E, P.M.M., Gallatin County, Montana. Lewis Burton and Associates on behalf of Jerome and Lynda Andres has requested preliminary plat approval of a two lot minor subdivision on 10 acres. The

Belgrade City-County Planning Board voted to unanimously recommend preliminary plat approval of the subdivision, subject to the conditions. Mr. Karp noted changes to two conditions in the staff report to read as follows: #5(d) -The Homeowner shall be responsible for the maintenance of the access road; and #12 - Road Names shall be approved by the GIS Department, and road name signs and STOP signs at all intersections as required by the Road Office shall be installed prior to final plat approval, or a bond covering the cost of the signs shall be deposited with the Road Office. The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the suggested conditions. The Commission has one determination to make with this application: A determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the County Commission finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final approval:

1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates.
2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever."
3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval.
4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat.
5. The developer shall record covenants on the final plat including the following provisions.
  - a. Requiring control of county declared noxious weeds.
  - b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and residents of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.
  - c. All fences bordering agricultural lands shall be maintained by the Homeowners in accordance with State Law.
  - d. The Homeowners shall be responsible for the maintenance of Jenna Lane.
  - e. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County.
6. Two copies of the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval.
7. Road Impact fees and Fire Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact Fee Regulations.
8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval.
9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department.
10. The developer must obtain an encroachment permits from the Gallatin County Road Department for the proposed intersection with Airport Road.
11. The developer shall provide one of the following standards to ensure a reasonable level of fire protection and life-safety to the public and firefighters. The following requirements must meet the specifications of Gallatin County Subdivision Regulations Section 6-E-5 and be reviewed and approved by the Belgrade Rural Fire District. The subdivider shall obtain written verification from the Belgrade Rural Fire District that one of the following requirements has been met.
  - a. A single 10,000 gallon water supply for each home and associated structure meeting the requirements of Section 6-E-5(a).
  - b. A single 20,000-gallon water supply meeting the requirements of Section 6-E-5 (b).
  - c. A rural fill site meeting the requirements of Section 6-E-5(c).
  - d. R-3 occupancies as defined by the Uniform Fire Code may be protected by automatic fire sprinkler systems meeting the requirements of NFPA 13D. If the sprinkler options is used the covenants must include the following provisions.
    1. Automatic fire sprinkler systems shall be installed in all structures, which are used for living and home business which people normally occupy. The fire sprinkler system must meet the requirements of NFPA 13D.
    2. A stamped set of engineered sprinkler system plans and covenants requiring the installation of sprinklers shall be submitted to the Belgrade Rural Fire District for review and be approved prior to construction, and the sprinkler system must be inspected by the Belgrade Rural Fire Department during construction and at completion as required by the Belgrade Fire Chief.
    - e. A pressurized fire hydrant system meeting the requirements of Section 6-E-5(e).
12. Road names shall be approved by the Road Office, and road name signs and STOP signs at all intersections as required by the Road Office shall be installed prior to final plat approval, or a bond covering the cost of the signs shall be deposited with the Road Office.
13. The access road shall be a sixty foot right-of-way dedicated to

the public, or be a public easement in accordance with Section 7-B of the Gallatin County Subdivision Regulations and shall be constructed to Gallatin County standards with cul-de-sac at its north end. 14. 30 feet of Airport Road north of the centerline shall be dedicated to the public on the final plat along the entire length of the subdivision. 15. All roadwork will need to be inspected and certified by a licensed engineer. The inspection and certification must be provided to the County Road Office in writing prior to final plat approval. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. Lewis Burton, the applicants representative gave a brief overview of the project regarding fire and road issues. There was no public comment. Finding that the Andres Minor Subdivision meets the requirements of the MCA, Gallatin County Subdivision Regulations, Belgrade Area Master Plan, Commissioner Murdock moved approval with all the conditions as presented by staff with the amendments to condition #5(d) striking (Jenna Lane), and replace with (the access road) and condition #12 striking (Road Office), and replacing with the (GIS Department) for road name approval. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported on the continuation of approval of the proposed FY 2002 budget. Mr. Blackman summarized the projected changes in fund balances or cash balances from July 1, 2001 through June 30, 2002. He noted that the FY 2002 preliminary budget is based on temporary taxable values from the Department of Revenue and they will be re-certifying the taxable valuation by August 20, 2001. Discussion took place regarding the budget approval process, the floating mill and HB124. He stated the budget showed an increase in millage of .77 mills, not the 3 mills originally approved for the health insurance. He noted there are \$2 million in requests that are not included in the budget that the Commission would have to make a determination on, as to if they will be funded, use the floating mill levy or reallocate from other programs between now and September 18, 2001. Approving the preliminary budget will start the time period for giving notice to the public, and having a set process to start making changes and schedule meetings. The County Commission will adopt the Final Operating/Capital Budget and set the number of mills to be levied within 45 days of receipt of the Department of Revenue final certified valuations. There was no public comment. Given the caveats mentioned by the Fiscal Officer and understanding those, Commissioner Vincent made the motion that the Commission approve the preliminary budget. Seconded by Commissioner Murdock. None voting nay. Motion carried. Commissioner Murdock moved to adopt Resolution #2001-92, a resolution adopting the preliminary Gallatin County FY 2002 Operating budget as determined by the County Commission. Seconded by Commissioner Vincent. Commissioner Mitchell stated this reiterated the previous motion. None voting nay. Motion carried.

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Detention Center Project Team Chairman Sam Hofman reported on the continuation of a public hearing and consideration of a resolution regarding a ballot question of issuing General Obligation Bonds for the Equipping and Financing of an Adult and Juvenile Detention Facility. Mr. Hofman commented on the extensive work, research and discussion that went into the plan presented to the Commission for the proposed facility. He noted that the team felt the need to answer the mission statement that was put before them that included the juvenile facility, although modifications were anticipated. He stated if they wanted to have a jail that would be efficient, serviceable and long term, they would need to build the jail according to the plan. Personally, he would not be happy with anything less than the three pods. Richard Brown, a former Project Team member asked the Commission to consider the liability issues due to the dangerous conditions in the present facility. Mr. Brown urged the Commission to move forward and give a positive vote to this issue. Dave Pruitt spoke regarding the juvenile facility, stating that one way to look at this situation would be build the jail without the juvenile facility, but keep the plans should it be needed at a later date and reduce the mill levy. He concurred with the safety issue. Cleo Jones spoke of increased taxes and supported the suggestion of a needs assessment. Sergeant Michael Hagenlock spoke in support of the proposal and urged the Commission to move forward. Bill Mitchell stated there was the need for a new jail, although he felt there was not sufficient numbers to support the proposal in order for the Commission to make a rational decision. Brian Leland addressed statements in an editorial by Commissioner Mitchell that he felt was misinformation. He was in favor of the Oak Street site for the facility. Mr. Leland did not see this as a crisis situation, as inmates could be housed at the Fairgrounds, and he did not see this as a situation where they needed to throw money at this proposal. Dennis Carlson, former member of the first Citizens Jail Task Force spoke in objection to statements made by Mr. Leland. He spoke of the diligence put forth on this proposal and urged the Commission to carefully consider the proposal and urged them to put this to a vote of the people and let the people decide. Jim Paugh, committee member suggested the juvenile facility should still be included and just because it is included it does not need to be built at this time, if we have a juvenile facility that

works elsewhere. Gallatin County Detention Center Administrator Anita Shaw-Tymrak expressed her thanks to the many task forces that were involved with coming up with the current plan. Ms. Shaw-Tymrak felt comfortable with this proposal as well as the ones in the past. She expressed for her employees that frustrations are running high and the current facility is dangerous and inadequate. She urged the Commission to put this proposal to the voters and let the voters decide whether they want to pay for the incarceration and laws enacted. Gallatin County Fiscal Officer Ed Blackman commented that the resolutions were prepared by the County Attorney's office and bond counsel, based on the recommendation of the Project Team, and that they could be amended as deemed necessary. Board discussion took place regarding the commitment possibilities and the time frame before losing the capacity granted in the authorization should the entire proposal be put on the ballot, and at a later date it is determined that the juvenile facility is not needed. Representing D.A. Davidson as a financial advisor Bridget Ekstrom stated that in all the projects they have worked on that question has never been tested by law. Ms. Ekstrom noted that various bond counsels opinion has been that there could be a time where a question would run out and not be valid, and up until this time they have always had a 5 year window, where they should go ahead in good faith based on what the electors have passed with the bond issue. Commissioner Murdock read the recommendation passed unanimously by the Criminal Justice Coordinating Counsel, and referred to a letter sent by the Commission on November 2, 1999, to the second advisory committee stating that the final recommendation will be agreed to by the County Commission. Their recommendation was to build a podular direct detention facility, at the South 19<sup>th</sup> site, with a juvenile facility and a 144-bed facility. He stated the Project Team has been faithful to that recommendation of the larger citizen group and he thanked them. He stated that he had to morally and philosophically abide by that recommendation. Commissioner Murdock stated they had a report from the Detention Center Project Team and they made a motion to propose a 3 pod plus juvenile detention facility for a cost of \$21 million and a recommendation to ask the voters for funding authority to construct 3 pods plus a juvenile facility at a cost of \$21 million. They also, moved to stipulate that the proposal of the 3 pod plus juvenile detention facility would assume discontinuing use of the current detention center when the new facility opens. Gallatin County Clerk and Recorder Shelley Vance stated that two weeks ago she requested that she be contacted prior to the adoption of a resolution in order to discuss the election date, and she has not heard from the Commission. She stated that she could not support the current date of January 24, 2002, without discussion between herself as the election administrator and the Commission. Commissioner Murdock moved that the Commission place the recommendation to the voters with a date yet to be negotiated with the election administrator. Commissioner Vincent seconded the motion, although stating he would not be voting in favor of it. He stated he was fully prepared to vote for putting a 144-bed detention center on the ballot but not yet prepared even though there seems to be some flexibility relative to a fail-safe approach to going ahead on the juvenile facility, to vote in favor of that aspect of the proposal. He believed there was a compelling need for a new jail, but given the statistics and numbers there did not seem to be verification that he needed, to add another \$2 million for the juvenile facility. Although, he did not feel it was the ideal solution he commented on counties that have extended a hand and adopted policies that invite other counties to utilize their facilities for juvenile detention. Commissioner Vincent stated he would be in support of a motion for a 144-bed facility should this motion fail. He stated we need to let the process work and let the voters decide, as there is no doubt the old facility is unsafe and dangerous and the turn over rate is entirely unsuccessful. Commissioner Mitchell stated the voters have trusted her to do her homework and research when considering proposals to be put before them, making sure they were worth considering and would provide for the services needed. She considered that public input and opinion and did extra research on top of what was done by the various different project teams. She shared that information with the project teams, the public and other communities. The experts in those other communities that shared their experiences and opinions told her that the first thing that was needed was a needs assessment and the public has told her the same. Commissioner Mitchell stated the needs assessment is the first and foremost thing you do before you ever consider building a jail. For the most part the experts all said that the proposal has to be logical, efficient and economical, because it is the most expensive thing the taxpayers will pay for. She thanked those experts, the project team members and all of the public that have shared their opinions. She noted that unfortunately the proposal was not going to address the needs assessment among other things that needed to be done, and it was now time for the public to vote on it and let county government know what they think of the proposal. However, she stated they needed to be honest and up front with the voters by including the following stipulations and that honesty needed to include a ballot issue that has a bond for the construction and the additional mill levies for operations; and this needs to be a regular election rather than a special election or mail ballot. She stated that it was hard to add the juvenile facility, as it currently was under utilized and not a crisis situation. She believed that from her research the proposal needed to be downsized to 96 beds, as the 144 did not calculate out. She did not have a problem building another pod at a later date. She reiterated the need for the needs assessment, stating she would not support this resolution, unless it contains both the bond and mill levy along with calling for an election at a regular election date. Commissioner Murdock voting in aye. Commissioners Mitchell and Vincent voting nay. Motion

denied. Mr. Gray clarified the two different resolutions prepared by bond counsel. Commissioner Vincent moved that the Commission ask the Deputy County Attorney to prepare a resolution for the Commission to consider at a later date with the intention of the resolution to include a 144-bed facility bond issue of \$18,370,000 and an accompanying resolution that incorporates the operating costs of that facility. Commissioner Murdock asked Commissioner Mitchell if she had a comfort level with the motion as it stands, and if not he would incorporate her concerns about the special ballot or mail ballot election. Commissioner Mitchell confirmed she would like the motion to include that the ballot be held at a regular County election. Commissioner Vincent amended the motion to include that provision. Ms. Vance stated concerns with the issue of planning ahead for the election. She further explained that bond elections require a certain percentage of turnout, and she was certain that is why the citizen task force recommended that this be done as a mail ballot because mail ballot elections turn out more people. She noted that it is much more cost effective to the cost of the election should it be held at a regularly scheduled election. She was not prepared to tell the Commission of the primary election turnout, but she told them that they needed to be aware that for a simple majority to vote in favor of this, they must have a 40% turnout. She stated that if you do not have a 40% turnout and it is between 30 and 40% you must have 60% saying yes. If you have less than a 30% turnout it will be rejected no matter what the voters say. Ms. Vance noted that the 2002 primary and general elections are considered Federal elections and the people allowed to vote in those are active and inactive voters that must be included in the percentage figure. Commissioner Murdock stated that given the perimeters explained by Ms. Vance he would be uncomfortable including any language amended into the resolution, saving any decision and debate until after meeting with the election administrator. Commissioner Vincent withdrew his amendment to the motion. Commissioner Murdock withdrew his second to the amendment. Commissioner Vincent asked Mr. Gray if this resolution of intent, had to be so specific as to preclude them from talking about negotiating a date in another meeting and then a public meeting. Mr. Gray stated that a resolution of intent was not applicable in this situation; it would be an actual resolution. He suggested setting a date certain for considering the resolution and then back track to set a date certain to discuss with the Clerk and Recorder and the applicable parties when the election will be held so that an actual date that is required could be determined for the resolution. Discussion took place regarding the wording of the motion and if the date of the election would be determined at a later time, prior to mid September. Commissioner Murdock stated that even though he voted in support of his first motion that failed, he would support this motion, because of the overwhelming need for this facility overrides his other concerns. He also, commented that the Matrix Planning & Associates study is a needs assessment, and that he felt the Oak Street site was more appropriate. Commissioner Mitchell wanted it made clear that this is the bond for construction only, and the operating costs are above and beyond that, and that it would be a mill levy. She reiterated that this motion is to direct the County Attorney to write the resolution to place before the public a bond issue for a 144 adult bed facility for no more than a \$18,370,000 construction bond, with the operation costs mill levy to also, be added to the same ballot issue, and the ballot to be put before the voters at a regularly scheduled election, with that date to be determined after a discussion with the Clerk and Recorder's office. Commissioner Vincent suggested taking the word regular out, as it would co-opt a mail ballot or primary possibility. Commissioner Mitchell stated she would not support anything that was a mail ballot or special election. She stated that she was not going to promise that she would support or deny the resolution, as it would depend on the points discussed in the motion. None voting nay. Motion carried.

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Deputy County Attorney Chris Gray stated that it would be appropriate at this time to continue the public hearing and consideration of the resolution relating to reimbursement of appropriate costs in the financing of the acquisition, design, construction, equipping and financing of an adult and juvenile detention facility.

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Gallatin County Fiscal Officer Blackman reported on the pending resolution of intent to levy and assess a tax on maintenance districts within Gallatin County, Montana. The public hearing will be held on August 28, 2001. Commissioner Murdock moved to adopt Resolution of Intent #2001-93. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Commissioner Murdock moved to approve the claims. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 335

Deputy County Attorney Chris Gray stated that on August 8, 2001, the Commission passed an emergency resolution closing Gallatin County to open burning and open fires, which was to be reaffirmed today. Due to the noticing requirements he advised opening this for public comment and continuing it until 1:30 P.M. tomorrow. Commissioner Murdock moved approval of the continuance. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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There being no further business at this time the meeting was adjourned at 12:11 P.M., to be reconvened at 1:30 P.M. for the RID #376 bid opening.

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The meeting was reconvened by Chairman Jennifer Smith Mitchell at 1:42 P.M. Also present were County Commissioners Bill Murdock and John Vincent, Clerk and Recorder Shelley Vance, Treasurer Anna Rosenberry, Fiscal Officer Ed Blackman and Acting Clerk to the Board Mary Miller. Clerk and Recorder Shelley Vance stated this was the time set to open bids for the sale of bonds for RID #376, Painted Hills, of which notice was published in the High Country Independent Press on August 2<sup>nd</sup> and 9<sup>th</sup>, 2001. Deadline for receiving the bids was August 13, 2001, at 5:00 P.M. There was one bid received. Mr. Blackman stated the bid was received from D.A. Davidson & Co., with the bid bond attached in the amount of \$10,800; requested delivery date of bonds no later than August 29, 2001; and the net effective rate of 5.119%. Ms. Rosenberry reviewed the bid and accepted it. Finding that the Treasurer and Fiscal Officer reviewed and accepted the bid, Commissioner Murdock moved approval. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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There being no further business the meeting adjourned at 1:48 P.M.

*Unavailable*  
*For signature*  
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CHAIRMAN APPROVAL

*Shelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 21st DAY OF AUGUST 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:07 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**AUGUST 13, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell, Murdock, and Vincent; and Commission secretaries Stacy Johnston and Glenda Noyes. The Commissioners considered approval of Invoice #0101-4 from Taylor Architects for Phases III & IV, in the amount of \$7,815.21. Discussion took place regarding whether or not the interest should be paid on said invoice. Commissioner Murdock made a motion to approve Invoice #0101-4 from Taylor Architects, for \$7,700.00 – excluding interest. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners discussed a speed limit determination for the Penwell Bridge Road Ordinance. Commissioner Vincent made a motion to approve 35 miles per hour for said ordinance. Commissioner Mitchell seconded the motion. Commissioners Mitchell and Vincent voted in favor of the motion. Commissioner Murdock abstained. Motion carried with a vote of two to zero, with one abstaining.

Rest Home Administrator Connie Wagner and Personnel Director Kathy Nowierski joined the meeting for the purpose of discussing the staffing situation at the Rest Home. Ms. Wagner explained that they are in a crisis situation, with a “mass exodus” of Certified Nurse Aids (CNA). They are unable to fill unoccupied beds due to lack of staffing, causing a loss of revenue. The average wage at the County Rest Home of CNA’s is \$8.44 an hour, while other care centers are paying \$9.84-\$11.00. Ms. Wagner and Ms. Nowierski requested approval of raising the grade and step at which CNA’s are started at from a Grade 5, Step 1 to a Grade 6, Step 2. They also requested permission to hire from the CNA pool to cover a lack of staffing at the current time. Commissioner

## 336 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

Murdock made a motion to approve the request for change in starting grade and step, and to allow Ms. Wagner to hire from the CNA pool at this time. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

Attorney Susan Swimley reported on the Gateway Foothills Road issue, stating that her opinion all along has been proven wrong, and that the Road has not been a county road as Congress never took action to state that it exists as such. It was determined that the Commission would pursue the next steps to acquire an easement, not committing to the purchase, but inquiring as to the cost and process needed in order to do so.

### AUGUST 14, 2001

- The Commissioners conducted regular County business.

### AUGUST 15, 2001

- Commissioner Mitchell called to order a regularly scheduled office meeting. In attendance were Commissioners Mitchell, Murdock, and Vincent, Commission Secretary Stacy Johnston, Road & Bridge Superintendent Lee Provance, Beverly Christiansen of Taylor Architects, and Gallatin Gateway residents Brad Flategraff and Dave & Felicia Hutchison.

The first order of business was to render a decision on whether or not Gallatin County should pursue the purchase of an easement from the State through Section 16, T3S, R4E, allowing public access from Gateway Foothills Road to State lands therein. Contrary to previous opinions rendered regarding the status of this road, Commissioner Murdock stated that Attorney Susan Swimley has concluded based upon additional research that Gateway Foothills Road is NOT a County road. In 1993, Dave and Felicia Hutchison purchased an easement from the State costing \$11,000 for the portion of Gateway Foothills Road in question and had supporting documentation confirming that fact. It was rumored that the Hutchison's had installed a gate on the East side, limiting public access to State lands therein. The Hutchison's disputed this statement and said the gate is installed 50 feet inside their property line, beyond the access to State lands, and is on the West side, not the East. Brad Flategraff interjected that he still wants the Commission to pursue an easement across the State section in question, providing unlimited public access. He stated that he has hunted that section of State land for over 40 years. The reason for installing the gate at its current location is to prevent trespassing on private property, and also to preserve the condition of the road, as the Hutchison's are responsible for maintaining it per the conditions of the easement. Apparently, the State had asked the Hutchison's to install the signs restricting motorized vehicles and had documents supporting that claim. Unbeknownst to the Commission, Felicia reported that a fire had recently been started right outside their gate. The fire department determined it was a case of arson and is currently investigating the matter. Lee Provance noted that the State is severely compromising the Hutchison's safety by having them enforce their access requirements. The public is obviously under the impression that these signs restricting access are solely the act of the Hutchison's, not the State. After lengthy discussion and comments, the Commission rendered the following decisions: (1) they will ask Susan Swimley to put her findings in writing for the record; (2) Commission would consider pursuing easement if hunting association wanted to raise funds to buy out the Hutchison's (\$20,000 plus interest), or come up with good neighbor agreement; and (3) a letter will be drafted to the DNRC asking them to police infractions and provide a designated parking area by the gravel pit. As a courtesy, the Hutchison's and Mr. Flategraff will be given an opportunity to review this letter before it is finalized and sent to the State. A letter will be sent to Road & Bridge Superintendent confirming Gateway Foothills Road is NOT a County road and is not to be maintained as such.

The Commissioners' considered rejection of chip seal bids per Road & Bridge Superintendent Lee Provance. Lee reported that \$330,000 had been budgeted for chip sealing; bids came in at \$407,000. The Road & Bridge Department's budget cannot support this shortfall. Commissioner Murdock moved to reject all chip seal bids based on information presented; Commissioner Mitchell seconded the motion. All voting aye, motion passed unanimously 3-0.

Health Officer Stephanie Nelson joined the meeting to discuss her concerns regarding the amount of office space being allocated for Environmental Health in the Phase III renovation. Beverly Christiansen of Taylor Architects was in attendance to address some of these concerns. Stephanie informed the Commission that the space being allocated barely meets the current staff and leaves no wiggle room whatsoever for growth. Commissioner Mitchell stated that the Commission is well aware of the long-term housing needs of County departments. Years ago, the Capital Facilities Committee recommended to renovate and reconstruct the Courthouse. Currently, the CIP Committee is cognizant of the fact that the renovation will mitigate the short-term needs ONLY. Stephanie reiterated that she's a team player, but her frustration is mounting. Beverly noted that she and Jerry Taylor have proposed two additional options, but Stephanie has not yet had an opportunity to look them over. Commissioner Vincent asked, "if we already know the space will not be sufficient to house our County departments in the long term, why continue with the renovation at all?" Commissioner Mitchell answered that it is virtually impossible to put the brakes on the project



now due to mechanical and other issues already taking place. Once the building has been completely renovated, it will be adaptable enough to be utilized by another department in the county or other organizations for that matter (i.e., law offices, etc.). It is obvious that with the anticipated growth of the county over the next ten years, the Courthouse will no longer be able to house all County departments. Long-term planning must be a priority. Beverly reminded Stephanie that built-ins would be paid for out of Capital Improvements budget, but modular/office furniture would not. In closing, the Commission assured Stephanie that they would be respectful of her staff by keeping them apprised of developments as they arise.

Due to an incident of vandalism to the Commissioners' assigned motor pool vehicle left in the parking lot over the weekend, the Commission concurred that in the event the car cannot be returned to the Road & Bridge Department, it will be parked at the home of a Commissioner for the weekend. The Commission considered approval of Invoice #162 BS from R. Dale Beland in the amount of \$1,302.88 for services rendered on the Big Sky Transportation Study. Commissioner Murdock moved to approve invoice as presented; Commissioner Vincent seconded the motion. All voting aye, motion passed unanimously 3-0. As this project is now more than 80% complete, an update as to the status of the project would be beneficial.

Stacy Johnston will draft a memo to Mr. Beland requesting such a meeting.

Commissioner Murdock moved to ratify Resolution #2001-91, adopted on August 8, 2001 imposing restrictions on all open burning in Gallatin County. Commissioner Vincent seconded the motion. All voting aye, motion passed unanimously 3-0.

The Commission considered a request to reduce the speed limit on Jackson Creek Road to 35 mph. Road & Bridge Superintendent reported to Stacy Johnston that speed is extremely abused on this road and should be reduced. Commissioner Vincent moved to approve to reduce speed as requested; Commissioner Murdock seconded the motion. All voting aye, motion passed unanimously 3-0. Stacy Johnston was directed to draft ordinance, send to County Attorney for review, and schedule first reading of ordinance on public meeting agenda.

**AUGUST 16, 2001**

- The Commissioners conducted regular County business.

**AUGUST 17, 2001**

- The Commissioners attended a special meeting for the purpose of considering the recommendation of award for the cellular phone contract for the county. In attendance were Commissioners Mitchell and Murdock, Fiscal Officer Ed Blackman, and Grants Administrator Larry Watson. A committee that was made up of Mr. Watson, Road and Bridge Superintendent Lee Provance, Captain Houghton, and Mr. Blackman. The committee recommended, after review of the proposals, and a trial period on phones from each vendor, to recommend Cellular One for the contract. Commissioner Murdock made a motion to approval Cellular One as the cell phone service provider for the County. This contract would be effective for two years. Commissioners Mitchell seconded the motion. Motion carried with a vote of two to zero.

**The following items were on the consent agenda:**

1. Approval of Minutes for April 28; May 5, 12, 19; and July 7, 14, 21, 28, 1998.
2. Approval of claims were presented for approval by the auditor, dated August 16, 2001 in the amount of \$39,489.49.
3. Request for Common Boundaries Relocation Exemption between Lone Mountain Ranch, Inc. and Thomas and Cynthia Fournie located in Section 26, T6S, R3E. (North of Lone Mountain Road). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Final Plat Approval of the River Rock Major Subdivision, Phase 6A located in the SE ¼ of Section 3, T1S, R4E. Preliminary plat approval was granted on May 15, 2001. Gallatin County Planner Jennifer Madgic reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Due to requests that the sequence of items on the regular agenda be changed, Commissioner Mitchell announced that she planned to have those individuals give their reasons and the Commission would decide the order of the agenda. Commissioner Murdock read the consent agenda. Commissioner Mitchell requested to place consent agenda Item 4, on the regular agenda as Item 1A for discussion. Commissioner Vincent moved to approve the consent agenda as amended. Seconded by Commissioner Murdock. None voting nay. Motion carried.

Gallatin County Planner Jennifer Koozer reported on the request for a common boundary relocation exemption between Lone Mountain Ranch and Fournie. Ms. Koozer clarified the recipient's disposition and use of the parcels, satisfying the Commission that this was not an evasion of subdivision review. Discussion took place regarding a zone map amendment that the Planning Department recommends (but does not require), since before the adoption of the zoning regulation Lone Mountain Ranch has used this portion of the Fournie property for Resort activities which are not permitted in the RC-SF-20 zone. However, Lone Mountain Ranch has submitted an affidavit confirming the non-conforming ("grandfathered") status of this Resort use in that area. There was no public comment. Finding that this is the proper use, Commissioner Murdock moved to approve the boundary relocation exemption. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Commissioner Mitchell asked that those individuals requesting a change in the order of the agenda to come forward and give their reason. Jim Pepper requested Item 13, be moved forward on the agenda because he had a plane to catch by mid-afternoon. Ken Danhof requested Item 7, be moved forward as there were a large number of people in attendance to testify. Gallatin County Treasurer Anna Rosenberry requested that Item 2, stay relatively close to the top as she had another bond sale closing this morning. Commissioner Murdock suggested leaving Items 1 and 2, and moving Item 7 up to Item 3, and Item 13 to Item 4. The Commission was in agreement to the change.

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Rob Ament, Executive Director of American Wildlands reported on the consideration of the Gallatin River Outstanding Resource Water Designation. Mr. Ament stated they were seeking the support of the County Commission to designate a segment of the Gallatin River, from Yellowstone National Park to the confluence of Spanish Creek, under the Montana Water Quality Act as an outstanding resource water. The Gallatin River is one of the few main stem rivers that currently meet the standards and under the designation it would be protected from any permanent degradation, which is the goal of this citizen's petition. The state allows citizens to request this kind of protection for any kind of water body and this is the first in Montana history. With this process they are trying to educate the public, of which they have the support of over 2000 individuals, 75 local businesses and 20 non-profit organizations. Commissioner Murdock stated he received a number of phone calls from people that are concerned and understandably so, that this might be a subterfuge to stop development in Big Sky and Gallatin Canyon. Discussion took place regarding the proclamation and process, should the Commission support it. Mr. Ament read the proclamation. Public comment opposed to the proclamation were as follows: Steve White, (submitted a copy of Statute 75-5-316, Exhibit "A"). Public comment in support of the proclamation were as follows: Tom Anacker, representing the Madison/Gallatin Chapter Trout Unlimited. Those not taking a position were as follows: Bill Simkins; and Mark Evans, on behalf of the Southwest Montana Building Industry Association (submitted a letter, Exhibit "B"). Attorney Stuart Levitt with American Wildlands stated this is a petition requesting the review and analysis of what should or should not be done in terms of designation. Commissioner Mitchell stated a letter was received from the Whirling Disease Foundation in support of the designation. Commissioner Murdock stated he had no problem with supporting a process, which would identify whether or not the Gallatin River should receive an outstanding river designation. He thinks Gallatin County supporting this process is sending a signal to the DEQ that it should be looked at to get the facts, and if it turns out to be a subterfuge then they can change their support. He was in favor of signing the proclamation as read. Commissioner Vincent concurred, and reiterated that the Commission is not approving or sanctioning a designation but committing to a process. Commissioner Mitchell disagreed, stating this issue should be discussed at the local level before the Commission passes a proclamation that the County as a whole supports. She preferred to postpone the decision until adequate public airing of this discussion has taken place. Commissioner Vincent moved that the Commission endorse the proclamation, as submitted and read into the record. Seconded by Commissioner Murdock, finding that he agrees this needs discussion and airing and he was sure that by starting this process, it would do that. Commissioners Murdock and Vincent voting aye. Commissioner Mitchell voting nay. Motion carried.

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Bridget Eckstrom representing D.A. Davidson as Financial Advisor to the County reported on the public hearing and consideration of a resolution calling for the sale of bonds in the amount of \$3,800,000.00 for the Open Space Project. Ms. Eckstrom stated that the bids would be received in the Clerk and Recorder's office until 1:00 P.M. on September 12, 2001, and at 1:30 P.M., the County Commission will open the bids and award the sale to the winning bidder. There was no public comment. Commissioner

Murdock moved to adopt Resolution #2001-94. Seconded Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Road and Bridge Superintendent Lee Provance reported on the public hearing regarding the paving of 1.3 miles of Jackson Creek Road. Mr. Provance read a statement pursuant to the cost share improvement policy guidelines setting forth the procedure for creation and administration of cost share improvement projects. Mr. Provance stated he mistakenly treated this as a Section 11 project, not requiring a public hearing instead of a Section 9 project that does require public input. In order to properly utilize County procedure in an effort to create the cost share improvement project to pave Jackson Creek Road from its intersection at Bridger Canyon Road to Skyline Drive, he personally delivered a letter to over 50 residents and interested parties of Jackson Creek Road, dated August 13, 2001. He read that letter to the Commission. He noted all the terms of the cost share improvement policy were met, except the public hearing. Public comment in opposition were as follows: Ellen Trygstad (read letters of opposition from the following individuals unable to attend- Richard J. Burke, E. Gwen Phillips, and William A. and Glenn C. Ziegler); Juanita Hedrich; Gary Lande; Nancy Lande; and Jonathan Blacher. Public comment in support were as follows: Michael Bucher; Chuck Raches (submitted letters of support from Bridger Canyon Rural Fire District Board of Trustees and Bridger Bowl Board of Directors); Guy Coats; John Goodman; Ken Danhof; Albert Sharon; Duane Denton; Ina Denton and Selena Lockland. Signed up to speak and declined/left were as follows: Elmer Hedrich and Jeanne Bucher. Commissioner Mitchell noted the following letters received: Linda Werth (support); Jim and Joanne Kack (support); Todd Trent-Karst Stage (support); Joanie Bowen (opposition); Mr. & Mrs. E. Giordano (opposition); and William C. & Kimberly Dennis (opposition). Mr. Provance addressed some of the concerns raised by those in opposition, and reinforced the benefits of the paving and safety issues. Commissioner Murdock stated he was committed to vote in favor of accepting the cost share and paving the road along with taking steps to get the speed limit down, more signs and enforcement in the area. Commissioner Vincent and Mitchell concurred. Commissioner Murdock moved to accept the cost share proposal from the participants in the Jackson Creek 1.3 mile-paving project, finding they have met all the legal and policy requirements of the cost share program. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the continuation of a public hearing to determine traffic impact mitigation for the Big Sky Town Center Major Subdivision. The hearing on August 7, 2001, was continued so the applicant could work on some suggested language on conditions, and provide the County with their methodology in determining their proportionate fair share of impacts. Mr. Johnson gave a brief overview of the summary that the applicants provided on August 16, 2001, to the Commission regarding their analysis and proposed conditions. On August 7<sup>th</sup>, the applicant's proportionate fair share was estimated at \$200,000 and after further investigation they came up with \$197,825. The applicant submitted in response to the Commission's expressed desire to require a cash commitment from the developers for the traffic mitigation in the Big Sky Trafficshed in addition to requiring their participation in the Big Sky/Gallatin Canyon Transportation District the following: REVISED, PROPOSED TRAFFIC MITIGATION CONDITIONS FOR APPROVAL OF PRELIMINARY PLAT OF BIG SKY TOWN CENTER MAJOR SUBDIVISION (Deletions interlineated and additions highlighted) 1. The owner (subdivider) shall petition to have the land proposed to be subdivided included within the existing Big Sky/Gallatin Canyon Area Transportation District, or any successor joint Gallatin and Madison County Urban Transportation District that may be formed for the Big Sky area; 2. The owner (subdivider) shall agree to waive the right to remove land proposed to be subdivided from the Big Sky/Gallatin Canyon Area Transportation District; and the right to object to expansion of the area of the District; ~~and the right to protest any taxes that may be levied against all property in the District; provided that such waiver of tax levy protest shall not include waiver of any right to comment on and/or appeal and levy that is unlawful or unequitable.~~ This waiver shall be binding upon the owner (subdivider), its heirs, assigns, successors-in-interest and all purchasers of lots within the subdivision; 3. At the time of platting that phase of the Big Sky Town Center Subdivision that includes the intersection of Flats Drive with Highway 64, the subdivider shall either construct, or bond construction under an improvements agreement, of necessary traffic lane and signage improvements on Flats Drive outside of Highway 64 right-of-way; 4. At the time of platting the first phase of the Big Sky Town Center Subdivision, the owner (subdivider) shall either pay, or bond payment of, the sum of \$197,825.00 for its proportionate share of traffic mitigation improvements that may be necessitated in the Big Sky Trafficshed as the result of approval of the preliminary plat for this subdivision. The payment shall be made into an escrow account to be

maintained with the Big Sky/Gallatin Canyon Area Transportation District and shall be earmarked for use, first, for traffic improvements (turn bays and signalization) at the junction of Ousel Falls Road and Montana State Highway 64 trafficshed. Payment may be bonded by a surety bond, letter of credit, or other form of security acceptable to the County Attorney that provides for full payment of the required sum no later than four (4) years after date of final approval of the preliminary plat; and 5. The owner (subdivider) shall be entitled to credit the payment made for its proportionate share of traffic improvements against any traffic mitigation that may be required of it as a result of the Big Sky Coordinated Transportation Study. In looking at the methodology used by the applicant, Mr. Johnson brought to the Commission's attention that they included property that has not received preliminary or final plat approval, which are concept plans in Madison County and the Spanish Peaks developments where they received MPUD approval but not submitted or received preliminary plat approval. There is no guarantee or knowledge if these properties will be developed leaving this to speculation. He also, compared the data to the designated zoning in the area. He found it difficult to assess their fair share based on concept plans. Attorney Bill Madden, on behalf of the developer thanked the Commission for advancing them on the agenda. Mr. Madden reiterated that the initial proposal was to accomplish traffic mitigation in the Big Sky Traffic shed by participation in the Urban Transportation District, and Commissioner Murdock suggested in addition the developer be required to post a bond against assessments to be levied by the Urban Transportation District, to assure payment. After further reflection he could not find a way to accomplish that goal, so they submitted a comprise proposal. He summarized that proposal, by referring to Map P1, the developments included in the proposed cost share formula that were included in the original traffic improvement study, done by Bob Marvin. He pointed out if those developments are not included in cost sharing then they should not be included where improvements are needed. He displayed Tables P1 and P2, various cost share allocations. Discussion took place regarding how to determine a fair share for all developments. Robert Marvin with Marvin and Associates addressed the Commission relative to the traffic study that he prepared for the Town Center and the reason he considered all potential developments in the area. Commissioner Murdock suggested Mr. Marvin share his information and model with the people involved in the traffic study. Attorney Mike Lilly on behalf of Firelight Meadows, LLC spoke in support of the proposed Town Center concept, stating it was the only fair and equitable way to approach this at this time. He gave that approval with the understanding that they reserve the right to present to the Commission their own numbers, should they differ. R. Dale Beland, coordinator for the Big Sky Transportation Study sympathized with the constraints placed on the developer because of the lack of progress on the study. He stated the proposed revised mitigation conditions are the best available solution at this time, although he had one reservation, and that it was important to note the data submitted to staff as part of this analysis "a proportionate share" has been labeled copyright. He did not think it was widely available for public view, nor had he had a chance to review it. For those reasons and other concerns that he shares as being responsible to the advisory committee and all those involved, he was disturbed by what he thought a slight unintended confusion between the meanings of condition 4 and 5. He suggested a way to clarify this might be to eliminate the words "its proportionate share" from both conditions, leaving the intent that they would offer to pay to sum of approximately \$200,000 for traffic mitigation improvements and also, continue the intent of condition 5 that the amount they pay for any improvements would apply against any traffic mitigation as a result of the study. Commissioner Mitchell read a letter of opposition from Kieran Kobell, representing Firelight Estates Homeowner's Association Board of Directors. Mr. Madden clarified their intent of conditions 4 and 5 with respect to Mr. Beland's comments. Principal for Gallatin Peaks Jim Pepper assured the Commission that the numbers used in the table were taken from public documents of various levels of approval of development and not concept plans. Commissioner Murdock pointed out that the current proposal to assure a commitment for improvements now includes, that they will bond approximately \$200,000 for certain improvements identified and prepared by a profession engineer, and it is not disputed by MDOT or staff. Their conditions include additional improvements on Flats Drive at its intersection and the concept of inclusion in the Transportation District. He was in support of what they have done and satisfied. Commissioner Vincent stated it was not that he did not trust it, but wanted to think it through until he was assured. While it seemed sensible, fair and reasonable, he felt it was uncertain and unclear, subject to unknown and unacknowledged variables, and because of that he would vote no, although he would remain open minded. Commissioner Mitchell concurred with Commissioner Vincent. She reiterated that the numbers in the data are copyrighted and not available to other participants. She felt that all involved should pay their fair share for impacts created by their developments, but noted the Town Center is a destination point, using a different set of criteria pointed out by Mr. Marvin. She said the perfect scenario would be finish the traffic study to the satisfaction of all the participants; have them all agree on a percentage, the calculation process and perhaps an Urban Transportation District. Then this development could pay more or get credit for whatever money is paid in, based on the final outcome of that agreement and of those participating in the process and the Urban Transportation District. She did not have a comfort level at this time with the Town Center's new proposal. Commissioner Murdock stated that condition 4, contemplates the scenario that the study may not be completed and the

Commission was to make a determination of mitigation required of the developer for traffic impacts, based on technical review and this was putting them in a no win situation. Commissioner Mitchell stated since there was no time constraint on this particular request, that it might be better and hold off, and provide that as a method of incentive to finish the study. Mr. Madden proposed they sit down with the Commission and go over the numbers to give greater reassurance. Commissioner Vincent was willing to keep working on it. Commissioner Mitchell was concerned with the legality and stated she would have to defer to the County Attorney if that was a possibility. Commissioner Murdock moved to accept their mitigation proposal, as presented as satisfying condition 4. Seconded by Commissioner Vincent. Commissioner Murdock voting aye. Commissioners Vincent and Mitchell voting nay. Motion denied. Commissioner Mitchell stated that the developer had the option of coming back again with another proposal and possibly by then the study would be completed. Commissioner Vincent stated they were no longer in board discussion on this subject, and they were not precluded from meeting and discussing this one on one, or with proper public notice meeting with two or more Commissioners. Commissioner Mitchell stated she would rely on the County Attorney's opinion regarding the matter.

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Commissioner Mitchell stated there was a request for a continuance until next week of the public hearing regarding a request for preliminary plat approval of the Meadows Major Subdivision because individuals that were planning to testify in opposition were unable to stay. Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson stated that due to the Subdivision Regulations time frame the Commission would have to take action today or request a continuance from the applicant to continue it for another week. Commissioner Mitchell stated they would have to ask the applicant when they got to Item 12.

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Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider annexation of property into the Belgrade Rural Fire District. On July 24, 2001 the Commission accepted a petition to annex property into the Belgrade Rural Fire District, described as the W ½ and W ½ E ½ of Section 1, T1S, R5E, P.M.M., Gallatin County, Montana, excepting a parcel of land described in the plat recorded in Film 12 pages 482 and 483. Ms. Vance requested that the Commission have her coordinate with the County Attorney to prepare a resolution, should they approve the annexation. Attorney Susan Swimley clarified that the Commission had no desecration in annexing. Finding that the Commission has no desecration, Commissioner Murdock moved to accept the petition to annex the property into the Belgrade Rural Fire District, and directed the Clerk and Recorder to take the appropriate steps as described. Seconded by Commissioner Vincent. Commissioner Mitchell stated those steps were to prepare a resolution for passage. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported on the consideration of a resolution calling for a public hearing to receive comments on Gallatin County Exceeding Millage Levied in FY 2001 to maintain the same dollar amount of taxes as was charged, excluding new construction in FY 2001, in compliance with 15-10-420 MCA (use of Floating Millage). The resolution calls for the public hearing to be held on September 18, 2001. Mr. Blackman stated he had the certified values for the County funds, road funds and some of the districts of which he felt comfortable, however, in discussion with the Department of Revenue yesterday they were unable to provide the promised information on August 20, 2001. Commissioner Vincent moved to accept Resolution #2001-95, setting the public hearing date for September 18, 2001. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Commissioner Vincent read the first reading of an ordinance reducing the speed limit on Penwell Bridge Road. Public comment in support were as follows: Richard Parker and John Dunse. A letter of opposition was submitted and signed by the following: Wayne Tofslie; Harold G. Velskamp; and Gary Thompson. There was a petition submitted requesting the speed limit with 10 signatures. Mr. Parker clarified the petition they initiated was for their portion of the road from Springhill to Walker Road. Commissioner Mitchell stated the Road Superintendent recommended it pertain to the whole road. Commissioner Vincent moved to adopt Ordinance #2001-02. Seconded by Commissioner Murdock. None voting nay. Motion carried. The second reading will take place on September 11, 2001 in Three Forks. If that is approved the speed limit would take affect in 30 days.

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Commissioner Murdock read the first reading of an ordinance reducing the speed limit in the Gallatin Valley Homesteads Subdivision. There was no public comment. Commissioner Mitchell stated she received a phone message from Brad and Debbie Carter in support of 20 MPH. There was a petition with several signatures requesting 15 MPH. Commissioner Vincent moved to adopt Ordinance #2001-03. Seconded by Commissioner Murdock. None voting nay. Motion carried. The second reading will take place on September 11, 2001 in Three Forks. If that is approved the speed limit would take effect in 30 days.

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Gallatin County Planning Director Bill Arnold reported on the continuation of consideration of a request for approval of an independent road impact fee calculation for High-K Phase II, located entirely within the Belgrade jurisdiction. The subdivision is located west of Belgrade off Amsterdam Road in the SE ¼ of Section 4, T1S, R4E, Gallatin County, Montana. The Commission granted preliminary plat approval on March 7, 2000. Mr. Arnold explained that per Section 5.3 of the Gallatin County Road Impact Fee Regulation, the applicant submitted an independent road impact fee calculation study for the subdivision that recommends that the subdivider pay \$1,886.58 in road impact fees for the subdivision. According to the road impact fee regulation, the applicant would be required to pay road impact fees in the amount of \$57,456 (\$1,596 per eligible lots), unless the County accepts a proposed or modified independent fee calculation as per 5.3.3 of the Road Impact Fee Regulation. The reason it was continued was the original fee calculation prepared by Engineering, Inc., did not factor in Amsterdam Road, by virtue of the fact it is on the secondary highway system. It was discovered that Amsterdam Road (Secondary 347) is a county maintained road through an agreement with MDOT. The original calculation was \$1,886.58, and based upon the fact that Amsterdam Road is county maintained the fee is \$41,877.72. He pointed out that as part of the approval of this subdivision through the planning process the applicant agreed to construct a pedestrian bike path in the amount of \$9,542.50, along with the road impact fee totals \$51,420.22. Mr. Arnold stated the applicant is in agreement with the new calculation. Ed Hahn prior owner of the High-K property, requested High K receive credit for the 1.5 acres he gave the County for right-of-way when Royal and Thorpe Road was paved. Attorney Susan Swimley the applicant's representative stated she was not actually sure that the impact fee policy allows them to collect full impact fees on state roads maintained by Gallatin County, as it was a situation that existed at the time the study came into effect. However, her client is in agreement with the recalculation. Although, she appreciated Mr. Hahn's support, the calculation does not include the allowance for RID's, and they are not requesting that at this time. She asked that the Commission find that \$41,877.72 is the appropriate amount of the recalculation and if they determine that it is cost effective to look for a reduction they may come back later for a credit. Based on the information submitted by the Planning Staff and other testimony, Commissioner Murdock moved to accept the \$41,877.72 for the High-K Phase II revised impact fee. Seconded by Commissioner Vincent. None voting nay.

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Belgrade City-County Planner Jason Karp reported on the consideration of a request for final plat approval of High-K, Phase II. C & H Engineering on behalf of High-K, LLC has requested final plat approval for High-K Subdivision, Phase II. The subdivision is located west of Belgrade off Amsterdam Road in the SE ¼ of Section 4, T1S, R4E, Gallatin County, Montana. Mr. Karp stated that the subdivider has demonstrated compliance with each condition required for approval, now that the impact fee issue is resolved. He noted this is different than normal, because a boundary relocation has to be approved first and then final plat. The boundary relocation is needed because of some old railroad right-of-way to the north that was being incorporated into Phase II. The Commission has two determinations to make with this application: A determination whether to approve a common boundary relocation exemption between Lot 2A in the Royal K Minor Subdivision, and the High-K Subdivision, Phase II property. The reason for the request is to aggregate old railroad right-of-way previously owned by Roger Wells into the High-K Subdivision to be created as designed and approved by the County Commission. No additional tracts are being created with these surveys, and staff recommends that the boundary relocation be approved as requested; and a determination whether to approve the final plat for the High-K Subdivision, Phase II. If the impact fee issue is resolved, and the boundary relocation is approved, the applicant will have complied with each of the conditions as required by the preliminary plat approval and staff will recommend that the High-K Subdivision be granted final plat approval. The applicant's representative Susan Swimley assured the Commission this boundary relocation is not an attempt to evade subdivision review, and in fact it is being done in order to assist subdivision review so they don't create a flag lot and an additional lot off a platted subdivision. Commissioner Vincent moved that the Commission approve the common boundary relocation exemption between Lot 2A and the Royal K Minor Subdivision, finding it is not an attempt to evade subdivision review. Seconded by

Commissioner Murdock. None voting nay. Motion carried. Commissioner Vincent moved to grant final plat approval, finding upon the determination of the motion granting the common boundary relocation and the impact fee issue has been resolved by previous action as well. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Belgrade City-County Planner Jason Karp reported on the request for partial release of financial guarantee for improvements to 4-Dot Meadows Subdivision. Gaston Engineering on behalf of 4-Dot L.L.C. has requested a partial release of a financial guaranty for improvements to the 4-Dot Meadows Subdivision, a 115-lot subdivision on 136.55 acres. The subdivision is located west of Belgrade off Old Highway 10 (MT 205), adjacent to the Old Place Subdivision. The property is located in the NW ¼ of Section 28, T1N, R4E, PMM, Gallatin County, Montana. The Commission granted final plat approval on March 6, 2001. Part of the final plat approval included the approval of an improvements agreement accompanied by a letter of credit in the amount of \$928,696.95 to allow the deferred installation of required infrastructure. The applicant is requesting that the Commission allow the letter of credit to be reduced by \$372,324.00, due to that portion of the letter of credit's improvement's having been installed at the site. The request is in accordance with Section 8-D-2 of the Gallatin County Subdivision Regulations, which states that, "The Commission shall reduce bond requirements commensurate with the completion of improvements, subject to these Regulations." Mr. Karp noted that he observed the site and a considerable amount of work has been completed and it appeared to be a proper request. There was no public comment. Commissioner Vincent moved to approve the applicant's request for a partial release of letter of credit by reducing it \$372,324.00. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic reported on the consideration of a request of change of condition for the Blue Grouse Subdivision, Lot 3. The property is located in the NW ¼ of the NE ¼ Section 2, T7S, R3E, PMM, Gallatin County, Montana. The property is located in the Gallatin Canyon/Big Sky Zoning District and is zoned Residential, Multi-Family 6,500. Allied Engineering Services Inc., representing Paul and Janet Cronin, has requested a condition modification affecting the preliminary plat of the Blue Grouse II Subsequent Subdivision, Lot 3. The proposed modification would increase the density of the original Lot 3. The Commission approved a request by the applicant for preliminary plat approval on July 10, 2001 to split Lot 3 into five lots. Lot 3 was originally approved for 72 condominium units. The applicants would like to increase density to 97 units, an increase of 25 condo units. Density would change as follows: Original Density: Lot 1: 44 units; Lot 2; 19 units; Lot 3 1 single-family unit; Lot 4: u units; and Lot 5: 4 units. Proposed Density: Lot 1: 44 units; Lot 2: 38 units; Lot 3: 1 single-family unit; Lot 4: 4 units; and Lot 5: 10 units. This density originally was approved in the early 90's, and the proposed density increase complies with underlying zoning. The applicants are requesting to re-allocate density from other lots within the Blue Grouse development. The proposal would amend the original plat of Blue Grouse, Phase II, to show a decrease of 25 lots in Lots 1 and 2 that would result in "no net change in overall density". Ms. Madgic stated she has a personal problem with this density, but this is actually zoned for a considerably higher density. She also, had concerns regarding a potential conflict with the Design Standards for the Subdivision Ridgeline land development. She noted the applicant has provided an explanation regarding such effects upon proposed Lot 2, in a letter (attached to the staff report) dated August 13, 2001. The County Commission has one determination to make with the application: A determination whether to approve the proposed changes to conditions. The Commission may change conditions where it is found that errors or changes beyond the control of the subdivider have rendered a condition unnecessary, impossible or illegal. If the Commission decides to approve the condition modifications, the following conditions of approval are suggested: 1. Density of the amended plat of Lot 3 (Blue Grouse Subdivision, Phase II) would be allocated as follows (to be shown on the final plat): Lot 1: 44 units; Lot 2: 38 units; Lot 3: 1 single-family unit; Lot 4: 4 units; and Lot 5: 10 units; 2. Applicant shall amend the original plat of Lot 1 and Lot 2 of Blue Grouse, Phase II, to decrease density within these lots by 25 units, prior to obtaining final plat approval of the amended plat of Blue Grouse, Phase II, Lot 3; and 3. All conditions of final plat approval of the amended plat of Blue Grouse, Phase II, Lot 3 shall be appropriately satisfied. The applicant's representative Terry Threlkeld with Allied Engineering clarified this process was through Section 4.H of the Subdivision Regulations, not Section 13.G. He also, noted this was a density transfer, rather than a density increase and the re-allocation of density is more geographic and geologically sound. Mr. Threlkeld briefly summarized the process he performed to assure the view shed would not be affected. There was no public comment. Ms. Madgic noted that she did post notice and sent out certified letters to adjacent property owners. She received one letter in response from Darle and Carol Helms in opposition to increasing the density. Discussion took place regarding which section

applied to this issue in the Subdivision Regulation process. Commissioner Vincent moved to approve the request for a change of condition for the Blue Grouse Subdivision, given the staff's recommendation and that conditions 1 through 3, on page 4 of the staff reported be included. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the request for preliminary plat approval of the Meadows Major Subdivision located in the SW ¼ of Section 28, T1S, R5E, P.M.M., Gallatin County, Montana. The 30 acre property is described as Tract C-1 of COS 2182. The property is located approximately one-quarter mile northwest of the intersection of Harper-Puckett Road and Hidden Valley Road. Allied Engineering Services, Inc., on behalf of John and Don Murray, has requested preliminary plat approval for a 30 lot residential subdivision, also, submitted as a PUD in accordance with the Gallatin County Bozeman Area Master Plan. The proposed subdivision is located within the jurisdiction of the Gallatin County/Bozeman Area Zoning District. This site is classified as Rural Residential according to the Master Plan. Under the Rural Residential classification, development is generally permitted at a density of one unit per 20 acres. However, in order to encourage creative planned developments, bonus densities may be available through PUD review when each of the following apply: a.) Fifty percent open space is preserved; b.) Central water and/or sewer service is provided; and c.) Off-site impact policy standards are met. The proposed subdivision will create 30 residential lots, with an average size of one-half acre. The preliminary plat provides 10.5 acres of common open space parcels and an additional 10.8 acres of private open space (area restricted from development within a lot), for a total of 21.8 acres (71%) of open space within the property. Domestic water supply for each lot within the subdivision will be provided by a central public central water system. The Commission needs to determine if the subdivision proposal complies with the goals and objectives and PUD criteria of the Gallatin County/Bozeman Area Master Plan. On August 14, 2001, the Gallatin County Planning Board conducted a public hearing for consideration of the preliminary plat for the proposed Meadows PUD/Subdivision. The Planning Board considered all submitted information and written and public testimony in reaching their decision. The Board determined the following: the proposed subdivision does not comply with the purpose and criteria for a Planned Unit Development as provided in the Gallatin County/Bozeman Area Master Plan, finding that the "private" open space area within each lot was insufficient to meet the required 50% open space. Specifically, normal front, side, and rear yard areas within a one-half acre lot should not be counted as open space within a Planned Unit Development, and would set a poor standard for open spaces within Planned Unit Developments; the proposed "private" open space is in conflict with the Gallatin County Subdivision Regulation definition of a Planned Unit Development (Section 1.34); and, the proposed lot sizes (one-half acre) are incompatible with the neighborhood and development pattern of the area. A motion to forward a recommendation approving the preliminary plat application to the Commission was denied by the Planning Board (six members voting against the motion, one member voting for the motion). Mr. Johnson summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision along with the suggested conditions. The County Commission needs to make the following determinations: 1. A determination as to whether or not the application complies with the goals and objectives and PUD criteria of Gallatin County/Bozeman Area Master Plan; 2. A determination as to whether or not the application meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act; and, 3. A determination as to whether or not the application complies with the provisions of the Gallatin County Subdivision Regulations. If the County Commission approves the subdivision, the following conditions for final plat approval are suggested: 1. The final plat shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates. 2. State Department of Environmental Quality approval shall be obtained for the subdivision. The subdivider shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The subdivider shall obtain the Gallatin County Health Officer's approval. 3. The Final Plat for the subdivision shall delineate building envelopes within each lot. The building envelopes shall not exceed 6,400 square feet in area. 4. A 30-foot wide irrigation pipeline maintenance easement shall delineated on the final plat. 5. The developer shall obtain an approved weed management plan from the Gallatin County Weed Control District prior to any construction projects within the site. The approved weed management plan shall be submitted to the Gallatin County Planning Department prior to final plat approval. Areas disturbed by construction shall be seeded and controlled for noxious weeds. 6. All road names for interior subdivision roads shall be approved by the Gallatin County GIS Department. 7. Road name signs shall be installed at all intersections. 8. STOP sign(s) shall be installed at all intersections with county maintained roads. 9. Interior subdivision road plans, road maintenance plans, drainage plans, lot access plans, and road and STOP sign plans shall be submitted to the Gallatin County Road & Bridge Department prior to the construction of the interior subdivision roads. 10. Encroachment permit(s) shall be obtained from the Gallatin County GIS Department for all accesses on to county maintained roads. 11. Harper-Puckett



Road shall be extended northward from the intersection of Hidden Valley Road to the intersection with Bridger Vista. The Harper-Puckett Road extension shall lie within a 90-foot public right-of-way. 12. Harper-Puckett Road from Baxter Lane to the intersection with Bridger Vista shall be constructed to county paved road standards for arterial roads. 13. Bridger Vista shall align with the Harper-Puckett Road extension at a 90-degree intersection. 14. Hidden Valley Road from the intersection with Harper-Puckett Road eastward shall be improved to county paved standards for a distance as determined by the County Road & Bridge Department. A full credit from the required Road Impact Fees shall be credited for the paving of this portion of Hidden Valley Road. 15. The cul-de-sac at the west end of Bridger Vista shall be extended between Lots 22 and 23 to the north boundary of the subdivision. 16. The thirty (30) foot access and utility easement as shown on the preliminary plat located along the east boundary of the subdivision shall be removed from the final plat. 17. All interior roads and cul-de-sac shall be built to county paved standards, and have a sixty (60) foot right-of-way, dedicated to the public. 18. Ptarmigan Trail, outside of the subdivision, shall lie within a 60-foot public road right-of-way easement, with 30 feet of the easement being measured from each side of the centerline of the roadway. 19. A pre-construction meeting shall be conducted with the Gallatin County Road and Bridge Department prior to the start of any road construction. 20. All roadwork shall be inspected and certified by a licensed engineer. Such inspection and certifications must be provided to the Gallatin County Road and Bridge Department in writing. Final approval will not be given until this documentation is received. 21. With respect to paving of county maintained roads, a two (2) year written warranty, from the contractor, is required. This warranty must be submitted to the Gallatin County Road and Bridge Department prior to final plat approval. 22. A written cost breakdown on all paving done on county roads shall be submitted for future payback reimbursements and road impact fee credit to the Gallatin County Road and Bridge Department prior to final plat approval. 23. A copy of the Homeowners' Association covenants shall be supplied to the County Road & Bridge Department prior to final plat approval. 24. The final plat shall contain a statement requiring lot access to be built to the standards of Section 7.G.2 of the Gallatin County Subdivision Regulations. 25. All utility easements are to be shown on the final plat. Utility easements shall be centered along side and rear lot lines wherever possible, and shall be twenty (20) feet wide. Underground utilities, if placed in the road right-of-way, shall be located between the roadway and the right-of-way line. Such underground facilities shall be installed or utility culverts provided before the road is surfaced. In addition, the following statement must appear on the final plat: *"The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as 'Utility Easement' to have and to hold forever"*. 26. The subdivider shall provide an NFPA water supply for fire protection in accordance with the Gallatin County Subdivision Regulations and the Belgrade Rural Fire District. The subdivider shall obtain written verification from the fire district that the required water supply and all required fire safety provisions have been provided. 27. The subdivider record on the final plat a waiver of right to protest creation of rural improvement districts and local improvement districts. 28. The subdivider shall make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. 29. The Subdivider shall make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. 30. The Applicant shall consult with the US Postal Service with regard to mail service, and the type and location of mail receptacles. If a central located bank of mail receptacles is to be used, the location and access shall be shown on the final plat. 31. A Homeowners' Association for the subdivision shall be created. 32. Covenants for the subdivision shall include the following provisions: a. All structures shall be constructed in compliance with the current Uniform Building Codes. b. The control of noxious weeds by the Homeowners' Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (7-22-2101 through 7-22-2153 MCA) and the rules and regulations of the Gallatin County Weed Control District. c. All structures and fencing on all lots within the subdivision shall be constructed within the designated building envelope. d. The Homeowners' Association shall be responsible for the operation and maintenance of all common open space and all other common amenities within the subdivision. e. All lots shall have only one driveway access. Each driveway access point must be at least seventy-five (75) feet from the nearest road intersection. f. The property owners' association shall be responsible for the operation and maintenance of all interior subdivision roads. g. Property owners of the subdivision are informed that nearby uses may be agricultural. Property owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. h. All fire protection covenants as required by the Belgrade Rural Fire District. i. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin

346 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

County. 33. Two copies of the following documents shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. a. Articles of Organization or Incorporation for the property owners' association approved by the Secretary of State of the State of Montana. b. Bylaws controlling the operation of the Homeowners' Association. c. Restrictive and Protective Covenants encumbering the real property contained within the subdivision. d. Public road easements. e. Improvements agreements. f. Certificate of a Licensed Title Abstractor. The Gallatin County Attorney's Office shall review and approve the above documents prior to final plat approval. 34. The developer shall have three (3) years to complete the above conditions and apply for final plat approval. Discussion took place regarding the definition of common open space. The applicant's representative Terry Threlkeld with Allied Engineering briefly summarized the history of the property and the proposal's compliance with the Master Plan. Mr. Threlkeld submitted to the Commission, Exhibit "A", Development options; Exhibit "B", definitions of Open Space; Exhibit "C", definitions of structures; Exhibit "D", covenant titled Meadows Open Space Management; and Exhibit "E", a water test from the Tatarka residence, by Montana Microbiological Services. Public comment in opposition of the proposal were as follows: Gilbert Passmore, (submitted a letter from Ray and Carolyn Tatarka, Exhibit "F", and a list of wells on the bench area, Exhibit "G"); Leonard Christie; Courtney Dann; Jim Ramsey; Janet Passmore; and Don Adams. Public comment in support of the proposal were as follows: Dennis Erickson; and Andy Jackson. Jim Brandt left a letter in support, as he had to leave before he could speak. Bryan Connelley Assistant Chief of the Belgrade Rural Fire District made a correction on the staff report stating that the primary routing for emergency services is Valley Center, Harper Puckett and Hidden Valley, and not Baxter Lane. He noted at this time there was no water supply in that area and this development is proposing to provide the fill site. Mr. Johnson stated the following letters were received prior to the Planning Board hearing: William Tatarka, opposing; Charlene Hoskins, supporting; Gilbert and Janet Passmore, opposing; Will and Cache Hartzell, opposing; and J.R. Harris, Jr. and Lane Harris, opposing. There was a letter received this morning from Jay and Lanae Glenn, supporting. Discussion took place regarding the time frame of the proposal, so a decision could be made as to whether or not this issue could be continued for those who were unable to stay and testify. It was determined that the Commission would have to take action today unless the applicant granted an extension. In response to Mr. Threlkeld's definitions to open space, Mr. Johnson noted that there was no definition of open space specific to a Planned Unit Development. He reiterated that there is no zoning, and they would not have the land use permit to make sure that houses are being built in the building envelopes on these half-acre lots. The Commission concurred that they would like a continuance. Mr. Threlkeld stated they were in agreement to a one-week continuance. In return he asked the Commission for discussion on the concept of open space in order to get their view point, so if needed he could work with the Planning Staff to make it fit. Discussion took place regarding whether or not the plan could be revised once it had gone through the Planning Board hearing. Commissioner Mitchell stated her concerns with this proposal were more than open space; it included water; sewer; leapfrog; roads; fencing; and containment of pets. She felt there was more in public, health and safety issues that need to be mitigated. Commissioner Murdock concurred with the public safety issues, although he felt that the proposal does conform to the 1990 Master Plan and it is what they are promoting in concept, a clustered subdivision in an area that is slated for in-fill. Commissioner Vincent concurred there were several issues of concern. Public comment was left open and Commissioner Mitchell stated they would receive comments in writing. Mr. Johnson reminded the Commission to have the applicant submit in writing a note agreeing to the extension. Mr. Threlkeld agreed to submit in writing the agreement to the continuance.

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Attorney Susan Swimley reported on the pending resolution relating to \$540,000 RID #376 bonds, fixing the form and details and providing for the execution and delivery thereof and security therefor. There was no public comment. Commissioner Vincent moved to adopt Resolution #RID-01-376D. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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There being no further business the meeting was adjourned at 4:36 P.M.

*Unavailable*

*For Signature*  
CHAIRMAN APPROVAL

*Shelley Vance*  
CLERK ATTEST

## GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 347

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:07 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

### AUGUST 20, 2001

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell, Murdock, and Vincent; Grants Administrator Larry Watson and Commission secretaries Stacy Johnston and Glenda Noyes. The Commission discussed the formation of a Solid Waste District. The process includes a 21-day public hearing process, and in order to meet the deadline to create the district (December 31, 2001) we must begin immediately with all of the various steps. Completion by December 31 will allow payment by taxation rather than by budget. Commissioner Vincent made a motion to proceed with the formation of a Solid Waste District. Commissioner Murdock seconded the motion, adding the finding that Deputy County Attorney Chris Gray's criteria must be met, and updates provided regularly. All voted aye. Motion carried unanimously.

The Commission considered approval of the Belgrade Urban Boundaries, put together by the Belgrade TCC. Commissioner Vincent made a motion to approve the proposed boundaries. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commission considered approval of budget transfer requests from the Auditor's Office in the amount of \$1,340.00. Commissioner Murdock made a motion to approve said budget transfer requests in the amount of \$1,340.00. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

Commissioner Mitchell requested a travel budget allocation in the amount of \$500.00 in order to attend the RMAF conference with the Fair Board. Commissioner Murdock made a motion to approve a \$500.00 allocation from the travel budget for Commissioner Mitchell to attend the RMAF conference. Commissioner Vincent seconded the motion. In discussion, Commissioner Murdock requested that the funds not be used for male prostitutes. All voted aye. Motion carried unanimously.

### AUGUST 21-22, 2001

The Commissioners conducted regular County business.

### AUGUST 23, 2001

- An emergency meeting was held to review the details of the County Co-Op Agreement with the Department of Natural Resources and Conservation (DNRC) related to fire protection. In attendance were Commissioners Mitchell, Murdock and Vincent, Commission Secretary Stacy Johnston, Operations Chief Chuck Winn, Assistant DES Coordinator Jason Shrauger, Project Impact Coordinator Patti Hinman, Sheriff James Cashell, Sheriff Deputy Jason Jarrett, and Diana Martin of the (DNRC). First order of business, Diana requested the Commission increase the "hoot owl" restrictions on burning from Stage I to Stage II. In addition to Stage I restrictions already in force, Stage II further prohibits (1) building, maintaining, attending or using a campfire; (2) smoking, except within an enclosed vehicle or building, a developed recreation site or while stopped in an area at least three feet in diameter that is barren or cleared of all flammable materials; (3) the following acts are prohibited from 1:00 p.m. to 1:00 a.m.: (a) operating a chainsaw or other equipment powered by an internal combustion engine for felling, bucking, skidding, road building and woodcutting during industrial operations of fire wood gathering; (b) blasting, welding or other activities that generate flame or flammable material. A patrol is required for one hour following cessation of all work as describe in (a) and (b); and (4) operating motorized vehicles off designated roads and trails. Commissioner Vincent moved to increase the burning restriction per Diana's recommendation; Commissioner Murdock seconded the motion. All voting aye, motion passed unanimously 3-0.

Diana reviewed the process/procedure to request State assistance/funding for equipment and personnel above the County's resources. Upon receipt of recommendation by the County Fire Warden (Brett Waters or Brian Connelly), the Commission shall submit a request for assistance to the DNRC within 48 hours noting that the fire has exceeded Gallatin County's resources. Commissioner Murdock asked if it was mandatory to invoke the 2-mill levy prior to requesting assistance. Diana responded that it is not necessary to invoke the levy prior to requesting assistance. Jason Shrauger noted, however, that it is mandatory to invoke the levy prior to asking for federal assistance from FEMA. Fiscal Officer Ed Blackman was asked to join the meeting by Commissioner Murdock. Ed reported that the County was currently showing (\$26,000) in the emergency fund, compared to \$38,000 last year. There is \$25,000 budgeted in the County Fire

Marshal's extended operations budget, but should not be used for these purposes. A cost share agreement has already been executed between Park County and the DNRC, and should the fire cross boundaries into Gallatin County, a similar agreement should be executed. Diana will send the Commissioners a copy of the Park County cost share agreement to use as a template should it be necessary for Gallatin County.

Diana updated the group briefly regarding the status of the fire. Currently, it is being mapped at approximately 4000 acres. It is extremely aggressive and all ground crews have been removed, currently focusing on laying retardant and reinforcing lines along Trail Creek and Eight Mile. Commissioner Mitchell asked if there was anything else we could do to provide assistance. Brian Connelly stated that Park County is part of our mutual aid agreement and crews are ready and standing by to assist should it be necessary.

Sheriff Cashell attended a meeting at the Fort Ellis Fire Station on 8/22/01 and reported that Chief Cady was extremely concerned. That's when the decision was made to send evacuation "warnings" to all residents of Trail Creek South, Bear Canyon, and the Bozeman Pass. GGSO hand delivered warnings to 275 residents. Estimated time to evacuate these areas is 12-13 hours. Commissioner Mitchell mentioned that some people believe they ARE being evacuated, not just a warning. Perhaps this could be clarified somehow.

Jason informed the Commission that two public informational meetings would be held this evening at the Fort Ellis Fire station at 6:30 p.m., and at the Sourdough Fire Station at 8:00 p.m. Diana also noted that morning briefings are being held daily at 6:30 a.m. at the fire camp in Livingston behind the Paradise Valley Fire Station, and an evening planning meeting every night at 7:00 p.m. Jason Shrauger requested the Commission adopt an emergency proclamation in preparation for requesting FEMA assistance. This is only the first of a 3-step process. Before assistance could be requested, a disaster declaration would have to be adopted and then a vote to invoke the two mill levy. Commissioner Vincent moved to adopt emergency proclamation as recommended by DES for the Fridley fire; Commissioner Murdock seconded the motion. All voting aye, motion passed unanimously.

- The Commissioners attended a special meeting with the Department of Revenue for the purpose of discussing issues between DOR and Gallatin County related to taxable valuations, new construction, downloads received by Gallatin County from DOR and how those downloads affect the county's records regarding billing to name a few. In attendance were Commissioners Mitchell, Murdock and Vincent, Fiscal Officer Ed Blackman, Treasurer Anna Rosenberry, Clerk and Recorder Shelley Vance, County Programmer Don Carlson, and Department of Revenue staff Jim Moody, Ty Typolt, Randy Wilke, and Kurt Alme. When discussing new construction and taxable valuations Mr. Blackman explained that he had reviewed the change in valuation on taxing jurisdictions that was submitted to the County from DOR yesterday afternoon. He has recommended that the Commission request re-certification of taxable valuations for the following taxing jurisdictions: Gallatin County, Road/Library, Gallatin County Planning, Belgrade Rural Planning, River Rock Planning & Zoning, Sypes Canyon Zoning #2, Wheatland Hills Zoning, Zoning District #6, Bear Canyon Zoning, Springhill Zoning, Trail Creek Zoning, Willow Creek Lighting, Logan Lighting, Churchhill Lighting, Meadow View Cemetery, Three Forks Dike, Belgrade Fire, Manhattan Fire, Gallatin River Ranch Fire, and Amsterdam Fire. Commissioner Murdock made a motion to authorize the Chairman of the Board to request the re-certification of taxable values as recommended by the fiscal officer. Commissioner Vincent seconded the motion. All voting aye. Motion carried unanimously.

#### **AUGUST 24, 2001**

- The Commissioners conducted regular County business.

#### **The following items were on the consent agenda:**

1. Approval of claims were presented for approval by the auditor, dated August 23, 2001 in the amount of \$268,013.44.
2. Consideration of Contract(s): Modification to Contract #2001-015, Addendum #6 to Lease Agreement with U.S. Bank National Association for DUI Task Force Office Space; Modification to Contract with Figgins Sand & Gravel for RID #378, Change Order #2.; Predatory Control Agreement with USDQ Animal & Plant Health Inspection Services/Wildlife Services; Contract with Custom Ag Services for RID Weed Spraying; Contract with Montana Governor's Office to Coordinate Transport of Prisoners for Gallatin County Sheriff's Office; Contract with Buffalo Services to Provide Water and Wastewater Operator Services for RID #322, Hebgen Lake Estates; and Bound Counsel Agreement with Dorsey & Whitney LLP for Open Lands Board.

3. Request for Boundary Relocation Exemption for Connie Mangas and Ronald Booth located in Section 17, T1N, R6E. (Forswall Road). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Boundary Relocation Exemption for Frank Humberger and Eric and Laura Humberger located in Section 35, T1S, R6E. (Off Bridger Canyon Road). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Agricultural Exemption for Pete and Fenna Kimm located in the N ½ Section 27, T1S, R3E. (Camp Creek Road). Gallatin County Planner Jennifer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Vincent read the consent agenda. Commissioner Mitchell requested that consent agenda Item 5, be placed on the regular agenda for discussion. Commissioner Vincent moved to adopt the consent agenda as amended. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer clarified there were two tracts being created and Tract A, a third already existed on the request for Agricultural Exemption for Kimm. Commissioner Vincent moved to approve the agricultural exemption for Kimm. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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One vacancy exists on the West Yellowstone TV District due to the death of Howard (Jim) Micklewright. This appointee would fill the remainder of Mr. Micklewright's term expiring on June 30, 2002. There was no public comment. Commissioner Murdock moved to nominate Elizabeth Kearney. Seconded by Commissioner Vincent. None voting nay. Motion carried. Three vacancies exist on the Gallatin County Planning Board. These are two-year terms, expiring on July 31, 2003. There was no public comment. Commissioner Murdock moved to nominate Michael Milmine. Seconded by Commissioner Vincent. Commissioner Mitchell noted that Mr. Milmine does meet the requirements and was recommended by the Southwest Home Builders. None voting nay. Motion carried. Commissioner Murdock moved to nominate Patricia Craig. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Mitchell moved to appoint Kerry White. Seconded by Commissioner Murdock, noting that Mr. White does live in the Bozeman Donut Area and it is important for that area to be represented. He stated that there will be another vacancy on September 21, 2001, and summarized the qualification requirements of the Planning Board. None voting nay. Motion carried.

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the continuation of a request for preliminary plat approval of the Meadows Major Subdivision. Mr. Johnson briefly summarized last weeks hearing, noting that public comment was extended to allow more public to participation in the review process. The Planning Department received the following letters regarding the proposal: Ronald T. Williams, supporting; Patricia Karlmo, supporting; Jeff Rader, supporting; and Brian Gallik, representing the applicants in support of the proposal. The Commission received the following letters: Janet Passmore, opposing; Robert L. Adams, opposing; Andy Jackson, supporting. Public comment in opposition to the proposal were as follows: Lane Harris and Will Hartzell. Public comment in support of the proposal were as follows: Tom Simkins; Robert Bellows; and Dan Shaw. Attorney Brian Gallik Representing the applicant discussed legal issues regarding open space concepts. Mr. Gallik referred to his letter that was hand delivered to the Commission and Planning Department, dated August 27, 2001. The letter outlined open space definitions and a solution that would allow the developer to go forward with the lot configuration and at the same time create a larger open space that is meaningful. The idea would be to use a conservation easement adjacent to the common open space that the developer proposed. This would be different from a restrictive covenant or a deed restriction, as those would prohibit the property owner from building a fence or placing a structure on it. The conservation easement is designed to preserve open space and the right can be granted to the members of the homeowner's association to use that property. It would be creating open space that can be used by the public, and through the conservation easement drafting process it can be worked out so that it creates meaningful open space that would prohibit any uses that would interfere. Discussion took place regarding what uses would be allowed in the open space conservation area, and who would be responsible for maintaining it. Mr. Gallik stated the conservation easement would allow the installation of septic systems under that easement as long as there is the right to repair and maintain it. Mr. Threlkeld clarified the building envelopes are 6400 sq. feet, and submitted a sketch, Exhibit "A" of a house configuration. He explained that they were embracing a new concept with a very small parcel and

without the appropriate density they could not generate the revenue needed to pay for the infrastructure. Mr. Threlkeld briefly addressed the following issues: fire protection; agricultural impacts; law enforcement; water supply; roads; and leap frog. He submitted a neighborhood comparison map, Exhibit "B", showing compatibility with the use of open space. Mr. Johnson replied to concerns of structures being built where eaves and decks would extend into the open space area, and suggested requiring a 25-foot setback from the backyard conservation easement area. He stated the common open space being proposed is open space dedicated to the homeowner's association, so essentially that is private open space even when it is common open space and not dedicated to the public. He clarified that the paving was not a suggestion of the Road Department; it was a requirement for major subdivisions that generate 100 or more ADT's a day or cause existing traffic on the primary access road to exceed that per day. Mr. Johnson requested some time to work with the applicant in drafting the condition, should the Commission move in the direction of a conservation easement. He was concerned if there were an easement that the Gallatin County Planning Department is not responsible for the maintenance or enforcement of that easement within a subdivision. The Commission agreed to accept a last minute letter received from Michael Cok who was unable to attend the hearing in opposition to the proposal. Commissioner Murdock stated that opposition from neighbors caused concern and that the Commission's duty was to look out for the public's health, safety and welfare. He felt the development could meet those needs with some additional conditions worked out by staff as this area was identified to promote growth and he was in favor of the project. Commissioner Vincent stated the area is appropriate, although he did not believe the subdivision was appropriate at this time. He felt it was negotiable and suggested time to draft conditions that would mitigate concerns he had regarding the lack of central sewer, law enforcement, open space, and the concept of cluster development. Commissioner Mitchell stated one major concern of hers was the incompatibility with the surrounding development. She was also, concerned with meaningful open space and the mitigation of the neighbors concerns. Mr. Threlkeld stated they would agree to an extension and would be glad to work with the Commission to mitigate their concerns. Mr. Johnson suggested three weeks to provide adequate time to address concerns such as open space maintenance plans; easement language; required setbacks; public trails easements and the suggested language for the law enforcement mitigation. Commissioner Murdock suggested a condition regarding central sewer systems. The decision was continued until September 18, 2001.

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Gallatin County Fiscal Officer Ed Blackman requested to combine regular agenda Item 3, public hearing on RID maintenance and bonds and Item 6, public hearing and consideration of a resolution to levy and assess a tax on maintenance districts within Gallatin County, Montana into one consideration. Notice of this hearing was published in the High Country Independent Press on August 16<sup>th</sup> and 23<sup>rd</sup>, 2001, and on August 17, 2001 notice was mailed to approximately 5000 property owners and contract property owners on the completed assessment list, of which 150 were undeliverable. This hearing was for the acceptance of the maintenance of RID's 302 through 379. Mr. Blackman received 5 phone calls and visits from 2 people on these issues, and Morrison-Maierle received a number of phone calls. John Weigand on behalf of the Outlaw Subdivision South requested clarification of the 12.5 percent increase in the maintenance of RID #370, and expressed concern with weed control and the need for better communication. Celia Bertoia, a board member of the Outlaw Subdivision South also, commented on the increase. Jack Schunke representing Morrison-Maierle agreed to meet with the Outlaw Subdivision Board of Directors and go over the assessment and clarify how it was calculated. Mr. Schunke outlined that routine maintenance included snow removal, inspections, weed control and crack sealing. The purpose for the large increase was for the most part to build up a reserve for the overlay planned in 2016 at the estimated cost of \$129,106. They are inspecting the asphalt annually and plan to fog seal in 2007. Discussion took place with Mr. Blackman regarding how this issue could be resolved until after the meeting with Mr. Schunke. It was agreed to by the Commission and Ms. Bertoia to defer the increase, keeping it the same as last year. If it was determined after meeting with Mr. Schunke to accept the increase it could be double the following year. Mr. Schunke pointed out that they have to increase the assessments in order to collect funds for improvements that are required and next year they would have to increase the assessment 20 percent, upsetting residents even more. He recommended leaving the increase and if after the meeting it was decided they wanted to back off they could decrease it next year. Mr. Blackman requested to redo the attachment so it would reflect the correct figure for RID #370, and to add the word "revised" in front of the words attachment A, in the resolution. Commissioner Murdock moved to approve Resolution #2001-97, adding the word "revised" in front of "attachment" and the intent of that is to keep the Outlaw Subdivision South assessment the same as last year. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Commissioner Vincent read the first reading of an ordinance reducing the speed limit on Jackson Creek Road. Letters of support were received from the following: Susan Capalbo and John Antle; John and Carol Worley; William S. and Selina S. Laughlin; Richard J. Burke and Ellen Trygstad. Public comment in support were as follows: Wally King; Rose King, (submitted testimony in writing); Beverly Danhof, speaking on behalf of Kenneth Danhof; Mariah Mayfield; and Guy Coats. Commissioner Vincent moved to adopt Ordinance #2001-04. Seconded by Commissioner Murdock. None voting nay. The second reading will be on September 11, 2001, in Three Forks. Pending approval of the second reading the ordinance will take effect 30 days later. Commissioner Murdock commented that the Commission will follow up with the Sheriff regarding enforcement.

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Gallatin County Planner John Shepard requested that regular agenda Item 8, consideration of a resolution for the Kirkwood Ranch Zone Map Amendment to the Hebgen Lake Zoning Regulation be considered earlier for the convenience of the applicant. The Commission was in agreement. Kirkwood Ranch Limited Partnership, represented by Lewis Burton & Associates, and property owner Jerrine A. Micklewright, trustee for the Micklewright Family Trust, have made application for an amendment to the Hebgen Lake Zoning Map, to realign and clarify areas zoned Commercial and R-5 Residential. A public hearing was held on August 16, 2001, in West Yellowstone to consider the request. After hearing testimony, the Hebgen Lake Planning & Zoning Commission found that the proposed amendment met the requirements and voted unanimously to recommend approval. There was no public comment. Based on the Planning and Zoning Commission recommendation, Commissioner Vincent moved to approve Resolution #2001-98. Seconded by Commissioner Murdock. Commissioner Vincent added to his motion the conditions attached to the resolution. Commissioner Murdock amended his second. None voting nay. Motion carried.

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Commissioner Mitchell announced the resolution for consideration of a resolution to change the location of the County Commission Public Meeting to Three Forks on September 11, 2001. Commissioner Murdock moved to approve Resolution #2001-99. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner John Shepard reported on the consideration of a resolution of Montana Power Co./Smith Flanders Mill Substation (Essential Services Type II) Conditional Use Permit in the Gallatin County/Bozeman Area Zoning District. The Montana Power Company, represented by Joseph W. Sabol II, and property owner Douglas Lance Smith have made request for a conditional use permit of the Gallatin County/Bozeman Area Zoning Regulation, for an electric substation, in the A-S (Agricultural Suburban) zone. The proposed facility would be located on a (approx. 5.6 acres) utility easement on the applicant's 189.9 acre parcel, described as the E ½ W ½ & W ½ W ½ SE ¼ of Section 3, less Minor Subdivision 253, T2S, R5E, PMM, Gallatin County, Montana. The facility would be generally located north of the half-section line between Durston and Baxter roads on Flanders Mill. The question before the Commission is: Given the circumstances involved and conditions suggested, is the proposed use appropriate for this zone and area? Are additional conditions appropriate or necessary? Or is the use inappropriate at this location given any conditions? The Montana Power Company is proposing to construct a new electric substation for the west side of the Bozeman area, to be located on the existing 161kV lines between the Jackrabbit and East Gallatin substations. Property owner Doug Smith has agreed to grant a 408' x 600' perpetual utility easement at the northeast corner of Flanders Mill and the future alignment of the Oak Street corridor. As the parcel is not going through subdivision review, use of the entire tract must be considered in this application; however, it is not proposed that Oak Street would be built at this time. Mr. Shepard explained that Flanders Mill Road was petitioned in 1882 to follow the North-South West 1/16 line of Section 3, which is the west property line of the Smith parcel. Statute sets effective right-of-way of petitioned roads of that era at 60'. A survey completed in 1999 (but never filed) found Flanders Mill running about 30' east of the parcel boundary at the location of the proposed easement. An active irrigation ditch flows south to north along the line. If the petition right-of-way is considered to be 30' on each side of parcel lines, then the east half of Flanders Mill as built currently lies outside of the right-of-way. A certificate of survey would be required to determine the exact alignment of the ditch and road. However, the County Road and Bridge Superintendent generally considers that a petitioned right-of-way follows the centerline of the road as built, and existing fence lines are located approximately 30' on either side of the centerline of the existing gravel road. The County Road and Bridge office requested that 45 feet of right-of-way be dedicated to the public from each side of the centerline of Flanders Mill Road. No road improvements are contemplated or required with this proposal. Since a formal survey has not been completed for the entire parcel and the remainder is greater than 160 acres, it is unclear both where the right-of-way lies and where the road is built. Location of the 60' petitioned right-of-way along the existing centerline would appear to meet the

minimum requirements of the zoning regulation to build on the Smith parcel. The applicants stated concern with dedicating road easements and waivers along the entire parcel, and have requested that the Commission consider requirements for the utility easement alone. If the applicants for any reason disagree with this location of the right-of-way, a variance from the public access requirement of Section 50.110 would be necessary prior to issuing a land use permit. Mr. Shepard pointed out an error on page 8, condition 4, changing the word west to east. At their meeting of August 14, 2001, the Planning Board voted 6:0 recommending that the Gallatin County Commission approve the conditional use permit application with conditions as suggested. Mr. Sabol representing Montana Power gave a brief overview of the proposal. He believed that a 45' easement was all that should be required from the section line to the interior of the parcel in order to satisfy what is needed relative to this application and changing condition 7 to read as follows: A forty-five foot (45') public street and utility easement for Flanders Mill Road shall be dedicated, 408' along the west parcel line of the 5.6 acre electric utility easement. The regulation states in Section 50.110 that, "Except as otherwise allowed or required by this title...every building hereafter erected or moved shall be on a lot adjacent to an improved public street", and his concern was if it is 45 feet from the center line that perhaps this parcel is not adjacent to an improved street, as there may be a sliver in there given the deviation of the road. The Montana Power Company did not feel that title applied in this circumstance, as they are not putting a building on the parcel. Mr. Sabol discussed their concern with dedicating road easements and waivers along the entire parcel, requesting that the Commission consider requirements for the utility easement alone. He noted they have an agreement with Mr. Smith if in the future this property were developed and it was possible to create a parcel of 5.6 acres, it would be deeded to MPC, but it is currently not possible under the zoning because it is less than 20 acres. There was no public comment. Mr. Shepard stated that Section 50.110 defines a building with a roof and the applicant was planning to construct a control building. He noted that in review of the criteria for approval they needed to take into account the intent regulation. The staff report contained the following criteria for the Commission to evaluate for considering the conditional use permit; 1. That the site for the proposed use is adequate in size and, topography to accommodate such use, and all yards, spaces, walls and fences, parking, loading and landscaping are adequate to properly relate such use with the land and uses in the vicinity; 2. That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use; 3. That the proposed use will have no adverse effect upon the abutting property; 4. That the proposed use shall be in conformance with the Gallatin County Plan; 5. That the conditional use has complied with all conditions stipulated in Sections 46, 47, and 50; 6. That any additional conditions stated in the approval are deemed necessary to protect the public health, safety and general welfare. Such conditions may include but are not limited to: a. Regulation of use, b. Special yards, spaces and buffers, c. Special fences, solid fences and walls, d. Surfacing of parking areas, e. Requiring street, service road or alley dedications and improvements or appropriate bonds, f. Regulation of points of vehicular ingress and egress, g. Regulation of signs, h. Requiring maintenance of the grounds, i. Regulation of noise, vibrations, odors, j. Regulation of hours for certain activities, k. Time period within which the proposed use shall be developed, l. Duration of use, m. Requiring the dedication of access rights, and n. Other such conditions as will make possible the development of zoning jurisdiction in an orderly and efficient manner. If the County Commission, after hearing and considering all public testimony, determines that the request as proposed by the applicant is in the public interest and meets the criteria of the Zoning Regulation, the Planning Board has suggested the following conditions: 1. The conditional use permit will be valid only for the Essential Services (Type II) use as proposed on the utility easement, and subject to approval of land use permits and applicable building permits. 2. Applicant shall contract the Montana Dept of Environmental Quality to determine if a Storm Water Discharge Permit is necessary and any required permits shall be obtained prior to approval of a land use permit. 3. Applicants shall contact Montana Dept. of Natural Resources and Conservation; USDA-NRCS, and U.S. Army Corp of Engineers regarding the proposed stream relocation and any required permits shall be obtained prior to approval of a land use permit. 4. A hedge shall be planted along the north and east fence lines and additional evergreen trees to break up the profile of the western block wall. The block wall shall be built as shown with at least two contrasting earth tone colors. Landscaping shall be irrigated and maintained to screen the facility from public view. A landscape plan meeting requirements of the regulation shall be submitted with the application for land use permit. 5. Applicants shall apply for an encroachment permit from Gallatin County for an industrial drive approach onto Flanders Mill, between 24' and 40' wide. Additional width shall require approval of a deviation by the Road and Bridge Superintendent. 6. Applicants agree to pave driveway and parking areas according to applicable standards within nine months of the time that Flanders Mill Road is paved. 7. A sixty-foot (60') public street and utility easement for Flanders Mill Road shall be dedicated, 408' along the west parcel line of the 5.6+ acre electric utility easement. 8. A one hundred thirty-foot (130') public street and utility easement for future Oak Street corridor shall be dedicated, 65' on each side of the half section line, 600' along the 5.6+ acre electric utility easement. 9. All plans and structures shall be approved by Rae Rural Fire Service Area for compliance with the Uniform Fire Code. 10. Applicant shall comply with any and all applicable state and federal laws and regulations. 11. This



conditional use permit shall be valid for an application for a land use permit submitted prior to December 31, 2002. The application, final site plans and landscaping plans shall detail how all conditions of approval have been met. The following conditions are required by the Zoning Regulation: 12. The right to a use and occupancy permit shall be contingent upon the fulfillment of all general and special conditions imposed by the conditional use permit procedure. 13. All of the special conditions shall constitute restrictions running with the land use, shall be binding upon the owner of the land, his successors or assigns, and shall be recorded as such with the Gallatin County Clerk and Recorder's office by the property owner prior to the issuance of any building permits, final site plan approval or commencement of the conditional use. 14. All conditions specifically stated under any conditional use listed in this title shall apply and be adhered to by the owner of the land, successors or assigns. 15. All special conditions shall be consented to in writing by the applicant. Commissioner Murdock was persuaded that they don't need 130 feet on the south side of the Oak Street right-of-way, as this is only an easement and if and when this is further developed the rest of the right-of-way can be discussed. He was satisfied with the 45 feet on Flanders Mill Road and that they did not need to ask for a waiver of the right to protest because that is better done in subdivision review. Commissioners Vincent and Mitchell concurred. Commissioner Murdock stated this would not have an adverse effect on the abutting property; the condition with screening should adequately take care of current and future neighbors; there was no public testimony received claiming an adverse effect; the proposed use is adequate to handle what is proposed and properly relates to other uses and land uses in the vicinity; this is an area which might see some in fill and growth; it conforms with the Gallatin County Plan and the Bozeman Area Master Plan; and the road situation as presently improved meets their needs and all the conditions will take care of any other items listed in Section 6, a through m, and public notice was given. Commissioner Murdock moved to approve the Conditional Use Permit application, finding that it is in the public's interest and meets the criteria of the Zoning Regulations, with the conditions recommended by staff with condition 4 amended, striking the word "west", adding "east", and condition 7, striking "60 feet", adding "45 feet", and condition 8, striking the words "each side", adding the words "the north", and the rest as written. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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There being no further business the meeting was adjourned at 2:41 P.M.

*Unavailable*  
*For Signature*  
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CHAIRMAN APPROVAL

*Shelley Vance*  
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CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 11th DAY OF SEPTEMBER 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:10 A.M., in Three Forks at the Ruby Theater. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**AUGUST 27, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell and Murdock and Commission secretaries Stacy Johnston and Glenda Noyes. Commissioners Vincent joined the meeting at 10:45. Fiscal Officer Ed Blackman joined the meeting in order to discuss a bill submitted to the county by the Mental Health Center (Billings) for operation costs and loss (bad debt and un-collectables). The Commissioners and Mr. Blackman agreed that no agreement was ever made for the County to cover bad debt. Commissioner Murdock made a motion to pay the operations costs, up to but not including any bad debt costs. Commissioner Mitchell seconded the motion. In discussion, it was noted that this payment would be considered a pay-off of all outstanding monies owed for the group home. All voted aye. Motion carried with a vote of two to zero.

The Planning Department submitted a request for approval of purchasing a replacement copier. The funds are available in their copier revolving account. Commissioner Murdock made a motion to accept Planning's request to purchase a replacement copier, finding that the funds are available in the replacement copier fund, and it is time to replace the machine. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

## 354 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

The Commissioners considered a budget transfer request from Junk Vehicle in the amount of \$1,000.00. Commissioner Murdock made a motion to approve said budget transfer request in the amount of \$1,000.00. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

- The Commissioners attended a special meeting for the purpose of approving claims submitted on voucher list dated August 22, 2001. In attendance were Commissioners Murdock and Vincent, Auditor Joyce Schmidt, and Commission Secretary Glenda Noyes. The voucher list included check numbers 8003501-8003509, totaling \$52,526.77. Commissioner Vincent made a motion to approve claims totaling \$52,526.77. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

### AUGUST 28, 2001

- The Commissioners conducted regular County business.

### SEPTEMBER 3, 2001

- The Commissioners' office was closed in observance of Labor Day.

### SEPTEMBER 4-5, 2001

The Commissioners conducted regular County business.

### SEPTEMBER 6, 2001

- The Commissioners participated in a special meeting for the purpose of approving claims. In attendance were Commissioner Vincent, Commissioner Murdock (via conference call), Auditor Joyce Schmidt, and Commission Secretaries Stacy Johnston and Glenda Noyes. The claims were listed on voucher list dated August 31, 2001, including check numbers 8003844-8003870, totaling \$82,475.28. Commissioner Murdock made a motion to approve said claims. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

### SEPTEMBER 7, 2001

- The Commissioners conducted regular County business.

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- A101's for August 2001: \$57.24.
- Payroll for August 2001: \$1,144,072.34.
- Clerk & Recorder's Fees Collected for August 2001: \$70,523.07.
- New Hire Report for August 2001: CLERK OF COURT – Tracy Short, Cassandra Erhardt, Tamara Jorenby; DISTRICT COURT 1 – Joshua Zugish; HEALTH – Bonnie Hash; MOTOR VEHICLE – Bernadine Darby, Peggy Richardson, Diane Gordon; REST HOME – Sari Huyser, Rachel Ness, Dustin Hinrichs, Bonnie Clement, Robert Burch, Barbara McCall, Heidi Lewis, Adam Klocke, Mary Heier; SHERIFF – Wayne Van Tighem, Brandon Gibbs, Joe Boyles; WEED – John Ansley.
- Terminated Employees' Report for August 2001: CLERK OF COURT – Korrin Brown 8/01/01; FAIR – Carey Andersen 7/30/01; REST HOME – Kathy Vandercook 3/1/01, Jocelyn Hansen 7/23/01, Will Jacobs 7/26/01, Chris Anderson 8/8/01, Sheila Rosenberg 8/10/01, Terry Spinks 8/10/01, Reed Beall 8/12/01, Dawn Streich 8/12/01, Melissa Boyles 8/15/01, Melissa Hughes 8/15/01; SHERIFF – Joe Boyles 8/13/01, Gregory Johnson 8/4/01, Jonathan Harrington 8/5/01; WEED – Dylan Zauher 8/9/01, Kyle Wasson 8/10/01, Sasha Brady 8/16/01, Chris Boe 8/16/01, Sarita Cantu 8/16/01.

Received and Approved Applications for Cancellation of Taxes in the Amount of \$1,386.00 for August 2001 (#'s 4216, 4482-4485, 4487-4488).

### **The following items were on the consent agenda:**

1. Approval of minutes for May 8, 15, 22 and 29, 2001.
2. Approval of claims were presented for approval by the auditor, dated September 5, 2001 in the amount of \$213,691.14.
3. Consideration of Contract(s): Contract with U. S. Bank and Holnam for Release of Trident Property Interests; Budget Agreement between MSU Extension Services and Gallatin County; Modification to Engineering Services Contract #2001-148 with Gaston Engineering for Meadow Village RID 378; and Copier Maintenance Agreement(s) with J&H Office Equipment for offices listed below: County Attorney; Clerk of District Court; Clerk & Recorder; and Rest Home.
4. Cancellation of Delinquent Taxes totaling \$1,428.83 (Application No.'s 4489-4528).

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**GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 355**

5. Request for Common Boundary Relocation Exemption for Gallatin River Hideway, LLC located in Sections 14 and 15, T2S, R4E (West of Four Corners). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
6. Request for Release of Zoning Improvements Agreement for Lot Access Extension of Johnson Road for Mark & Debra Amunrud for the construction of an extension off Johnson Road to access the Amunrud's land. Staff recommends that the security deposited with the County Treasurer in the amount of \$7,455.75 be released.

Commissioner Murdock read the consent agenda. Commissioner Mitchell requested that the budget agreement between MSU Extension Services and Gallatin County be placed on the regular agenda for further discussion. Commissioner Vincent moved to adopt the consent agenda as amended. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman clarified that the increase of the budget agreement between MSU Extension Services and Gallatin County was 3.4 percent along with all other department heads and this was consistent with the decision after the budget process. Commissioner Mitchell moved to approve the budget agreement. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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One vacancy exists on the Gallatin County Airport Board (Three Forks). This appointee would serve the remainder of Clint Collins' term expiring on April 1, 2005. Bill Fairhurst, Chairman of the Airport Board stated that the Board strongly endorsed Phil Olson and that his appointment would equally distribute representation throughout Gallatin County. Commissioner Murdock moved to appoint Phil Olson with the recommendation of Mr. Fairhurst. Seconded by Commissioner Vincent. None voting nay. Motion carried. Three vacancies exist on the Open Lands Board due to term expirations and resignations. One appointee will serve a two-year term, expiring on February 9, 2003. Two of the appointees will serve the remainder of Nancy Flikkema and John Baden's terms, expiring on February 9, 2002. In accordance with Resolution #1998-76A adopted on December 5, 2000, "the Open Lands Board shall consist of not more than 15 members.... Whatever the total number of board members at any given time, a majority shall be representatives of the farming and ranching interests in the County". Commissioner Mitchell read the definition of an agricultural producer provided by the Open Lands Board. During discussion the Commission determined they could appoint two non-ag members and not violate the percentage requirements for agricultural representation on the Board. Commissioner Vincent nominated Norman Eggert. He suggested waiting a couple of weeks before appointing others to see how that aligns the Board in relation to the ag and non-ag requirement. There was no public comment. Seconded by Commissioner Murdock. Commissioners Murdock and Mitchell concurred. None voting nay. Motion carried. One vacancy exists on the Three Forks Ambulance Service District. This is a three-year joint appointment with the City of Three Forks, expiring on September 1, 2004. Gene Townsend Mayor of Three Forks stated that the Three Forks City Council and the Mayor endorsed Mr. Frank reappointment. Commissioner Murdock moved to reappoint Mr. Frank. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Commissioner Mitchell announced the consideration of a resolution of the Gallatin County Commission acknowledging an alternative public meeting on September 20, 2001. There was no public comment. Commissioner Murdock moved to approve Resolution #2001-100. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported on the consideration of Capital Improvement Program Policies and Procedures. Commissioner Vincent moved to approve Resolution #2001-101. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Commissioner Murdock read the second reading of an ordinance reducing the speed limit on Penwell Bridge Road. Richard Parker speaking for himself and on behalf of Candace and Clyde Parker spoke in support of the speed reduction. He also, submitted letters of support from Anne Switzer and Frank

Kuehn. The Commission received a letter from Bruce Taylor opposed to the reduction of speed on the entire length of Penwell Bridge Road. Mr. Richard commented that the original intention was to petition for a speed reduction from Penwell Bridge Road to Walker Road and the Commission made the decision to include the entire road. John Dunse spoke in support of the speed reduction. Commissioner Murdock moved to approve Ordinance #2001-02, as written and read. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Commissioner Vincent read the second reading of an ordinance reducing the speed limit on Jackson Creek Road. There was no public comment. The Commission received a letter from John D. Cada in opposition of the speed reduction. Commissioner Mitchell stated there were several letters received at the first reading in support. Commissioner Vincent moved to approve Ordinance #2001-04. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Commissioner Mitchell read the second reading of an ordinance reducing the speed limit in the Gallatin Valley Homesteads Subdivision. There was no public comment. Commissioner Vincent moved to approve Ordinance #2002-03. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the consideration of a request for a family transfer exemption for Thomas LeProwse, located in the SW ¼ of Section 31, T1N, R6E (East Baseline Road). Ms. Koozer summarized the intended use of the family transfer. Thomas LeProwse was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. Scott LeProwse testified that his intent was to keep the property and there were no plans to develop or subdivide it. Satisfied that this is the proper use of the exemption, Commissioner Murdock moved approval of the family transfer. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the request for a common boundaries relocation exemption for Dorothy and Wallace Butcher, located in Section 11, T2S, R5E (West Babcock). Ms. Koozer explained the relocation of the boundary line would create a minor zoning violation by placing the rear property line for the new Tract 2 within six feet of an existing barn. The zoning regulation requires that all structures maintain a 12-foot setback from rear property lines. The Butchers were unwilling to demolish this barn until after the northern Tract 1 has been sold to the intended purchaser Dennis Balian. The parties entered into a development agreement with the Planning Department, which requires the barn to be demolished within 180 days of recording the Certificate of Survey that relocates the boundary lines. Under this agreement, Mr. Balian deposited a security with the County Treasurer in the amount of 150% of the cost of demolition. If the barn is not demolished within the required time frame, Mr. Balian will forfeit this security and the Planning Department will use it to have the barn demolished. The Commission was concerned that the County Attorney had not reviewed the contract. Dave Crawford with Thomas, Dean and Hoskins representing Dennis Balian and Gary Butcher stated this is similar to an improvements agreement and the barn was scheduled to be demolished anyway once ownership is transferred. Although he understood the intention, Commissioner Murdock stated this was an exemption from subdivision review in order to avoid going through zoning and they should have asked for a variance from zoning. Commissioner Mitchell suggested a continuance in order to have the County Attorney review the agreement. Mr. Crawford was in agreement to the continuance. The decision was continued until the Commission office meeting at 1:30 P.M., September 12, 2001. Ms. Koozer stated she would contact Deputy County Attorney Kate Dinwiddie regarding this matter.

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Three Forks Mayor Gene Townsend thanked the Commission for their support on the trail project. He received word from the Eastman Kodak Conservatory that they received a \$2,000., grant for planning towards the project. They are starting construction of another mile of the trail in Three Forks and will hopefully be completed by October 1, 2001. He noted they were also, about to get notice of a US Park Service award.

Three Forks Mayor Gene Townsend expressed concern of a meeting sponsored by the Sheriff's Department regarding the placement of a member of the Sheriff's department in the school a few days a month. In speaking for the rural residents, he noted there was opposition from the Manhattan and Belgrade area residents that there would be a deputy in the school and not out in their area. He stated that the Sheriff replied, "That there would not be one for a long time." He noted they do not need a Sheriff deputy in Three Forks, but he did think it was unfair to the residents of Willow Creek, Sappington, Madison and the Clarkston area for the Sheriff to have this attitude, as they too, have the right for police protection. He stated that Sheriff Cashell did plan to meet with him and talk on this issue. Other concerns were the increased use of alcohol and drugs with the kids and that they were being let go because the Sheriff stated they do not have the time to write MIP's. He requested the Commission talk with the Sheriff and get some coordination with Manhattan, Three Forks and Willow Creek.

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There being no further business the meeting was adjourned at 10:17 A.M.

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*For signature*  
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CHAIRMAN APPROVAL

*Shelley Vance*  
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CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 18th DAY OF SEPTEMBER 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:10 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**SEPTEMBER 10, 2001**

- The Commissioners attended a special meeting for the purpose of considering the removing of the ban on burning. In attendance were Commissioners Murdock and Vincent, and Commission Secretary Glenda Noyes. Rural Fire Marshall Brett Waters took a poll of the area fire chiefs and recommended a lifting of the ban, with the understanding that the weather conditions will be monitored, and if necessary another burn ban will be imposed. Commissioner Vincent made a motion, based on the recommendation of Mr. Waters, to lift the burn ban. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

**SEPTEMBER 11, 2001**

- Due to a severe state of civil unrest occurring in our nation and the core emergency response personnel from all 50 states and numerous federal and local agencies are in Gallatin County for a conference in Big Sky, Deputy DES Coordinator Jason Shrauger recommended the Commission adopt an Emergency Proclamation requesting assistance from the State of Montana and emergency mutual aid assistance from nearby counties. Commissioner Murdock made a motion to adopt Emergency Proclamation #2001-113, contingent upon changing "civil unrest" to read "terrorist activity." Commissioner Vincent seconded the motion. All voting aye, motion carried unanimously.

**SEPTEMBER 12, 2001**

- The Commissioners attended a special meeting for the purpose of considering staff recommendations for an engineer for the Gateway CTEP project. In attendance were Commissioners Murdock and Vincent, Grants Administrator Larry Watson, and Commission Secretary Glenda Noyes. On July 16, 2001 the Commissioners selected Allied Engineering for the Gateway CTEP project. This decision was not in accordance with staff recommendations, and on the advise of Deputy County Attorney Chris Gray, the decision was rescinded on August 6th as the selection qualifications were not followed. Mr. Watson asked that a decision be made quickly in order to avoid loss of a construction season. The options available to the Commissioners are to have the firms re-interviewed, which would also include a re-evaluation of the original proposals or to make a decision with detailed reasons for rejecting the staff recommendation and reselect with purpose using the same criteria used by staff in their recommendation. If the Commission desires a quantifiable rating scheme for County work, based on a

record of work history with the County, they need to create one. Commissioner Murdock asked why the other two firms were not qualified, and Mr. Watson explained that all three were qualified, but based on the information submitted and the questions asked in the interview, Stahly was the chosen firm for recommendation to the Commission. He also noted that the reasons given for selecting Allied Engineering, in lieu of the staff selection procedure, did not meet the engineer selection statutes set forth in the MCA. This statute states that selection of an engineer must be based on (no less than) the following: The qualifications of professional personnel to be assigned to the project; capability to meet time and project budget requirements; location; present and projected workloads; related experience on similar projects; and recent and current work for the agency. Mr. Watson also explained that when calling references, he does not only call those listed by the firm, but calls individuals that he knows will give him a knowledgeable opinion. Commissioner Murdock asked why the Commission could not make a decision based on their own information, and Mr. Watson explained that they could if they were able to do documental refute of the recommendation given them by staff pursuant to MCA requirements. Mr. Watson also explained that CTEP has the final say, and if they are not happy with the selection process, they will require Mr. Watson to describe the process for recommendation and selection, and then insist that the process be redone. Commissioner Murdock stated that he feels the Commission has no choice but to select the engineering firm recommended by staff, based on the legal opinion of Deputy County Attorney Chris Gray, without causing undue delay to the project. He reinforced that he feels boxed in to making this decision, and must select an engineering firm based on the recommendation of staff, in order to avoid losing a construction season. Mr. Watson noted that if he were to conduct an additional scoring system, it would only serve to reinforce staff's recommendation of Stahly Engineering. Commissioner Vincent made a motion to select Stahly Engineering based on the information provided by staff. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell, Murdock and Vincent and Commission Secretaries Stacy Johnston and Glenda Noyes. Also in attendance were Vice President of Finance Bridget Ekstrom, DA Davidson and Deputy County Attorney Chris Gray. Ms. Ekstrom explained that the items scheduled for bid opening for Open Space Bonds and Awarding the sale of Open Space Bonds will have to be delayed due to the terrorist action on September 11, 2001. In their place, the Commissioners considered a supplemental resolution relating to the \$3,800,000.00 Open Space General Obligation Bonds, series 2001; authorizing the issuance and calling for the public sale thereof, continuing the sale until September 27, 2001 @ 11:30 am. Commissioner Vincent made a motion to approve said resolution, numbered 2001-102. Commissioner Murdock seconded the motion. All voted aye. Motion passed unanimously.

Mr. Gray explained to the Commission that the County has been sued over bear-proof containers in West Yellowstone. He explained that it has been sued as a political subdivision, and that it isn't a traditional lawsuit, but a request for writ of mandamus. The allegation is that the county is involved through the zoning ordinance, and Mr. Gray says that the suit should actually be filed against the Planning and Zoning Commission rather than the County as a whole. An October 3 hearing has been set.

The Commissioners considered approval of an amendment to Contract #2000-93 with Kathy Gallagher, Task Order #02-01, in the amount of \$14,889.00 for FY 2002 sampling, etc., at the Logan Landfill. Commissioner Murdock made a motion to approve said amendment to Contract #2000-93. Commissioner Vincent seconded the motion. In discussion, it was noted that this amendment falls within the original contract is not a matter of additional funds. All voted aye. Motion passed unanimously.

The Commissioners considered approval an invoice dated August 30, 2001 from Transformation Consulting and Seminars (Terry Radcliffe) in the amount of \$917.66. Commissioner Murdock made a motion to approve said invoice. Commissioner Vincent seconded the motion. All voted aye. Motion passed unanimously.

The Commissioners considered approval of Invoice #0101-5 from Taylor Architects for Phases III & IV in the amount of \$5,250.00. Commissioner Murdock made a motion to approve said invoice. Commissioner Vincent seconded the motion. All voted aye. Motion passed unanimously.

The Commissioners considered approval of Invoice #10096 from Susan Swimley in the amount of \$247.00, for fees on Gateway Foothills Road issue. Commissioner Murdock made a motion to approve Ms. Swimley's invoice, noted that this will come from the Commission contracted services budget. Commissioner Vincent seconded the motion. All voted aye. Motion passed unanimously.

The Commissioner considered the continuation of a request from common boundaries relocation exemption for Butcher (Balian) from the public meeting on September 11, 2001. County Planner Jennifer Koozer stated that the County Attorney has approved the contract agreement involved in this exemption. Commissioner Murdock made a motion to approve the request for common boundaries relocation exemption for Butcher (Balian) per the approval of the contract by our County

GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 359

Attorney. Commissioner Vincent seconded the motion. All voted aye. Motion passed unanimously.

**SEPTEMBER 13, 2001**

- The Commissioners conducted regular County business.

**SEPTEMBER 14, 2001**

- The Commissioners attended a special meeting for the purpose of approving claims. In attendance were Commissioners Mitchell and Murdock and Auditor Joyce Schmidt. The claims were listed on voucher list dated September 12, 2001, including check numbers 8004053-8004059, totaling \$3,429.25. Commissioner Murdock made a motion to approve said claims. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

**The following items were on the consent agenda:**

1. Approval of claims were presented for approval by the auditor, dated September 13<sup>th</sup> and 14<sup>th</sup>, 2001 in the amount of \$235,193.67.
2. Cancellation of Delinquent Taxes totaling \$647.67 (Application No.'s 4429-4531).
3. Consideration of Contract(s): Agreement with Cory & Racquel Klumb for Caretaker Services at the Junk and Abandoned Vehicle Lot; Modification to Engineering Services Contract #2001-148 with Gaston Engineering for Meadow Village RID #378; and Road Improvements Agreement with JTL Group, Inc. for Painted Hills RID #376.
4. Request for Final Plat Approval for the Kieckbusch Minor Subdivision in the SW ¼ of Section 6, T1N, R4E, PMM, Gallatin County, Montana, described as a tract of land being Minor Subdivision 112, Lot 2. Preliminary plat approval was granted on September 8, 1998. A staff report submitted by Planning Consultant Ralph Johnson states that the conditions for final plat approval have been met.

Commissioner Vincent read the consent agenda. Commissioner Murdock noted that the road improvements agreement with JTL Group, Inc for Painted Hills RID #376 was removed at the request of Deputy County Attorney Chris Gray. Commissioner Mitchell requested that consent agenda Item 4, be placed on the regular agenda as Item 1A, for further discussion. Commissioner Vincent moved to adopt the consent agenda as amended. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic appeared on behalf of Manhattan Planning Consultant Ralph Johnson to clarify questions regarding final plat approval for the Kieckbusch Minor Subdivision. Commissioner Mitchell questioned if the Memorandum of Understanding from the Weed Board and the protective covenants and restrictions should be signed by the applicant before approval. Ms. Madgic was uncertain, and after discussion it was determined that it would be best to continue this consideration until these questions could be answered by Mr. Johnson. Commissioner Murdock moved to continue final plat consideration until these questions could be clarified. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Commissioner Mitchell stated that regular agenda Item 8, continuation of a request for preliminary plat approval of the Meadows Major Subdivision would be continued until October 2, 2001, at the request of the applicant's representative.

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The Commission announced the public hearing and consideration of a resolution condemning terrorist activities of September 11, 2001, and supporting the President of the United States. This was received by the National Association of Counties to be adopted by every County. There was no public comment. Commissioner Murdock read the resolution. Commissioner Vincent moved to add the following language to the resolution in the form of an amendment: BE IT STILL FURTHER RESOLVED, that the governing board of Gallatin County recognizes the firefighters and police officers who have given or risked their lives to save others and commends them for their valor and courage. Seconded by Commissioner Murdock. None voting nay. Motion carried. Commissioner Murdock moved to adopt Resolution #2001-104. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution transferring the Joint Dispatch (E911) and Law Enforcement records activities funding source from the County General Fund to the Public Safety Fund. If approved, Mr. Blackman will adjust the budget-spread sheets after making modifications to the General Fund and the Public Safety Fund budgets. There was no public comment. As a member of the 911 A Board, Commissioner Murdock stated that he had not heard any opposition to this and personally felt it was a good idea, along with the hope that one day this Board will be funded by a County-wide mill levy. Commissioner Mitchell stated that the 911 Board needed to resolve some organizational problems and until that was resolved, she did not believe that making 911 part of the public safety mill levy would make tracking of expenses more accurate. Therefore, she could not support this resolution. Commissioner Murdock moved to adopt Resolution #2001-105, as described and recommended by the Fiscal Officer. Seconded by Commissioner Vincent. Commissioner Murdock and Vincent voting aye. Commissioner Mitchell voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution exceeding the number of mills levied in FY 2001 for county wide mills, road/library mills, fire district mills, zoning district mills, and other special district mills, in compliance with 15-10-204 MCA and 15-10-420 MCA, to maintain the same dollar amount of revenues as was generated, excluding new construction in FY 2001. This resolution was to authorize the Commission to implement part of House Bill 124 that included two types of possible increases in mill levies for the County. The first was to make up lost revenue as a result of legislative actions, referred to as the floating mill, and the second, the inflationary mill that allows the County to increase mills by one half of the growth of the state for the last three years. The maximum millage the Commission could levy this year is 89.19 mills, and the proposed millage is 85.8 mills. Mr. Blackman stated that under House Bill 124 it allowed local governments to not levy all taxes allowed by law, without losing the ability to levy those taxes in future years and making them more fiscally responsible to levy only those mills needed. Commissioner Murdock stated that was included in House Bill 124, due to the Gallatin County sponsored mill bill, and recognized those responsible for getting that done. Mr. Blackman stated they could levy \$571,408,000 in new money for the increase in taxes from the floating mill levy that will not be assessed. Gallatin County Treasurer Anna Rosenberry questioned how many of these mills were associated with the lost revenue brought about because of the reduction of motor vehicle taxes this year? Mr. Blackman stated the changes in revenue equated to about 2.65 mills of revenue that was in other forms and now have to be taxed through the reduction of the motor vehicle and other revenue sources. Commissioner Murdock stated that in the budget session they decided to match other counties by coming up with a per capita dollar contribution to Mental Health, and he proposed they contribute another \$9,000 in the budget towards mental health, particularly for the Aware contract for children with mental health problems. Mr. Blackman stated that they did not need to increase the mills to fund the \$9,000 as in the City/County Health Fund there are reserves to cover that without affecting an increase in millage. Commissioner Murdock moved to approve Resolution #2001-106. Seconded by Commissioner Vincent. Commissioner Mitchell supported the motion, contrary to her previous years as a Commissioner approving the budget. She noted she was not generally in favor of using the floating mill but this year the Fiscal Officer broke out all the different funds, so they could be looked at individually as to how the floating mill levy would affect them, allowing the Commission to pick only those funds impacted by growth. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution adopting the final operating budget for Gallatin County pursuant to 7-6-2320 (2) MCA, for county wide milled funds, the road fund, the library fund, grant and special revenue funds, zoning districts, lighting districts, planning areas and all other funds. Mr. Blackman summarized the budget, stating that the increases are significant with a 5 percent increase overall. He outlined the changes from the preliminary budget, which included the \$9,000 that the Commission recommended to be added to the Mental Health activities earmarked for the potential contract with Aware Incorporated. He recommended that if this were approved he would make adjustments to the Mental Health City/County Health Fund capital outlay by putting \$9,000 in the operations so that there would be no effect to the taxpayer. Commissioner Mitchell clarified several departmental budget increases for the public's benefit. There was no public comment. The two amendments to the attachments would be the \$9,000 for Mental Health, and the increase to the Public Safety Fund by the amount of the Joint 911 funding



**GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 361**

that is currently in the General Fund. Commissioner Vincent moved adoption of Resolution #2001-107, including the amendments that the Fiscal Officer described. Commissioner Vincent and Murdock stated their satisfaction with the budget, stating that they would vote in support. Commissioner Mitchell respectfully disagreed, stating that the budget was still too flush and that they could easily fund the personnel raises, capital improvement fund, the software system and Mental Health, however there were still some special interest projects that needed to be resolved and no longer funded. Therefore, she could not support the budget. Commissioner Murdock and Vincent voting aye. Commissioner Mitchell voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported on the budget public hearing and consideration of resolution fixing the tax levy required by the final budget adopted for Gallatin County, pursuant to 7-6-2321 (1) MCA for county wide milled funds, the road fund, the library fund, grant and special revenue funds, zoning districts, lighting districts planning areas and other funds. Mr. Blackman explained an increase of millage as a result of the approved budget that will change slightly because of the 911 funds transfer from the General Fund to the Public Safety Fund that was previously approved. He questioned the information provided by the Department of Revenue for the Special Districts, but stated it is the best information at this time. He commented that they received actual numbers from some districts that are controlled by fees and one that dramatically changed was the Rae Fire Service District. A letter was received by a majority of the Rae Fire Service Area trustees asking specifically that the district assess a fee of \$110 from the \$96 that was levied last year, in order to generate funds needed to operate the district. Rae Fire Service Area Chairman Dave Lucas explained the reasons for the increase in their operations for the district. Commissioner Murdock moved to approve Resolution #2001-108, with the one change of transferring the Joint 911 funds from the General Fund to the Public Safety Fund, finding that they are leaving approximately \$570,000 millage that they could under the law mill at a maximum, of which they have chosen not to do. He noted that this is the first time they have been able to do that, thanks to their efforts at the legislature. The resolution read as follows: Whereas, this Resolution was introduced by Edward G. Blackman, Fiscal Officer, moved by Commissioner Murdock, and seconded by Commissioner Vincent, Commissioners Murdock and Vincent voted in favor of the Resolution, and Commissioner Mitchell voting against the Resolution. Whereas, the Gallatin County Commission approved a resolution adopting the Final County Budget, for County Wide Funds, Road, Library, Grant, Special Revenue, Zoning, Lighting, Planning Funds and other funds; and, Whereas, State law 7-6-2321 MCA requires the County Commission to fix the levy for each of the stated funds at a rate which will raise the amount set out in the budget; and, Whereas, the County Commission held public hearings on the Preliminary Gallatin County Budget; and Whereas, the Commission held a public hearing on September 18<sup>th</sup> 2001 on budgeting of increased tax revenue derived from an increase in taxable value, as required by 15-10-203 MCA; and Whereas, the County Commission held a public hearing on the need to use the maximum mills allowed by House Bill 124 as required by 15-10-420; and, Whereas, the attached spreadsheet, which is made a part of this resolution by reference, lists the millage by fund for the funds identified above, as required by 7-6-2321 (1). NOW THEREFORE BE IT RESOLVED by the Gallatin County Board of County Commissioners that the mill levies shown on the attached spreadsheet are approved and fixed for the current fiscal year. Dated this 18<sup>th</sup> day of September 2001. Seconded by Commissioner Vincent. Commissioner Mitchell stated she could not support this because it includes the General Fund, which she voted against in a previous motion. She did not believe some of the things the County is funding need to be funded at as high a level or at all. Commissioners Vincent and Murdock voting aye. Commissioner Mitchell voting nay. Motion carried.

Fund No.	Description	Budget	Cash Reserved	Total Requirement	Cash	Non-Tax Revenues	Taxes Needed	Mill Value	FY 2002 Mills
1000	General	7,256,971	750,000	8,006,971	3,506,347	3,718,985	781,639	124,219	6.29
1050	Employer Contributions	1,669,950	287,938	1,957,888	460,787	3,600	1,493,501	124,219	12.02
2105	Search & Rescue	228,952	15,000	243,952	165,974	9,632	68,346	124,219	0.55
2120	Public Assistance	851,543	-	851,543	428,889	1,915	420,739	124,219	3.39
2130	Bridge	842,400	150,000	992,400	568,971	100,516	322,913	124,219	2.60
2140	Noxious Weed	246,545	75,000	321,545	165,593	32,180	123,772	124,219	1.00
2160	Fair	717,888	161,532	879,420	348,587	367,650	163,183	124,219	1.31
2170	Airport	455,250	-	455,250	(88,778)	522,256	21,772	124,219	0.18
2180	District Court	1,801,693	298,000	2,099,693	666,599	579,954	853,140	124,219	6.87

**362 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46**

2190 City/County Health									5.53
2280 Senior Citizens	1,412,178	138,000	1,550,178	499,901	363,787	686,490	124,219	124,219	0.75
2290 County Extension									
2309 Public Safety	135,108	40,100	175,208	63,000	24,665	87,543	124,219	124,219	0.70
5020 Rest Home	5,310,587	515,000	5,825,587	563,851	2,679,729	2,582,007	124,219	124,219	20.78
subtotal Operating Funds	<u>4,547,450</u>	<u>500,000</u>	<u>5,047,450</u>	<u>1,037,219</u>	<u>4,010,231</u>	-	124,219	124,219	-
	25,594,472	2,965,570	28,560,042	8,434,047	12,428,050	7,697,944			61.98
2300 Rural Revolving	346,940	55,469	402,409	389,409	13,000	-	124,219	124,219	-
3020 Law & Justice Bond	58,112	-	58,112	58,112	-	-	124,219	124,219	-
3030 Rest Home Bond	<u>132,000</u>	<u>35,650</u>	<u>167,650</u>	<u>52,462</u>	<u>20,840</u>	<u>94,348</u>	124,219	124,219	<u>0.76</u>
subtotal Exempt Levies	537,052	91,119	628,171	499,983	33,840	94,348			0.76
County Wide Total	26,131,524	3,056,689	29,188,213	8,934,030	12,461,890	7,792,292			62.74
2110 Road	2,796,194	340,000	3,136,194	1,175,588	811,554	1,149,052	68,171	68,171	16.86
2220 Library	519,087	82,358	601,445	113,528	76,556	411,361	68,171	68,171	6.03
2260 County Emergency Fund	<u>39,843</u>	-	<u>39,843</u>	<u>(25,097)</u>	<u>64,940</u>	-	68,171	68,171	-
subtotal Special Levies	3,355,124	422,358	3,777,482	1,264,019	953,050	1,560,413			22.89
Taxing Total	29,486,648	3,479,047	32,965,695	10,198,049	13,414,940	9,352,705			85.63
less Transfers	-	-	-	-	-	-			-
NET BUDGET	<u>29,486,648</u>	<u>3,479,047</u>	<u>32,965,695</u>	<u>10,198,049</u>	<u>13,414,940</u>	<u>9,352,705</u>			<u>85.63</u>
County Wide Value									85.63
Road/Library Value						124,219		124,219	
County Planning Value						68,171		68,171	
						38,224		38,224	

2111 Road Impact Fee	613,055	171,836	784,891	706,805	78,086	-			
2210 Park	51,765	20,000	71,765	59,765	12,000	-			
2225 Law Library	23,506	-	23,506	5,263	18,243	-			
2255 Open Space Lands Board	70,400	-	70,400	(20,945)	91,345	-			
7360 Water Quality	320,917	70,525	391,442	260,805	4,000	126,637	22,143 units		\$ 6.00
2273 Maternal Child	159,657	36,170	195,827	46,562	149,265	-			
2274 DFS Partnership Grant	-	-	-	-	-	-			
2275 Communicable Disease	236,619	32,000	268,619	129,388	139,231	-			
2276 W.I.C.	193,913	-	193,913	-	193,913	-			
2282 School Nursing	29,631	6,293	35,924	8,542	27,382	-			
2310 Drug Forfeiture	39,949	-	39,949	29,949	10,000	-			
2350 Alcohol Rehabilitation	66,592	-	66,592	-	66,592	-			
2384 Yellow. Prop. Judgment	-	-	-	-	-	-			
2391 Historic Preservation	5,410	-	5,410	5,410	-	-			
2392 Records Preservation	197,606	-	197,606	137,606	60,000	-			
2393 Economic Development	275,109	-	275,109	256,550	18,559	-			
2395 City County Building Reserve	181,655	26,431	208,086	167,458	40,628	-			
2398 County Fire Control Permit	21,150	-	21,150	14,229	6,921	-			
2415 D.U.I. Program	56,699	-	56,699	36,699	20,000	-			
2420 Gas Tax	620,006	13,883	633,889	397,986	235,903	-			
2430 Junk Vehicle	61,813	-	61,813	8,103	53,710	-			
2431 Junk Vehicle Cap Imp	12,075	-	12,075	6,979	5,096	-			
2440 County Land Planning	11,881	-	11,881	7,281	4,600	-			
2761 P.I.L.T.	750,726	-	750,726	213,442	537,284	-			

**GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 363**

2805 Drug Court	172,116	-	172,116	(840)	172,956	-		
2808 Covering Kids	39,467	-	39,467	26,595	12,872	-		
2850 9-1-1 Emergency	169,025	27,300	196,325	56,325	140,000	-		
2865 DNRC Compost Grant	50,000	-	50,000	(6,714)	56,714	-		
2870 Community Corrections	74,014	-	74,014	18,761	55,253	-		
2898 Community Lead Grant	5,000	-	5,000	-	5,000	-		
2912 Victim Witness	93,020	-	93,020	27,171	65,849	-		
2915 Freedom From Fear Grant	70,362	-	70,362	(2,208)	72,570	-		
2916 Youth Detention	183,033	-	183,033	11,059	171,974	-		
2917 Court of Peer Review Grant	-	-	-	-	-	-		
2918 Intensive Supervision Grant	23,716	-	23,716	23,716	-	-		
2940 CDBG - SBIR Tech Asst.	42,937	-	42,937	2,937	40,000	-		
2968 Breast & Cervical Grant	51,283	8,000	59,283	26,193	33,090	-		
2970 Turning Point Grant	45,780	-	45,780	45,070	710	-		
2975 Aid to Dependent Children	3,166	-	3,166	1,966	1,200	-		
2990 Drug Enforcement Grant	485,951	-	485,951	(20,431)	506,382	-		
2991 Compost Group	62,890	-	62,890	62,890	-	-		
2992 Law Enforcement Block Gmt	20,223	-	20,223	5,073	15,150	-		
subtotal Misc. Funds & Grants	5,592,117	412,438	6,004,555	2,755,440	3,122,478	126,637		
	18,645,697	3,781,522	22,427,219	13,401,183	5,831,864	3,194,173	9,026,036	
<b>Capital Projects</b>								
4010 County Buildings Cap Prjts.	1,864,793	-	1,864,793	(16,743)	1,881,536	-		
4310 CTEP Projects	-	-	-	(3,731)	3,731	-		
4410 Home Project	-	-	-	-	-	-		
4430 CDBG - Rae Water & Sewer	306,856	-	306,856	(46)	306,902	-		
subtotal Capital Projects	2,171,649	-	2,171,649	(20,520)	2,192,169	-		
<b>Interdepartment Funds</b>								
6050 Employee Health Insurance	1,707,227	33,980	1,741,207	(197,621)	1,938,828	-		
6060 Motor Pool	54,532	13,533	68,065	50,065	18,000	-		
6070 Facilities Budget	809,776	200,000	1,009,776	131,337	878,439	-		
6090 Central Communications	176,883	-	176,883	56,633	120,250	-		
6100 Joint Dispatch	1,169,507	11,671	1,181,178	100,284	1,080,894	-		
6110 Copier Revolving Fund	59,114	15,000	74,114	39,914	34,200	-		
6120 Liability Insurance Fund	333,249	50,000	383,249	111,249	272,000	-		
8040 Logan Landfill	1,578,141	-	1,578,141	(107,655)	1,685,796	-		
8041 W. Yellowstone/Hebgen Refuse	329,631	32,000	361,631	318,131	43,500	-		
subtotal Interdepartmental Funds	6,218,060	356,184	6,574,244	502,337	6,071,907	-		
subtotal Grants/Ent. & Misc. Funds	13,981,826	768,622	14,750,448	3,237,256	11,386,554	126,637		
<b>SPECIAL DISTRICTS</b>								
<i>Fire Districts and Areas:</i>								
7200 Belgrade	1,171,250	102,453	1,273,703	450,207	276,579	546,917	17,947	30.47
7201 Reese Creek	39,214	-	39,214	27,694	400	11,120	139 units	\$ 80.00
7202 Rae	267,495	-	267,495	75,804	-	191,691	1749.66 units	\$110.00
7203 Springhill	9,282	-	9,282	5,231	-	4,051	76.28 units	\$ 53.10
7204 Fort Ellis	151,537	6,910	158,447	40,527	40,000	77,920	974 units	\$ 80.00
7205 Sourdough	287,390	84,549	371,939	106,621	9,700	255,618	6,727	38.00
7206 Manhattan	170,210	-	170,210	97,306	8,287	64,617	1,196	54.03
7207 Sedan	54,231	-	54,231	52,344	-	1,887	254	7.43

364 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

7208 Three Forks	44,500	4,160	48,660	29,580	1,150	17,930	3,344	5.36
7209 Willow Creek	42,930	-	42,930	17,117	1,747	24,066	1,058	22.75
7210 Story Mill	16,685	-	16,685	549	1,390	14,746	342	43.12
7211 Storm Castle	10	-	10	10	-	-	-	-
7212 Middle Creek	3,321	-	3,321	3,321	-	-	-	-
7213 Gallatin Canyon	1,122,040	150,830	1,272,870	378,241	667,232	227,396	14,587	15.59
7214 Northside Rural Fire Dist.	44,450	-	44,450	(44,432)	20,000	68,882	1,417	48.61
7215 Gallatin Gateway	300,000	4,380	304,380	149,750	13,500	141,130	4,457	31.66
7216 Bridger	131,602	-	131,602	56,602	12,000	63,000	2,250	28.00
7240 Gallatin River Ranch	61,325	-	61,325	19,959	13,401	27,965	251	111.41
7235 Amsterdam	124,820	3,355	128,175	60,008	13,220	54,947	2,619	20.98
7236 Clarkston	9,455	-	9,455	1,197	-	8,258	124 units	\$ 66.60
subtotal fire	4,051,748	356,637	4,408,384	1,527,637	1,078,606	1,802,141		
Other Districts								
2250 County Wide Planning	110,165	-	110,165	10,861	15,200	84,104	38,224	2.20
7217 West Yellowstone TV	41,985	-	41,985	13,851	-	28,134	3,580 Units	\$ 7.88
7218 Mount Green Cemetery	11,000	-	11,000	4,183	1,406	5,411	1,169	4.63
7219 Meadowview Cemetery	23,048	5,632	28,680	15,431	-	13,249	4,744	2.79
7220 River Rock Zoning	523	-	523	3	-	520	458	1.14
7221 S. Gallatin Zoning	295	-	295	22	-	273	231	1.18
7222 Hebgen Lake Zoning	1,650	-	1,650	86	-	1,564	1,430	1.09
7223 Fairview Cemetery	66,195	6,700	72,895	44,858	6,566	21,471	4,214	5.10
7224 Bridger Canyon Zoning	3,000	-	3,000	236	-	2,764	2,513	1.10
7225 Zoning District #1	553	-	553	69	-	484	464	1.04
7226 Hyalite Zoning District	1,937	-	1,937	153	-	1,784	1,654	1.08
7227 Sypes Canyon #1 Zoning	160	-	160	36	-	124	117	1.06
7228 Sypes Canyon #2 Zoning	53	-	53	6	-	47	44	1.07
7229 Wheatland Hills Zoning	95	-	95	3	-	92	86	1.07
7230 Zoning District #6	81	-	81	7	-	74	67	1.10
7231 Bear Canyon Zoning	151	-	151	2	-	149	137	1.09
7232 Springhill Zoning	345	-	345	44	-	301	278	1.08
7233 Trail Creek Zoning	443	-	443	60	-	383	373	1.03
7234 Big Sky Zoning	9,895	-	9,895	1,068	-	8,827	8,027	1.10
7237 Middle Cottonwood Zoning	-	-	-	30	-	(30)	13	-
7348 Yellowstone/Holiday Sewer	90,485	3,000	93,485	51,481	30,339	11,665	1,293,147	0.0090
7350 Park Cons. Dist	280	-	280	-	-	280	378	0.74
7354 Big Sky Transit	230,000	-	230,000	11,266	213,218	5,516	-	\$ -
7850 Airport Authority	10,119,327	3,339,378	13,458,705	8,999,828	4,458,877	-	-	-
8010 Predatory Animal Control	4,000	450	4,450	1,162	-	3,288	-	\$ 0.60
8011 Bozeman Jurisdictional Area	29,903	-	29,903	7,486	-	22,417	42,813	2.20
8011 Bozeman City / County Png.	101,000	-	101,000	-	12,000	89,000	32,900	2.71
8012 Belgrade City/County Planning	53,500	-	53,500	3,496	5,000	45,004	16,484	2.73
8013 Manhattan City County Planning	142	-	142	142	-	-	1,404	-
8020 Conservation District	230,000	50,000	280,000	180,292	-	99,708	86,560	1.15
8120 Churchill Lighting	5,000	1,200	6,200	1,450	-	4,750	88	\$ 53.98
8121 Logan Lighting	1,505	450	1,955	521	-	1,434	6.00	\$239.00
8122 Riverside Lighting	8,000	676	8,676	559	29	8,088	89	\$ 90.88
8123 Willow Creek Lighting	1,600	400	2,000	649	-	1,351	19	\$ 71.11

**GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 365**

8140 Madison Dyke	47,830	-	47,830	40,484	-	7,346	268	27.41
8141 Three Forks Dyke	15,000	-	15,000	2,216	-	12,784	1,617	7.91
8152 Mosquito	50,400	15,000	65,400	35,290	-	30,110	4,864	6.19
8205 Big Sky Sewer & Water	2,611	-	2,611	1,977	-	634	-	-
subtotal Other Districts	11,262,157	3,422,886	14,685,043	9,429,309	4,742,635	513,099	-	-
Cost per								
RID Maintenance Districts:								
8202 Northwestern Drive	27,418	-	27,418	25,336	-	2,082	1,487,317	0.0014
8208 Riverside	83,580	-	83,580	77,994	-	5,586	1,241,243	0.0045
8209 Hitching Post	43,883	-	43,883	39,700	-	4,183	2,987,850	0.0014
8210 Riverside S / W 310	17,242	-	17,242	6,809	-	10,433	1,227,449	0.0085
8214 Middle Creek #3	35,068	-	35,068	30,088	-	4,980	858,568	0.0058
8215 Hyalite Heights	153,894	-	153,894	145,866	-	8,028	5,351,912	0.0015
8216 Hebgen Lake Estates	63,939	-	63,939	53,840	-	10,099	2,463,053	0.0041
8217 Gardner Park Subdivision	68,335	-	68,335	59,280	-	9,055	4,115,924	0.0022
8218 Big Sky Meadow Village	269,632	-	269,632	253,286	-	16,346	5,837,831	0.0028
8221 El Dorado	64,871	-	64,871	58,476	-	6,395	3,996,978	0.0016
8222 Hebgen Lake S/W	86,104	2,000	88,104	47,956	-	40,148	2,463,053	0.0163
8223 Middle Creek #2	26,112	-	26,112	23,996	-	2,116	1,113,485	0.0019
8224 Glacier Condo Parking Lot	26,575	-	26,575	23,978	-	2,597	193,810	0.0134
8226 Sourdough Creek	75,775	-	75,775	72,413	-	3,362	2,801,593	0.0012
8227 Silverbow Condo #1	17,591	-	17,591	16,404	-	1,187	215,895	0.0055
8228 Silverbow Condo #2	9,381	-	9,381	8,768	-	613	87,599	0.0070
8232 Rae Subdivision	26,128	-	26,128	22,989	-	3,139	435,985	0.0072
8236 Sunset Heights	22,087	-	22,087	19,871	-	2,216	714,937	0.0031
8238 Mountain View 338	47,740	-	47,740	42,989	-	4,751	1,104,895	0.0043
8239 Mountain View 339	182,454	-	182,454	162,570	-	19,884	6,025,344	0.0033
8240 Sourdough Ridge	84,911	-	84,911	68,811	-	16,100	2,874,960	0.0056
8241 Rocky Creek	10,901	-	10,901	9,194	-	1,707	1,067,040	0.0016
8242 Wheatland Hills	96,821	-	96,821	86,576	-	10,245	3,659,040	0.0028
8243 Pineview Subdivision	61,700	-	61,700	53,093	-	8,607	2,265,120	0.0038
8244 Clover Meadows	57,913	-	57,913	47,250	-	10,663	3,136,320	0.0034
8246 Riverside Water Tower	35,070	-	35,070	32,050	-	3,020	1,208,151	0.0025
8249 Mount View Thorpe Road	32,100	-	32,100	27,852	-	4,248	1,180,000	0.0036
8250 Mystic Heights	24,371	-	24,371	22,051	-	2,320	800,000	0.0029
8251 Baxter Creek #2	60,148	-	60,148	53,942	-	6,206	2,140,000	0.0029
8252 Baxter Creek #1	32,444	-	32,444	27,265	-	5,179	1,785,960	0.0029
8253 Sweetgrass Hills	124,779	-	124,779	106,623	-	18,156	2,670,000	0.0068
8254 Buckskin Williams Park	8,895	-	8,895	5,997	-	2,898	1,260,000	0.0023
8255 Gardner Simmental	21,693	-	21,693	21,693	-	-	3,480,763	-
8256 Springvale	37,037	-	37,037	33,133	-	3,904	1,220,000	0.0032
8257 Hyalite Foothills	110,778	-	110,778	92,313	-	18,465	6,838,920	0.0027
8258 Sypes Canyon	107,449	-	107,449	72,619	-	34,830	7,740,000	0.0045
8259 Wildflower	15,741	-	15,741	12,082	-	3,659	1,306,800	0.0028
8260 Mystic Heights 2 & 3	61,515	-	61,515	53,134	-	8,381	3,223,440	0.0026
8261 Ranch	64,981	-	64,981	57,053	-	7,928	2,831,400	0.0028
8262 Arrowleaf	21,433	-	21,433	17,668	-	3,765	1,107,315	0.0034
8265 Cimmaron	11,168	-	11,168	9,007	-	2,161	1,350,360	0.0016

**366 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46**

8266 Middle Creek 1 & 3	21,354	-	21,354	17,590	-	3,764	2,352,240	0.0016
8267 Royal / Thorpe Road	62,226	-	62,226	52,634	-	9,592	15,986,520	0.0006
8268 Godfrey Canyon	10,722	-	10,722	8,528	-	2,194	477,000	0.0046
8270 Outlaw South	14,826	-	14,826	9,401	-	5,425	6,028,094	0.0009
8271 Wheatland Hills	3,719	-	3,719	2,360	-	1,359	1,045,440	0.0013
8272 Harvest Hills	14,327	-	14,327	9,013	-	5,314	2,657,160	0.0020
8275 Blue Grass Meadows	2,900	-	2,900	-	-	2,900	1,449,855	0.0020
8276 Painted Hills	12,114	-	12,114	-	-	12,114	4,486,680	0.0027
8278 Meadows Subdivision	4,904	-	4,904	-	-	4,904	123,537	0.0397
8279 Wildhorse Subdivision	4,943	-	4,943	-	-	4,943	2,907,543	0.0017
subtotal Maintenance	2,581,693	2,000	2,583,693	2,201,299	242	382,152		
<b>RID BOND</b>								
8614 Middle Creek Meadows	-	-	-	(96)	96	-		
8615 Hyalite Heights	6,326	-	6,326	6,326	-	-		
8616 Hebgen Lake Estates	35,191	-	35,191	35,191	-	-		
8617 Gardner Park Subdivision	-	-	-	(2,020)	2,020	-		
8621 El Dorado	12,751	-	12,751	12,751	-	-		
8622 Hebgen Lake S/W	27,990	-	27,990	18,107	-	9,883		
8626 Sourdough Creek	588	-	588	615	-	(27)		
8631 Middle Creek Meadows Indust.	795	-	795	831	-	(36)		
8632 Rae Subdivision	4,396	-	4,396	311	-	4,085		
8638 Mountain View 338	10,000	-	10,000	4,313	-	5,687		
8639 Mountain View 339	24,000	-	24,000	9,481	-	14,519		
8640 Sourdough Ridge	14,532	-	14,532	10,504	-	4,028		
8641 Rocky Creek Rd/Wheatland/Pir	36,000	-	36,000	9,824	-	26,176		
8644 Clover Meadows	13,000	-	13,000	5,044	-	7,956		
8646 Riverside Water Tower	35,000	-	35,000	15,074	-	19,926		
8649 RID 349-352	50,209	-	50,209	11,458	-	38,751		
8653 Sweetgrass Hills	153,045	-	153,045	12,971	-	140,074		
8654 Buckskin Hills	4,383	-	4,383	1,313	-	3,070		
8655 RID 355-357	84,441	-	84,441	19,429	-	65,012		
8656 Springvale	2,006	-	2,006	-	-	2,006		
8657 Hyalite Foothills	9,393	-	9,393	-	-	9,393		
8658 Sypes Canyon & Wildflower	42,035	-	42,035	12,636	690	28,709		
8660 Mystic Heights & Arrowleaf	44,300	-	44,300	8,154	7,375	28,771		
8661 Ranch	20,800	-	20,800	4,062	200	16,538		
8662 Arrowleaf	6,019	-	6,019	-	-	6,019		
8665 Cimarron	3,125	-	3,125	(4,508)	-	7,633		
8666 Middle Creek 1 & 3	15,442	-	15,442	4,755	-	10,687		
8667 Royal/Thorpe	21,830	-	21,830	5,553	-	16,277		
8668 Godfrey	12,228	-	12,228	1,655	-	10,573		
8670 Outlaw South	26,592	-	26,592	4,991	-	21,601		
8671 Wheatland Hills #2	5,336	-	5,336	(743)	-	6,079		
8672 Harvest Hills	19,445	-	19,445	31,817	-	(12,372)		
8675 Blue Grass Meadows	8,901	-	8,901	3,139	-	5,762		
subtotal RID Bonds	750,099	-	750,099	242,938	10,381	496,780		
<b>TOTAL ALL FUNDS</b>	<b>62,114,170</b>	<b>8,029,191</b>	<b>70,143,362</b>	<b>26,836,488</b>	<b>30,633,358</b>	<b>12,673,515</b>		

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Commissioner Mitchell and Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reiterated they did receive a letter from the applicant requesting continuation on Item 8, the request for preliminary plat approval of the Meadows Major Subdivision, until October 2, 2001.

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Chief Deputy Clerk and Recorder Eric Semerad reported on behalf of Gallatin County Clerk and Recorder Shelley Vance on the consideration of receipt of a petition to change services for the Clarkston Fire Service Area. Real property owners within the Clarkston Fire Service Area petitioned the Commission to change the fire service area services, to include providing area residents with adequate standard emergency medical services and equipment, related personnel and maintenance through an establishment of a non-transporting Quick Response Unit licensed by the Clarkston Fire Service Area through the state of Montana. The petition was received on July 24, 2001. Ms. Vance examined the petition that requires signatures of a least 30 owners of real property within the fire service area. There were 28 qualified signatures. Mr. Semerad stated the petitioners are aware of this and as of September 17, 2001, an additional page of signatures was submitted. He stated that Deputy County Attorney Chris Gray recommended going forward with receipt of the petition and to continue it for two weeks in order to certify the additional signatures. The Commission was in agreement to the continuation for two weeks.

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Gallatin County Planner Jennifer Madgic reported on behalf of Planner Jennifer Koozer on the consideration of a request for a family transfer exemption and common boundaries relocation exemption for Sam and Barbara Gianfrancisco, located in the SE ¼ of Section 35, T2S, R4E (Bigelow Road). Surveyor Ron Allen, Allen and Associates explained that the original parcel was created in 1971, and since then the zoning has changed in this area. The realignment would bring the existing house and improvements into compliance with the zoning. He further clarified the family transfer and the easement that was being placed on Tract 3, for Tract 1 to allow for an existing drain field along with additional land to the north for replacement in the future. He submitted a copy of an outline of the parcel, Exhibit "A". Mr. Gianfrancisco was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. Finding this is the proper use of the exemptions after hearing the explanation, Commissioner Murdock moved to approve both exemptions as proposed. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic reported on behalf of Planner Jennifer Koozer on the consideration of a common boundaries relocation exemption for Glen Omar Kraft, located in Section 2, T3S, R5E (South 19<sup>th</sup>). Ms. Madgic explained there were concerns regarding the boundary realignment as it relates to the original configuration. Surveyor Ron Allen, Allen and Associates explained that near the point where the 3 parcels corner is a center pivot, and the layout and shape of these tracts are based on a center pivot. The intention was to retain as much agricultural ground as possible covered by the center pivot and stay in compliance with the zoning district. There was no public comment. Commissioner Murdock moved to approve the request, stating that this seemed to be a legitimate use of the relocation of common boundary exemption; he did not see any intention to evade the Subdivision Act; originally there were 3 lots and there are still 3 lots; they have public access; and they meet the zoning. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic reported on behalf of Manhattan Planning Consultant Ralph Johnson on the consideration of a request for preliminary plat approval for the Chaney Minor Subdivision described as a tract of land being located in the NW ¼ of Section 7, T1N, R4E, PMM, Gallatin County, Montana. The property is generally located on the south side of Dry Creek Road approximately one-quarter mile east of Central Park Road. Ron and Lani Chaney have requested preliminary plat approval for a first minor two-lot subdivision on approximately 9 acres, 5 and 4 acres in size. The proposal is located within the Manhattan City-County Planning Board's jurisdiction and at their August 21, 2001, meeting the Board reviewed the applicant's submittal and voted to recommend approval of the proposed subdivision. The staff

report contained criteria for the Commission to evaluate for considering the subdivision. The County Commission has to make a determination as to whether the proposed subdivision should be approved. The basis for the County Commission's decision shall be whether the preliminary plat, and additional information demonstrate that development of the subdivision meets the requirements of the Montana Subdivision and Platting Act and the Gallatin County Subdivision Regulations. If the Commission decides to approve the subdivision, the following conditions for final plat approval are suggested: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2. The applicants shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, or the creation of a sewer and/or water district. 3. All utility easements shall be shown on the final plat. Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat: *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* 4. A Memorandum of Understanding shall be signed between the Weed Control District and the applicants prior to final plat approval. 5. The applicants shall record the following covenants on or with the final plat: a) *The property owner shall be responsible for the control of County declared noxious weeds.* b) *Individual lot accesses from County public roads shall be built to the standards of Section 7.G.2 of the Subdivision Regulations.* c) *Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.* d) *All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law.* e) *Before any maintenance or improvements are performed on any watercourse, drainage way, channel, ditch, or canal the owner of the waterway must give written permission for the work to be done.* f) *Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.* 6. Two copies of the covenants, a copy of the conditions of preliminary approval, documents establishing the property owners' association, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants, documents establishing the property owners' association, and certificate prior to final plat approval. 7. The applicants shall obtain an encroachment permit from the Gallatin County Road and Bridge Department. 8. The applicants shall make payment of road impact fees in accordance with the Gallatin County Subdivision Regulations (\$1,596 per lot). 9. The applicants shall make payment of fire impact fees in accordance with the Gallatin County Subdivision Regulations (\$496 per lot). 10. The applicants shall provide an appropriate fire protection method in accordance with the Subdivision Regulations. The sub-divider shall have the Manhattan Rural Fire District review and approve the fire protection method prior to final plat approval. The sub-divider shall obtain written verification from the fire district that the requirement has been met. 11. A 20-foot ditch maintenance easement along the irrigation ditch shall be shown on the final plat. 12. The applicants shall have three (3) years to complete the above conditions and apply for final plat approval. Surveyor Ron Allen, Allen and Associates briefly addressed the staff report. He suggested deleting the words "documents establishing the property owners' association", from condition 6 (appears twice), because the covenant is already on the plat that these lots cannot be further divided. Also there are only two lots, and if two owners with equal votes differ there would be no consensus in a property owners' association. He commented that the applicant did not want the lots further divided so they would not increase the number of lots more than two, and they would include this as a deed restriction. He was in agreement to adding a condition 13, that the lots would not be further subdivided. Mr. Allen suggested deleting the words "Gallatin County Road and Bridge Department", and adding, "MDOT", on condition 7, because this road that it accesses onto is administered by the state highway and these approaches have already been issued by the highway department. Ms. Madgic stated her approval of the suggested changes, noting that it appeared to be a copy of the standard conditions. She suggested removing the amount of road and impact fees stated in conditions 8 and 9. The applicant was in agreement to the following suggested changes and additional conditions to read as follows: 6. Two copies of the covenants, a copy of the conditions of preliminary approval, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants, and certificate prior to final plat approval; 7. The applicants shall obtain an encroachment permit from the MDOT; 8. The applicants shall make payment of road impact fees in accordance with the Gallatin County Subdivision Regulations; 9. The applicants shall make payment of fire impact fees in accordance with the Gallatin Subdivision Regulations; and 13. The lots shall not be further subdivided. There was no public comment. Commissioner Murdock stated this appeared to be consistent with the Manhattan Area Master Plan, and



GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 369

they have not heard anything to the contrary. Commissioner Murdock moved to approve the preliminary plat, subject to the condition as read into record by Ron Allen with the changes: ( 6.) delete the words "documents establishing the property owners' association" (appears twice); (7.) delete the words "Gallatin County Road and Bridge Department", and add, "MDOT"; (8. and 9.) delete the amounts; and add (13.) The lots shall not be further subdivided. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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There being no further business the meeting was adjourned at 11:27 A.M.

*Unavailable*  
*For signature*  
\_\_\_\_\_  
CHAIRMAN APPROVAL

*Shelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

**PUBLIC MEETING** **THURSDAY THE 20th DAY OF SEPTEMBER 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:15 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**The following items were on the consent agenda:**

1. Approval of claims were presented for approval by the auditor, dated September 17<sup>th</sup>, 2001 in the amount of \$34,688.23.
2. Consideration of Contract(s): MDOT Contract Manhattan CTEP Sidewalks Project.
3. Request for Zoning Improvements Agreement for Greenspace Landscaping Storage Building (L01-146). Gallatin County Planner John Shepard reported the agreement and security have been reviewed and approved as to form by the Gallatin County Attorney's Office, and a site inspection was completed on September 11<sup>th</sup>, 2001.
4. Request for Release of Zoning Improvements Agreement for Allied Engineering Office Building. Gallatin County Planner John Shepard reported a site inspection completed on September 11<sup>th</sup>, 2001, found all improvements completed as specified.

Commissioner Murdock read the consent agenda. Gallatin County Auditor Joyce Schmidt made a correction to the warrant numbers read into the record by Commissioner Murdock, stating the last warrant was 8004270. Commissioner Murdock moved to approve the consent agenda, as amended. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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One vacancy exists on the Gallatin County Planning Board due to the resignation of Nick Salmon effective September 21, 2001. The appointee will fill the remainder of Mr. Salmon's two-year term, expiring on July 31, 2002. Commissioner Murdock suggested continuing the appointment of this position and continuing to advertise for an indefinite time period. This would to allow them to receive a broader cross section of applications from which to choose. Commissioners Mitchell and Vincent concurred. Commissioner Mitchell encouraged those interested parties to apply for the position.

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Gallatin County Planning Director Bill Arnold reported on the consideration of a request for an independent calculation of road impact fees for final plat of the Antler Subdivision, a 65-lot development for single-family residential units, with the principal access to the subdivision via Highway 191 and Highway 64. Mr. Arnold explained that Section 5.3 of the Gallatin County Road Impact Fee Regulation (Appendix E, Gallatin County Subdivision Regulations, 05/01/97) allows the subdivider to prepare and submit to the County an independent fee calculation study for the proposed development prepared by a qualified traffic engineer or economist. An independent study was prepared by Mr. Bob Marvin, P.E. of Marvin & Associates, a professionally licensed traffic engineer. The independent fee calculation study prepared by Marvin & Associates indicated that the appropriate road impact fee for the

final plat for Antler Ridge Subdivision was \$523.61. Mr. Arnold based his statement on the following findings: 1. The traffic modeling utilized by Marvin & Associates demonstrates that a small number of external trips would impact county roads due to location at Big Sky; 2. The methodology used by Marvin & Associates is consistent with past independent studies conducted in the Big Sky area, including Ramshorn View Estates Subdivision, which provided the benchmark for subsequent studies; and 3. Based upon past fee calculation studies, consistent methodologies and previous approvals, the appropriate road impact fee for the final plat of Antler Ridge Subdivision is \$523.61. Gallatin County Road and Bridge Superintendent Lee Provance stated that there seemed to be a dispute regarding Terry Threlkeld being a licensed traffic engineer specified in Appendix E. He referred to MCA 61-8-309(c2) that outlines those credentials. He also, commented regarding the independent study prepared by Marvin & Associates. Mr. Provance stated that Cottonwood Road is 13.2 miles in length, (a state secondary road that is maintained by the County), and that Marvin's calculations seemed to be off mathematically. Also, South 19<sup>th</sup> and Gooch Hill Road were not factored in as they should be, nor were recreational trips. He recommended that this request not be granted, although according to precedent this is what has been done in the past. The developer's representative James Nickelson, Morrison-Maierle Inc., stated that he concurred with the Planning Director's findings, and noted that Mr. Provance's comments were directed at a request further down the agenda. The Antler Ridge independent fee calculations were completed by Bob Marvin & Associates, who is a professional engineer and also, has the title of a professional Traffic Operation Engineer. He reiterated that the calculations done for Antler Ridge are the same as others in the Big Sky area. Commissioner Murdock commented this impact fee reduction has created problems in the Big Sky area a number of times, and that the Road Superintendent's concerns were well founded but they should be directed towards what he hoped would be a quick change to the road impact fee calculation and policy. Until such time they needed to be consistent and follow the rules as written. Commissioner Murdock moved to take the Planning Director's findings and grant the impact fee re-calculation as submitted for \$523.61. Seconded by Commissioner Vincent, noting that he would be voting in opposition to the request. He stated that the Road Superintendent made some relevant points, although it is a tough situation given the precedent, transition and the re-evaluations that Commissioner Murdock referred to, although at this point he was going to give more credibility to the concerns of the Road Superintendent. Commissioners Murdock and Mitchell voting aye. Commissioner Vincent voting nay. Motion carried.

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Gallatin County Planner Bill Arnold reported on the consideration of a request for independent calculation of road impact fees for final plat of amended South Fork Subdivision, Phase II, a 44-lot development with a total of 53 single-family dwelling units, with the principal access to the subdivision via Highway 191 and Highway 64. Mr. Arnold explained that Section 5.3 of the Gallatin County Road Impact Fee Regulation (Appendix E, Gallatin County Subdivision Regulations, 05/01/97) allows the subdivider to prepare and submit to the County an independent fee calculation study for the proposed development prepared by a qualified traffic engineer or economist. An independent study was prepared by Terry Threlkeld, P.E., a professionally licensed engineer. The independent fee calculation study prepared by Allied Engineering Services, Inc. indicates that the appropriate road impact fee for the final plat of amended Phase II of South Fork Subdivision is \$379.91. Mr. Arnold based his statement on the following findings: 1. The traffic modeling utilized by Allied Engineering Services, Inc. demonstrates that a small number of external trips would impact county roads due to location at Big Sky; 2. The methodology used by Allen Engineering Services, Inc. is consistent with past independent studies conducted in the Big Sky area, including Ramshorn View Estates Subdivision, which provided the benchmark for subsequent studies; and 3. Based upon past fee calculation studies, consistent methodologies and previous approvals, the appropriate road impact fee for the Amended Phase II of South Fork Subdivision is \$379.91. The applicant's representative Chris Budeski, Allied Engineering on behalf of Terry Threlkeld stated they contacted the State and clarified which professional engineering disciplines are licensed in the State of Montana, and traffic engineering is not licensed. Mr. Budeski read a letter from Mr. Threlkeld and submitted it as, Exhibit "A". His letter addressed Gallatin County Road and Bridge Superintendent Lee Provance's protest to the calculation and objection that he is not a professional traffic engineer or economist as required in the subdivision regulations. Gallatin County Road and Bridge Superintendent Lee Provance reiterated that the MCA reads differently as far as certification of the engineers doing the study. He commented that even if it does meet the intent, that South 19<sup>th</sup> and Cottonwood Road are County maintained roads and are not factored into the calculation. Discussion took place regarding the calculations Marvin & Associates factors into their independent study, and the fact that Cottonwood Road is factored in, as being 4.5 miles, and it is 13.2 miles in length. He noted this is a basic error that is going to impact the overall total of the impact fee. Commissioner Vincent clarified that South Fork Phase II was to be included in the Road Superintendent's letter to them regarding the impact fees. Mr. Budeski clarified that the apparent miscalculation on the length of Cottonwood Road was used in the report by Marvin & Associates for Antler Ridge, the previous agenda

item approved by the Commission. He also, noted that the criteria to determine the reliability of an engineer based on a health and safety issue was for speed requirements, not for traffic impact fees. Commissioner Murdock reiterated that the impact fee calculation and methodology needed to be reworked and until that time they needed to be consistent. Commissioner Murdock moved to approve the request to be consistent. He urged the staff to revisit this for a more equitable and revised study. Seconded by Commissioner Vincent, noting that he would be voting in opposition to the request. He commented that this was a troublesome situation trying to accurately assess the true impacts of subdivisions in this county on the overall use of roads while submitting their request one at a time. He stated that there would not be enough money to maintain an appropriate transportation system in this county unless something is done to avoid this situation. Commissioner Mitchell stated she was not in favor of impact fees to begin with, but that it should be consistent, concurring that the policy needs to be rewritten. She commented that the calculation for the Antler Ridge Subdivision was done by Marvin & Associates who's primary source of business is traffic studies and engineering and if they made a mistake it is their credibility at stake. She was disturbed that another engineer who does not do traffic analysis on a regular basis would use the incorrect information, stating that if the formula is wrong then it is the initial writer of the formula that will have to be responsible for it. She encouraged Marvin & Associates to review their formula, because if everyone is using it, it is causing the County a whole lot of problems. Because of those reasons, she was not voting in support of this request. Commissioner Murdock voting aye. Commissioners Vincent and Mitchell voting nay. Motion denied.

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Gallatin County Planning Director Bill Arnold reported that the applicant requested a continuance on the consideration of the request for an independent calculation of road impact fees for final plat of the Blue Grouse Subdivision, Phase II, Lot 3, based upon the nature of last two agenda items. Mr. Arnold stated that constancy is important until the regulation is changed and that it was unfair to single anyone out. He concurred that the impact fee regulation is flawed in some cases, but the formula referred to is not a formula designed by engineers Terry Threlkeld or Bob Marvin, it's a formula designed as part of the regulation. He recommended that they propose some immediate housekeeping amendments to this regulation to clarify these issues, pointing out that as part of the subdivision regulations he would have to go to the Planning Board for their recommendation first. He also, noted that he agreed with the Road Superintendent's concerns and they have had conversations concerning those issues. Discussion took place regarding the differences and major inconsistencies in the policy. Commissioner Mitchell questioned if there was a way to hold off reviewing anymore of these requests until these housekeeping changes have been presented. Mr. Arnold replied that was a legal question, although if the Commission does not consider these independent fee calculations with respect to road impacts fees it will be holding up final plats. The Commission was in agreement to consult the County Attorney in regards to revisiting these requests.

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Commissioner Murdock reported on the resolution of the board of Commissioners of the County of Gallatin, Montana, submitting to the qualified electors of the County of Gallatin at a mail ballot election on January 24, 2002, the question of issuing general obligation bonds in the amount of up to \$18,370,000 for the purpose of funding the acquisition, design, construction, equipping and financing of an adult detention facility and providing that the number of years through which the bonds are to be paid shall be 20 years. Commissioner Murdock stated that on August 9, 2001, the Commission discussed and agreed to place a 144 bed facility bond issue totaling \$18,370,000 to the voters along with the operating costs. At that time the date for that election was yet to be determined because of differences of opinion of when it should take place. He commented on a memo received from Gallatin County Fiscal Officer Ed Blackman replying to their inquiry on the estimated costs for the jail if the election were held on November 2002 rather than January 2002. He stated the potential cost increase would be \$1,043,350 as opposed to approximately \$80,000 for the cost of a mail ballot election with return self addressed stamped postage and the possibility of higher interest rates. Public comment: Gus Pfaehler; Brian Leland; Jarvis Brown; Sam Hofman; and Joan Rudberg. Commissioner Vincent moved to adopt Resolution #2001-109. Seconded by Commissioner Murdock, noting this was the recommendation of the project team and the Criminal Justice Coordinating Council. He expressed great appreciation to those who dedicated their time to this project. Commissioner Vincent spoke in support of the motion, stating the time has come to put this to a vote of the people. Commissioner Mitchell stated she was not going to support this resolution, although she would vote in support of the next resolution. Commissioner Murdock and Vincent voting aye. Commissioner Mitchell voting nay. Motion denied.

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Commissioner Mitchell presented the consideration of a resolution of intention to set the election on November 5, 2002, addition to mill levy-general obligation bond issue adult detention facility. She explained that the Commission met with the Clerk and Recorder and the County Attorney to discuss which date would be most appropriate for the election, taking into consideration the best turn outs and costs. The consensus at that time for the election was November 2002, recognizing that the construction costs and possibly the operating costs might be flexed in the interim. She commented that since that time, other groups have formed and this has become a very contentious issue. There was no public comment. Stating that nobody wanted the jail issue settled more than her, Commissioner Mitchell commented on the extensive research she gathered on designing and building a jail and the processes. She spoke of her commitment to getting this job done right and seeing to it that Gallatin County is efficient in the use of the taxpayer dollars. Commissioner Mitchell believed the public deserved the right to vote, although she did not have any confidence in this proposal, because of the lack of a needs assessment, the lack of the criminal justice philosophy, and a lack of a complete evaluation and cost analysis for utilizing the existing facility to some extent. She explained that a needs assessment for Gallatin County is described in the report of the U.S. Department of Justice-Jail Division, National Institute of Corrections. She expressed the necessity for the needs assessment and the criminal justice philosophy, which would help design and build what is needed, and plan for the future needs of Gallatin County, rather than the estimates and incomplete analysis that has been presented. She noted that since she has been on the Commission the proposal has been sized down, and relocated to the existing location per the recommendation of a large citizen committee representing the entire county. They also recommended a needs assessment and a criminal justice philosophy, and to utilize the existing facility wherever possible, which to date has been ignored. Commissioner Mitchell stated she would vote to put this on the ballot but would not support it. She agreed that they needed more beds and a better facility but she did not believe there would be that big of a difference in waiting a few months to put this to the vote of the people. She suggested they take the money set aside for the mail ballot election and spend it for a needs assessment and a criminal justice philosophy. She received estimates of \$40,000 and 4 to 6 months, to complete these steps, and felt it may help make the bond issue more acceptable to the public. She stated this was the very least they could do for the citizens, so they could feel they can trust and depend upon this government to do the right thing, the right process and a credible job. She commented that the public needs to trust their government at the local level to the national level. Commissioner Murdock respectfully disagreed with some of Commissioner Mitchell's assessment. He did agree that they need a jail now and a criminal justice system, of which they are working on. He stated they have a Criminal Justice Coordinating Council working on a continuum of sanctions and they are making progress. He spoke of his respect for all those involved who recommended repeatedly building a new facility. He stated that he did not agree with Commissioner Mitchell's logic, and that she had not addressed to his satisfaction the extra cost of waiving a mail ballot election, even if the voters voted against it. He stated it was a shame that the Commission could not agree to do that at a cost that is millions of dollars less, as recommended by the citizens advisory group. He stated he was forced to go along with the November 5<sup>th</sup> date as it had to be a unanimous vote, and although he would support it, he would be the first to sign the citizen's petition. Commissioner Vincent stated he had a great deal of confidence in the turnout he thought they could have expected with a mail ballot, knowing the sensitivity in this community to the jail issue. Although the mail ballot in January was his preference, he stated he was going to support the motion. He noted if this motion passes and citizen's initiative is successful that election will supersede this one at the end of May. Commissioner Murdock moved to approve Resolution #2001-110. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Based on the Board's action, Deputy County Attorney Chris Gray stated that the consideration of a resolution relating to reimbursement of appropriate costs in the financing of the acquisition, design, construction, equipping and financing of a detention facility would be continued indefinitely until he could consult with bond council. Commissioner Vincent clarified that the Commission would not be precluded to revisit the prior resolution. if there is an election in May and the bond issue passes. Mr. Gray stated the best action would be to rescind the resolution.

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There being no further business the meeting was adjourned at 11:21 A.M.

*Unavailable*  
*For signature*

*Shelley Vance*

CHAIRMAN APPROVAL

CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 2nd DAY OF OCTOBER 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:04 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**SEPTEMBER 17, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent and Grants Administrator Larry Watson and Commission Secretaries Stacy Johnston and Glenda Noyes. The Commissioners met in closed session with Deputy County Attorney Chris Gray to discuss pending litigation in Gordon Williams vs. Gallatin County re Estate of Robert Lewis.

The Commissioners considered a contract with the Montana Department of Commerce to provide funding for SBIR/STTR Rural Outreach Program. Mr. Watson explained that the County acts as a pass through of the vendor payments to the consultants. It results in administrative revenue of \$1,500.00 to the department. Commissioner Vincent made a motion to approve the contract with the Montana Department of Commerce to provide funding for SBIR/STTR Rural Outreach Program. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

**SEPTEMBER 18, 2001**

- The Commissioners attended a special meeting for the purpose of approving claims on the voucher lists dated September 14, 2001. In attendance were Commissioners Mitchell, Murdock, and Vincent, Auditor Joyce Schmidt, and Commission Secretary Glenda Noyes. The voucher lists included check numbers 8004220, 8004221, and 8004223, totaling \$7,964.25. Commissioner Murdock made a motion to approve said claims. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

**SEPTEMBER 19, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell and Murdock, Road and Bridge Superintendent Lee Provance, and Commission Secretaries Stacy Johnston and Glenda Noyes. The Commissioners considered a speed limit request submitted by Godfrey Canyon Estates. They are requesting a 15 MPH speed limit. Mr. Provance stated that the roads are so steep and short that one can hardly travel over this speed anyway. He is worried that a 15 MPH limit would set a precedent that the Commission may not want to deal with down the road. He recommended the speed be set at 25 MPH. The Commissioners agreed to have an ordinance drafted for 25 MPH in Godfrey Canyon Estates. The Commissioners also considered a request to limit or prohibit truck traffic on Jackson Creek Road. According to Mr. Provance's interpretation of the MCA, it appears that this is within the ability of the Commissioners to do. The Commissioners asked that Chris Gray give an opinion.

The Commissioners considered the finding submitted by Deputy County Attorney Chris Gray and Attorney Doyle with regards to the Anita Monroe grievance hearing. Commissioner Murdock made a motion to adopt the findings presented by Mr. Gray and asked that they be forwarded to Personnel Director Kathy Nowierski for the next step. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

- The Commissioners held an emergency meeting to consider restricting open burning in Gallatin County as there is a new fire currently threatening the Jackson Creek area. In attendance were Commissioners Murdock and Mitchell, and Commission Secretary Stacy Johnston. Based upon a recommendation from Assistant Rural Fire Chief Brian Connelly, Commissioner Murdock made a motion to impose restrictions on open burning; Commissioner Mitchell seconded the motion. All voting aye, motion carried unanimously two to zero.

**SEPTEMBER 20, 2001**

- The Commissioners conducted regular County business.

## 374 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

### SEPTEMBER 21, 2001

- The Commissioner attended a special meeting for the purpose of approving an emergency resolution closing Gallatin County to Open Burning and Open Fires. In attendance were Commissioners Mitchell and Murdock. Commissioner Murdock made a motion to approve Resolution # 2001-111, closing Gallatin County to open burning and open fires, effective September 19, 2001. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

### SEPTEMBER 24, 2001

- The Commissioners attended the Annual MACo convention in Glendive, Montana.

### SEPTEMBER 25, 2001

- The Commissioners attended the Annual MACO convention in Glendive, Montana.
- The Commissioners attended a special meeting for the purpose of approving claims. In attendance were Commissioners Mitchell and Murdock (via conference call), Auditor Joyce Schmidt, Accounting Clerk Renee Huyser, and Commission Secretary Glenda Noyes. The claims were listed on voucher list dated September 25, 2001, and included check numbers 8004271-8004610, totaling \$233,525.62. Commissioner Murdock made a motion to approve said claims. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.
- The Commissioners considered a request from the Montana Coalition of Forest Counties to submit to the Governor a decision on receipt of payment, percentage to be set aside for projects, and determination of allocation to Title II and/or Title III projects. In attendance were Commissioners Mitchell and Murdock (via conference call) and Commission Secretary Glenda Noyes. Commissioner Murdock made a motion to receive full payment amount according to PL 106-393 (HR 2389), elect to set aside 15% for projects, and allocate the funds set aside for projects in the amount of 100% to Title III projects. Commissioner Mitchell seconded this motion, noting that they have spoken with Commissioner Williams of Flathead County and that he recommends that Title III projects will give counties more control over how the funds are spent. All voted aye. Motion carried with a vote of two to zero.

### SEPTEMBER 26, 2001

- The Commissioners attended the Annual MACo convention in Glendive, Montana.

### SEPTEMBER 27, 2001

- The Commissioners attended a special meeting for the purpose of opening bids for the sale of \$3,800,000, Open Space General Obligation Bonds and adopting the Resolution awarding the sale of bonds for Open Space. In attendance were Commissioners Mitchell, Murdock and Vincent; Vice President of Finance Bridget Ekstrom, D.A. Davidson & Co.; Clerk and Recorder Shelley Vance; Treasurer Anna Rosenberry; Fiscal Officer Ed Blackman, and Commission Secretary Glenda Noyes. Bids were due in the Clerk and Recorder's Office by 11:00 am, September 27, 2001 and Ms. Vance confirmed that all bids were received before that time. Eight bids were received and by law the bid must be awarded to the lowest bidder based on the True Interest Cost. Ms. Ekstrom noted that 4.75% true interest cost is the amount that was used for a comparison rate. Ms. Vance opened the bids and read them into the record. Harns Trust & Savings Bank submitted a bid that included the following information: Total Interest Cost of 4.5969%, Total Interest of \$2,045,214.38, Less Premium of \$716.00 for a Net Dollar Interest Cost of \$2,044,498.38. They also submitted a check for \$76,000 as a Good Faith Deposit. Dain Rausher, Inc. submitted a bid that included the following information: Total Interest Cost of 4.472516%, Total Interest of \$1,989,164.38, Less Premium of \$15.95 for a Net Dollar Interest Cost of \$1,989,148.43. Ms. Rosenberry confirmed that a sure bid in the amount of \$76,000 was received from this bidder. Salomon Smith Barney, Inc. submitted a bid that included the following information: Total Interest Cost of 4.476018%, Total Interest of \$1,992,573.13, Less Premium of \$-0- for a Net Dollar Interest Cost of \$1,992,573.13. Ms. Rosenberry confirmed that a sure bid in the amount of \$76,000 was received from this bidder. UBS Paine Webber, Inc. submitted a bid that included the following information: Total Interest Cost of 4.473931%, Total Interest of \$1,994,214.69, Less Premium of \$2,918.20 for a Net Dollar Interest Cost of \$1,991,296.49. Ms. Rosenberry confirmed that a sure bid in the amount of \$76,000 was received from this bidder. Morgan Keegan submitted a bid that included the following information: Total Interest Cost of 4.470712%, Total Interest of \$1,992,789.37, Less Premium of \$587.70 for a Net Dollar Interest Cost of \$1,992,201.67. Ms. Rosenberry confirmed that a sure bid in the amount of \$76,000 was received from this bidder. Griffin, Kubik, Stephens, & Thompson, Inc. submitted a bid that included the following information: Total Interest Cost of 4.6747%, Total Interest of \$2,081,026.25, Less Premium of \$2,752.80 for a Net Dollar Interest Cost of \$2,078,273.45. Ms. Rosenberry confirmed that a sure bid in the amount of \$76,000 was received from this bidder. U.S.

Bancorp/Piper Jaffray, Inc. submitted a bid that included the following information: Total Interest Cost of 4.3796%, Total Interest of \$1,951,800.62, Less Premium of \$699.75 for a Net Dollar Interest Cost of \$1,951,100.87. Ms. Rosenberry confirmed that a sure bid in the amount of \$76,000 was received from this bidder. D.A. Davidson & Co. submitted a bid that included the following information: Total Interest Cost of 4.3465%, Total Interest of \$1,936,543.13, Less Premium of \$-0- for a Net Dollar Interest Cost of \$1,936,543.13. Ms. Rosenberry confirmed that a sure bid in the amount of \$76,000 was received from this bidder. Due to the very close bids of D.A. Davidson and U.S. Bancorp/Piper Jaffray, Inc., Ms. Ekstrom called and verified both bids, and D.A. Davidson was confirmed the low bidder. Commissioner Murdock made a motion to approve Resolution 2001-112, directing the award of sale of Open Space General Obligation Bonds, Series 2001, in the amount of \$3,800,000 to D.A. Davidson & Co. with a True Interest Cost of 4.3465%; and authorizing Commission Chairman Jennifer Smith Mitchell to sign the amended bid form and accept the bid on behalf of the Gallatin County Commission. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously. By way of discussion, Ms. Ekstrom noted that Gallatin County received an A+ rating, and is considered to be low risk. She also stated that this is the strongest bid ever based in Montana.

- The Commissioners attended a special meeting for the purpose of approving a resolution regarding the final operating budget for Gallatin County pursuant to 7-6-2320, MCA, and a resolution amending the resolution fixing the tax levy required by the final budget adopted for Gallatin County. This is a necessity due to the awarding of the general obligation bonds for open space. In attendance were Commissioners Mitchell, Murdock, and Vincent, Clerk and Recorder Shelley Vance, Fiscal Officer Ed Blackman, and Commission secretary Glenda Noyes. Mr. Blackman explained that these resolutions correct all inconsistencies, and amend previous resolutions in order to fix the tax levies in order to place the Open Space Bonds on the tax rolls in January. Commissioner Vincent made a motion to approve Resolution 107A, amending the resolution adopting the final operating budget for Gallatin County pursuant to 7-6-2320 (2) MCA. Commissioner Murdock seconded the motion. Commissioners Vincent and Murdock voted in favor of the motion, Commissioner Mitchell voted nay, stating a need to be consistent. Motion passed with a vote of two to one. Commissioner Murdock made a motion to approve Resolution 108A, amending the resolution fixing the tax levy required by the final budget adopted for Gallatin County, pursuant to 7-6-2321 (1) MCA for County wide milled funds, the road fund, the library fund, grant and special revenue funds, zoning districts, lighting districts, planning areas, and other funds. Commissioner Vincent seconded the motion. Commissioners Murdock and Vincent voted in favor of the motion, Commissioner Mitchell voted nay, stating a need to be consistent. Motion passed with a vote of two to one.

**SEPTEMBER 28, 2001**

- The Commissioners attended a special meeting for the purpose of approving a grant application for a Treasure State Endowment Program for the Bridge Department. In attendance were Commissioners Mitchell, Murdock and Vincent, Grants Administrator Larry Watson, and Commission secretary Glenda Noyes. The TSEP application will provide for a County-wide Bridge Assessment, and future repairs on certain top priority bridges. Commissioner Murdock made a motion to approve the TSEP application for the County Road and Bridge Department. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.
- The Commissioners attended a special meeting for the purpose of approving a contract between the Federal Department of Energy, Yellowstone National Park and Gallatin County. In attendance were Commissioners Mitchell, Murdock and Vincent, Grants Administrator Larry Watson, and Commission secretary Glenda Noyes. Gallatin County will serve as a pass through agent for the multi-county composting project. This is a multi-year grant, and Gallatin County will funnel the funds to the Composting project from the Federal government. This will provide administrative revenue for the Grants Department, and is logical because of the involvement Mr. Watson has had with this project. Commissioner Murdock made a motion to approve the contract between the Federal Department of Energy, Yellowstone National Park and Gallatin County for the multi-county composting project. Commissioner Vincent seconded the motion. In discussion, Commissioner Mitchell noted that a side effect of the project would be a lessening of volume sent to the Park County incinerator that produces electrical energy, and hopes that we can help them with this loss by sending over other garbage in the future. All voted aye. Motion carried unanimously.
- The Commissioners convened a special meeting to approve a letter to the Department of Natural Resources and Conservation (DNRC) requesting State assistance for the Purdy Fire. In attendance were Commissioners Murdock and Vincent, Jim Kalitowski and Diana Martin, DNRC, and Commission Secretary Glenda Noyes. Commissioner Vincent made a motion to approve the request for State assistance from the DNRC on the Purdy Fire, which has exceeded the capabilities of Gallatin County and is threatening the structures in the Wilson Creek and Little Bear areas.

## 376 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

- Commissioner Murdock made a motion to sign an Interagency Cost Share Agreement with Montana DNRC and Gallatin National Forest for the Purdy Fire. Commissioner Vincent seconded the motion. All voting aye, motion carried with a vote of two to zero.
- Commissioner Murdock made a motion for the Commission to assign Delegation of Authority for the Purdy Fire to Tom Corbin. As Incident Commander, he has full authority and responsibility for managing the fire suppression activities within the framework of law, Agency policy, Section B and C of the agreement and direction provided in the briefing and Wildland Fire Situation Analysis. Commissioner Vincent seconded the motion. All voting aye, motion carried with a vote of two to zero.

Commissioner Vincent made a motion to sign a Wildland Fire Situation Analysis. Commissioner Murdock seconded. All voted aye. Motion carried with a vote of two to zero.

### The following items were on the consent agenda:

1. Approval of minutes for the weeks of June 5, 12, 19, & 26; July 10, 17, 24, & 31; and August 7, 2001.
2. Approval of claims were presented by the auditor, dated September 27, 2001 in the amount of \$522,727.77.
3. Consideration of Contract(s): Financial Audit Services Contract with Denning, Downing & Associates, P.C.; Maintenance Agreement with Terrell's Office Machines for Justice Court; Modifications to Contract #2002-24 with Figgins Sand & Gravel for RID 378, Change Orders #3 & #4; Modifications to Contract #1999-124 with HKM Eng., Task Orders #6 & #7; Agreement for Receipt of Resort Tax Funds between Big Sky Resort Area District and Gallatin County Sheriff's Office Canyon Section; Temporary Animal Impound Agreement with Humane Society of Gallatin Valley; Administrative Services Agreement with Intermountain Administrators; Contract with Jill K. Abbott-Stoltzfus for Dietitian Services at the Rest Home; Consultant Services Agreement with Paul Kruse for Winter Use SEIS; Mail Processing Agreement with Executive Services; Federal Equitable Sharing Agreement with Department of Justice.
4. Request for Common Boundary Relocation Exemption for Douglas E. Espelien and Galen and Merna Kolstad, located in the NE ¼ Section 34, T1N, R5E (Clearview Road). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Common Boundary Relocation Exemption for Eagle Rock Reserve.
6. Request for Final Plat Approval of the Bartz Minor Subdivision No. 2 described as 1B of Minor Subdivision 205, situated in the SW ¼ of Section 13, T1S, R4E, P.M.M., Gallatin County, Montana. Preliminary plat approval was granted on November 14, 2000. Belgrade City-County Planner Jason Karp states that the conditions for final plat approval have been met.
7. Continuation of Request for Final Plat Approval for Kiechbusch Minor Subdivision described as a tract of land being Minor Subdivision 112, Lot 2, located in the SW ¼ of Section 6, T1N, R4E, P.M.M., Gallatin County, Montana. Preliminary plat approval was granted on September 8, 1998. Manhattan Planning Consultant Ralph Johnson states that the conditions for final plat approval have been met.

Commissioner Vincent read the consent agenda, noting that the approval of claims would be continued until 11:00 A.M., in order to satisfy the 48 hour notice, and that consent agenda Item 5 would be continued indefinitely. Gallatin County Clerk and Recorder Shelley Vance requested that the mail processing agreement with Executive Services be placed on the regular agenda as 1A, for further discussion. Commissioner Mitchell requested that consent agenda Item 7 be placed on the regular agenda as 1B, for further discussion. There was no public comment. Commissioner Vincent moved to approve the consent agenda as amended. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance stated that Accountant Susan Lang in the Clerk and Recorder's office reported that she was unable to verify where the money was set aside in the budget for the \$8,125 prepayment to Executive Services for the mail processing agreement. She commented that the Commission might not want to approve the contract until Gallatin County Fiscal Officer Ed Blackman could be consulted. Discussion took place regarding the appropriate amount determined for the prepayment. Gallatin County Auditor Joyce Schmidt recalled that the total was approximately



\$8,000 however, part of that was already in the possession of Executive Services. She felt very confident the money was in the budget, although she suggested that they might want to approve the contract and hold off on the portion determining where the funds will be budgeted until Mr. Blackman returns. Gallatin County Treasurer Anna Rosenberry commented that the needs for mail processing varies month to month and they were averaging between \$7,000 and \$8,000 a month. In her opinion the request was reasonable, because Executive Services is carrying a full month of postage costs plus, there is a two-week delay in getting their payment. Commissioner Murdock commented that he was satisfied and did not think it was necessary to delay signing the contract because the Fiscal Officer was on vacation. Commissioner Murdock moved to approve the contract. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic reported on the continuation of final plat approval for the Kieckbusch Minor Subdivision. Commissioner Mitchell reiterated her concerns regarding the applicant's signature on the Memorandum of Understanding from the Weed Board and the protective covenants and restrictions. Ms. Madgic stated that Morrison-Maierle clarified that the covenants were on the plat; to be filed with the plat and that they had in their possession the approved weed control document with both signatures. Commissioner Mitchell was satisfied. Commissioner Murdock was reluctant to set a bad precedent by approving this, as the Manhattan Planning consultant needed to be notified that this can not be accepted on good faith and that they needed to provide documentation that all the conditions were met. Ms. Madgic suggested a continuance until the last agenda item and meanwhile she would contact Morrison-Maierle to appear on behalf of the applicant. The Commission was in agreement.

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Gallatin County Auditor Joyce Schmidt reported on receipt of the Auditor's quarterly report for the quarter ending June 30, 2001. Ms. Schmidt stated that the report for April through June was submitted to the Commission on August 31, 2001, meeting the statutory requirement. The Commission thanked Ms. Schmidt and commented that they appreciated the summary she provided. Commissioner Murdock moved to approve the Auditor's quarterly report. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the continuation of consideration of receipt of a petition to change services for the Clarkston Fire Service Area, to include providing area residents with adequate standard emergency medical services and equipment, related personnel and maintenance through an establishment of a non-transporting Quick Response Unit licensed by the Clarkston Fire Service Area through the state of Montana. Ms. Vance confirmed that the petition contains the signatures of at least 30 owners of real property within the fire service area, therefore it meets the statutory requirement. She noted the Commission needed to conduct a public hearing within 30 and 90 days of receipt of the petition. Should the Commission accept the petition, Ms. Vance recommended holding the public hearing on December 4, 2001. This would allow adequate time for publication and notices to be mailed to the landowners within the Clarkston Fire Service Area. There was no public comment. Commissioner Vincent moved to accept receipt of the petition and establish a public hearing for December 4, 2001. Seconded by Commissioner Murdock, finding that the Clerk and Recorder has verified the petition. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the consideration of a request for a family transfer exemption for Joel Bos, located in the SE ¼ Section 1 and SW ¼ Section 6, T2S, R6E (Churchill Road). Ms. Koozer summarized the intended use of the family transfer. Joel Bos was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. Satisfied that this was the proper use of the exemption, Commissioner Murdock moved to approve the Bos family transfer exemption. Seconded by Commissioner Vincent. Commissioner Mitchell added that the claim meets the criteria for exemption under the subdivision regulations allowed by the Montana Subdivision and Platting Act. None voting nay. Motion carried.

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Commissioner Mitchell announced that they had just received a fax from Allied Engineering asking for a continuance until early November for the preliminary plat approval of the Meadows Major Subdivision, in order to resolve issues regarding law enforcement and open space. Commissioner Mitchell stated that there was additional public comment received although public comment had been closed. Representative Terry Threlkeld, Allied Engineering stated that he has had discussions with Sheriff Cashell about mitigation to impacts with law enforcement, but he did not have a chance to convey that in-depth to the Planning Department. He explained that they are also working on some options for the open space which possibly include purchasing another six acres from an adjoining property owner in order to meet the 50% deeded requirement.

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Gallatin County Treasurer Anna Rosenberry announced that the presentation and public hearing on the Open Space Preservation Fund Application Process was to be continued. Ms. Rosenberry stated that they would be closing on the bond sale for the \$3,800,000 on October 11, 2001. She explained that they would not be able to legally disperse any of that money until the Commission takes formal action in adopting a resolution that establishes the criteria and the process to distribute the money. She urged the Commission to proceed as quickly as possible in adopting a resolution that would set forth the requirements and procedures for funding projects from the Program Account.

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Commissioner Murdock on behalf of Gallatin County Planning Director Bill Arnold announced that this was the continuation of consideration of a request for an independent calculation-road impact fees for final plat of Amended South Fork Subdivision, Phase IV. The staff report indicated that Mr. Arnold reviewed the traffic analysis and impact fee calculation from Allied Engineering Services, Inc., and concluded that the impact fee would be \$379.91. Commissioner Murdock acknowledged a memo from Gallatin County Road Superintendent Lee Provance. The memo stated that Mr. Provance hired Robert Peccia and Associates to review the impact fee calculations that have been done historically by Bob Marvin, P.E., for the Big Sky area. Mr. Provance recommended that until the results are in, that it was advisable to accept the current calculations, based on the approval precedent that has been set. In order to be consistent he stated this would apply to the next agenda item for Blue Grouse Subdivision, as well. There was no public comment. Commissioner Murdock moved to approve the independent fee calculation presented for the South Fork Subdivision, Phase IV, based upon testimony from the Road Superintendent, and the staff report dated September 11, 2001, from the Gallatin County Planning Director Bill Arnold. Seconded by Commissioner Vincent. Commissioner Mitchell reiterated the need for the policy to be revised. None voting nay. Motion carried.

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Commissioner Murdock on behalf of Gallatin County Planning Director Bill Arnold announced that this was the continuation of consideration of a request for an independent calculation-road impact fees for final plat of Blue Grouse Subdivision, Phase II, Lot 3. The staff report indicated that Mr. Arnold reviewed the traffic analysis and impact fee calculation from Allied Engineering Services, Inc., and concluded that the impact fee would be \$696.84. There was no public comment. Commissioner Murdock stated that except for the name and calculation amount, this was an identical situation to the previous agenda item. For the same reasons stated in the previous agenda item for approving the independent calculation, Commissioner Murdock moved approval of the independent fee calculation for the Blue Grouse Subdivision, Phase II, Lot 3. Seconded by Commissioner Vincent. Commissioner Vincent reinforced previous comments of Commissioner Mitchell that they need to make sure they can generate the revenue needed to get the job done with a more equitable application of these road impact fee calculations. None voting nay. Motion carried.

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Commissioner Murdock reported that this was further consideration of an emergency resolution #2001-111, Closing Gallatin County to Open Burning and Open Fires. Prior action was taken on September 24, 2001, in an exigent situation without notice and this was to reaffirm that action with notice. Commissioner Murdock moved to approve Resolution #2001-111. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Treasurer Anna Rosenberry reported on a pending resolution relating to \$3,800,000 Open Space general obligation bonds; Series 2001; determining the form and details, authorizing the

GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 379

execution and delivery and levying taxes for the payment thereof. There was no public comment. Commissioner Murdock moved to approve Resolution #2001-115. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on a resolution to annex property into the Belgrade Rural Fire District, described as the W 1/2 and W 1/2 E 1/2 of Section 1, T1S, R5E, P.M.M., Gallatin County, Montana, excepting the parcel of land described on the plat recorded on Film 12 pages 482 and 483 in the records of the Gallatin County Clerk and Recorder. Commissioner Murdock moved to approve Resolution #2001-116. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on a resolution to annex property into the Sourdough Rural Fire District, described as the NE 1/4 of Section 23, T2S, R6E, P.M.M., Gallatin County, Montana. Commissioner Murdock moved to approve Resolution #2001-117. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on resolution establishing a fund for the Predator Control for Cattle Program. Ms. Vance stated that in January the Commission passed resolution #2001-04, creating this program, however, the resolution failed to establish a fund for the accounting and taxation of it. Commissioner Murdock moved to approve Resolution #2001-118. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Representative Shannon Marinko, with Morrison-Maierle reported on the continuation of a request for final plat approval for the Kieckbusch Minor Subdivision. Mr. Marinko stated that the covenants were signed on the mylars and they appear on the plat itself, which is signed. He was uncertain if the weed control documents were signed. Discussion took place regarding signed documents recorded in the Clerk and Recorder's office. Gallatin County Clerk and Recorder Shelley Vance confirmed that documents submitted to the Clerk and Recorder's office must be originals and notarized. Mr. Marinko believed that all the conditions have been met. Commissioner Mitchell requested that he follow up, making sure that all the documents are signed. Commissioner Murdock stated that he was satisfied that they had met the conditions, noting that they needed to notify the Manhattan Planning consultant of the importance of following the process. In order to avoid setting a bad precedence, Commissioner Vincent preferred a continuance, in order to give Mr. Marinko time to get all the documents formalized. The Commission agreed to a continuance until their office meeting tomorrow at 1:30 A.M., to take action. Mr. Marinko was in agreement.

Commissioner Mitchell announced that they would reconvene at 11:00 A.M. for approval of claims. Approval of claims were considered during an office meeting.

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There being no further business the meeting was adjourned at 10:06 A.M.

*Unavailable*  
*For Signature*  
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CHAIRMAN APPROVAL

*Shelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

PUBLIC MEETING TUESDAY THE 9<sup>th</sup> DAY OF OCTOBER 2001

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:11 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**OCTOBER 1, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell, Murdock and Vincent, and Commission Secretaries Stacy Johnston and Glenda Noyes. The Commissioners discussed a petition submitted by the property owners in the Baseline Road area regarding the sewage lagoon construction on Airport property. It was determined that the petition would be forwarded on to Ted Mathis, Chairman, Airport Authority Board for comment. The Local Water Quality District submitted a letter to the Commission regarding the expiration of Commissioner Mitchell's term on the LWQD board. Commissioner Murdock made a motion to re-appoint Commissioner Mitchell to the LWQD board. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners attended a special meeting for the purpose of approving a Disaster Declaration – Wildfire, Disaster Resolution #2001-114, Purdy Fire. In attendance were Commissioners Mitchell, Murdock, and Vincent. Commissioner Murdock made a motion to approve Disaster Declaration Resolution #2001-114. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

**OCTOBER 2, 2001**

- The Commissioners attended a special meeting for the purpose of approving the claims continued from the morning public meeting. In attendance were Commissioners Mitchell and Murdock. The claims were listed on voucher lists dated September 27, 2001 and included check numbers 8004611 – 8004775, totaling \$478,100.18; check number 4004781, totaling \$14,605.42; check number 8004776, totaling \$14,211.30; and check numbers 8004777-8004780, totaling \$15,810.87, for a grand total of \$522,727.77. Commissioner Murdock made a motion to approve said claims. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

**OCTOBER 3, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell, Murdock, and Vincent, Deputy County Attorney Chris Gray, and Commission Secretaries Stacy Johnston and Glenda Noyes. Also in attendance were Gene Cook, Jerry Taylor and Ray Center. The Commission discussed the property located between the Rest Home and Walton properties with Mr. Cook, Mr. Taylor, and Mr. Center. Mr. Cook is proposing to develop the land he owns between the County property and Covered Wagon Trailer Court. He is asking that the County enter into an agreement to dedicate a portion of their property to the City for development of North 14<sup>th</sup> from Oak Street to Juniper Avenue. The Commissioners entered into no agreement, but indicated an interest in considering this proposal when maintenance and easement issues have been ironed out.

The Commissioners considered two requests from District Court 1 to dispose of Court Reporting equipment that is not compatible with their own and sell it to another County. The individual requests each total \$2,045.00. Commissioner Murdock made a motion to approve said disposal requests. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

Deputy County Attorney Chris Gray presented consideration of authorization to sign a stipulation in the Dolezal vs. Gallatin County case. The County's interest in this case is limited. Dolezal is being asked to complain to the zoning district who will in turn follow-up on the complaint. The Commission will be dismissed from the case with no attorney fees granted. The Solid Waste District/BFI will fix the dumpsters and maintain them accordingly. Commissioner Murdock made a motion to authorize the Chairman, Commissioner Mitchell, signing authority for the stipulation in the Dolezal vs. Gallatin County case. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

- The Commissioners attended a special meeting for the purpose of approving a request for final plat approval for the Kieckbusch Minor Subdivision. In attendance were Commissioners Mitchell and Murdock, and Commission secretary Glenda Noyes. Commissioner Murdock made a motion to approve final plat approval for the Kieckbusch minor subdivision, finding that all conditions of final plat approval have been met, and Manhattan Planner Ralph Johnson recommends approval. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

**OCTOBER 4, 2001**

- The Commissioners conducted regular County business.

**OCTOBER 5, 2001**

- The Commissioners attended a special meeting for the purpose of approving claims. In attendance were Commissioners Mitchell and Murdock, Auditor Joyce Schmidt, Accounting Clerk Renee

## GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 381

Huysen, and Commission secretary Glenda Noyes. The claims being considered were listed on the voucher list dated October 2, 2001, and included check numbers 8004782-8004783, totaling \$8,876.26. Commissioner Murdock made a motion to approve said claims, finding that the Auditor recommends approval, and the Commission has reviewed in the absence of Fiscal Officer Ed Blackman. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

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- A101's for September 2001: \$0.80.
- Landfill Revenue for May and June 2001: \$168,932.16.
- Payroll for September 2001: \$1,223,331.88.
- Clerk & Recorder's Fees Collected for September 2001: \$55,627.39.
- New Hire Report for September 2001: DISTRICT COURT 2 – Rhett Nemelka; HEALTH – Christine Clarkson; JUSTICE COURT – Amy Lynch; REST HOME –Jaime Fortune, Erin Arnst, Christina Lightner, Lana Eaton, Adam Landgraf, Lillian Dunayer, Thomas Brown, Erin Manzutto, Melissa Reed, Julianne Bryce, Melissa Larson; ROAD & BRIDGE – George Durkin; SHERIFF – Casey Heberling; TREASURER – Alyssa Moffett.

Terminated Employees' Report for September 2001: CLERK OF COURT – Kimberly Biladeau 9/15/01; DISTRICT COURT – Matt Putzier, Jr.; ENVIRONMENTAL HEALTH – Jeffrey Jorgenson 9/14/01; REST HOME – Katie Brandon 8/19/01, Cory Webb 8/21/01, Nancy Johnson 8/28/01.

### **The following items were on the consent agenda:**

1. Approval of claims were presented by the auditor, dated October 4, 2001 in the amount of \$245,746.11.
2. Request for Common Boundary Relocation Exemption for Frederick and Linda Allen, located in Section 25, T1S, R6E (Bridger Hills Drive). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
3. Request for Common Boundary Relocation Exemption for Russell and Roselee Faust, located in Section 23, T2S, R4E (Lower Rainbow Road). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Final Plat Approval for the Blue Grouse Subsequent Subdivision, Phase II, Lot 3, located in the NW ¼ of the NE ¼ of Section 2, T7S, R3E, PMM, Gallatin County, Montana. Preliminary plat approval was granted on July 10, 2001. Gallatin County Planner Jennifer Madgic states that the conditions for final plat approval have been met.
5. Request for Partial Release of Credit for the Elk Grove Planned Unit Development. Gallatin County Planner Jennifer Madgic recommends that the Commission approve the requested release and authorize the Chairman to sign the request documentation, based on the review of the original Improvements Agreement, the submitted request and the certifications/approval. All other terms and conditions of the original Improvements Agreement remain in full force and effect.
6. Lot Aggregation Exemption within Wylie Creek Estates Subdivision for Tom and Julie Lethert, located in Section 29, T1S, R5E (Lot 71, Candlelight Drive). Belgrade City-County Planner Jason Karp reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
7. Request for Final Plat Approval of Cameron Bridge Estates Minor Subdivision No. 1, described as a Tract 1 of COS 2219 in the S ½, SW ¼ of Section 16, T1S, R4E, PMM, Gallatin County, Montana. Preliminary plat approval was granted on June 12, 2001. Belgrade City-County Planner Jason Karp states that the conditions for final plat approval have been met.
8. Request for Final Plat Approval of Cameron Bridge Estates Minor Subdivision No. 2, described as a Tract 2 of COS 2219 in the N ½, SW ¼ of Section 16, T1S, R4E, PMM, Gallatin County, Montana. Preliminary plat approval was granted on June 12, 2001. Belgrade City-County Planner Jason Karp states that the conditions for final plat approval have been met.

Commissioner Mitchell announced that regular agenda Item 3, the determination of traffic impact mitigation for the Firelight Meadows Subdivision was postponed at the request of the developer until October 23, 2001. Commissioner Murdock read the consent agenda, noting that the claims were continued until 3:30 P.M., in order to meet the 48-hour notice. Gallatin County Planner Jennifer Madgic requested that consent agenda Item 5, be continued indefinitely. Commissioner Vincent approved the consent agenda as amended. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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One vacancy exists on the Community Corrections Board. This is a four-year term, expiring on July 14, 2005. Commissioner Murdock explained that the Commission made the decision to postpone this appointment until meeting with the Community Corrections Board to discuss future direction with them. The Commission was in agreement to the continuance. One vacancy exists on the Mount Green Cemetery Board. This is a three-year term, expiring on December 31, 2003. There was no public comment. Commissioner Murdock moved to reappoint George Reich. Seconded by Commissioner Vincent. By way of discussion Commissioner Mitchell commented that Mr. Reich lives in the area. None voting nay. Motion carried.

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Open Lands Board member Grace Morgan reported on the continuation of presentation and public hearing on the Open Space Preservation Fund Application Process. Ms. Morgan explained these were the final documents to be considered by the Commission. The first document was the application process for the Open Space Preservation Funds (inclusive of Steps #1 through #13), and the final application form called the Gallatin County Open Space Grant Program (inclusive of Sections I through VIII), noting all applications and information contained therein are subject to full public disclosure. Commissioner Murdock stated there was an inquiry by an applicant as to a concern regarding confidentially. They wondered if they could negotiate at the beginning in confidence with the Board as to how much their property was worth, or if it had to be public. Deputy County Attorney Chris Gray stated that the Montana Supreme Court set forth a process where all public information and negotiations are open to the public with the exception of legitimate trade secrets. There was no public comment. Commissioner Murdock moved to approve the process and the application forms associated with that process for the Gallatin County Open Space Grant Program, as recommended by the County Attorney and presented by the Board. Mr. Gray recommended amending the motion to include the Open Space Grant Program brochure and the Gallatin County Open Space Preservation brochure. Commissioner Murdock amended the motion to include both brochures. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Belgrade City-County Planner Jason Karp reported on the consideration of a request from Gaston Engineering on behalf of 4-Dot L.L.C., for a partial release of financial guaranty for improvements to 4-Dot Meadows Subdivision located in the NW ¼ of Section 28 and the NE ¼ of Section 29, T1N, R4E, P.M.M., Gallatin County, Montana. 4-Dot Meadows Subdivision, a 115-lot subdivision on 136.55 acres is located west of Belgrade off Old Highway 10 (MT205), adjacent to the Old Place Subdivision. The Commission granted final plat at their March 6, 2001 public meeting. Part of the final plat approval included the approval of an improvements agreement accompanied by a letter of credit in the amount of \$928,696.95 to allow the deferred installation of required infrastructure. The Commission voted to grant a similar partial release on August 21, 2001. That request was to reduce the letter of credit by \$372,324.00. The developer is now requesting a subsequent release of funds. Mr. Karp noted a change in the staff report, due to \$18,000 in fire improvements that have not been verified by the fire department. The amount to be reduced would be an additional \$363,840, rather than the \$381,840 that the staff report reflects. Therefore, with these two reductions the letter of credit would be reduced by a total of \$736,164 rather than \$754,164. The balance on the letter of credit would be \$192,532.95. The applicant's request is in accordance with Section 8-D-2 of the Gallatin County Subdivision Regulations, which states that, "The Commission shall reduce bond requirements commensurate with the completion of improvements, subject to these regulations." Commissioner Mitchell inquired if Mr. Karp had this in writing. Mr. Karp stated this was verbal as per the developer. Commissioner Vincent suggested continuing this request until the Commission had this commitment in writing. They were all in agreement to a continuance until the office meeting this afternoon at 3:30 P.M., giving Mr. Karp time to obtain the commitment in writing from Mr. Gaston with the amended information.

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There were no pending resolutions. There being no further business at this time the meeting was adjourned at 9:32 A.M.

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GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 383

The meeting reconvened at 3:35 P.M., and called to order by Commissioner Mitchell. Also present were Commissioner Vincent, Acting Clerk to the Board Mary Miller, and Gallatin County Auditor Joyce Schmidt.

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Commissioner Vincent moved to approve the claims as presented. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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The Commission received a fax from Gaston Engineering with the corrected information regarding the reduction to the letter of credit for improvements to the 4-Dot Meadow Subdivision. Satisfied with the information received, Commissioner Vincent moved to approve the partial release of the letter of credit on the 4-Dot Meadow Subdivision by an additional amount of \$363,840. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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There being no further business the meeting was adjourned at 3:40 P.M.

*Unavailable*  
*For Signature*  
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CHAIRMAN APPROVAL

*Shelley Vance*  
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CLERK ATTEST

**PUBLIC MEETING** **TUESDAY THE 16<sup>th</sup> DAY OF OCTOBER 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:08 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**OCTOBER 8, 2001**

- The Commissioners' office was closed in observance of Columbus Day.

**OCTOBER 9, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell, Murdock and Vincent, and Commission Secretaries Stacy Johnston and Glenda Noyes. The Commissioners considered the signing of support, sponsorship, and application for assistance (in the amount of \$100,000) for RC&D. Commissioner Murdock made a motion to sign and sponsor the application for assistance for the RC&D group. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously. The Commissioners considered approval of Invoice #0101-6 from Taylor Architects for Phases III & IV in the amount of \$3,309.00. Commissioner Murdock made a motion to approve said invoice. Commissioner Vincent seconded the motion. In discussion, Commissioner Mitchell noted that there has been a change in the plans and the phases have been altered a bit. All voted aye. Motion carried unanimously. The Commissioners considered approval of Invoice #200112 from MACo for 2001-2001 dues for Oil, Gas & Coal Counties in the amount of \$200.00. Commissioner Murdock made a motion to approve said invoice. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously. The Commissioners discussed a request for a contract amendment for the Big Sky Transportation Study. The developers involved in this contract will be paying for the amendment. Commissioner Murdock made a motion to approve the contract amendment for the Big Sky Transportation Study, in the amount of \$4,500.00, finding that it will cost the taxpayers no additional funds, and contingent on the approval of Deputy County Attorney Chris Gray. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

**OCTOBER 10, 2001**

- Commissioners Mitchell, Murdock and Vincent met with the members of the Open Lands Board to discuss the need for assistance, funding, and changes to the Open Lands Board work plan.

The Open Lands Board will revisit and adjust their work plan according to changes due to legislation, license plates revenue, and bond passage. They will also adjust the job duties previously done by the Open Lands Board Director in accordance with the changes. The County Commission will provide the Open Lands Board administrative help by either contract or County employee to fulfill the revised duties.

**OCTOBER 11-12, 2001**

- The Commissioners conducted regular County business.

**The following items were on the consent agenda:**

1. Approval of claims were presented by the auditor, dated October 11, 2001 in the amount of \$113,670.68.
2. Consideration of Contract(s): Mail Processing Agreement with Executive Services; Paying Agency and Registrar Agreement with USBank for Series 2001 Bonds for RID #376; and Agreement with Anderson, Zurmuehlen & Co., P.C. for Audit of Open Lands Board Records.
3. Request for Partial Release of Credit for Porcupine Park Major Subdivision. Gallatin County Planner Jennifer Madgic recommended that the Commission approve the requested release and authorize the Chairman to sign the request documentation, based on the review of the original Improvements Agreement, the submitted request and the certifications/approval. All other terms and conditions of the original Improvements Agreement remain in full force and effect.
4. Request for Common Boundary Relocation Exemption for RoAnne Kundert and Deborah Butterfield located in Section 21, T3S, R5E (West of Cottonwood Canyon Road). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Property Transaction Exemption Between CNC, LLC and MDOT located in the SW ¼ Section 10, T1N, R3E, PMM, Gallatin County, Montana. State law exempts parcels of land to be acquired for state highway purposes from subdivision review. However, the Montana Department of Highways did present this to the Manhattan Planning Board for their review and comments.
6. Request for Final Plat Approval of Roesener Minor Subdivision, described as a Tract 11A of a COS filed in Book 1 of Plats, Page 25C on file at the Gallatin County Clerk and Recorder's Office. Preliminary plat approval was granted on December 21, 1999. Belgrade City-County Planner Jason Karp states that the conditions for final plat approval have been met.

Commissioner Vincent read the consent agenda. There was no public comment. Commissioner Vincent moved to approve the consent agenda. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the receipt of a petition requesting creation of the Looking Glass Subdivision Rural Improvement District. The petition was received on August 6, 2001, on behalf of the Commission to create an RID District described as a tract of land being Lots 22 through 27 inclusive of Block 3 Meadow Village 2<sup>nd</sup> Filing; COS No. 209; Parcel A COS 887; Remainder Tract D Meadow Village 2<sup>nd</sup> filing; Lots 34 and 35 Block 3, Meadow Village 2<sup>nd</sup> Filing; Lots 42 through 60 inclusive, Meadow Village 25 Lot Addition; Lot 61A Meadow Village 25 Lot Addition; Lots 62 through 66 inclusive, Meadow Village 25 Lot Addition; situated in Section 36, T6S, R3E, P.M.M., Gallatin County, Montana. Ms. Vance certified that she examined the petition pursuant to Section 7-12-2110 M.C.A. 2001, and the Gallatin County RID policy. There are 19 parcels represented by qualified signatures appearing on the petition out of a possible 31 assessable lots, which constitutes 61% of the parcels within the proposed district. According to the Gallatin County RID policy 60% of the parcels represented by qualified signatures are required on the petition. Ms. Vance stated that should the Commission accept the petition, Attorney Susan Swimley would be presenting the resolution of intention on October 23, 2001, to start the public hearing process. Commissioner Murdock moved to accept the Clerk and Recorder's report stating that the petition has met the requirements of the law and the resolution of intention will be presented October 23, 2001, to create the district. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the consideration of a resolution of intention to change the types of services in the Clarkston Fire Service Area. The Commission accepted the petition on October 2, 2001. A public hearing is scheduled on December 4, 2001, provided the notice requirements are met. Commissioner Vincent moved to approve Resolution of Intention #2001-



119, and setting the hearing date as called for in the resolution, December 4, 2001. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on receipt to abandon a portion of old Morgan Road, described as a 30' x 125' strip of land lying between the south line of Section 34, T2N, R5E and the south line of a tract of ground described in a plat recorded on Film 7 Page 1258, being a portion of Morgan Road petition #86. Ms. Vance certified that she examined the petition pursuant to Section 7-14-2601 M.C.A. 2001, which contains the signatures of at least 10 qualified freeholders in Gallatin County. She noted that the process procedures suggest that the Commission appoint a viewing committee. Commissioner Mitchell stated she received a phone call regarding this issue. Commissioner Murdock moved to accept the petition and appoint the viewing committee, consisting of Clerk and Recorder Shelley Vance, Commissioner Vincent, and Road Superintendent Lee Provance as a consultant. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the consideration of a request for a family transfer exemption for Graciela Marin, located in the SE ¼ of Section 3, and the NE ¼ of Section 10, T3S, R4E (Axtell Gateway Rd). Ms. Koozer summarized the intended use of the family transfer, also noting that the claimant had not yet signed the certificate of survey. Graciela Marin was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. Finding the questions were answered to satisfaction, Commissioner Murdock moved to approve this request as a proper use. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the consideration of a request for a preliminary plat approval for Kirkwood Ranch Minor Subdivision, located in the NE ¼ and SE ¼ of Section 25, T11S, R3E, PMM, Gallatin County, Montana. The property is generally located north of Hebgen Lake at the intersection of Highway 287 and Kirkwood Creek Road #2581. Lewis Burton & Associates, on behalf of Pamela Sveinson (for the Kirkwood Ranch Limited Partnership) and Jerrine Micklewright (for the Howard and Jerrine Micklewright Trust), have requested preliminary plat approval to subdivide a 40-acre parcel by creating two commercial lots (~12 acres and ~9 acres) and three residential lots (two ~7 acre lots and one ~6 acre lot). She noted that Lot 1 does not literally meet the 275-foot minimum lot width requirement for the R-5 zone under the Hebgen Lake Zoning Regulation (Section 9.4). "Lot width" is defined as "the width of a lot along a line parallel to the frontage thereof and lying in a distance equal to the required front yard setback on such lot" (Section 6.28). Although the general width of the lot is about 380 feet at its narrowest point, when the "lot width" as defined under the zoning regulation (as measured along a line parallel to the lot's cul-de-sac frontage at the required front yard setback line) is about 120 feet. Planning Staff believes that the lot as shown meets the intent of the zoning regulation; technically, Lot 1 does not meet minimum lot width requirements. The Planning Director believed they needed to deal with the width issue. There are at least two options for addressing this issue. The Commission could require that the cul-de-sac into Lot 1 be extended (so that the line parallel to the lot's cul-de-sac frontage at the required front yard setback line is at least 275 feet). Alternatively, the Commission could require that the applicant obtain approval for a zoning variance from the Hebgen Lake Planning and Zoning Commission. Ms. Koozer noted they received a fax from one of the applicant's with concerns regarding several of the conditions being to burdensome with an attached letter from Carl Macklin, an adjacent property owner with the same concerns. The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the suggested conditions. The Commission has one determination to make with this application: A determination as to whether the proposed subdivision should be approved. The basis for the County Commission's decision shall be whether the preliminary plat and additional information demonstrate that development of the subdivision meets the requirements of the Montana Subdivision and Platting Act and the Gallatin County Subdivision Regulations. If the Commission decides to approve the subdivision, the following conditions for final plat approval are suggested: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats (including correct references to any owners and contract purchasers) and shall be accompanied by the required certificates. 2. The final plat shall include a waiver of right to protest creation of rural improvement districts, local improvement districts, and the creation of sewer and/or water districts. 3. A Property Owners' Association shall be established for the subdivision. 4. Applicant shall record the following covenants with the final plat: *The control of noxious weeds by the Property Owners' Association on those areas for which the Association is responsible and the control of noxious weeds by individual*

owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District. The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. In the event a landowner does not control the noxious weeds, after 10 days notice from the Property Owners' Association, the Association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment. Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law. Property owners acknowledge that the subdivision is in a wildland-urban interface area and in Seismic Zone 4. All structures shall be constructed in compliance with the National Fire Protection codes and in compliance with Montana State adopted codes for construction, including codes for Seismic Zone 4. Flame retardant roofing materials shall be used. Spark arrestor screens shall be placed on all fireplace and woodstove chimneys. Smoke detectors shall be installed on each level of dwelling units. Areas within 30 feet of habitable structures shall be cleared of all flammable materials. Open fires shall be prohibited. Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners and the County Commission. 5. A copy of the conditions of approval, documents establishing the property owners' association, covenants and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the required covenants and certificate prior to final plat approval. 6. The final plat shall show a 35-foot watercourse setback on both sides of Kirkwood Creek. 7.

The final plat shall show all utility easements. Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat: *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* 8. Approach permit(s) shall be obtained from the Montana Department of Transportation prior to any modification of the existing approaches onto Highway 287. 9. All road names shall be approved by the County GIS office. 10. A detailed signage and drainage plan shall be approved by the County Road Department prior to construction. Such plan shall include name signs at all intersections and any other "stop" or other required regulatory signs. 11. All interior roads shall be built to County gravel standards and have a 60 foot right-of-way, and shall be public easements as provided in Section 7.B of the Subdivision Regulations. Such public easement shall apply to thirty feet of Kirkwood Creek Road #2581 east and west of the centerline, and sixty feet of the access road to Lots 1 and 2, plus all cul-de-sac areas. 12. All approaches to Kirkwood Creek Road #2581 shall be constructed to 90 degrees. 13. Any additional access from Lot 3 to Highway 287 shall be approved by MDT. 14. Cul-de-sacs, built to County standards, shall be required at: i. The west end of the access road to Lots 1 and 2. This cul-de-sac shall have a 90-foot radius. ii. The northeast corner of Lot 2 on Kirkwood Creek Road #2581. 15. All areas disturbed by construction within the 60-foot right-of-way shall be reseeded. 16. A pre-construction meeting shall be set with the County Road Department prior to the start of any road construction. 17. All roadwork shall be inspected and certified by a licensed engineer. Such inspection and certification shall be provided to the County Road Department in writing for its approval. 18. The property owners' association shall be responsible for the maintenance of all interior roads. A copy of the property owners' association bylaws shall be submitted to the County Road Office prior to final approval. 19. The property owners' association shall enter into a joint agreement with the homeowners association of Kirkwood Ridge Meadows Subdivision for the maintenance of Kirkwood Creek Road #2581. 20. Applicant shall make payment of road impact fees in accordance with the Gallatin County Subdivision Regulations. 21. Applicant shall make payment of fire impact fees in accordance with the Gallatin County Subdivision Regulations. 22. Applicant shall arrange to purchase the required fire truck for the Northside Rural Fire District. Confirmation of the Northside Rural Fire District's approval and ownership of such fire truck shall be provided to the Planning Department. 23. Applicant shall provide an a water supply system which meets NFPA standards and which has a capacity to feed 1500 gallons of water per minute. Applicant shall have the Northside Rural Fire District review and approve the fire protection method prior to final plat approval. Applicant shall obtain written verification from that all requirements have been met. 24. A Memorandum of Understanding shall be signed between the Weed Control district and the applicant prior to final plat approval. 25. *Option 1: The cul-de-sac shown on Lots 1 and 2 shall be extended into Lot 1 so that the line parallel to the Lot 1's cul-de-sac frontage at the required front yard setback line is at least 275 feet. Option 2: Applicant obtain approval for a zoning variance from the Hebgen Lake Planning and Zoning Commission.* 26. Applicant shall have three (3) years to complete the above conditions and apply for final plat approval. Ms. Koozer outlined

suggested changes to the following conditions to read as follows: #4) Open fires shall be permitted only with a permit from the Forest Service; #9) All subdivision road names shall be approved by the County GIS office; #10) A detailed signage and drainage plan for all subdivision roads shall be approved by the County Road Department prior to construction. Such plan shall include name signs at all intersections and any other "stop" or other required regulatory signs; #11) All interior roads shall be built to County gravel standards and have a 60 foot right-of-way, and shall be public easements as provided in Section 7.B of the Subdivision Regulations. Such public easement shall apply to thirty feet of Kirkwood Creek Road #2581 east and west of the centerline, and sixty feet of the access road to Lots 1 and 2, plus all cul-de-sac areas; #14) Cul-de-sacs, built to County standards, shall be required at: ii. The northeast corner of Lot 2 on Kirkwood Creek Road #2581, unless the existing loop road in Kirkwood Ridge Meadows Subdivision meets county road standards and is approved by the County Road Department and the Northside Rural Fire District; and #23) Applicant shall provide a fire protection method in accordance with the Gallatin County Subdivision Regulations which is acceptable to the Northside Rural Fire District. Applicant shall have the Northside Rural Fire District review and approve the fire protection method prior to final plat approval. Applicant shall obtain written verification from that all requirements have been met. She explained that condition #25 included two options regarding the question of lot width, and whether it meets the zoning. The Commission would only deal with these options if it were determined that the applicant technically has to meet the zoning. Ms. Koozer stated the applicant preferred to treat this as meeting the intent of the zoning regulation. She submitted Exhibit "A", a faxed letter from the applicant, editing several of the proposed conditions with a letter from an adjacent property owner and a letter from the fire chief to the applicant, as attachments, and Exhibit "B", a letter from the fire chief to the Planning Department. Board discussion took place regarding condition #14 and #25. Pam Sveinson referred to her letter submitted to the Planning Department as Exhibit "A". Although Ms. Koozer had already addressed several of her concerns, she still had issues with condition #3) regarding a property owners association; #4) regarding open fires; and deleting #22) requiring that the applicant purchase a fire truck in the amount of \$80,000. Commissioner Mitchell suggested additional wording for condition #19, to read as follows: The property owners' association shall enter into a joint agreement with the homeowners association of Kirkwood Ridge Meadows Subdivision for the maintenance of Kirkwood Creek Road #2581, or join the existing Kirkwood Ridge Meadows Subdivision homeowners association. Ms. Koozer commented that would work if the Kirkwood Ridge Meadows homeowners association was willing, and that by doing so that would affect the wording of condition #3, and the weed covenant. If they were to join the Kirkwood Ridge Meadows homeowners association they would have to include all of the covenants in both the existing homeowners association and the new appendage. Ms. Sveinson stated she was in agreement with all the language changes suggested by Ms. Koozer and Commissioner Mitchell. Burton Lewis, representing the applicant concurred that condition #22 should be deleted, and the rewording of condition #23 was appropriate. Mr. Lewis commented on condition #25, stating he could not disagree with the Planning Department's technical interpretation of the zoning regulations definition regarding what a "lot width" can be interpreted as, although the zoning regulations do not address in any way a lot that does not front a road, and it is his opinion that the intent of the zoning regulations is to avoid having long narrow lots. He believes the intent is to make sure they have reasonably shaped lots. He preferred condition #14, without condition #25. There was no public comment. Commissioner Murdock clarified that the Board was in agreement regarding the applicant's request to not provide a fire truck and striking condition #22. He suggested leaving condition #3 regarding the property owners association as written and allow them to negotiate with the Kirkwood Ridge Meadow Subdivision. Commissioner Mitchell suggested changing condition #3, to read as follows: A Property Owners' Association shall be established for the subdivision, or shall join the existing Kirkwood Ridge Meadow Subdivision Homeowners Association. The Board agreed to strike the entire sentence, "Open fires shall be prohibited", in the last covenant of condition #4. Commissioner Murdock noted he was in agreement with the suggested changes to conditions #9, #10 and #11, made by Ms. Koozer. He suggested striking condition #25, stating that they are not creating a variance situation for setbacks on the lot, as it serves no public purpose to require the cul-de-sac to be moved. He would leave condition #14 i, that address it, and change #14 ii, to read as follows: Cul-de-sacs, built to County standards, shall be required at: The northeast corner of Lot 2 on Kirkwood Creek Road #2581, unless the existing loop road in Kirkwood Ridge Subdivision be deemed acceptable by the Northside Rural Fire District and the County Road Department. This would change Ms. Koozer's previous recommended change. Commissioner Mitchell added that she did not believe the public health and safety would be negatively impacted by leaving the cul-de-sac as designed in Lot 1, and it appeared that the intent of the regulations were met and she was in agreement to strike condition #25. Commissioner Murdock added that condition #23 read as suggested by Ms. Koozer, finding that the developer had agreed. Commissioner Murdock stated that all five zoning members attended the hearing, which found that this conformed to zoning. With those findings, Commissioner Murdock moved to approve the subdivision with the conditions as amended, and also, finding that it is consistent with the Hebgen Lake Zoning District and that it meets the requirements of the Gallatin County Subdivision Regulations and the intent of the Hebgen Lake Zoning District and area master plan. Seconded by Commissioner Vincent. Commissioner Mitchell added that it meets the Montana Subdivision Regulations according to Montana State Statute. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported on the consideration of a resolution of intent for the formation of a Solid Waste Management District. Mr. Watson stated that the proposed name for the district is the Gallatin Solid Waste Management District and outlined the necessity of the proposed district; the description of the proposed district; character of the collection service; the proposed fee for service; and the powers to be delegated to the Board of Directors of the District. He explained the series of actions the resolution would initiate. After giving notice to the municipalities of Gallatin County, a public hearing is scheduled on November 6, 2001, for anyone in those municipalities to address their concerns. A notice will be issued to the real property owners within those municipalities that chose to participate on November 7, 2001, and a public hearing will be held on December 4, 2001, regarding the formation of the district. The Commission will take action on December 11, 2001. Discussion took place regarding the County contracting out to a private entity; taxation; benefits over the existing form of management; fees; and powers of the board. Public comment: Three Forks Deputy Clerk Raymond Noble and BFI Waste Service manager Dean Ulrich. Some of Mr. Ulrich's concerns were the fees and how this might affect hauling contracts he currently holds with the City of Three Forks and Manhattan. Deputy County Attorney Chris Gray addressed questions raised regarding the service charge and liabilities from the lack of a management structure. He stated in response to Mr. Ulrich's question regarding current contracts that they have the ability to remain in the municipalities a number of years, as there are protections in the statute. Gallatin County Fiscal Officer Ed Blackman explained that the information from HKM is based on various scenarios. Mr. Blackman discussed cell sizes and the tipping fees associated with each. Commissioner Vincent moved to adopt Resolution of Intention #2001-120. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Commissioner Mitchell announced a pending resolution lifting the restriction on burning in Gallatin County. Commissioner Murdock clarified that they received notice from the forest service that they lifted their burn ban. Commissioner Vincent moved to adopt Resolution #2001-121. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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There being no further business at this time the meeting was adjourned at 11:14 A.M.

*Unavailable for signature*  
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CHAIRMAN APPROVAL

*Shelby Vance*  
\_\_\_\_\_  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 23<sup>rd</sup> DAY OF OCTOBER 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:07 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**OCTOBER 15, 2001**

• The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell and Vincent, and Commission secretaries Stacy Johnston and Glenda Noyes. The Commissioners considered approval of Invoice #169 BS from R. Dale Beland in the amount of \$450.00. Commissioner Vincent made a motion to approve said invoice pending Commissioner Murdock's approval. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a certificate of substantial completion for road improvements to Cameron Bridge Road E., Frank Road, and Thorpe Road by JTL Group, Inc., and Jackson Creek Road – paving of 1.3 miles. Commissioner Vincent made a motion to approve the certificates of substantial completion on said roads, pending the approval of the Road Department. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

Open Lands Board Secretary Dawn Chretien requested approval to expend \$1,000.00 for Open Lands Board funds to pay the first place winner of the license plate contest. Commissioner Vincent

made a motion to approve said expenditure. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

**OCTOBER 16, 2001**

• The Commissioners attended a special meeting with Bozeman Fire Chief Chuck Winn regarding HazMat. In attendance were Commissioners Mitchell, Murdock, and Vincent, Chief Chuck Winn, and Commission secretary Glenda Noyes. Mr. Winn asked that the Commissioners approve an expenditure not to exceed \$10,000 for the purchase of a 14-foot tandem axle trailer to carry the City/County HazMat response equipment. This expenditure would be funded out of the County's \$40,000 capital reserve, and the County's contribution to HazMat would be reduced by the amount allocated to the purchase. Commissioner Murdock made a motion to expend funds not to exceed \$10,000, for an interim HazMat trailer per Fire Chief Chuck Winn's request. The County contribution for a new vehicle will be reduced by the amount spent on the trailer. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

**OCTOBER 17, 2001**

• The Commissioners attended a special meeting for the purpose of considering claims. In attendance were Commissioners Mitchell and Vincent, Accounting Clerks Jackie Lamke and Liane Bennett, and Commission Secretary Glenda Noyes. Commissioner Vincent made a motion to approve claims listed on voucher list dated October 15, 2001, including check numbers 80050077-8005078, totaling \$1,673.03. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

**OCTOBER 18-19, 2001**

• The Commissioners conducted regular County business.

**The following items were on the consent agenda:**

1. Approval of minutes for August 14<sup>th</sup>, 21<sup>st</sup>, 28<sup>th</sup>, 2001.
2. Claims were presented for approval by the Auditor, dated October 18, 2001 in the amount of \$280,400.58.
3. Consideration of Contract(s): Modification to Contract #2002-24 with Figgins Sand & Gravel for RID 378, Change Order #5; Paying Agency and Registrar Agreement with USBank for Series 2001 Open Space Bonds; Maintenance Agreement with Bush Drilling for Springvale Subdivision, RID 356; and Modification to Contract #2001-033, Extending Lease w/Three Forks Cable TV.
4. Cancellation of Delinquent Taxes totaling \$1,795.71 (Application No.'s 4532-4538).
5. Request for Release of Credit for the Spanish Peaks Subdivision, Phase 2. Gallatin County Planner Jennifer Madgic recommends that the Commission approve the requested release and authorize the Chairman to sign the request documentation, based on the review of the original Improvements Agreement, the submitted request and the certifications/approval. All other terms and conditions of the original Improvements Agreement remain in full force and effect.

Commissioner Murdock read the consent agenda. There was no public comment. Commissioner Vincent moved to adopt the consent agenda. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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One vacancy exists on the Mental Health Local Advisory Council due to the resignation of Roger Curtiss on September 27, 2001. Mr. Curtiss was an agency representative from Alcohol and Drug Services of Gallatin County, recommended to the Commission by the agency. ADSGC has recommended Sally Miller as a replacement for Mr. Curtiss. The appointee to this position will fill out the remainder of Mr. Curtiss's term, to expire on July 31, 2005. There was no public comment. Commissioner Vincent moved to nominate Sally Miller. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Cheryl Walter an agency representative from Alcohol and Drug Services reported on a proclamation declaring the week of October 23-31, 2001 as "Red Ribbon Week" in Gallatin County, Montana. She acknowledged individuals in attendance who were assisting in today's presentation. Alcohol and Drug Services Prevention Specialist Dave Douglas introduced Belgrade student Kimberly Gruss to read a

poem, and Christine Finkbeiner to read the proclamation. Commissioner Murdock moved to approve the proclamation. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the receipt to annex property into the Belgrade Rural Fire District-Eblen. The property to be annexed is described as the SW  $\frac{1}{4}$  of Section 22, T2N, R5E. Ms. Vance reviewed and certified the petition based upon the requirements of 7-33-2125, that the property in question is adjacent to the fire district; that the petition contains the signatures of owners of 50% or more of the area of the privately owned lands included within the area to be annexed into the fire district; who constitute a majority of the taxpayers who are freeholders of such area; and whose names appear upon the last completed assessment roll. The Board of Trustees of the Fire District has accepted the property for annexation. She suggested holding the public hearing on November 20, 2001, should the Commission chose to accept the petition in order to meet the publication requirements. Commissioner Murdock moved to accept the petition and set the hearing date for November 20, 2001, for consideration to annex property into the Belgrade Rural Fire District. Seconded by Commissioner Vincent. Commissioner Murdock amended the motion to include the legal description as the SW  $\frac{1}{4}$  of Section 22, T2N, R5E. Commissioner Vincent amended his second. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the receipt to annex property into the Belgrade Rural Fire District-Maher. The property to be annexed is described as the S  $\frac{1}{2}$  SW  $\frac{1}{4}$  of Section 24, T2N, R5E. Ms. Vance reviewed and certified the petition based upon the requirements of 7-33-2125, that the property in question is adjacent to the fire district; that the petition contains the signatures of owners of 50% or more of the area of the privately owned lands included within the area to be annexed into the fire district; who constitute a majority of the taxpayers who are freeholders of such area; and whose names appear upon the last completed assessment roll. The Board of Trustees of the Fire District has accepted the property for annexation. She suggested holding the public hearing on November 20, 2001, should the Commission chose to accept the petition in order to meet the publication requirements. Commissioner Vincent moved to accept receipt of the petition described as the S  $\frac{1}{2}$  SW  $\frac{1}{4}$  of Section 24, T2N, R5E, and set the public hearing date for November 20, 2001. Seconded by Commissioner Murdock. None voting nay.

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Gallatin County Clerk and Recorder Shelley Vance reported on the receipt to annex property into the Belgrade Rural Fire District-Warwood. The property to be annexed is described as Government Lots 3 and 4, W  $\frac{1}{2}$  SE  $\frac{1}{4}$  of Section 25, T2N, R5E. Ms. Vance reviewed and certified the petition based upon the requirements of 7-33-2125, that the property in question is adjacent to the fire district; that the petition contains the signatures of owners of 50% or more of the area of the privately owned lands included within the area to be annexed into the fire district; who constitute a majority of the taxpayers who are freeholders of such area; and whose names appear upon the last completed assessment roll. The Board of Trustees of the Fire District has accepted the property for annexation. She suggested holding the public hearing on November 20, 2001, should the Commission chose to accept the petition in order to meet the publication requirements. Commissioner Murdock moved to accept the petition for annexation described as Government Lots 3 and 4, W  $\frac{1}{2}$  SE  $\frac{1}{4}$  of Section 25, T2N, R5E, and set the public hearing date for November 20, 2001. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Library Board of Trustees and Library Directors from Belgrade, Manhattan, Three Forks, West Yellowstone, and the Bozeman Libraries gave their annual report of services provided to the residents of Gallatin County. Belgrade Community Library Chairman Ann Koentopp spoke on behalf of the Gallatin County libraries by providing library utilization statistics. Manhattan Library Director Colet Bartow reported on an increase in circulation, noting that their number of patrons exceed the census population of the Town of Manhattan. Ms. Bartow submitted Exhibit "A", a summary of library statistics and activities for Manhattan. Belgrade Community Library Director Ilene Casey reported on the increase in circulation and use by patrons in the last year because of the resource sharing between the Bozeman, Belgrade and West Yellowstone libraries. Ms. Casey commented that they are offering services to all of Gallatin County and in addition they are asking the citizens to come forward on November 6<sup>th</sup> and vote for the sale of general obligation bonds in the amount of \$480,000.00, to add onto the library. Three Forks Library Director Jean Nielsen reported that they are planning to join in the automated circulation and catalog system with the other libraries, and plans for a new facility are in the

near future. She submitted her report in writing, Exhibit "B". West Yellowstone Library Director Kim Kapalka reported on the growth in circulation, related in part to Internet access they provide for local patrons as well as tourists. West Yellowstone is now sharing resources with Belgrade and Bozeman and has instituted a courier service with Galavan, Cardinal Distributing and Insty Prints to transport books between the communities. She submitted the courier brochure, Exhibit "C". Bozeman Public Library Director Alice Meister pointed out that their circulation increased by 6% this past year; their children's programs attendance increased by 32%, and meeting room attendance increased 29%. She noted the bond referendum passed in June for \$4 million dollars for a new library. They are now pursuing that with an architect and an environmental consultant. The Commissioners thanked them for their reports.

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Gallatin County Grants Administrator Larry Watson reported on the consideration of a resolution of intent to amend the Community Corrections Budget. This modifies the Community Corrections budget by rescinding the photocopier purchase approval and replacing it with the approval for the Full Court Software with no change in the dollar amount. There was no public comment. Commissioner Murdock moved to approve Resolution #2001-122. Seconded by Commissioner Vincent, noting there were some reservations about the effectiveness of this Board to date, and that the Commission may have some work to do in regard to the intent and purpose of the Board. Commissioner Mitchell concurred to an extent, adding that as a whole they need to make sure all of the Community Corrections and sanctions are coordinated. None voting nay. Motion carried.

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County representative Attorney Susan Swimley reported on the consideration of a resolution of intention to create Rural Improvement District No. 380, noting last week the Commission received the petition requesting the creation of this proposed district. Ms. Swimley briefly outlined the decisions to be made by the Commission, based on the information from Phil Forbes of Morrison-Maierle. The Commission would decide whether or not to pledge the revolving fund to secure this rural improvement district, and if that determination is made, decide whether or not they would like to proceed with the resolution of intent to create the district. Phil Forbes, with Morrison-Maierle pointed out the petition identified three parcels within the boundaries that derive no benefit and are therefore not assessable. Those parcels are described as COS 209, 887 and Remainder Tract D. He noted the petition went out with the usual estimate of annual fees for these improvements, and at such time it was done on a bond term of 20 years. Because of recent economic activities, they do not believe a 20 year bond for \$110,000 will be marketable, so from this point forward should the Commission choose to create this district they will be proceeding on the basis of a 15 year term. Mr. Forbes stated that in this area there is water and sewer available to the lots but not all the owners have their services extended out from beneath the proposed improvements. He stated that Morrison-Maierle would notify those homeowners of the benefit of doing so before paving. He also noted that the Water & Sewer District had been approached but they were unwilling to compel the homeowners into extending their services, and that he had contacted legal counsel and it was determined that it could not be part of the RID. During discussion Mr. Forbes explained there may be cuts in the pavement and some maintenance will be done to repair it. He advised the owners of the district and they expressed their desire to proceed with the RID. The Commission was very concerned with regard to the number of unimproved lots that would eventually create disturbances in the paved surface because of future water and sewer extensions. Discussion took place regarding whether or not the process could be started and at a later date include laterals for utilities. Ms. Swimley suggested that if the Commission required information as to how many lots needed extensions in order to go forward that it should be continued, and that would allow Mr. Forbes time to get that information and reschedule. The Commission was in agreement to a continuance. Ms. Swimley stated they would re-notice and reschedule.

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Gallatin County Planner Jennifer Koozer reported on the consideration of a request for Rainer Borsch and Peter M. Vogt family transfer exemptions, located in the NW ¼ NW ¼ of Section 5, T2S, R2E (Near Greycliff Fishing Access on the Madison River). Ms. Koozer explained these were two separate family transfer claims, however both are on the same COS. She explained that both claimants live in Germany, and designated Mark Maierle as Power of Attorney. Ms. Koozer summarized the intended use of the family transfers. Representative Tom Henesh, Morrison-Maierle briefly outlined the history of the parcels. Mark Maierle was sworn in and testified under oath, as Power of Attorney for Peter M. Vogt answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. Commissioner Murdock moved to approve the Vogt family transfer exemption as a proper use, based on the testimony received. Seconded

by Commissioner Vincent. None voting nay. Motion carried. Mark Maierle was sworn in and testified under oath, as Power of Attorney for Rainer Borsch answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. Commissioner Vincent moved to approve the Borsch family transfer, finding it meets the criteria for the exemption under the Montana Subdivision law. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the determination of highway traffic impact mitigation for the Antler Ridge Subdivision. Morrison-Maierle, Inc., on behalf of CVG Montana L.L.C., submitted a Traffic Mitigation Plan for The Antler Ridge Subdivision, as required of the developer under Condition No. 4 of the Findings of Fact and Order approving the preliminary plat, dated January 23, 2001. Condition No. 4 states as follows: After the Big Sky Coordinated Transportation Study, or a successor study in the absence of the named study, has been adopted by the County Commission, determination of mitigation required of the developer for traffic impacts caused by this subdivision shall be made by the County Commission at a hearing specifically conducted for that purpose in accordance with applicable subdivision regulations governing preliminary plat approval. If the study is not completed or adopted by the County Commission prior to the developer seeking approval of a final subdivision plat, after first obtaining a detailed technical review of traffic impacts from the Montana Department of Transportation, determination of mitigation required by the developer for traffic impacts caused by this subdivision shall be made by the County Commission at a hearing specifically conducted for that purpose in accordance with applicable subdivision regulations governing preliminary plat approval. Mr. Johnson briefly summarized the proposed subdivision, noting that the Transportation Study has not been completed at this time. He explained that the applicant has submitted an independent Traffic Impact Study to the Montana Department of Transportation, as required, in lieu of the Big Sky Coordinated Transportation Study, to address traffic impacts created by the subdivision. Officials from MDT stated that approach permits for two accesses on to Highway 64 will be issued, contingent upon the completion of the following: a) that the sight distance be improved at both intersections by clearing and trimming trees; b) that egress at the approach at Milepost 5.6 be limited to right out only; and c) that the approach at Milepost 5.6 be illuminated. The applicant has stated that the required access/intersection improvements will be completed and guaranteed via an improvements agreement to the satisfaction of MDT. Mr. Johnson submitted a letter to the Commission from Morrison-Maierle, Exhibit "A", reaffirming the states review of the study. In reviewing this request, Staff suggests that the Commission consider an appropriate traffic mitigation measure, which ensures and guarantees that the required road and access improvements are installed to serve the Antler Ridge Subdivision. Staff offered the following condition for the Commission to consider: 1.) The applicant shall provide the necessary traffic improvements and control measures to Highway 64 pursuant to the requirements and approved plans from the Montana Department of Transportation. A letter satisfying completion of this condition shall be obtained from MDT. Mr. Johnson noted that they have not received any public testimony in writing regarding this application. Representing CVG Montana, James Nicholson with Morrison-Maierle stated that they concur with the staff report, findings of the report, and find the proposed condition acceptable. Discussion took place regarding how the developer interpreted the Big Sky Transportation Study, and if it was their understanding that if and when the study is completed that there may be more specific and additional mitigation identified that they may have to contribute towards. Principal planner of the project Bob Lee with Morrison-Maierle stated that the applicant has shown willingness to participate, by funding it as one of the founding members. He affirmed that if the study comes up with a formula that requires additional impact fees from the applicant that they would participate. However, at this point they are held back in terms of final plat application because they have no control over the completion date of the study, or tasks and projects that may come out of that recommendation. He commented that MDT reviewed, accepted and approved the approach permits twice now and have yet to ask anything else, because it appeared to him that the traffic generated by this project is so light in terms of impacts on Highway 64. He noted that MDT approved the traffic impact study and found that it was different than other properties in Big Sky. Managing partner of the project Steve Conti stated his intent was to participate in a reasonable and prudent fashion for any mitigation measures that may deem necessary as a result of the study, although it is impossible at this time to determine as a result of the study not being complete. He stated that he is willing to participate in what is reasonable and prudent, but he was not going to hold himself out for undue hardships that may be unfairly levied in the future. There was no public comment. Gallatin County Attorney Marty Lambert commented that the County was in litigation with another developer over this particular provision. He pointed out that this proposal did not include a dollar amount, nor did it set a time limitation as to when MDOT would want to be paid for what they deemed appropriate and there was no determination of when MDOT would want that imposed. Mr. Lambert explained to the Commission that by approving this they would be allowing MDOT to have complete control over this situation. In order to avoid that he suggested the Commission turn the developer down today, or propose that they ask for an extension, although there would be a risk of litigation. He



believed that the developer was owed a decision in a reasonable time but he thought they could agree to an extension and present in detail what they want from the transportation study but are not willing to provide with regard to this particular issue. Commissioner Mitchell suggested that the developer propose an amount that would have some flexibility, and if the study determines they pay more they would do so, or receive a refund if they over paid. Mr. Conti stated that he was satisfied with the conditions placed upon him by the Commission, per the language as written. He commented that the County Attorney has spoke of nebulous issues that are yet to be determined. He stated in good faith he wanted what is best for the community and is willing to participate, but to levy a subjective amount of funds based on a study that is not even completed would be unfair and unreasonable. Commissioner Murdock stated that he shared the Commissions frustration with all the subdivisions, in that they want them to mitigate the traffic impacts, but the quandary they are in is that the study is struggling. He stated that the developer complied with the condition as written and he was going to accept the recommendation from MDOT as written in a letter dated September 6, 2001 from MDOT. Commissioner Mitchell stated that she too, shared all the developer's frustrations and it was disturbing that MDOT is not expecting results, as the study is half paid for by them. She commented that the ingress and egress has been the most worrisome with this development, making a huge impact on Highway 64. Commissioner Murdock moved to accept the staff's suggested action as read into the record. Seconded by Commissioner Vincent. Commissioner Murdock and Vincent voting aye. Commissioner Mitchell voting nay. Motion carried.

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the determination of highway traffic impact mitigation for the Firelight Meadows Subdivision, as required of the developer under Condition No. 10 of the Findings of Fact and Order approving the preliminary plat, dated March 13, 2001. Condition No. 10 states as follows: After the Big Sky Coordinated Transportation Study, or a successor study in the absence of the named study, has been adopted by the County Commission, determination of mitigation required of the developer for traffic impacts caused by this subdivision shall be made by the County Commission at a hearing specifically conducted for that purpose in accordance with applicable subdivision regulations governing preliminary plat approval. If the study is not completed or adopted by the County Commission prior to the developer seeking approval of a final subdivision plat, after first obtaining a detailed technical review of traffic impacts from the Montana Department of Transportation, determination of mitigation required by the developer for traffic impacts caused by this subdivision shall be made by the County Commission at a hearing specifically conducted for that purpose in accordance with applicable subdivision regulations governing preliminary plat approval. Mr. Johnson briefly summarized the subdivision background, noting that the Transportation Study has not been completed at this time. Michael J. Lilly, on behalf of Firelight Meadows Subdivision submitted an independent Traffic Impact Study, to address traffic impacts created by the subdivision. In summary, the proposed Traffic Mitigation Plan, states that the total trips per day generated by the subdivision is 532. The Big Sky Town Center proposal projects 11,700 trips per day on the Ousel Falls Road at Highway 64. Using this total for Ousel Falls Road, Firelight Meadows' contribution is determined to be 4.5%. The total cost for the proposed improvements per the Big Sky Town Center is \$696,290.00. Thus, Firelight Meadows' 4.5% of that figure is \$31,335.00. By selecting a sum of \$50,000.00, Firelight Meadows hopes to avoid any debate over whether the sum identified is adequate. Mr. Johnson noted that Mr. Lilly provided a letter, Exhibit "A", stating that the figure of \$696,290.00 is about \$90,000.00 to high. In reviewing this request, staff suggests that the Commission consider an appropriate traffic mitigation alternative, which can ensure and guarantee that the required road and access improvements are installed to serve the Firelight Meadows Subdivision. Staff offers the following options for the Commission to consider: 1.) Accept the Applicant's Traffic Mitigation Plan and \$50,000.00 deposit towards future improvements to the intersection of Ousel Falls Road and Highway 64; 2.) The Applicant shall provide the necessary traffic improvements and control measures to Highway 64 pursuant to approved plans from the Montana Department of Transportation, and in a manner satisfactory to MDT. A letter satisfying completion of this condition shall be obtained from MDT; and 3.) Any other option as determined by the Commission. Mr. Lilly spoke of the similarities and dissimilarities with other applications. He noted that Firelight Meadows does not share a boundary with Highway 64, as their access is onto Ousel Falls, so they are not in position to go to MDOT to ask for an encroachment permit. Therefore, MDOT does not have the same interest in them as other subdivisions. When they approached MDOT, they deferred to the traffic study, stating that they could not be involved because an encroachment permit was not needed. He explained that Mr. Pariser, on behalf of Firelight Meadows has been an active member of the Transportation Study, and is advocating an apportionment of improvements and costs will be part of the study. Therefore, in comparison they approached this differently than Antler Ridge with the following proposal: FIRELIGHT MEADOWS, LLC'S PROPOSED TRAFFIC MITIGATION PLAN COMES NOW Firelight Meadows and pursuant to Condition No. 4 of the Gallatin County Commission's Findings of Fact and Order dated the 13<sup>th</sup> day of March, 2001, submits the following Proposed Traffic Mitigation Plan: I. URBAN

TRANSPORTATION DISTRICT. A. Firelight Meadows shall petition for annexation into the Big Sky/Gallatin Canyon Area Transportation District, or its successor. B. Firelight Meadows shall reserve the right to object to the reasonableness of any assessment levied by the District in accordance with Montana law. C. Firelight Meadows shall not be allowed to withdraw from said Big Sky/Gallatin Canyon Area Transportation District without the approval of the Gallatin County Commission. II. IMPROVEMENTS AGREEMENT A. Firelight Meadows shall execute an Improvements Agreement, secured by a bond or letter of credit in the amount of \$50,000.00. Said sum shall be for the purpose of guaranteeing Firelight Meadows' obligation to share in the costs of improvements to the intersection of Ousel Falls Road and Highway 64. Said Improvements Agreement shall be for a term of four years. B. In the event the Big Sky Transportation Study is completed within the term of said Improvements Agreement, then Firelight Meadows shall pay its proportionate share of costs of the improvements to the Ousel Falls Road and Highway 64 as determined by said report, out of or through the bond or letter of credit, unless Firelight Meadows is able to demonstrate that its share, as determined by the report, is unreasonable. If Firelight Meadows is successful in demonstrating to the Gallatin County Commission that its share, as determined by the report, is unreasonable, the Firelight Meadows shall be entitled to a refund on its bond or letter of credit to the extent of said reduction. C. In the event the Big Sky Transportation Study is completed within the term of the Improvements Agreement, and Firelight Meadows' proportionate share is greater than \$50,000.00, and Firelight Meadows cannot demonstrate that amount is unreasonable, then Firelight Meadows shall be required to pay the additional sum. D. In the event that the Big Sky Transportation Study is not completed within the term of said Improvements Agreement, then Firelight Meadows shall have no obligation to pay any road improvement costs and the bond or letter of credit shall be released. Michael Lampe addressed the Commission as an adjoining property owner reiterating concerns, he submitted in writing for the project as follows: trails; speed; and traffic controls. Mr. Johnson read a letter received from Donald Hansen. President of Firelight Meadows, Paul Pariser responded to concerns raised by Mr. Lampe, and provided further clarification of the proposal. Discussion took place regarding a table to the proposed study identifying each improvement for the next 20 years, attached to Exhibit "A". Gallatin County Attorney Marty Lambert cautioned the Commission not to try imposing conditions beyond preliminary plat approval. He stated there were alternatives on how to reword this to satisfy this condition of preliminary plat approval. Mr. Lilly did not believe they were proposing to do anything new or different, they were simply using the concept of an improvements agreement in a different way. Mr. Lambert stated he would be willing to entertain the proposal if Mr. Lilly and himself could get together and discuss the \$50,000.00, under conditions which would not require further action after final plat approval is granted by the Commission. Commissioner Murdock replied in regards to Mr. Lampe's letter stating that a number of his issues would have been for discussion during the preliminary plat hearing. He suggested Mr. Lampe go to the next meeting held at Big Sky regarding the traffic impact study and offer his ideas as to what might be included in the study. He suggested asking Mr. Lambert to review the plan and respond with something that he thinks will be acceptable in conjunction with the developer. The applicant was in agreement to a continuance for one week. Commissioner Mitchell respectively disagreed with comments from the applicant that they had no control over the study. She stated that was not true, and that every developer participating in the study has some method of control. She stated that this Commission is depending upon the outcome of that study to make good basic decisions that they have all agreed to. She suggested that all the developers get together and get something decided so they can all make good sound judgments to the best of their abilities. Commissioner Mitchell believed that Firelight Meadows was going to have a huge impact on Highway 64, and she was concerned whether or not \$50,000.00 would be adequate for improvements.

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There were no pending resolutions. There being no further business the meeting was adjourned at 12:27 P.M.

*Unavailable for  
Signature*  
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CHAIRMAN APPROVAL

*Melley Vance*  
\_\_\_\_\_  
CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 30th DAY OF OCTOBER 2001

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:02 A.M. Also present were County Commissioner Bill Murdock and Acting Clerk to the Board Mary Miller. Commissioner Vincent was not present.

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## GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 395

Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

### **OCTOBER 22, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell and Murdock, Road and Bridge Superintendent Lee Provance, and Commission Secretary Glenda Noyes. The Commissioners, along with Mr. Provance, discussed a request from the developers of River Rock Subdivision to set a subdivision speed limit at 25 MPH. It was determined that they would need to go through the petition process as others have done. Godfrey Canyon Estates speed limit request was also discussed again, and it was agreed upon that the speed limit would be set at 25 MPH, rather than the requested 15 MPH.

The Commissioners considered an amendment to the Engineering Services Contract #2001-117 with Morrison-Maierle for Three Forks Airport. The amendment is an increase of \$10,000 to Morrison-Maierle due to unanticipated work. The funds are available through the grant and the match will come from the Airport board. Commissioner Murdock made a motion to approve the amendment to Contract #2001-117, contingent on the approval of Deputy County Attorney Chris Gray, finding that the extra monies will come from the Federal Government. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

Fiscal Officer Ed Blackman joined the meeting to discuss the design and size of a second cell @ the Logan Landfill. Mr. Blackman recommended that the Commissioners approve the larger cell as it would give the taxpayers the best price for their dollar, and the life expectancy is much greater. Commissioner Murdock made a motion to approve the larger cell size (6.98 acre) and borrow one million dollars to do it, finding that this will not affect the County's bonding capacity, based on the information Mr. Blackman has provided. Commissioner Mitchell seconded the motion. In discussion it was noted that the worst case scenario, the Refuse District may decide that they don't want to borrow that much money, the debt cannot be transferred onto them, and the money will only be borrowed when construction is planned a year from now. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approved of ½ of Water Commissioner Dave Pruitt's two-week salary, pursuant to Judge Guenther's letter of October 2, 2001. This is for work being done to lay groundwork for the gradual transition to the Temporary Preliminary Decree status of the West Gallatin, along with the transition to the Water Court's mailing list. The funds will come from the District Court operating reserve funds in the amount of \$1,200.00. Commissioner Murdock made a motion to approve the request to fund ½ of Mr. Pruitt's salary for work regarding Water Court, in the amount of \$1,200.00 to come from District Court funds. Commissioner Mitchell seconded the motion. In discussion, the Commissioners noted that all parties involved have met with Mr. Blackman and understand where the funds are coming from. All voted aye. Motion carried with a vote of two to zero.

The Criminal Justice Coordinating Council requested permission to expend up to \$1,000.00 to bring Mr. Kalmanoff to Gallatin County on November 7 to discuss a needs assessment for the criminal justice system with the Council. Mr. Blackman recommended that the funds come from the General Miscellaneous Fund designated for the Detention Center Committee. Commissioner Murdock made a motion to approve expenditure of up to \$1,000.00 for the participation of Mr. Kalmanoff at a CJCC meeting on November 7, 2001. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered a request from Health Officer Stephanie Nelson to purchase an IntelliFAX-3800 Business Laser Fax machine for approximately \$600.00. This fax machine would expedite getting public health information out to the community, and the funds would come from the Covering Kids Fund 2808-216-440170. Currently this fund has \$1,300.00 appropriated to equipment, and the grant allows for such a purchase. Commissioner Murdock made a motion to approve said request, finding that Mr. Blackman has recommended approval. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

### **OCTOBER 23-25, 2001**

The Commissioners conducted regular County business.

### **OCTOBER 26, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell and Murdock, and Commission secretaries Stacy Johnston and Glenda Noyes. The Commissioners considered approval of a contract with Alcohol and Drug Services of Gallatin County for the continuation of Adult Treatment Court for FY 2002 and FY 2003. This is a pass-through contract, and requires no money from the County. Commissioner Murdock made a motion to approve the contract with ADSGC, finding that Fiscal Office Ed Blackman, Deputy County Attorney Chris Gray, and Grants Administrator Larry Watson have recommended approval.

Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a contract with Thomas, Dean & Hoskins for indemnification and Insurance for Sourdough Creek Construction work. Commissioner Murdock made a motion to approve said contract, based on the recommendation of Deputy County Attorney Chris Gray. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered an Asset Disposal recommendation from County Attorney Marty Lambert for a photocopier. Commissioner Murdock made a motion to approve the disposal of the County Attorney's photocopier. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

**The following items were on the consent agenda:**

1. Approval of minutes for August 14, 11, 18 and 25; September 1, 8, 15, 22, and 23, 1998.
2. Approval of claims were presented by the auditor, dated October 25, 2001 in the amount of \$273,367.57.
3. Modification to Contract #2001-058 with Eden Systems, Inc.; Agreement with Dr. Pam Hiebert for Medical Director Services at the Rest Home; Agreement for Receipt of Resort Tax Funds with Big Sky Resort Area District for Big Sky Law Enforcement Officers; and Agreement with Madison County for Solid Waste Disposal.
4. Request for Final Plat Approval for the River Rock Major Subdivision, Phase 6B, located in the SE ¼ of Section 3, T1S, R4E, PMM, Gallatin County, Montana. Preliminary plat approval was granted on May 15, 2001. Gallatin County Planner Jennifer Madgic states that the conditions for final plat approval have been met.

Commissioner Murdock read the consent agenda, noting that the agreement for receipt of Resort Tax Funds with Big Sky Resort Area District for Big Sky Law Enforcement Officers was continued until November 20, 2001. Gallatin County Planner Jennifer Madgic requested consent agenda Item 4, be placed at the end of the regular agenda, and making it regular agenda Item 5, until some issues could be clarified. Information Services Director Ed Kawa requested that the Eden System contract be placed on the regular agenda for further discussion. Commissioner Murdock moved to approve the consent agenda as amended. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Three vacancies exist on the Board of Adjustment (Gallatin County/Bozeman Area Zoning District). These are two-year terms, expiring November 9, 2003. There was no public comment. Commissioner Murdock moved to reappoint Ralph Miller, Gus Pfahler, and Steve White. Seconded by Commissioner Mitchell. None voting nay. Motion carried. One vacancy exists on the Community Corrections Board. This is a four-term, expiring on July 14, 2005. There was no public comment. Commissioner Murdock moved to appoint Charles Pipal. Seconded by Commissioner Mitchell. None voting nay. Motion carried. One vacancy exists on the Gallatin County Planning Board, due to the upcoming term expiration of Joe Skinner. Unfortunately, when first appointed in 1995, Mr. Skinner's term was inadvertently skewed by 3 months. Therefore, to correct this error, Mr. Skinner's new term, if reappointed, would expire July 31, 2003. There was no public comment. Commissioner Murdock moved to reappoint Joe Skinner. Seconded by Commissioner Mitchell. None voting nay. Motion carried. One vacancy exists on the Gallatin County Weed Board due to the resignation of Robert Nowierski on October 1, 2001. To date, applications have been received from Jack Jorgenson and David Sullivan. This appointee would serve the remainder of Mr. Nowierksi's term, expiring on December 31, 2002. Commissioner Murdock requested a continuance for one week, until they could determine who might best serve in this position. Commissioner Mitchell concurred with the continuance for one week.

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Commissioner Murdock read the first reading of an ordinance to reduce the speed limit on the roads in the Valley Grove Subdivision, noting there was a correction to include all roads within Phases I, II, III, IV and all roads in further phases. There was no public comment. Commissioner Murdock moved to approve the first reading, Ordinance #2001-05, as it was in the public interest as demonstrated by the petition and past subdivisions. Seconded by Commissioner Mitchell, noting there were several pages of signatures attached to the petition and numerous phone calls in support. None voting nay. Motion carried. The second reading will take place on November 13, 2001. Pending approval of the second reading the ordinance will take effect 30 days later.

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On behalf of the Mental Health Local Advisory Council, Glenda Noyes presented the consideration and recommendation of the future Mental Health Care Provider for Gallatin County. Ms. Noyes briefly summarized the sequence of events leading up to the recommendation. On July 24, 2001, the Commission passed Resolution #2001-89, creating the Mental Health Local Advisory Council. The council discussed the future provision of Mental Health Services (primarily adult) in Gallatin County. Region III, South Central Montana Mental Health Center has been the provider in Gallatin County, serving as the administrator of the local Mental Health Center, for several years. On August 24, 2001, the South Central Governing Board determined that it could no longer provide services in Gallatin County at the current rate of funding, and requested that the County contribute \$100,000 toward the current services being offered, or an alternate provider would need to be sought. At the request of the MHLAC, the Commission re-considered their funding contribution, and raised the budgeted amount from \$50,000 to \$67,831 (\$1.00 per capita), with an additional \$9,000 designated to youth services. Ms. Noyes thanked the Commission, speaking for herself, as well as the LAC, the providers and the consumers. On September 18, 2001, Commissioner Vincent sent a letter to the Executive Director of Region III, Bob Ross explaining the inability to meet the \$100,000 request, and offered the new appropriation of \$67,831 instead. Mr. Ross responded on October 1, 2001, stating that the South Central Board voted to transfer their services to another provider organization, stating the allocated funds were not enough to cover the ongoing expenses of service provision in this community. Mr. Ross asked that they be given a 60 day time period to transfer their service to an alternate provider, and assured the Commission that they would do everything possible to ensure the continuation of existing services throughout this period. Ms. Noyes stated that the LAC has been very grateful to South Central for their willingness to work through this period of time. Commissioner Vincent called providers around the stated that had expressed an interest in providing services here and asked that they submit proposals to the LAC to review and make a recommendation to the Commission. Proposals were received from AWARE, Inc., Golden Triangle MHC, and Western Montana MHC. These proposals were distributed to and reviewed by the LAC, and an informal interviewing of each agency took place on October 15<sup>th</sup> and 24<sup>th</sup>. Based on the proposals submitted and the informal interviewing process, the LAC voted on October 24<sup>th</sup> to recommend to the Commission that the future Mental Health Care service provider in Gallatin County be the Western Montana Mental Health Center, based out of Missoula. The vote was 9 in favor of Western, 1 in favor of Golden Triangle, and 1 in favor of AWARE, Inc. Western Montana MHC Executive Director, Paul Meyer spoke to the Commission, commending Commissioner Vincent in his leadership. Anticipating the Commission's approval, Mr. Meyer stated that the transition on January 1<sup>st</sup>, would lead to a seamless transition for both staff and clients. He also, commented in their anticipation of approval they would begin looking at additional lease space and other accommodations for staff. He summarized the proposal given to the Commission outlining what they anticipate to be a growth in services for the community. In his prospective, Gallatin County is currently under serviced. Commissioner Mitchell questioned if there would be a contract for consideration. Ms. Noyes replied that she is working with Deputy County Attorney Chris Gray and a contract is forth coming. Mr. Meyer stated that they planned to continue the current services, which included psychiatric, outpatient therapists, and adult case management services, with plans to build out the case management services and increase the availability of psychiatrists. Future plans will be looking at the demand on outpatient services and how emergency services are staffed. In the proposal they outlined looking at a crisis facility and establishing a 3 person emergency team that just does management of emergency cases, within the first 6 months. Discussion took place regarding the transportation issue. Dottie Nichols asked Mr. Meyer how this would affect children as far as emergency care and transportation. Mr. Meyer commented that there are a number of other agencies that provide children services, so their response was primarily directed to management of the adult system. Their position with regard to children services would be to look at what other agencies are doing in this community and determine if there are gaps that the mental health center needs to address. In doing so they would avoid replication of agencies already providing good quality service to children. He envisioned at some point they would be providing children services in this community. Ms. Noyes stated that the advisory committees charge is to look at where the needs of the community are, and in time they will address those issues. The Commission thanked Mr. Ross, stating this was an awkward situation for all those involved and that they had no bad feelings about the Billings Region and their work. Based on the MHLAC recommendation, Commissioner Murdock moved approval and to have a transition for mental health services, as described on January 1, 2002 with the Western Montana Health Center. He thanked Commissioner Vincent, Glenda, Paul and the clients for their work. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Information Services Director Ed Kawa reported to the Commission that they are aware of the authorized program services for Eden systems, although they were unaware of these contractual changes. After reviewing he concurred and agreed with the contract modifications. Based on Mr. Kawa's recommendation, Commissioner Murdock moved to approve the contract and amendment with Eden Systems. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic clarified for the Commission that the request for final plat approval of the River Rock Major Subdivision, Phase B was now in order, and recommended approval. Commissioner Murdock moved to approve final plat for the River Rock Major Subdivision, Phase B. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the continuation of determination of traffic impact mitigation for the Firelight Meadows Subdivision. Commissioner Mitchell noted that last week's continuance was so the County Attorney and the applicant's attorney could negotiate. Mr. Johnson referred to an email with an attached proposal, Exhibit "A", from County Attorney Marty Lambert that states it is a legally acceptable means by which Firelight Meadows can satisfy Condition #4 of preliminary plat. Mr. Johnson suggested the following language to replace Condition #10, of the Finding of Fact and Order: The applicant shall submit an executed traffic mitigation plan acceptable to Gallatin County, prior to final plat approval. He stated the proposal from Mr. Lambert had specific conditions within it, and questioned if this would be something the Commission would have to sign, or once the final plat is recorded is this enforceable? Commissioner Murdock stated they would have an improvements agreement, which they have in other cases and it is enforceable. Mr. Johnson stated they would have to enter into that improvements agreement as part of the final plat. Mr. Johnson read Item D, in the proposal under the Improvements Agreement section as follows: In the event that the Big Sky Transportation Study is not completed within the term of said Improvements Agreement, then Firelight Meadows shall have no obligation to pay any road improvements costs for the intersection of Ousel Falls Road and Highway 64 and the bond or letter of credit shall be released. He asked if this agreement would be guaranteeing completion of those intersection improvements or would it guarantee that Firelight Meadows contribute their proportional fair share. Commissioner Murdock stated that the understanding last week was that Firelight Meadows was going to pay a minimum of \$50,000, and if at the end of 4 years or when the study is completed, which ever comes first the \$50,000 would belong to the county for that improvement. He stated that this proposal does not reflect that intention. Discussion took place in regards to requesting the applicant to enter into an agreement with the state. The Commission agreed to continue their decision indefinitely until the applicant and the County Attorney could be consulted regarding the proposal.

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There were no pending resolutions. There being no further business the meeting was adjourned at 9:52 A.M.

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CHAIRMAN APPROVAL

*Jelley Vance*  
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CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 6<sup>th</sup> DAY OF NOVEMBER 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:03 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**OCTOBER 29-31, 2001**

- The Commissioners conducted regular County business.

**NOVEMBER 1, 2001**

- The Commissioners attended a special meeting for the purpose of approving claims. In attendance were Commissioners Mitchell and Murdock, Auditor Joyce Schmidt, Accounting Clerk Renee Huyser, and Commission Secretary Glenda Noyes. Commissioner made a motion to approve claims listed on voucher list dated October 29, 2001, including check numbers 8005465 through 8005468, totaling \$266,087.83, finding that Fiscal Officer Ed Blackman and Ms. Schmidt recommended approval. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

- The Commissioners attended a special meeting for the purpose of approving a Resolution to authorize an infrastructure loan from the Montana Board of Investments for Zoot Enterprises, LLC/Zoot Enterprises, Inc. In attendance were Commissioners Mitchell and Murdock, Grants Administrator Larry Watson, and Commission Secretary Glenda Noyes. This resolution formally adopts the decision previously made on August 14, 2001, to support a request from Zoot Properties, LLC/Zoot Enterprises, Inc. for sponsorship of an application to the Montana Board of Investments for an Infrastructure Loan. Commissioner Murdock made a motion to approve Resolution 2001-123. Commissioner Mitchell seconded the motion, finding that the Commission took previous action on August 14 to approve such loan. All voted aye. Motion carried with a vote of two to zero. The Commission also agreed to have Commissioner Mitchell sign the letter of approval for the loan.

**NOVEMBER 2, 2001**

- The Commissioners attended a Planning Monthly meeting. In attendance were Commissioners Mitchell and Murdock, and Planning Director Bill Arnold. Mr. Arnold presented the Commission with a request to compensate Open Lands Board Secretary Dawn Chretien with time and one-half for overtime or a salary additive given the large amount of time and effort she is expending on the Open Lands Board given the absence of a Director. Commissioner Murdock made a motion to approve said request. Commissioner Mitchell seconded the motion, asking that Mr. Arnold go through the Personnel process to accomplish this action, and finding that the money will come out of the Open Lands Budget. All voted aye. Motion carried with a vote of two to zero.

**The following items were on the consent agenda:**

1. Claims were presented for approval by the Auditor, dated October 31, 2001 in the amount of \$286,451.59.
2. Cancellation of Delinquent Taxes totaling \$457.31 (Application No.'s 4541-4544).
3. Consideration of Contract(s): Agreement with BKI Waste Services (West Yellowstone) for Solid Waste Disposal at the Logan Landfill; Agreement with BFI Waste Services (Bozeman) for Solid Waste Disposal at the Logan Landfill; Modification to Contract #2002-24 with Figgins Sand & Gravel for RID 378, Change Order #6; Modification to Contract #1999-021 with DPHHS, Amendment #1 to Task Order 01-07-4-51-104-0, STD/HIV Program; Modification to Contract #1999-021 with DPHHS, Amendment #1 to Task Order 01-07-5-21-053-0, Lead Prevention Program; Modification to Contract #1999-021 with DPHHS, Task Order 02-07-3-01-007-0, Breast & Cervical Program; Modification to Contract #1999-021 with DPHHS, Task Order 02-07-5-21-019-0, WIC Program; and Modification to Contract #1999-021 with DPHHS, Task Order 02-07-4-11-002-0, Health Alert Network/CDC&P.
4. Request for Common Boundary Relocation Exemption for William and Judith Oyler and Frances Noel, III, located in the NE ¼ of Section 1, T3S, R6E (Bear Canyon Road). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Final Plat Approval of South Fork Phase IV Subdivision. Preliminary plat approval was granted on August 15, 2000. Gallatin County Planner W. Randall Johnson states that the conditions for final plat approval have been met.

Commissioner Vincent read the consent agenda. There was no public comment. Commissioner Vincent moved to approve the consent agenda as read. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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One vacancy exists on the Gallatin County Weed Board due to the resignation of Robert Nowierski on October 1, 2001. This appointee would serve the remainder of Mr. Nowierski's term, expiring on December 31, 2002. There was no public comment. To date, applications were received from the following: Jack Jorgenson; David Sullivan; and Jeffrey Littlefield. Commissioner Murdock noted that Mr. Nowierski endorsed Mr. Littlefield. Commissioner Murdock moved to appoint Jeffrey Littlefield. Seconded by Commissioner Vincent. None voting nay. Motion carried. One vacancy exists on the Big Sky Transportation District due to the resignation of Scott Shea on September 20, 2001. This appointee will fill the remainder of Mr. Shea's term, expiring on December 31, 2001. To date, one application has been received from David House. Commissioner Vincent noted that the Commission could accept applications for this Board appointment until filled, of which they did accept one recently from James Taylor. Attorney Bill Madden spoke in support of Mr. Taylor and urged the Commission to consider his application. Board discussion took place regarding the relationship between the Big Sky Transportation District and the Big Sky Traffic Study. Commissioner Mitchell commented on her preference for Mr. House, and moved to appoint David House. Seconded by Commissioner Vincent. Commissioners Murdock and Vincent voting nay. Commissioner Mitchell voting aye. Motion denied. Commissioner Murdock moved to appoint James

**400 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46**

Taylor. Seconded by Commissioner Vincent. Commissioner Murdock and Vincent voting aye. Commissioner Mitchell voting nay. Motion carried.

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Gallatin County Treasurer Anna Rosenberry presented the Treasurer's second and third quarterly reports. Ms. Rosenberry stated these reports are required by statute. She summarized the report for cash on hand at the close of business - June 30, 2001, and stated there were no discrepancies. Commissioner Murdock moved to accept the Treasurer's report for June 30, 2001. Seconded by Commissioner Vincent. None voting nay. Motion carried.

I, Anna Rosenberry, County Treasurer of Gallatin County, State of Montana, upon oath depose and say: That, at the close of business on June 30, 2001 there was on deposit to my credit in the following banks, balances as shown by the statements of cashiers of such banks herewith: that, from such balances, there should be deducted for checks outstanding, and added for deposits made, amounts as follows:

<u>BANKS</u>	<u>ACCOUNT NUMBER</u>	<u>BANK BALANCES</u>	<u>OUTSTANDING CHECKS</u>	<u>DEPOSITS</u>	<u>TREASURER'S BALANCES</u>
Wells Fargo, Bozeman Branch	400712386	\$4,828,677.13	\$5,722,005.52	(\$6,172,220.31)	\$4,378,462.34
	400020491	\$0.00	\$0.00	\$0.00	\$0.00
	752756254	\$800,000.00	\$0.00	\$0.00	\$800,000.00
	400315503	\$0.00	\$442,427.22	\$0.00	\$442,427.22
AMERICAN BANK	280102436	\$72,060.91	\$0.00	(\$35,675.11)	\$36,385.80
VALLEY BANK OF BELGRADE	108103	\$66,507.83	\$0.00	(\$60,840.90)	\$5,666.93
MANHATTAN STATE BANK	4100013	\$27,844.88	\$0.00	(\$20,941.21)	\$6,903.67
SECURITY BANK, THREE FORKS	5200116	\$3,390.43	\$0.00	(\$1,259.55)	\$2,130.88
FIRST SECURITY BANK, WY	700351	\$26,878.93	\$0.00	(\$23,005.40)	\$3,873.53
BIG SKY WESTERN BANK	101710	\$30,122.03	\$0.00	(\$25,375.00)	\$4,747.03
FISCAL AGENT	N/A	\$100.00	\$0.00	\$0.00	\$100.00
		----- \$5,855,582.14	----- \$6,164,432.74	--- (\$6,339,317.48)	----- \$5,680,697.40
					Cash \$257,224.36
					School Investments \$11,329,569.73
					Airport Authority \$9,493,092.20
					County and Pooled Investments \$29,878,955.53
					----- TOTAL Cash on Hand \$56,639,539.22

Ms. Rosenberry summarized the report for cash on hand at the close of business - September 30, 2001, noting there were no discrepancies. Commissioner Murdock moved to accept the Treasurer's report for September 30, 2001, as presented. Seconded by Commissioner Vincent. None voting nay. Motion carried.

I, Anna Rosenberry, County Treasurer of Gallatin County, State of Montana, upon oath depose and say: That, at the close of business on September 30, 2001 there was on deposit to my credit in the following banks, balances as shown by the statements of cashiers of such banks herewith: that, from such balances, there should be deducted for checks outstanding, and added for deposits made, amounts as follows:

<u>BANKS</u>	<u>ACCOUNT NUMBER</u>	<u>BANK BALANCES</u>	<u>OUTSTANDING CHECKS</u>	<u>DEPOSITS</u>	<u>TREASURER'S BALANCES</u>
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**GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 401**

Wells Fargo, Bozeman Branch	400712386	\$2,992,549.69	\$866,548.95	(\$940,808.82)	\$2,918,289.82
	400020491	\$0.00	\$0.00	\$0.00	\$0.00
	752756254	\$800,000.00	\$0.00	\$0.00	\$800,000.00
	400315503	\$0.00	\$1,847,999.86	\$0.00	\$1,847,999.86
AMERICAN BANK	280102436	\$77,812.28	\$0.00	\$0.00	\$77,812.28
VALLEY BANK OF BELGRADE	108103	\$26,707.31	\$0.00	(\$3,760.61)	\$22,946.70
MANHATTAN STATE BANK	4100013	\$29,192.79	\$0.00	\$7,574.89	\$36,767.68
SECURITY BANK, THREE FORKS	5200116	\$11,533.66	\$0.00	\$1,286.62	\$12,820.28
FIRST SECURITY BANK, WY	700351	\$8,258.38	\$0.00	\$1,706.84	\$9,965.22
BIG SKY WESTERN BANK	101710	\$48,243.62	\$0.00	\$733.75	\$48,977.37
FISCAL AGENT	N/A	\$100.00	\$0.00	\$0.00	\$100.00
		-----	-----	-----	-----
		\$3,994,397.73	\$2,714,548.81	(\$933,267.33)	\$5,775,679.21
			Cash		\$86,251.22
			School Investments		\$10,583,776.33
			Airport Authority		\$9,506,738.82
			County and Pooled Investments		\$22,147,898.72
					-----
			TOTAL Cash on Hand		\$48,100,344.30

Commissioner Vincent announced the consideration of a resolution regarding office closures November 23, 2001, the day after Thanksgiving. The following departments requested to be closed: Road and Bridge Dept; ITS Dept; Personnel Dept; Planning Dept; Fiscal Dept; Grants Dept; Facilities Dept; Weed Extension and Fair Dept; Youth Probation Dept; and the County Commission office. Gallatin County Treasurer Anna Rosenberry commented that the Treasurer's office would be open taking tax payments. She requested to know who would be on call, should they need support. Gallatin County Clerk and Recorder Shelley Vance was not opposed to the closure of the ITS Department, although she concurred with Ms. Rosenberry. Commissioner Vincent moved to adopt Resolution #2001-124, as read. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Attorney Marty Lambert reported on the consideration of a resolution for appointment of Chief Deputy County Attorneys. Mr. Lambert read the resolution, and appointed Chris Gray as Chief Civil Deputy County Attorney and Todd Whipple as Chief Criminal Deputy County Attorney. Commissioner Murdock moved to approve Resolution #2001-125. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the consideration of a request for a family transfer exemption for John and Delores Phillips, located in the SE ¼ of Section 13, T2S, R4E (Cobb Hill Road). John Phillips was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. Commissioner Murdock moved to approve the Phillips family transfer exemption. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported on the public hearing for comments from municipalities concerning the formation of a Solid Waste Management District. Mr. Watson stated that on October 16, 2001, Resolution of Intent #2001-120 was adopted, which prompted a mailing to the municipalities of Gallatin County asking for their resolution of concurrence in the formation of the district. The West Yellowstone/Hebgen Basin area was excluded from the mailing because they have

already established a solid waste district. He noted that Bozeman, Belgrade and Three forks held meetings, however the Town of Manhattan had not had the opportunity to meet formally to discuss the issue. He explained that Belgrade had concerns as well, regarding such short notice requesting their immediate response, so they called a special meeting for next Thursday to draft a resolution of concurrence. Because of time constraints Mr. Watson requested that the Commission continue the hearing on this issue for one week to accommodate the municipalities. Director of Public Service for the City of Bozeman Debbie Arkell gave a synopsis of the City Commission meeting concerning the issue. The City Commission believed a county-wide solid waste management district could be beneficial for the future solid waste handling within the county, however they voted unanimously to not join the district at this time because of unanswered questions, unknowns and the lack of demonstration of benefits to the citizens of the City of Bozeman. Some of the unanswered questions and concerns were: liability, and if the cities and towns would share in that liability; how the district would be insured; assurance that the citizens would not be double billed because their landfill is currently in operation; the continuance and expansion of compost and recycling; and fee structure. Ms. Arkell stated that the City Commission's main concern centers around the timing of the creation of this district and the reservations towards joining now did not mean they were not receptive to working together on the issue. During discussion, Ms. Arkell was asked if the City Commission would consider the possibility of joining the district and being a participant in the development of the proposal itself by working within rather than allowing the district to be formed and negotiating after the fact. Commissioner Vincent stated that he viewed this as the inevitable with the transfer station and closure of the Bozeman landfill. Dean Ulrich, area manager of BFI Waste Management spoke regarding the issue, pointing out other options to be considered, relative to creating a solid waste district. Hallie Rugheimer spoke in support of the district. Per Mr. Watson's request, Commissioner Mitchell continued the hearing for one week, noting that perhaps the City could get their questions submitted to the County Commission in writing in order to clear up any uncertainties.

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the continuation of determination of traffic impact mitigation for the Firelight Meadows Subdivision. Mr. Johnson stated that last week the Commission had a concern regarding the proposal submitted by the applicants to address traffic impacts and since then the applicants made some modifications, which extended the time period for up to a 10 year period that the county can hold on to the money. Gallatin County Attorney Marty Lambert reported that he received two alternate proposals from the applicants Attorney Mike Lilly, noting the one difference being the amounts of \$50,000 and \$24,200. He stated that basically both of the proposed alternatives by Mr. Pariser were acceptable, and with the additional \$180,000 committed by Gallatin Peaks it would be a great impetus for the highway commission to get those improvements done, regardless of whether or not the study is completed. Discussion took place regarding both proposals and the issue of the bond or letter of credit being returned, should the Big Sky Transportation Study not be completed. Mr. Lambert pointed out that the difference between this letter of credit and what normally happens is that County staff passes judgment on road improvements, but because the Commission does not have jurisdiction over the state highway they have to rely on the state highway commission to make the decision of when and where to spend the money. He believed they could come up with language sufficiently binding the developer up to \$50,000 that is enforceable within 4 years. Attorney Mike Lilly, spoke on behalf of the developer with respect to the modifications of the alternate proposals, stating it was a fair and equitable way. Based on the County Attorney's review and approval, Commissioner Murdock moved to accept Alternative 1, that read as follows: FIRELIGHT MEADOW, LLC'S PROPOSED TRAFFIC MITIGATION PLAN COMES NOW Firelight Meadows and, pursuant to Condition No. 4 of Gallatin County Commission's Findings of Fact and Order dated the 13<sup>th</sup> day of March, 2001, submits the following Proposed Traffic Mitigation Plan: I. URBAN TRANSPORTATION DISTRICT. A. Firelight Meadows shall petition for annexation into the Big Sky/Gallatin Canyon Area Transportation District, or its successor. B. Firelight Meadows shall reserve the right to object to the reasonableness of any assessment levied by the District in accordance with Montana law. C. Firelight Meadows shall not be allowed to withdraw from said Big Sky/Gallatin Canyon Area Transportation District without the approval of the Gallatin County Commission. II. IMPROVEMENTS AGREEMENT. A. Firelight Meadow shall execute an Improvements Agreement, secured by a bond or letter of credit in the amount of \$50,000.00. Said sum shall be for the purpose of guaranteeing Firelight Meadows' obligation to share in the costs of improvements to the intersection of Ousel Falls Road and Highway 64. Said Improvements Agreement shall be for a term of four years commencing on the date of final plat approval for Firelight Meadows Minor Subdivision. The term of the Improvements Agreement may be extended, at the sole option of the County, for two successive three-year terms. B. In the event the Big Sky Transportation Study is completed within the term of said Improvements Agreement, then Firelight Meadows shall pay its proportionate share of costs of the improvements to the intersection of Ousel Falls Road and Highway 64 as determined by said report, and the bond or letter of credit shall be returned. C. In the event the Big Sky Transportation Study is

GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 403

completed within the term of the Improvements Agreement, and Firelight Meadows' proportionate share of costs of the improvements to the intersection of Ousel Falls Road and Highway 64 is greater than \$50,000.00, then Firelight Meadows shall be required to pay the additional sum. D. In the event that the Big Sky Transportation Study is not completed within the term of said Improvements Agreement, then Firelight Meadows shall have no obligation to pay any road improvement costs for the intersection of Ousel Falls Road and Highway 64 and the bond or letter of credit shall be released. Seconded by Commissioner Vincent. Commissioner Mitchell stated she was going to withhold a positive vote on any agreement outside of the study noting that this was no reflection on Mr. Pariser, but reiterated her concerns for having the study completed. Commissioners Murdock and Vincent voting aye. Commissioner Mitchell voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 10:56 A.M.

*Unavailable For  
Signature*  
\_\_\_\_\_  
CHAIRMAN APPROVAL

*Shelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 13th DAY OF NOVEMBER 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:05 A.M. Also present were County Commissioner Bill Murdock and Commissioner Vincent and Acting Clerk to the Board Glenda Noyes.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**NOVEMBER 5, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell, Murdock, and Vincent, and Commission Secretaries Stacy Johnston and Glenda Noyes. The Commissioners considered approval of the Finance Committee Audit request. Commissioner Vincent made a motion to approve the request, per the terms discussed at the Finance Committee meeting on Friday, November 2, 2001. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of the Big X Indemnification Agreement for the Sourdough Creek Transmission Main Project, submitted by the Road and Bridge Department. Commissioner Murdock made a motion to approve the Big X Indemnification Agreement, per the recommendation of Road and Bridge Superintendent Lee Provance. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

**NOVEMBER 6, 2001**

The Commissioners conducted regular County business.

**NOVEMBER 7, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, and Commission Secretaries Stacy Johnston and Glenda Noyes. The Commissioners considered confirmation of Outlaw Subdivision Maintenance Costs. On August 28, 2001, the County Commission amended the fee for the Outlaw Subdivision, RID 370, to the same amount as assessed in FY 01. However, an error resulted in a higher amount being assessed on the tax bills. Commissioner Murdock made a motion to confirm the Commissions' intention to assess \$100.47 per parcel on the 48 lots in the Outlaw Subdivision RID 370, and ask that new, amended tax bills be sent to this effect. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of an invoice dated November 3, 2001 from Transformation Consulting and Seminars (Terry Radcliffe) in the amount of \$2,065.70 for contract work performed. Commissioner Murdock made a motion to approve said invoice. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of an invoice dated November 3, 2001 from Transformation Consulting and Seminars (Terry Radcliffe) in the amount of \$750.00 for the production of the employee survey. Commissioner Murdock made a motion to approve said invoice. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

## 404 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

The Commissioners considered approval of Invoice 0101-7 from Taylor Architects for Phases III, IV in the amount of \$18,895.50. Commissioner Murdock made a motion to approve said invoice. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

### NOVEMBER 8-9, 2001

- The Commissioners conducted regular County business.

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- Landfill Revenue for July 2001: \$89,115.93.
- Payroll for October 2001: \$1,151,490.29.
- Clerk & Recorder's Fees Collected for October 2001: \$72,223.76.
- New Hire Report for October 2001: DETENTION CENTER – Cynthia Ras; ENVIRONMENTAL HEALTH – Barbara Woodbury; EXTENSION – Rebekah MacDonald; REST HOME – Sherri Bates, Donna Clark, Matthew Wagemann.

Terminated Employees' Report for October 2001: DETENTION CENTER – Alana Smith, 9/27/01; HEALTH – Stacy Foreman 9/28/01, Christine Clarkson 9/20/01; REST HOME – Lana Eaton 9/27/01, Robert Burch 10/01/01, Lillian Dunayer 10/03/01, Heidi Lewis 10/07/01, Sherri Bates 10/18/01; ROAD & BRIDGE – Laurence Gaffney 9/28/01; WEED – Kyle Wasson 8/31/01, David Rickett 9/20/01.

#### **The following items were on the consent agenda:**

1. Approval of claims were presented by the auditor, dated November 6, 2001 in the amount of \$69,629.67.

Commissioner Vincent read the consent agenda. There was no public comment. Commissioner Vincent moved to approve the consent agenda. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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The Commission considered appointments to the Gallatin County Mental Health Local Advisory Council. Three vacancies exist on this board due to the resignation of Mona Stenberg, as well as two unfilled consumer member positions. Ms. Stenberg's position on the MHLAC was also as a family consumer member. These vacancies were advertised, meeting the public notice requirement. To date, two applications have been received from Jeannie Brown and Emily Stonington. The term expirations of appointees to this board will be determined by a drawing of lots at the first meeting following appointment. Commissioner Vincent nominated Jeannie Brown and Senator Emily Stonington, noting that the appointment of members to this board is different than most, is state sanctioned and appointees must fit criteria for consumers, family members of consumers, and health care providers. Senator Stonington is active at the State level in Mental Health issues and has been recommended by Senator Bob Keenan, and Jeannie Brown is active at the local level as a family member of consumers. Commissioner Vincent made a motion to nominate Jeannie Brown to fill a position on the MHLAC. Seconded by Commissioner Murdock. None voting nay. Motion carried. Commissioner Vincent made a motion to nominate Emily Stonington to fill a position on the MHLAC. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Commissioner Mitchell reported that the second reading of an ordinance reducing the speed limit in Valley Grove Subdivision has encountered some problems, and asked Deputy County Attorney Kate Dinwiddie to explain the situation. Ms. Dinwiddie explained that the language read into the record at the first reading of the ordinance on October 30, 2001 was not the language detailed on the ordinance the Commission was addressing. This resulted in a lack of appropriate notice to the public and if challenged in court would not be defensible. Ms. Dinwiddie asked the Commission to strike the first reading of the ordinance for speed reduction in Valley Grove Subdivision, and schedule a first reading of the amended ordinance for November 20, 2001. Commissioner Murdock made a motion to strike the favorable first reading of Ordinance 2001-105, reducing the speed limit on the road within Valley Grove Subdivision, and scheduling a first reading of the amended ordinance for November 20, 2001. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic reported on the consideration of a resolution of the Commission approving a variance request from Terry and Donna Morvay from the front and side-yard setback requirements in the Springhill Zoning District. The public hearing was held at the November 8 Zoning Commission hearing, and the Zoning Commission in turn found that the variance request was justified and met the criteria of Section 13 of the Springhill Zoning Regulation and therefore voted to recommend that the County Commission approve the variance. Commissioner Murdock made a motion to approve Resolution 2001-126, approving a variance request from Terry and Donna Morvay in the Springhill Zoning District. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic reported on the consideration of a resolution of the Commission approving a variance request from Todd and Anne Goertzen from the side-yard setback requirements in the Hyalite Zoning District. The public hearing was held at the November 8, 2001 Zoning Commission hearing and the Zoning Commission in turn found that the variance request was justified and met the criteria of Section 17 of the Hyalite Zoning Regulation and therefore voted to recommend that the County Commission approve the variance. Commissioner Murdock made a motion to approve Resolution 2001-127, approving a variance request from Todd and Anne Goertzen in the Hyalite Zoning District. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Grants Administrator Larry Watson requested that the public hearing for comments from Municipalities concerning the formation of a Solid Waste Management District be continued, at the request of the cities of Belgrade and Bozeman. Both city councils have determined at this time not to join the district. Bozeman City Manager Clark Johnson has been out of town that hasn't been available for open dialog. Another week of continuance will allow county staff to meet with the applicable parties before the Commission meeting on November 20, 2001. The Commission agreed to continue this item until then.

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Gallatin County Planner Jennifer Madgic reported on the consideration of a request for preliminary plat approval for Autumn Ridge Major Subdivision. Located in the S ½ of Section 19, T1S, R6E, PMM, Gallatin County, Montana. The property is generally located south of Sypes Canyon Road, a mile east of the intersection on Springhill Road. Morrison-Maierle Inc. and Potter-Clinton Development, on behalf of Autumn Ridge Company, have requested preliminary plat approval to subdivide approximately 254 acres into a 181 lot major subdivision. Ms. Madgic noted that the applicant has requested a continuance on preliminary plat approval twice due primarily to water issues. This eliminates any concern by the Commission to follow the sixty-day clock for a decision on the application. Ms. Madgic also noted that certified notice has been sent to adjoining landowners. An environmental assessment, staff report, multiple exhibits including a dateline, a letter from DNRC (Scott Compton), Hydrologist response, letter from Sheriff Cashell as well as an updated letter, a memo addressing leapfrog development, and findings and hearing minutes from the Planning Board hearing have all been submitted to the Commission for their perusal. The Planning Board issued a recommendation to approve the subdivision, with a vote of 5-4. Also available to the Commission for their information is a fact sheet and map of critical mule deer habitat from Richard Mackey, proposed findings of facts from Attorney Steven Pole, representing the neighbors of the proposed project, a petition from the Sypes Canyon Home Owners Group with 270 signatures, as well as letters in opposition from the following people: Kim Davitt (American Wildlands), Annie Bertinoli, Ellen Jones, Michael and Debby Wheat, Jeff Revlett (with photographs), Stephen Pohl, Lance Sears, Donald and Desiree Smith, Steve Kelly, Kathy Gallagher, Robert and Jean Trombley, David and Laura Johnson, Russ Squire, Don Woody, Gary and Jane Scudder, David Wanderer, William Prunty, Ellen Guettler, Jim and Cindy Bowker, Hank and Jan Mueller, David Summerfield, Wayne Johnson, Wayne and Low Vinje, Diana and Harry Bucha, Jon Carpenter, Mr. & Mrs. Duncan Hill, Michael Allison, Ellen Goff, Marcia Leritz, John Johanek, Johanne Lebeau, Albert Harting, Larry Bittner, Jeff Jorgenson, Terry Quatraro, Gary Bohannan, Michael Rammer, Cinder Marquis, Pat Mathiesen, Bob and Carol Barbee, S. Craig Deaton, Durrae and John Johanek, Lois Martin, Ray Fencl, John Meredith Watts, and Anne C. Rusoff. Ms. Madgic referred to a vicinity map, explaining that the proposed subdivision is in the Sypes Canyon area, is surrounded by zoning districts, and subdivisions. The land resides outside of the Gallatin County plan and is in an unzoned pocket north of the Donut. The Planning Board reviewed the project for conformance to the Gallatin County Plan. The board had mixed feeling on a variety of issues such as wildlife impacts, water issues, ridgeline development, and compatibility. The staff report contains information regarding the Planning Board's review of the proposal. The first two items, found on page 8 and 9 of the staff report, pertained to water. A petition was filed last spring and a series were held to discuss what determinations needed to be met. The Planning Board expressed discomfort with reviewing this

subdivision while the process to adopt a Growth Policy was taking place. The DNRC will determine the outcome of the water issues, and developer Mike Potter has stated that they will live with whatever determination is made by at the state level. The other items addressed by the Planning Board were air quality, protection of views and ridge top development within this project, farmlands in agricultural production, open space and clustering, leapfrog development and conservation of wildlife habitat. The Planning Board disagreed on the whether or not this proposal is infill and whether or not maintenance of important farmlands was a consideration or not. The proposed property has been used for agricultural purposes and is adjacent to ag lands, however, there are residential areas to the east, west, and a portion of the south of this property. (TAPE) The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the suggested conditions. The Commission has one determination to make with this application: A determination as to whether the proposed subdivision should be approved. The basis for the County Commission's decision shall be whether the preliminary plat and additional information demonstrate that development of the subdivision meets the requirements of the Montana Subdivision and Platting Act and the Gallatin County Subdivision Regulations. If the Commission decides to approve the subdivision, the following conditions for final plat approval are suggested:

1. The final plat(s) shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates.
2. Department of Environmental Quality approval shall be obtained for the subdivision. Applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. Applicant shall obtain the Gallatin County Health Officer's approval.
3. Two copies of the covenants, a copy of the conditions of preliminary approval, documents establishing the property owners' association, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval pertaining to each phase. The Attorney's Office shall review and approve the covenants, documents establishing the property owners' association, and certificate prior to final plat approval(s).
4. Applicant shall not commence the construction of any streets, curbs, gutters, sidewalks, sewer, water or storm water systems until all necessary and applicable permits have been obtained from the DNRC and DEQ.
5. Applicant shall record on the final plat(s) a waiver of right to protest creation of rural improvement districts, local improvement districts, or the creation of a sewer and/or water district.
6. All utility easements shall be shown on the final plat(s). Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat(s): *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.*
7. A Memorandum of Understanding shall be signed between the Weed Control District and the applicant prior to final plat approval(s).
8. Applicant shall record the following covenants on or with the final plat(s):
  - a) *The property owner shall be responsible for the control of County-declared noxious weeds.*
  - b) *Individual lot accesses from County public roads shall be built to the standards of Section 7.G.2 of the Subdivision Regulations.*
  - c) *All new dwellings or home business occupancies built prior to the provision of an adequate water supply for fire fighting purposes shall be constructed with an automatic fire sprinkler system meeting the requirements of NFPA 13D/Uniform Fire Code. The fire district shall receive a stamped set of engineered sprinkler plans for review and approval prior to construction. Inspections shall be scheduled, with 48-hour notice, during construction and after completion.*
  - d) *The control of noxious weeds by the Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District.*
  - e) *The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds, after 10 days notice from the property owners' association, the association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment.*
  - f) *Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.*
  - g) *All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law.*
  - h) *Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.*
9. All road names for interior roads must be approved by the County GIS Office.
10. A detailed signage and drainage plan will need to be submitted to the County Road Department for

approval, prior to the start of any construction. This plan should specifically address the requirement for road name signs to be installed at all intersections, as well as STOP sign(s) at all intersections with County-maintained roads. STOP signs and other regulatory or warning signs may also be needed on some internal roads, and this should be addressed in the plan. 11. Encroachment permits must be obtained from the County GIS Office for any access points coming off of county maintained roads. Additionally, all internal lots will be limited to one driveway access. Each access must be at least 75 feet from the nearest intersecting County road. 12. A "no-access" strip is required along all lot boundaries that border County-maintained roads. Exception to this will only be made for lots that do not border an internal subdivision road. Access to lots falling under this exception will require further review and the obtaining of an encroachment permit from the County Road Department. 13. Subdivision standards require that any development over six lots must have a second access. Therefore, a second access will be required. This access will need to be a public easement constructed to County standards. 14. There exists unsubdivided land to the south of this development. It appears that adequate access exists to said land. 15. All interior roads must be built to County paved standards, and have a 60-foot right-of-way, dedicated to the public, unless other County road standards apply. 16. Autumn Ridge property owners will be required to join RID 358 for the maintenance of Sypes Canyon Road. 17. A cul-de-sac, built to County standards, will be required at the north end of November Lane and the west end of Upper Autumn Ridge Road. 18. A detailed traffic study shall be prepared to identify off-site traffic impacts the development will have on the following existing County roads or state highways: Sypes Canyon and Springhill Roads. The study will be used to identify primary and secondary access roads, as well as collectors and arterials in the area of impact. Findings from this study may result in the need to have additional right-of-way along certain County-maintained roads dedicated to the public. 19. All roadwork will need to be inspected and certified by a licensed engineer. Such inspection and certification must be provided to the County Road Department in writing. Final approval will not be given until this documentation is received. 20. With respect to paving County maintained roads, a two-year written warranty, from the contractor, will be required. This warranty must be submitted to the County Road Department prior to final approval. 21. A "property owners' association" must be formed for the maintenance of all interior roads. A copy of the property owners' association by-laws is required to be submitted to the County Road Department prior to final approval. 22. Additionally, the property owners will be required to enter into a joint agreement with the homeowners' association of Ranch Subdivision, for the maintenance of Ranch Drive and Branding Iron Road or supply written proof to the office that an agreement cannot be reached. 23. Forty-five feet of Sypes Canyon Road south of the centerline will need to be dedicated to the public for the entire length of the development. 24. A waiver of protest for creation of future RIDs will be required. 25. Road impact fees are required to be paid to Gallatin County, per Gallatin County Impact Fee standards. 26. Mailbox turnouts inside Autumn Ridge Subdivision on the subdivision internal road system must be constructed. 27. Spur Road in Ranch Subdivision and Open Road in Grandview Subdivision must be constructed to County paved standards. 28. The developer will be required to install a two-inch pavement overlay on Sypes Canyon Road from the east boundary of the subdivision to the intersection of Summer Cutoff and Sypes Canyon roads. 29. The developers must enter into an agreement with Gallatin County to set aside money from lot sales, toward the purchase and installation of traffic light at the intersection of Sypes Canyon and Springhill roads. A drafted agreement must be submitted and approved by the County Road Department prior to preliminary approval. 30. The applicant shall enter into an improvements agreement with Gallatin County for the future design and installation of a traffic signal at the intersection of Springhill Road and Sypes Canyon Road. Said agreement will include a provision for the applicant to contribute a set amount from the sale of each lot in Autumn Ridge to be placed into an escrow account until the estimated cost of the signal, \$150,000, is fully covered. Said improvements agreement shall be reviewed and approved by the Gallatin County Road Office and Gallatin County Attorney's Office prior to final plat of any phase of Autumn Ridge Subdivision. 31. Applicant shall consult with the County Road Department to address traffic control measures on the following roads: Story Mill, Summer Cut-Off, Manley, Sypes Canyon, as well as roads within adjacent subdivisions as appropriate. 32. Applicant shall make payment of fire impact fees in accordance with the Gallatin County Subdivision Regulations. 33. Applicant shall provide an appropriate fire protection method in accordance with the Subdivision Regulations. Applicant shall have the Amsterdam Rural Fire District review and approve the fire protection method prior to final plat approval. Applicant shall submit written verification from the fire district that the requirement has been met. 34. All open space parcels shall be dedicated to the property owners' association prior to final plat approval. 35. The final plat(s) shall contain a statement requiring lot accesses be built to Gallatin County Subdivision Regulation standards. 36. The water main system serving all lots including all fire hydrants shall be installed prior to final plat approval. 37. The community sewer system including all sewer mains and sewer service pertaining to all lots shall be installed prior to final plat approval. 38. Applicant shall consult with the US Postal Service regarding mail delivery. If a centralized mail system is used, the location must be shown on the appropriate final plat. 39. Applicant's mitigation plan for sheriff services shall be acceptable to the County Commission. 40. Applicant shall have three (3) years to complete the above conditions and apply for final plat

approval(s). Ms. Madgic outlined changes and concerns to the following conditions: #13) The Road Department has discussed this condition with Mr. Potter and it has been determined that a second access has already been provided in the project. #18) A detailed traffic study has been completed by Phill Forbes of Morrison-Maierle. Condition #22, the Road Department and developer have agreed that this should be stricken. Condition #25 concerns road impact fees, Mike Potter and his group have agreed to pay the full impact fees assessed. The Road Department has agreed to give the developer credit for improvements made on other roads in the area in lieu of some impact fees. Condition #27 regarding adjacent roads, the Road department has agreed that these roads can be connected for emergency purposes only, must read as follows: "Spur Road in Ranch Subdivision and Open Road in Grandview Subdivision must be constructed to County paved standards with design details acceptable to the County Road Department." Scott Compton, Regional Manager of Bozeman Water Resources, DNRC addressed the Commission and explained the petition process, and noted that a petition has been filed for controlled ground water. This petition can be filed by a state agency or a group of concerned individuals based on water quality or quantity concerns and in this issue we are looking at quantity availability. A timeline of this particular petition was given, and a proposal for decision should be ready by mid December, and a final order out by middle to late January. This final order will include whether or not to designate the area a controlled ground water area, whether it will be temporary, permanent, and what kinds of conditions will be attached to it. Controlled ground water area is pretty open, with a wide range of possible conditions. This is technical process, which places the burden on the petitioners to provide information and proof. If the decision comes in to make the determination temporary, the area will function for two years under conditions, while more studies are done. Currently it appears that a temporary permit is in order at this time. They have been working with the Gallatin Local Water Quality District for ongoing monitoring in the area despite the outcome at the state level. They will also designate a technical oversight committee to determine what needs to be looked at, what are the goals, and what studies need to be directed to orient this project. This will include users, state agencies, and representation from the landowners in the area. Commissioner Murdock stressed that the water issue is of great concern to him. He asked Mr. Compton if it is possible that a controlled ground water study might show that there is depletion to the aquifer up there and could it have authority to say from its result that no more wells should be drilled? Mr. Compton replied that this is a potential, but he does not believe that this would be the case in this area. This will be more of a management tool – how close can wells be up there, how much more development is likely to go on, how much water is being used currently, what are the recharge issues, does enough water come into the area to handle what is there and what is proposed, etc. The water permitting process also addresses water availability. Even if the controlled ground water area were not being thought about, the developers will have to come in and show water availability. This would be on a smaller scale than the controlled ground water area would be. Commissioner Murdock stated that there were three parameters of the study, and asked when those answers would be available. Mr. Compton stated that this takes awhile to get the information and do the studies. The State hydrologist that reviewed the petition said that it might take two to three years to get all of the information in order to make a real good decision on whether this needs to be a permanent controlled area or not. Commissioner Mitchell asked what kinds of conditions might be put on the two-year temporary permit. Mr. Compton stated that some asked for are that only individual wells be allowed – no community type sized wells, would require monitoring of any wells that do go in for water levels and things such as that, it would require that when wells are drilled that someone be available to log that information so that they know what kind of geology is under the ground, and some more minor conditions. Commissioner Mitchell asked if there would be a limit placed on the number of wells allowed and Mr. Compton stated that there would not be. This is basically a gathering of information and a regulatory tool to look at each well as it comes in. Mike Potter of Potter Clinton Development, Inc., presented as the applicant for the project. He stated that the location for this project is located in an area targeted for future growth, both primary and secondary. The area is designated for as a general infill area with mixed uses. The type of project being created is a local neighborhood, with middle and upper middle market homes. The types of home are similar to those that exist in Ranch and Sundance Spring Subdivisions, and will run approximately \$400,000 including the lot. They have put the lower density areas closer to Ranch and Grandview Heights Subdivisions. There have been numerous meetings with neighborhood people and the coalition that has been formed. In order to mitigate some of the concerns put forth by the neighborhood people, they refined the west end from the original proposal, at a loss of six lots – reducing the density to 175, and providing more open space. The density of the proposal is similar to the surrounding area, with the range of lots in surrounding subdivisions being 1.38 – 4.17 acres. Autumn Ridge lots are an average size of 1.4 acres. Mr. Potter presented the Commissioners with a chart detailing this information. Lower density is next to adjacent developments, with smaller lots concentrated in the middle of the proposal, and open space located next to adjoining subdivisions as well. In order to develop a community water and sewer system, the higher density is needed, and the developers have attempted to be carefully tuned to being a good neighbor while having the ability to build a community system. Mr. Potter suggested that concentrating density in the infill areas rather than promoting spread would benefit the County. Mr. Potter explained that they have met



with the Road Department and discussed traffic impacts on Springhill Road and other adjacent roads. The applicants have agreed to pay the total assessed impact fees in the amount of \$279,000, and the Road Department agreed to give credit for local improvements made, such as upgrades to Sypes Canyon Road, Summer Cutoff Road, McIlhattan and Manley Roads. These improvements will include such things as additional signage, intersection controls as well as improvements to the roads themselves. The developers also intend to help construct a bicycle path along Springhill Road with some of the impact fees, and will fund the path all along the development in its entirety. The developer is looking at the Road Department to work with the Commission to figure out the best way to expend those monies. The planned water system will be the basic type and will include several production type wells and pumps that will triple feed a large concrete reservoir which will be buried, and there will be a water distribution system back through the project that will include water for domestic needs and fire fighting capacity. In the protective covenants there is a provision that only eight thousand square foot of these lots can actually be landscaped and the rest needs to be maintained in a more natural state that will be more water sensitive. The water system and the sewer system will be operated by a Water and Sewer District as is being done in River Rock Subdivision, and things will be metered and controlled so that water is very carefully conserved. The waste water system is a straight forward collection system that goes to a SBR type of plant, a drain field, which is located on the south edge of the property has been set aside for the primary fields as well as replacement fields – and will be a state of the art system. Mr. Potter noted that they have looked at the water in a very scientific, objective manner. They feel the detailed data is concrete and also have a lot of reliance on the DNRC and their technical people there and at DEQ. Mr. Potter explained that they do have ideas on how to mitigate problems that do exist in the area, such as over-sizing the reservoir, stub out a water line and set the stage for a secondary water district in the area that would solve many of the problems. The cost of such a system would be \$35.00 - \$40.00 per month to the users of the system. This property will have a property owners association, a water and sewer district, and an architectural review committee. Mr. Potter presented a summary of the impact fees and voluntary mitigation commitments that have been made so there is no confusion on this issue. Impact fees have been assessed on 175 lots. The fire impact fees are \$86,800, road impact fees are \$280,000, traffic light escrow is \$150,000 for a future light at the corner of Springhill and Sypes Canyon Road, Sheriff Department impact fee of \$970.00 per residential unit, for an approximate total of \$170,000 for the project. However, as a foot note, the developer has been in a very constructive dialog with the Sheriff's Office trying to find common ground and logically analyze what kind of gap cost there is when a new project comes one line, creates cost to the Sheriff's Department before adequate tax revenues flow back to that Department to supplement the increased demands. The estimate that the developer volunteered was \$555.00 per lot – and there is a delta that exists between the amounts. They propose to agree to the \$555.00 per lot, escrow the differential, and depending on the resolution of the issue – the final amount will be determined at that time. Mr. Potter noted that there are four miles of public bike and pathways and all are open to the public. In the lower portion of the project, there is approximately 12 acres that is gentle, flat hayfield – perfect for a neighborhood park, and Autumn Ridge supports the idea of a neighborhood park district if the community wants it. Mr. Potter concluded his presentation. Commissioner Vincent noted that the graph presented has discrepancies in the numbers for average lot size and asked that Morrison-Maierle look into it for resolution. Marty Gagnon, Project Engineer with Morrison-Maierle spoke regarding the water supply issue. He noted that there are two main goals that need to be satisfied, to establish that there is an adequate and sustainable water supply for the subdivision and determine the potential for adverse effect on existing wells in neighboring wells. They set up a testing program and sat down with the local and state DNRC, engineers at the DEQ and Alan English, Local Water Quality District (LWQD) and Kathy Gallagher, member of the homeowner's coalition and member of the LWQD to discuss their procedures and plan. The result was a testing program that everyone agreed upon and had input on. The procedure was to drill a series of production wells on the project, and associated monitoring wells. DNRC also placed monitoring devices in existing wells on adjoining property. The summary of the reports, produced by Mark Kaczmarek was made submitted to DNRC as supplements to their groundwater appropriation permit, beneficial use permit application and as a supplement to the controlled ground water application. Mr. Gagnon reported a summary of the reports. Commissioner Murdock asked for a clarification whether the report stated that future development would not alter the regional ground water levels? Mr. Gagnon stated that the anticipated future development in the alluvial fan aquifer system around Autumn Ridge will not alter the ground water levels, and will not overcome the recharge. Commissioner Vincent questioned the report with regards to the relationship of the total amount of water and where it is found. What would be the consequence in the area with a decline in 70 feet in the water level as opposed to a six percent decrease in the total supply of water? The decline in water level will have an affect on those wells at that depth, but the total volume of water moving through the aquifer system will reflect only about a 6% reduction in volume. Commissioner Vincent asked about the real world impact with a 70-foot drop. Mr. Gagnon stated that the groundwater levels are going to fluctuate seasonally, 40-70% whether Autumn Ridge is there or not. Michael Lilly, Attorney with Berg Law Firm spoke on behalf of the developer. Mr. Lilly stated that the reservoir that is planned for the development has excess capacity and the stubs at the west

and east ends of the development will help mitigate problems should they arise. This system could be a solution to the existing water problem, rather than creating a problem. The district can be expanded according to the law and this is a real plus. Mr. Lilly pointed out that one of the goals of the County plan is to develop incentives for central water and central sewer systems; Autumn Ridge has proposed both water and sewer systems without being offered incentives to do so. The question was posed at the Planning Board hearing as to the purpose of proceeding with this with the permits pending with the DNRC. The developer offered Condition #38, at the time of the Planning Board hearing, that the developer shall not commence with construction until all of the DNRC and DEQ permits are approved and received. There are three other review processes ongoing at the moment. The first is an application for a water rights permit to drill two wells. Before Autumn Ridge can get these permits, they must prove that the water is physically available, that the water is legally available, and that the existing users will not be adversely offended. The burden is upon Autumn Ridge to do these things. The second process ongoing is the controlled groundwater area that has been previously discussed. Both processes are technical in nature and require a large amount of data and expertise. The jurisdiction to make decisions regarding these permits should be left in the hands of the DNRC rather than the Commission. He asked that the expertise be left to the DNRC. The third review process ongoing is with the DEQ and water quality. They will have to review the water collection system and the wastewater distribution system, sewer system, before they sign off. This review is the reason why we are proceeding with the project; the DEQ will not proceed with their aspect of review until there is preliminary plat approval. Until the Commission approves the preliminary plat, the DEQ won't start their process. If the developer waits for approval until after DNRC and DEQ have granted their approval, this will add six to twelve months onto the process. Encouraging central water and sewer needs the recognition that these things take time and money, and the process must move forward as quickly as possible. In order to accomplish this goal, a certain amount of density must be recognized in order to make it financially feasible. The other goals addressed by the developer are leap frog, conservation of ag land, and preserving wildlife habitat. The day has come that higher density is preferred. Higher density preserves ag land and leaves open space in other areas by eliminating sprawl. The Autumn Ridge proposal is not consistent with Grandview Heights, but it is with the other adjoining subdivisions in the area. Regarding the Subdivision and Platting Act, the Commission has an obligation to look at the plan, identify the impacts, mitigate the impacts, and turn down the plan if they are not mitigated. In this case, all of the impacts have been mitigated. The developer has worked with the Sheriff and Road departments. The developer has voluntarily come forward to work with the Sheriff to address his concerns and has agreed to pay a significant amount of money to mitigate that impact. Regarding traffic, the developer has offered to pay all the road impact fees and offered to pay \$150,000 for a traffic light. Finally, the fire impact fees have been addressed as well. This developer has offered to pay between \$650,000 and \$700,000 in impact fees, and with all impacts mitigated, they submit that you approve the proposal. Public testimony was heard following the applicant's testimony. Steven Pohl, representative of the Sypes Canyon Home Owners Coalition explained that spokespersons from the Coalition would be speaking, and many individuals yield their time to the spokespersons. Those yielding time included: Michael Rammer, Cinder Marquis, Jean Trombley, Bill Prunty, Roy Fend, Arlene Fend, Mike LaForge, Mary Lou Vinje, Heidi Logan, Max Logan, John Johanek, Melva Gutzman, Dunan Hill, Al Avignone, Lisa Banick, Susan Hill, Jeff Revlett, Susan Ewing, Valerie Nettuno, Lynn Corcoran, Gloria Dennis, Val Kosevich, and Pam Spinelli. Spokespersons included Annie Bertagnolli, Kathy Gallagher, Desiree Smith, Steve Kelly, and Steven Pohl. Representatives expressed concerns regarding the affect the proposed development would have on the quantity and quality of water for Autumn Ridge and the surrounding residents, increase in lighting effects on the nighttime sky, affects on the wildlife population, and lack of information for the studies done regarding water and the recharge in the area. They also expressed concerns about the impact of additional traffic on roads that are paid for and maintained by the homeowners of various subdivisions, and the increased danger to the safety of current homeowners. Sara Zimmer, attorney for the Westlake family, adjoining land owners, spoke in support of the development stating that the Westlake's have no immediate development intentions and are willing to allow the subdivisions to draw water from the far western portion of their property if necessary. They are also willing to consider joining in on a water and sewer district. Peter Berman, architect and planner, stated that he has been in dialog with Mr. Potter since the inception of the proposed plan. He asked that Mr. Potter consider continuing the mitigation efforts from the north end to the easterly end, and noted that he trusted Mr. Potter would keep his word by limiting the height delineation of buildings to the existing tree line. Public Comment was also heard from Gordon Gollehon, Meredith Watts, Don Woody, Ellen Jones, Bill Buckley, Lance Sears, Ellen Goff, Jeff Jorgenson, Pat Mathiesen, Jan Scudder, and Durrae Johanek. These individuals expressed concerns similar to the representatives, namely the lack of inclusion of the new homeowners into the existing RID for maintenance of the adjoining roads, ground water concerns, wildlife, traffic impacts, and density. Rebuttal was heard from developer Mike Potter. Mr. Potter stated that he would be willing to work with Mr. Berman to come to a compromise on the ridgeline issue. Other mitigations, by way of covenants that will address other concerns expressed include architectural guidelines, downwardly directed lighting, and no radiant lights. Mr. Potter has met

with the road department and tried to address access issues that are mandated by state subdivision guidelines. Mr. Potter assured the Commission that the Westlake property to the south is not under option to be purchased for more development. he noted that regarding wildlife, he had not seen the maps that appeared at the Planning Board hearing before that time. Dr. Mackey reviewed the data and aerial photography and his findings appear to be very legitimate. Regarding the concerns over water quantity and quality, Mr. Potter explained that the DNRC is leaning toward a controlled ground water area and all of the technical data is under review. Decisions on this matter are pending for December or January. Timing is of the essence here and applying for water use permits simultaneously is done in order to be more efficient. Mr. Potter assured the Commission that they are committed to what they are trying to do, and have to rely on the experts to make the right decisions. While they are sensitive to the water issues, he asked the Commission to not hang up the application process due to the agencies time frames, but trust them to make the decisions needed when able. Mr. Potter stated that Summer Ridge residents are a part of the area RID and that they do pay a proportionate part of it. He noted that the total road impact fees are such that there will be \$210,000 left over for other projects after an overlay is done on Summer Cutoff, the eastern boundary. Area services are available with the Belgrade Fire Department remote approximately a mile from the land, and the Sheriff's Department is currently servicing this area. Mr. Potter argued that Summer Ridge and Spirit Hills have not had water problems, and that there is little hard, scientific documentation of actual well problems that had to do with things other than low depth or pump failure. The desire of the developers is to create a neighborhood for people who live and work here, in a cost competitive format where local people can afford to live. They are attempting to find a balance and to fit into the existing community. Mr. Potter explained that while he does not wish to take a position of judgment on the professional comments made by Kathy Gallagher, he doesn't necessarily agree with her interpretations. The DNRC and DEQ are in favor of community systems as an alternative to individual wells that are hit and miss. Mr. Potter stated that he feels this development is a good attempt at clustering. Homes are places in closer proximity in order to retain an open space area, they are conforming to the definition of a comp plan, and sensitive to the terrain and values of the property. The water reservoir is oversized, and if needed could subsidize all developments to the east and west of the proposed property, at an approximate cost to residents of \$35.00 - \$40.00 a month. He stated that in order to have such a community system, more density is required in order to be cost effective. In closing he asked the Commissioners to note condition four that states that no construction will begin until all permits from the DNRC and DEQ are received. He also reiterated that they are committed to working with the Road Department and Sheriff's Office to mitigate impacts, and any others as well. He noted that they have met the criteria of the subdivision regulations, state statute, the development conforms to the Gallatin County plan, and that it must be pointed out that conformation does not mean the developer must meet every item. Commissioner Murdock asked Mr. Potter if he had considered the impacts this development would have on Storymill Road. He said that they had, but noted that initially this road would be impacted more, but Springhill and Sypes Canyon would be the primary accesses. Phil Forbes, Engineer with Morrison-Maierle stated that they did a traffic impact study that showed some trips being distributed onto Storymill Road, but it remains impassible during portions of the year. Improvements have been made, but they did not reach a level of mitigation even with the improvements to this road. Adding a traffic signal at Sypes Canyon and making other improvements to this approach will make the main route more inviting, and some of the traffic will be distributed onto McIlhattan and Manley roads. Commissioner Mitchell asked Mr. Potter how many residential units could be built on this parcel without subdivision review. He stated that two or three could be built at this time. Commissioner Vincent asked Mr. Potter to speculate about the impact if his water projections are wrong. The contention that some could make outside of this subdivision on the impact of the use of water in this subdivision is a touchy one. It is always hard to prove impacts. However, within the subdivision itself, you have mentioned that there may be some alternative water sources if there is problems with availability, if this proves to be the case, you stated that it would be expensive to bring on board. Who would pay for that? When you are dealing with a community water system the individual homeowner is the one who has to take it up with the developer. However, if the whole subdivision is affected, where is the redress then? Mr. Potter explained that if all other options failed, they would drill a mile down and put a pipe in, and create a water and sewer district. Commissioner Vincent asked if this would apply only to purchases made now or if it would apply ten years from now. Mr. Potter stated that they could go down about a mile and drill there, placing pipes to it. Ten years from now a water and sewer district would have the ability to do this and the participants would pay for it. The participants would be given information ahead of time regarding maintaining and fixing the problems. Commissioner Vincent stated that he would like to continue the decision on this matter for two weeks. Commissioner Mitchell concurred. The Commission agreed to continue until the November 27, 2002 public meeting.

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There were no pending resolutions. There being no further business the meeting was adjourned at 3:42 P.M.

Unavailable For  
Signature  
CHAIRMAN APPROVAL

Shelley Vance  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 20th DAY OF NOVEMBER 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:02 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Clerk to the Board Shelley Vance.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**NOVEMBER 12, 2001**

- The Commissioners' office was closed in observance of Veterans' Day.

**NOVEMBER 13-16, 2001**

- The Commissioners conducted regular County business.

**The following items were on the consent agenda:**

1. Approval of claims were presented by the auditor, dated November 15, 2001, including check numbers 8005783 through 8004991 totaling \$306,688.00
2. Consideration of Contract(s): Agreement for Receipt of Resort Tax Funds with Big Sky Resort Area District for Big Sky Law Enforcement Officers; Copier maintenance Agreement with Terrell's Office Machines; and Amendment to Contract #2000-127 with Communication Management Services (CMS)
3. Request for Common Boundary Realignment Exemption for Hodgson & Olson. Gallatin County Planner Jennifer Koozer reported the claim appears to meet the criteria for the exemption to subdivision regulations allowed under the Montana Subdivision and Platting Act.
4. Request for Security for Construction Exemption for David and Kelly Russell. Belgrade City/County Planner Jason Karp reported the claim appears to meet the requirements for the exemption to subdivision regulations allowed under the Montana Subdivision and Platting Act.

Motion by Commissioner Vincent to adopt the consent agenda as read. Motion seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported that notice of the public hearing to consider annexation of the Eblen property described as the SW1/4 of Section 22, T2N, R5E, into the Belgrade Rural Fire District was published in the High Country Independent Press on November 8 and 15, 2001. No protests were received and there was no public comment. Motion by Commissioner Vincent to approve the annexation and request the Clerk and Recorder and County Attorney to draft a resolution for the Commission's consideration. Motion seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported that notice of the public hearing to consider annexation of the Maher property described as the S1/2SW1/4 of Section 24, T2N, R5E, into the Belgrade Rural Fire District was published in the High Country Independent Press on November 8 and 15, 2001. No protests were received and there was no public comment. Motion by Commissioner Murdock to approve the annexation and request the Clerk and Recorder and County Attorney to draft a resolution for the Commission's consideration. Motion seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported that notice of the public hearing to consider annexation of the Warwood property described as Government Lots 3 and 4, W1/2SE1/4 Section 25, T2N, R5E, into the Belgrade Rural Fire District was published in the High Country Independent Press on November 8 and 15, 2001. No protests were received and there was no public comment. Motion by

GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 413

Commissioner Vincent to approve the annexation and request the Clerk and Recorder and County Attorney to draft a resolution for the Commission's consideration. Motion seconded by Commissioner Murdock. None voting nay. Motion carried.

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Motion by Commissioner Murdock to adopt Resolution #2001-128 granting the variance requested by Ernest and Jeannine Hall. The joint public hearing was held on November 8, 2001, with the Gallatin Canyon/Big Sky Planning and Zoning Commission. Motion seconded by Commissioner Vincent. None voting nay. Motion carried.

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Chairman Mitchell read the first reading of a speed reduction ordinance within Valley Grove Subdivision. Richard Lease, 114 Bison Trail spoke in support of the ordinance. Commissioner Murdock made a motion to pass the first reading of Ordinance #2001-06. Motion seconded by Commissioner Vincent. None voting nay. Motion carried.

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Commissioner Vincent read the first reading of a speed reduction ordinance within Godfrey Canyon Estates Subdivision. There was no public comment. Commissioner Vincent made a motion to pass the first reading of Ordinance #2001-07. Motion seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson requested a postponement for two to three weeks to consider a modification of the Gallatin Gateway CTEP contract. Mr. Watson stated consideration of the modification is due to significant increases in the budget. He requested time to meet with the engineer to see if a consensus could be reached.

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Gary Vodehnal, resource specialist with GVLTL, urged the Commission to accept the Worrest, Day, and Thorne/Charlesworth trail easements on behalf of the public. Henry N. Worrest would like to donate an easement within Tract 5, Certificate of Survey 10, located in the SW1/4, Section 28, T2S, R6E, P.M.M., Gallatin County that has a width of 20 feet. Charles Day would like to donate an easement within Tract 1, Certificate of Survey 10, located in the SW1/4, Section 28, T2S, R6E, P.M.M., Gallatin County that has a width of 35 feet. Julia S. Thorne and Richard Charlesworth would like to donate an easement within Lot 2, Certificate of Survey 2072, located in the NE1/4 of Section 19, T2S, R6E, P.M.M., Gallatin County that has a width of 20 feet along with a maximum of three (3) parking spaces for the general public. There was no public comment. Commissioner Murdock made a motion to accept the three easements, pending verification of approval of the easements by Chief Civil Deputy County Attorney Chris Gray. Motion seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson announced the continuation of hearing public comments concerning the formation of a solid waste management district. He reported receiving resolutions of concurrence from the municipalities of Manhattan and Three Forks. Concurrence has not been received from Bozeman or Belgrade. Mr. Watson suggested that the Commission close this public meeting process and hold a meeting with Commissioners of Bozeman and Belgrade, Chief Civil Deputy County Attorney Chris Gray, Fiscal Officer Ed Blackman, and himself to discuss issues and questions that these communities may have regarding the formation of this district. After the group has had an opportunity to meet and discuss, the County Commission could hold additional public meetings regarding the formation of the district. Dean Ulrich, area manager of BFI Waste Management requested being informed of the time and location of the meeting with Bozeman and Belgrade so representatives of BFI Waste Management could attend. Chairman Mitchell requested receiving as much information as possible before the meeting with the communities in order to prepare responses to their questions. There was no further public comment. The Commission concurred with Mr. Watson's suggestion.

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There were no pending resolutions for consideration. There being no further business, the meeting adjourned at 9:50 A.M.

*Unavailable for  
Signature*  
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CHAIRMAN APPROVAL

*Judley Vasquez*  
\_\_\_\_\_  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 27th DAY OF NOVEMBER 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:03 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**NOVEMBER 19, 2001**

- The Commissioners held a regularly scheduled office meeting. In attendance were Commissioners Mitchell, Murdock and Vincent, Manhattan Mayor Eleanor Mest, MSU Government Student Jackie Hughes and Commission Secretary Stacy Johnston. Manhattan Mayor Eleanor Mest gave the Commission details of a proposed trail in the Manhattan area. Commissioner Murdock offered to draft a letter in support of the trail. Commissioner Vincent concurred.

The Commission reviewed the Ordinance Adoption Procedure drafted by Chief Deputy County Attorney Chris Gray. All concurred to schedule official adoption for next available public meeting.

Commission reviewed memos to Health Department and Treasurer's office regarding alternate space. Commissioner Murdock refused to sign memos as written. It was suggested that all three commissioners meet with the CIP Committee to review and amend these memos. All concurred; meeting was scheduled for December 12, 2001.

Other items of interest were discussed, but no further decisions were made.

**NOVEMBER 20, 2001**

- The Commissioners conducted regular County business.

**NOVEMBER 21, 2001**

- A special meeting was called to order for the purpose of approving claims. In attendance were Commissioner Vincent, Commissioner Mitchell (via telephone), Auditor Joyce Schmidt and Commission Secretary Stacy Johnston. The claims were listed on voucher list dated November 16, 2001, including check numbers 8005992-8006031, totaling \$23,869.81. Commissioner Vincent moved to approve claims as presented. Commissioner Mitchell seconded the motion. All voting aye, motion passed with a vote of two to zero.

**NOVEMBER 22, 2001**

- The Commissioners' office was closed in observance of Thanksgiving Day.

**NOVEMBER 23, 2001**

- The Commissioners conducted regular County business.

**The following items were on the consent agenda:**

1. Approval of claims were presented by the auditor, dated November 20, 2001, in the amount of \$71,101.99.
2. Consideration of Contract(s): Snow Removal Contract with 4 Seasons Lot Service, Inc. for Rest Home.
3. Approval of Zoning Improvements Agreement for Right Now Technology Auxiliary Parking Lot, north of Office Building #3, on lot 12A in the Genesis Business Park Subdivision, 40 Enterprise Blvd. A site inspection completed on October 30, 2001, found improvements completed as specified.
4. Release Zoning Improvements Agreement for Right Now Technology Office Building #3, that was entered into in April 2001, for temporary occupancy on lot 12A in the Genesis Business Park Subdivision, 40 Enterprise Blvd. A site inspection completed on October 30, 2001, found improvements completed as specified.
5. Request for Mortgage Exemption for Jeffrey and Arin St. Cyr, located in the SE ¼ of Section 11 and the NE ¼ of Section 14, T2N, R2E (north of Logan). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
6. Request for Final Plat Approval for Webb Minor Subdivision. Preliminary plat approval was granted on May 29, 2001. Gallatin County Planner Jennifer Koozer states that the conditions for final plat approval have been met.
7. Request for Relocation of Common Boundary Exemption for Michael T. Banning/Margaret M. Kachadurian, located in the E ½ of Section 34, T3S, R4E (Yankee Creek Road, Gallatin

Gateway). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

8. Request for Final Plat Approval of Landmark Subdivision, Phase 1.

Commissioner Murdock read the consent agenda, noting a request was made to continue Items 6 and 8. There was no public comment. Commissioner Vincent moved to approve the consent agenda as amended. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Open Lands Board member Grace Morgan reported on the consideration of a request for approval of a \$20,000 grant from the Gallatin County Open Space Program to Rebecca Weed and David A. Tyler, to assist in obtaining a 160-acre Conservation Easement on the Thirteen Mile Farm. The Open Lands Board unanimously passed this recommendation onto the Gallatin Valley Land Trust who will be carrying the easement on the property. Ms. Morgan noted that it met all the criteria. Jim Madden with Gallatin Valley Land Trust explained that the terms of the easement allow the continued use of the property for non-restricted agriculture, open space and one more house. He also, explained that the easement is being donated to the land trust by the property owners and the costs are approximately \$20,000, for which the money will be used. As part of the procedures promulgated by the Commission for this process, Chief Civil County Attorney Chris Gray reviewed the funding of the project and outlined the following conditions for the protection and interest of the county: 1. Applicant enter into a conservation easement sale and purchase agreement with Gallatin County and prepare the deed of easement; 2. Gallatin Valley Land Trust enter into an assignment agreement with Gallatin County; 3. The satisfactory proof of value of the conservation easement in an amount of at least the amount of the funding requested; 4. Preparation execution of necessary and customary closing materials and documents; and 5. Final approval of the office of the County Attorney at closing. There was no public comment. Finding that the Executive Committee and the full Open Lands Board recommended funding for the Tyler/Weed application, based on approved evaluation criteria, Commissioner Murdock moved to fund the application in the amount of \$20,000 from the proceeds of the Open Space General Obligation Bond. Seconded by Commissioner Vincent. Mr. Gray requested that the motion include a reference to the conditions as read into the record. Commissioner Murdock amended the motion, making it subject to the conditions entered into the record by Mr. Gray. Commissioner Vincent seconded the amendment. None voting nay. Motion carried.

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Jim Madden with Gallatin Valley Land Trust requested a one-month continuance for the consideration of a request for approval of a \$10,000 grant from the Gallatin County Open Space Program to the Chisholm Farm Partnership, to assist in obtaining an 80-acre Conservation Easement on the Chisholm Family Farm.

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Belgrade City/County Planner Jason Karp reported that Gaston Engineering requested a partial release of a financial guaranty for improvements to the 4-Dot Meadows Subdivision, a 115-lot subdivision on 136.55 acres. The subdivision is located west of Belgrade off Old Highway 10 (MT 205), adjacent to the Old Place Subdivision. The property is located in the NW ¼ of Section 28 and the NE ¼ of Section 29, T1N, R4E, PMM, Gallatin County, Montana. The County Commission reviewed the final plat for the 4-Dot Subdivision and voted to grant final plat approval at their March 6, 2001, public meeting. Part of the final plat approval included the approval of an improvements agreement accompanied by a letter of credit in the amount of \$928,696.95 to allow the deferred installation of required infrastructure. The County Commission voted to grant similar partial releases on August 21, and October 9, 2001. Those requests reduced the letter of credit by \$372,324.00 and \$363,840.00. The applicant is requesting that the Commission allow the letter of credit to be reduced an additional \$100,803.45. Therefore, with these three reductions the letter of credit would be reduced by a total of \$836,967.45. The remaining balance on the letter of credit would be \$91,729.50. The applicant's request is in accordance with Section 8-D-2 of the Gallatin County Subdivision Regulations, which states that, "The Commission shall reduce bond requirements commensurate with the completion of improvements, subject to these regulations. Mr. Karp reviewed the improvements and discussed this with the appropriate agencies. Finding that there were no objections, he recommended that the request be approved. There was no public comment. Commissioner Vincent moved to approve the partial release of financial guaranty for improvements to the 4-Dot Meadows Subdivision, finding that the request is in accordance with Section 8-D-2 of the Gallatin County Subdivision Regulations. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the consideration of a request for a family transfer exemption for Darlene Freese, located in the S ½ of Section 35, T2N, R4E (Raven Drive). Ms. Koozer reported on the intended use of the parcel. Darlene Freese was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. Commissioner Murdock moved to approve the family transfer exemption, as it appeared to be a proper use. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the consideration of a request for a family transfer exemption for Evert T. Wierda, located in the NE ¼ and NW ¼ of Section 15, T2S, R3E. (Wierda Way, off Norris Road). Ms. Koozer reported on the intended use of the parcel, noting that on February 3, 1993, the Wierda's recorded COS 1733, which created six tracts over 20 acres in size; on July 31, 1996, the Wierda's recorded Minor Subdivision #188, which subdivided Tract 4 of COS 1733 into five lots; and on February 19, 1998, the Wierda's recorded Minor Subdivision #228, which subdivided Tract 5 and 6 of COS 1733 into four lots. There were concerns with this development regarding a variance granted to provide a second access and the Amsterdam Volunteer Fire Department indicated that there were significant concerns about adequate water supply for any future development in this area. Although, according to recent discussions with the fire department, such concerns may be mitigated with the use of sprinkler systems in each residence. Evert Wierda was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. Commissioner Murdock stated that this is in an area that has been subdivided and created through certificates of survey, which concerned him. However, finding that Mr. Wierda testified under oath that he has no short or long term plans to sell it and answered all the questions satisfactorily, Commissioner Murdock moved to approve the family transfer exemption as a proper use, based on the testimony. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported this was a continuation of a request for modification to the Gallatin Gateway CTEP contract. Mr. Watson stated that this continuation was requested to allow them to modify the budget proposal from Staley Engineering on this project. He had not yet had the chance to meet with Road and Bridge Superintendent Lee Provance and Gallatin County Fiscal Officer Ed Blackman concerning reductions to this project budget, therefore he was requesting a two-week continuance. There was no public comment.

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Gallatin County Planner Jennifer Madgic reported on the continuation of a request for preliminary plat approval of the Autumn Ridge Major Subdivision. Ms. Madgic briefly reviewed the public hearing on November 13, 2001, noting that since that time the developer submitted a reconfiguration of the plat. In addition, she submitted a memo to the Commission explaining those changes: Overall Acreage- original 254 acres, new 254 acres; Number of Lots- original 181 lots, new 163 lots; Gross Density- original 1.40 acres/lot, new 1.56 acres/lot; Open Space in Acres- original 74 acres, new 127 acres; Percentage of Open Space- original 29%, new 50%; and Open Space Including Non-Buildable Lot Area- original NA, new 179 acres (70%). Ms. Madgic also brought to the Commission's attention a memo received from Deputy County Attorney Kate Dinwiddie in response to the following question: Can the County Commissioners consider new information outside the record after the final decision for the Autumn Ridge Subdivision has been continued for two weeks? The response was read into the record: No, not without reopening the record and giving the public an opportunity to comment on the new information. Pursuant to M.C.A. 2-3-103 (2001), the procedures taken by the County Commission must assure adequate notice and assist public participation before a final decision is made that is of significant interest to the public. Once the record has been closed, the County Commissioners may ask staff to obtain further information but this "new" information must be provided to the public and put on the record at the next public hearing. The Open Meetings law and the Notice provisions of Title 2 of the Montana Code Annotated require that the public have the opportunity to respond to all data the County Commissioners receive in making their final decision. An open meeting must be held when the action taken by the County involves the consideration of matters of significant public interest as in this case, the preliminary plat approval of Autumn Ridge. By reopening the record, the notice requirements and the opportunity for public participation in the decision making process would be satisfied. During board discussion Commissioner Mitchell reiterated the completed processes, noting that they were in Board discussion at the time of the continuance. She stated that for them to receive a revised application at this point diverts the entire process, which concerned her considerably. It appeared to her that a new reconfiguration was a new application, and she felt it was unfair to both the applicant and



to the public to consider a new application at this time without completing the first process. Commissioner Murdock stated he had several concerns with this development, along with those of the public, as presented two weeks ago. Some of those concerns being: density; water; and view shed. Those concerns were relayed by staff to the developer, and at this time his preference was to hear from the developer. Commissioner Vincent replied that he preferred a ruling of whether or not they could entertain that response without reopening the hearing and wanted to take the time to consider their options before making a decision. Commissioner Mitchell was inclined to complete this process, and have the applicant resubmit the new reconfiguration for review. The Board viewed their thoughts on whether or not to reopen the hearing to the public and if the changes would be significant enough to deem this a new application. Commissioner Murdock suggested following the advice of the County Attorney, and ask the developer if they had any mitigations proposed, open up public comment, and then make a determination of whether or not it is a new application. Commissioner Mitchell was concerned that the developer and the public did not know the impacts to be mitigated because that discussion had not yet taken place. Commissioner Mitchell noted that the Commission received additional written comment, which they could not consider because public comment was closed two weeks ago. Developer Mike Potter was asked to address the Commission on the current configuration regarding issues such as water; wildlife habitat; open space; view sheds; density; and protection. Mr. Potter replied by explaining the various layouts as presented, and pointed out that the underlying project has stayed consistent, making adjustments consistent to what they thought they were hearing from the public. Commissioner Murdock asked if they would consider phasing this project until all water issues were resolved. Mr. Potter replied yes, they would entertain that suggestion. He stated that they are trying to mitigate the Commission's concerns and have found that by tightening up lots and creating more open space, reduced the density without changing the basic format of the plan. He stated that they had carefully analyzed the water issues and they were willing to put that faith and belief in the wording of a condition that they will not commence construction until all permits are in place. In addition, he stated that there was an opportunity to supplement the on site water supply with an off site water supply that would come from the East Gallatin, rather than the Sypes Canyon aquifer. Commissioner Murdock questioned Alan English of the LWQD about the timing of the groundwater control area formation. Mr. English indicated he did not know. Commissioner Vincent referred to statute 76-3-608, and Section 5(b) which states: When requiring mitigation under Sub-Section 4, a governing body shall consult with the subdivider and shall give due weight and consideration to the expressed preference of the subdivider. He stated if they were to follow State law they would need to take time to give due weight and consideration to any mitigation's that have been suggested within the context of the original proposal. Commissioner Murdock listed his concerns, stating that it was quite clear that the project has to prove existing water users will not be adversely affected, and that water is physically and legally available, as well as open space requirements. He commented that as presently proposed the project is too dense and that this is an area that should see infill pending that it can meet all the public health and safety concerns and protect wildlife and the view shed. Commissioner Mitchell stated the following impacts that have not been mitigated to her satisfaction: distance to public services; lot sizes not compatible with existing lots; water availability; no inventory of weeds; the cumulative impacts of water, roads, traffic, wildlife and total density; open space; loss of agriculture; no visual buffer from agriculture to south, which goes against many of the Master Plan goals; ridge top development; roads; dogs; and no plan provided to help home owners for the development of a park. She stated it was not compatible with existing developments; therefore she did not want to compound existing problems. Commissioner Vincent stated that he, too, shared the concern relative to water of which he addressed under state statute 76-3-608(3), public, health and safety. He believed that the evidence and data were conflicting and the risk too great for error. He commented on the cumulative impacts to the surrounding area, in regards to protecting view sheds, ridge top development, and clustering, of which he did not believe it was a clustered development. He felt there was a significant impact on wildlife that could be mitigated but has not been. He also, referenced the subdivision regulations in regard to orderly development in Gallatin County. The Commission discussed the procedure relative to the relationship of the application, the process, the effort to mitigate, and the statutes regarding the new material submitted. Commissioner Vincent was convinced a project could be viable in this location, but not this one. Commissioner Mitchell reiterated her preference to make a decision on the current proposal. Commissioner Murdock was not clear on the procedure and acceptance of the submitted material, although he stated that he could not vote for original proposal. He requested to hear from the applicant's attorney Mike Lilly. Commissioner Mitchell denied the request because there was no County Attorney present. Motion by Commissioner Vincent to postpone consideration of this proposal until next week, solely to make sure that the legal process has been adequately addressed and considered by the County Attorney. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 10:41 A.M.

*Unavailable For  
Signature*

*Shelley Vance*

# 418 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

CHAIRMAN APPROVAL

CLERK ATTEST

## PUBLIC MEETING

TUESDAY THE 4<sup>th</sup> DAY OF DECEMBER 2001

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:01 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

### NOVEMBER 26-27, 2001

- The Commissioners conducted regular County business.

### NOVEMBER 28, 2001

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell and Murdock, and Commission Secretaries Stacy Johnston and Glenda Noyes. The Commissioners received an update on Courthouse Renovation Phases III & IV and the department relocation that will be occurring within these phases from Fiscal Officer Ed Blackman, ITS Manager Ed Kawa, and Facilities Director Bob Isdahl.

The Commissioners considered acceptance of the Headwaters' Trail Project Maintenance Memorandum of Agreement. Commissioner Murdock made a motion to approve the Memorandum of Agreement finding that Chief Deputy County Attorney Chris Gray has approved. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered a request to delegate financial signatory authority to Grants Administrator Larry Watson for the SBIR, Progriba Airport Improvement Project and the Department of Justice Drug Court Program, eliminating the need for Commission approval of each draw down. Chief Deputy County Attorney Chris Gray has suggested this process. Commissioner Murdock made a motion to give fiscal signing authority to Mr. Watson for the SBIR, Pogreba Airport Project and the DOJ Drug Court Program. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of an Asset Disposal request by the County Treasurer. Commissioner Murdock made a motion to approve said request. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

### NOVEMBER 29-30, 2001

- The Commissioners conducted regular County business.

#### **The following items were on the consent agenda:**

1. Claims were presented for approval by the Auditor, dated November 29, 2001 in the amount of \$358,207.66.
2. Consideration of Contract(s): Snowplowing Services Agreement with Westfork Owners' Association for Big Sky
3. Continuation of a Request for Final Plat Approval of Webb Minor Subdivision. Preliminary plat approval was granted on May 29, 2001. Gallatin County Planner Jennifer Koozer states that the conditions for final plat approval have been met.
4. Continuation of a Request for Final Plat Approval of Landmark Subdivision, Phase I.

Commissioner Vincent read the consent agenda. Belgrade City/County Planner Jason Karp requested that the final plat approval for the Landmark Subdivision be continued for one more week. Commissioner Vincent moved approval of the consent agenda as amended. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic reported on the continuation of a motion and vote regarding a request for preliminary plat approval of the Autumn Ridge Major Subdivision. Ms. Madgic stated that a request by the applicant's attorney Mike Lilly was received asking for a two-week continuance, which would be December 18, 2001. She also, noted a memo received from the County Attorney, advising the Commission how to comply with MCA, 76-3-608. Chief Civil Deputy County Attorney Chris Gray summarized the advice given to the Commission by the County Attorney's office, pursuant to 76-3-608, as follows: 1. Explain to the public and developer that in today's meeting the Commission will address

the adverse impacts that the Commission feels must be mitigated by the developer; 2. State that pursuant to MCA 76-3-608 (2001) the Commissioners are required to consult with the developer and allow them the opportunity to reduce the impacts created by their subdivision; 3. State that the Commission is also required to give the public an opportunity to address the mitigation proposals suggested by the developer and that the record will reflect that the public has been provided a means to communicate their concerns; 4. Read concerns into the record, one at a time, allowing the developer and the public to respond. Have a written list of concerns prior to the meeting so that the developer and the public will have something to follow; 5. If the developer has not had the opportunity to address a specific impact, then allow him additional time to prepare a mitigation proposal to present to the Commission at the next public meeting. Ask the developer to agree to more time if they need it; and 6. If the developer does not wish to submit further mitigation measures, then state that you will close the record and make a decision on their preliminary plat "as is".

Based on the public testimony, at the subdivision hearing and the ground water control area study hearing, Commissioner Murdock stated it was clear that the public health and safety matter of adequate water supply is an issue. He stated that they needed to condition approval, if they were to approve this subdivision in the form of mitigation on three things regarding water, in order, "to reasonably minimize potentially significant adverse impacts identified", as stated in the law. The project should be completed in 2 phases with lots being evenly distributed in both phases with a maximum of 100 lots, no more than 50 lots in each phase; the applicant should provide adequate water supply with no adverse impact to adjoining owners in accordance with approval procedures from DNRC and DEQ; and Phase 2 should not be approved until completion of the controlled ground water study which could demonstrate there is adequate water. In noting another proposed mitigation the applicant would have to obtain DEQ and DNRC approval for the proposed water system prior to the installation of any improvements. He pointed out his concerns with the following Master Plan goals that the proposal as originally presented did not conform to: Residential Goal VI, encouraging cluster development; Agricultural Goal III, does not use natural features to separate residential uses from agricultural uses, i.e. ridgetop, no innovative plan; Recreational Goal VII, encourage park land that is adjacent to public lands where appropriate; Residential Goal I, locate development next to existing; and the Wildlife Goal I. Based on that he suggested that they require in the form of a condition to increase the open space to a minimum of 50% common open space, which would show compatibility with adjoining subdivisions and meet wildlife protection, ridge top views and provide for functional recreation. He thought that the roof tops should not break the skyline and be seen from Sypes Canyon Road, Springhill Road, North 7<sup>th</sup> and Frontage Road to its intersection at Springhill. Therefore, the applicant should submit a ridgeline mitigation plan to be reviewed and approved by the County Commission. Commissioner Vincent concurred with Commissioner Murdock's comments. He stated there is a serious question relative to the possibility of dewatering which would run contrary to Water Goal II of the Master Plan, and that the plan directs the Commission to apply the water use recommendations of the DNRC in considering whether to approve conditionally or deny a subdivision. He requested that as a mitigation proposal the developer address this question, although he did not know how that could be done and meet the requests of the developer after preliminary plat approval is granted. He noted his concerns about wildlife in the area as they are directly connected with an adequate percentage of open space and that could be accomplished with greater clustering. Greater clustering under the subdivision regulations and Master Plan would enhance open space and wildlife habitat. He pointed out his concerns with the following Master Plan goals: Agriculture Goal III, encourage cluster development; and Views Goal 1, protect views within Gallatin County. He stated under those provisions both applied through the subdivision regulations, the Master Plan and state law this is a mitigatable project. Commissioner Mitchell was concerned with: Residential Goals I, IV, VI, and VIII, lot sizes and lack of compatibility with the existing development and cumulative impacts by putting density in the middle of two less dense subdivisions, as doing so adds more to the cumulative impact of the water, roads, traffic, wildlife and open space; Recreation Goal I, regarding the proposed park; Water Goals I and II, water availability; Agriculture Goals I, II, and III, regarding the loss of agriculture and the lack of visual buffer; Soils Goal I; Geology Goal I; and Views Goal I, regarding ridgetops; Wildlife Goal I, was not addressed; Transportation Goal II and IV, regarding roads, and the easiest and shortest routes through existing subdivisions. She commented that the open space is too chopped up, and not consistent with what Gallatin County wants to see from good development at this time. Also, dogs were not addressed and she did not find the weed inventory completed. She stated with less density the project would be more preferable, realizing the developer would have to redesign the wastewater treatment system to accommodate fewer densities. The Commission stated that this is a mitigatable project. Commissioner Murdock added to the Transportation Goal, regarding the impact to Sypes Canyon Road, Rolling Hills Road, Story Mill Road. Should this project be mitigated he would propose to change condition 18, adding Story Mill Road as part of the study, and condition 22, he would add that Grand View Heights 1 and 2, also enter into a joint agreement for the maintenance of Ranch Drive and Branding Iron Road. Commissioner Mitchell was in concurrence with the study and phasing and wanted to see the applicant participate financially or provide some sort of in-kind for the water study. Mike Potter, representing Autumn Ridge reaffirmed their request for a continuance. The

**420 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46**

Commission granted the continuance, and noted it was contingent on the developer's proposed mitigations. The Commission will reopen public comment on those mitigations.

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Gallatin County DUI Task Force Coordinator Jenna Caplette read the proclamation declaring December 2001 as Drunk and Drugged Driving (3D) Prevention Month. December 21-23 is Holiday Lifesavers Weekend, with December 21 as "Lights on For Life" Day, in Gallatin County. There was no public comment. Commissioner Vincent moved to adopt the proclamation declaring December, as Drunk and Drugged Driving month. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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One vacancy exists on the Clarkston Fire Service Area Board of Trustees, due to the resignation of Denise Huckstep on October 1, 2001. To date, applications were received from Lester Rate, Jr. and Terry Russell. As this vacancy occurs during an un-expired term of office, this appointment will be only until the next regular election to be held on May 7, 2002. Public comment in support of Lester Rate: Miriam VanStraaten; and Lester Rate. Terry Russell spoke in support of himself. Commissioner Murdock moved to appoint Lester Rate. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing and consideration of a resolution to change the types of service in the Clarkston Fire Service Area. Notice was published in the High Country Independent Press on November 21 and 29, 2001. In addition, the notice was mailed to all property owners in the fire service area on November 16, 2001. Ms. Vance noted that the Clerk and Recorder's office failed to notify the County Attorney to prepare a resolution to be considered at this time. Therefore, she recommended conducting the public hearing, making a decision and next Tuesday a resolution would be presented on pending resolutions. Public comment in support: Fire Chief Tim Lacotta; Floyd Johnson; and Miriam VanStraaten. Letters of support were received from the following: Ellen Palmer; Bill Frank; and Wilbert and Miriam VanStraaten. Commissioner Murdock move to pass the Resolution of Intention #2001-119. Seconded by Commissioner Vincent. Ms. Vance reiterated the process, noting that the resolution of intention was passed earlier, and based on the public testimony received today the Commission would take action to alter the types of service, and a resolution would follow next week. Commissioner Murdock amended his motion to alter the service in the Clarkston Fire Service Area, as described in Resolution of Intention #2001-119. Commissioner Vincent amended his second. None voting nay. Motion carried.

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Commissioner Murdock read the second reading of an ordinance reducing the speed limit in the Godfrey Canyon Estates Subdivision. There was no public comment. Commissioner Vincent moved to adopt Ordinance #2001-07. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Commissioner Mitchell read the second reading of an ordinance reducing the speed limit in the Valley Grove Subdivision. Richard Lease, spoke in support of the ordinance on behalf of the residents of the Valley Grove Subdivision. Commissioner Vincent moved to adopt Ordinance #2001-06. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Sheriff Jim Cashell reported on the consideration of a resolution of intent to amend the Sheriff Department's Big Sky Law Enforcement Fund for FY 2002 to include Big Sky Resort Tax Funds. There was no public comment. Commissioner Murdock moved to approve Resolution #2001-129, as described. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported on the consideration of a resolution of concurrence for the West Yellowstone Hebgen Basin Solid Waste Management District Composting Loan. Mr. Watson explained the attachments noting that the West Yellowstone Hebgen Basin Refuse District Board unanimously adopted all the documents. He pointed out that the attached Commitment Agreement sets forth all of the terms and conditions of what will be a loan document for the purpose of

GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 421

purchasing equipment and constructing a building to house that equipment for composting municipal solid waste at the West Yellowstone Hebgen Basin transfer station. The loan agreement will follow after the first of the year. Commissioner Vincent commended Mr. Watson, the Board and the engineers for all their efforts in this project. There was no public comment. Commissioner Murdock moved to adopt Resolution #2001-130. Seconded by Commissioner Vincent. None voting nay. Motion carried. Discussion took place regarding the certificate as to resolution of adopting a vote. Gallatin County Clerk and Recorder Shelley Vance stated this was a certificate to be signed by the Clerk and Recorder and the Commission did not need to take action on it.

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Commissioner Mitchell announced there were three pending resolutions to annex property into the Belgrade Rural Fire District. Commissioner Murdock moved to approve pending Resolution #2001-131. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Murdock moved to approve pending Resolution #2001-132. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Murdock moved to approve pending Resolution #2001-133. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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There being no further business the meeting was adjourned at 10:25 A.M.

*Unavailable for  
signature*  
\_\_\_\_\_  
CHAIRMAN APPROVAL

*Shelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 11<sup>th</sup> DAY OF DECEMBER 2001**

The meeting was called to order by Chairman Jennifer Smith Mitchell at 9:06 A.M. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**DECEMBER 3, 2001**

- The Commissioners conducted regular County business.

**DECEMBER 4, 2001**

The Commissioners conducted regular County business.

**DECEMBER 5, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell and Vincent, Road and Bridge Superintendent Lee Provance, and Commission Secretaries Stacy Johnston and Glenda Noyes. After discussion regarding an invoice submitted by Susan Swimley for legal services in the amount of \$267.00, Commissioner Vincent made a motion to approve said invoice, noting that discussion with Ms. Swimley had cleared up concerns on this matter. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero. The Commissioners considered authorizing the Chairman to sign an easement to Steve and Diane Stuber @ the Cooper Pit site. Deputy County Attorney Chris Gray stated that the Commission had granted an easement to Darrel DeHaan previously, but it has since been lost. The action requested today is to reaffirm previous action taken, and authorize the Chair to sign a replacement easement. Commissioner Vincent made a motion to authorize Commission Chairman Jennifer Smith Mitchell to sign the easement to Steve and Diane Stuber. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero. Montana Rail Link has requested an encroachment permit on Sappington Road in order to improve and build the road south of Luzenac to County gravel standard. Mr. Provance recommended denial of this request, stating that this permit should be granted only after the Department of Environmental Quality approved the operation that MRL is attempting to begin. He stated that it would be unnecessary to agree to enter into a transaction for a road that goes nowhere. Commissioner Vincent made a motion to not enter into an agreement for a road improvement with MRL for an encroachment permit on Sappington Road, as currently the project is not viable and there is no good

## 422 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

rational for doing so. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero. Commissioner Murdock joined the meeting at this time. The Commissioners considered a temporary animal impound agreement with the Humane Society. Commissioner Murdock made a motion to enter into the temporary animal impound agreement with the Humane Society, based on the recommendation of Deputy County Attorney Chris Gray. Commissioner Vincent seconded the motion. All vote aye. Motion carried unanimously. The Commissioners discussed the public assistance lease in the Planalp Building. Commissioner Murdock made a motion for the Commission to draft a letter to the State DPHHS regarding the lease of the Planalp building, advising them of the unclear status of the lease and asking them to find a new home. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously. The Commissioners considered requests from the Road and Bridge, Search and Rescue, Fiscal and Personnel Departments for Asset Disposals. Commissioner Murdock made a motion to not accept the Search and Rescue asset disposal transfer from Personnel to Motor Vehicle. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously. Commissioner Murdock made a motion to accept the Road and Bridge asset disposal request for computer disposal. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously. Commissioner Murdock made a motion to accept the Fiscal Office asset disposal request for computer disposal. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously. The Commissioners considered approval of eight expenditure transfer requests from the Gallatin Local Water Quality District. Commissioner Murdock made a motion to approve the eight transfer requests. Commissioner Vincent seconded the motion. In discussion, Commissioner Mitchell recommended that the forms be changed to allow the Fiscal Officer to sign off on the expenditure transfer requests in the future. All voted aye. Motion carried unanimously. The Commission considered approval of a request from the Sheriff's Office to expend \$11,082.70 from the Department of Justice, LLEBG Grant for the purchase of a copier. Commissioner Murdock made a motion to direct Sheriff Cashell to consult with Fiscal Officer Ed Blackman regarding the County policy for such purchases. Commissioner Vincent seconded the motion. In discussion, Grants Administrator Larry Watson agreed to clear up the funding source matter. All voted aye. Motion carried unanimously. The Commissioners discussed the departure of Public Assistance Director Joan Davies and Commissioner Murdock made a motion to approve up to \$75.00 for the purchase of a plaque for Ms. Davies. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

### DECEMBER 6, 2001

- The Commissioners conducted regular County business.

### DECEMBER 7, 2001

- The Commissioners attended a special meeting for the purpose of approving claims on a voucher list dated December 5, 2001. In attendance were Commissioners Mitchell and Vincent, Auditor Joyce Schmidt, Accounting Clerk Renee Huyser, and Commission Secretary Glenda Noyes. Commissioner Vincent made a motion to approve claim number 8006484 totaling \$22,197.00. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

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- A101's for November 2001: \$88.27.
- Landfill Revenue for August and September 2001: \$147,030.15.
- Payroll for November 2001: \$1,138,354.43.
- Clerk & Recorder's Fees Collected for November 2001: \$64,914.01.
- New Hire Report for November 2001: 911 – Flora Sebens; EXTENSION – Lorri Brenneman; FAIR – Lenita Hough; HEALTH – Rebecca Spear; REST HOME – Karol Pennington, Kathleen McLaughlin, Stephanie Albro, Sara James, Jessie Elliott, Christine Seaton, Bridget Reiland; ROAD & BRIDGE – Clayton Stinson; SHERIFF – Robert Beall, Theodore Quillen; SUPERINTENDENT OF SCHOOLS – Janet Michno; TREASURER – Janice Thompson; WEED – David Rickett.
- Terminated Employees' Report for November 2001: 911 – Christine Boech 11/16/01; HEALTH – Kathy Carey 10/24/01; REST HOME – Claudia Culver 10/31/01, Kathleen McLaughlin 11/03/01; SHERIFF – Aaron Nave 10/30/01.

**The following items were on the consent agenda:**

1. Claims were presented for approval by the Auditor, dated December 6, 2001 in the amount of \$255,113.03.
2. Cancellation of Delinquent Taxes Totaling \$5,511.28 (Application No.'s 4547-4553).
3. Consideration of Contract(s): Services Agreement with Holborn Ceramic Tile, LLP for Rest Home; Agreement with Big Sky Owners' Association for Snowplowing; Agreement with Wally Freund for Snowplowing RID 370; Agreement with Big Horn Snow Removal for Snowplowing RID 323; Agreement with Bush Drilling for Snowplowing RID 344; Agreement with Avalanche Snow Removal for Snowplowing RIDs 340 & 359; and Agreement with Figgins Sand and Gravel Inc. for Snowplowing RIDs 308, 309, 315, 317, 321, 326, 332, 343 and 351.
4. Request for Agricultural Exemption for Pete and Fenna Kimm, located in the NE ¼ of Section 27, T1S, R3E (Prairie Road). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Lot Aggregation and Relocation of Common Boundaries Exemption Within a Platted Subdivision- Three V Partnership, LLP (Laura and David Vaughn and Lisa Gary), located in the NE ¼ SE ¼ of Section 23, T2S, R4E (Rainbow Subdivision). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
6. Request for Final Plat Approval of Old Place Subdivision Phase 2, described as the NW ¼ of Section 28, T1N, R4E, PMM, Gallatin County, Montana. Belgrade City/County Planner Jason Karp states that the conditions for final plat approval have been met.
7. Continuation of Request for Final Plat Approval of Landmark Subdivision, Phase 1.

Commissioner Murdock read the consent agenda. Belgrade City/County Planner Jason Karp requested consent agenda Item #7 be continued until next week's consent agenda. Commissioner Murdock requested consent agenda Item #6 be placed on the regular agenda as Item #1A for further discussion. Commissioner Vincent adopted the consent agenda as amended. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Belgrade City/County Planner Jason Karp verified for the Commission that conditions of final plat approval for the Old Place Subdivision, Phase 2, have been met and recommended approval. Based on Mr. Karp's confirmation, Commissioner Murdock moved to approve the final plat for Old Place Subdivision, Phase 2. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Five vacancies exist on the Gallatin County Fair Board due to the term expirations of C. Spencer Smith, Andy Leep, Greg Raths, Ramona Brastrup and Robert Brekke on December 31, 2001. All of the above members reapplied for reappointment and two new applications were received from Blair Howze and Michael Kelly. These are two-year terms, expiring on December 31, 2003. Blair Howze urged the Commission to consider his application. Commissioner Murdock noted that he would respectively not vote to remove Mr. Leep or Mr. Smith, although he had no problem with Mr. Howze or Mr. Kelly, should they be the Boards preference. Commissioner Vincent moved to nominate Robert Brekke. Seconded by Commissioner Murdock. None voting nay. Motion carried. Commissioner Murdock moved to appoint Ramona Brastrup. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Mitchell moved to nominate Greg Raths. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Vincent moved to nominate Blair Howze. Seconded by Commissioner Murdock. Commissioners Mitchell and Vincent voting aye. Commissioner Murdock voting nay. Motion carried. Commissioner Mitchell moved to nominate Mike Kelly. Seconded by Commissioner Murdock. Commissioners Mitchell and Vincent voting aye. Commissioner Murdock voting nay. Motion carried. Chief Deputy Civil County Attorney Chris Gray advised the Commission to instruct the Fair Board at their next meeting with the new Board, to stagger the terms by lot or on an independent basis. This would allow the Board to avoid having to many terms expire at once. They also discussed the procedure for term limits. Commissioner Mitchell stated she would take that information to the next Fair Board meeting.

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Chief Deputy Civil County Attorney Chris Gray reported on the consideration of the Gallatin County Board of Commissioners Ordinance Adoption Procedure. Mr. Gray summarized the document outlining a policy for the Commission, and setting forth an orderly process to consider ordinances. There was no public comment. Commissioner Murdock moved to adopt the Ordinance Adoption Procedure, as

presented by Mr. Gray, making it effect immediately. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported on the continuation of a request for modification to the Gallatin Gateway CTEP contract. Mr. Watson discussed the modifications that took place since the Commissions approval two years ago. The original plan included the Gallatin Gateway youth group raising funds, donated engineering services, and materials and landscaping to be utilized by the Gateway community to match their request for CTEP funds. He explained the difficulties the engineering firm encountered in trying to accommodate into their engineering plan and proposal the donated materials and engineering services that were used to offset their fees and overall budget for this project. Some of the changes in the engineering costs involved the trail surface; bridges; and the overall landscaping plan. Those changes, and maintenance issues regarding the landscaping plan, and concern of how to give people making donations to this project adequate tax deductions for their donated goods were cause for the decision to not use donated materials. The original budget two years ago, which did not allow for added contingency or inflation was \$264,834, and the current budget is \$339,554. This request is to add an additional \$57,624.81 of the County CTEP reserve into this project to fulfill the budget, and requires that the community of Gallatin Gateway raise an additional \$21,270.87 to match the project. The total match would be \$50,966.87. Mr. Watson outlined the overall CTEP budget, the monies allocated, and contingency fees for pending projects. Public comment in support: Alice Jones; Brad Flategraff; Lori Davis; and Russ Tuckerman. Commissioner Murdock spoke in support of the request and thanked all those who participated in the project. Commissioner Vincent moved to approve the modification of the Gallatin Gateway CTEP project in the amount of \$57,625. Seconded by Commissioner Murdock. Commissioner Mitchell stated that she was not ready for a motion, without first having a detailed summary of the changes, the money and the status of other projects. She requested time to review the projects in order to make sure the contingency is adequate, stating if the motion was not withdrawn she would vote against it. She was also concerned with the donated items that were backed out of the project, stating it was discouraging to see less commitment from the community and more commitment of County dollars. Commissioners Murdock and Vincent voting aye. Commissioner Mitchell voting nay. Motion carried. Commissioner Vincent requested that Mr. Watson provide the Commission with the summary.

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Gallatin County Health Officer Stephanie Nelson reported on the consideration of a resolution of intent to increase the Gallatin County final operating budget for the Communicable Disease Fund for FY 2002. There was no public comment. Commissioner Vincent moved to adopt Resolution of Intent #2001-134. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Commissioner Murdock read the first reading of an ordinance reducing the speed limit in the Rainbow Subdivision. Public comment in support of a 15 mph speed limit: Gary Ferguson; Tom Woody; Jen Moran; and Ron Wittenauer. Concerns of the public were: the narrow, unsafe road (Upper Rainbow); dust; destruction of private property; and enforcement of the speed limit. Gallatin County Road and Bridge Superintendent Lee Provance confirmed that currently the road is signed at 15 mph but it is not an enforceable speed limit, therefore he did not recommend setting a speed limit that would not be enforceable. Mr. Provance noted that Rainbow Subdivision was the oldest subdivision in the state, and the roads were built with minimal right-of-way and road widths far less than what was accepted even back then. Knowing this is a safety issue, Mr. Provance suggested the homeowners of the subdivision acquire right-of-way and improve the roads by forming a homeowners association. Discussion took place regarding why the petition was modified to include additional roads and changing the speed limit to 25 mph, when the original petition was submitted for 15 mph on Upper Rainbow Road only. It was determined that when a request to set a speed limit on a subdivision road is submitted, all the roads in that subdivision meeting the criteria are aggregated in order to make it more efficient, rather than doing each one separately. Commissioner Mitchell noted with other ordinances, that the Commission had informally adopted a policy of not going less than 25 mph, unless there is a school zone. Noting that this subdivision is unique, in that it does not meet county standard road widths, has bad site distances, and it is not a through road, Commissioner Murdock stated it would be a legitimate request to lower the speed limit to 15 mph on all the roads listed. Mr. Provance concurred that there were some complicating issues with this situation that do not exist in any other subdivision in the county that he was aware of. Commissioner Vincent agreed that this is a unique situation and the speed limit should be based on what is safe and not be based on average speeds. Motion by Commissioner Murdock to make



a substantive change to the ordinance at this first reading: to reduce the limit posted to 15 mph, finding that the Rainbow Subdivision is unique in that it has very narrow, less than present county standard drive surfaces and rights-of-way, has blind corners, bad site distances and it would be problematic to widen any of the roads to get close to a county road standard. He stated that it justifies the reduction from normal policy and the fact that the roads are not paved. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Mitchell stated that this would be re-advertised for the second reading at 15 mph, unless the County Attorney advises them otherwise. Commissioner Murdock made an addendum to the motion, adding that this was Ordinance #2001-08. Commissioner Vincent seconded the addendum. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider a petition to abandon a portion of Old Morgan Road. Ms. Vance pointed out that there was a typographical error on some of the correspondence with the incorrect footage, and the correct description was 30 feet x 125 feet. Prior to this meeting the Commission accepted the petition and appointed a viewing committee consisting of Commissioner Vincent, Ms. Vance and Gallatin County Road and Bridge Superintendent Lee Provance as a consultant. Notice of this public hearing and a copy of the viewing committee report was mailed by regular mail to all signers of the petition, land owners named on the petition, individuals named in the petition who could be affected, the postmaster of the area and the public lands access association, Alan Fitzgerald, and by certified mail to Robert Foster. After viewing the road, the viewing committee noticed the petition did not contain information that appeared in the Clerk and Recorder's office, specifically the petition did not contain the signature of Alan Fitzgerald, an adjacent land owner who submitted the petition, and based on the records in the Clerk and Recorder's office the portion of roadway being petitioned to be abandoned is owned by Robert Foster. Mr. Foster's name did not appear on the petition. An overview of the viewing committee report stated that the portion of road to be abandoned is a 30-foot x 125-foot strip of land lying south of the Fitzgerald property and north of Springhill Road. The "necessity for and advantage of the abandonment" according to information submitted in the petition is to landscape the area and improve access to the Fitzgerald property. The property west of the Fitzgerald property and also the Fitzgerald property receive access from an encroachment located on the north side of Springhill Road, located in the SE ¼ of Section 34, T2N, R5E. This encroachment is located on the northeasterly portion of a curve in Springhill Road. The Reese Creek Community Center receives access from an encroachment located on the north side of Springhill Road directly south of the community center. The road is built, but not to county standards. Since the construction of Springhill Road, this portion of roadway appears to be used only for access into individual properties and not used by the general public. It would be very costly for the County to improve the road to current county standards, and maintain this portion of road. Therefore, it appears to be feasible and desirable to grant the petition. No one would be land-locked nor denied access to public lands if the abandonment were granted. Ms. Vance stated that because of this unique situation with the petition to abandon a portion of road being made by the adjacent property owner, the Chief Deputy Civil County Attorney Chris Gray advised that all parties be notified and made aware of the situation. Public comment in support of the abandonment: Al Fitzgerald; Joyce Miller; and Robert Foster. Gallatin County Road and Bridge Superintendent Lee Provance pointed out the accesses for the Commission. Commissioner Murdock moved to abandon this portion of Morgan Road, per the recommendation of the road viewing committee and per the attached plat. Seconded by Commissioner Vincent. None voting nay. Motion carried. Ms. Vance noted that the Commission might need to have further discussion with the County Attorney to consider who would be granted the abandoned property. Mr. Gray commented that he was not prepared at this time to answer any questions regarding that consideration and suggested this matter be set for a later date.

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Chief Deputy Civil County Attorney Chris Gray presented the consideration of an amendment to the application process for Open Space Preservation Funds regarding timing of applications. Mr. Gray stated that this regarded an issue of when applications should be accepted, or the deadline for a transaction in the process. He explained that the Open Lands Board unanimously passed the policy at their December 10, 2001, meeting recommending that the Commission integrate the following policy into the application process for Open Space Preservation Funds: "No application will be accepted where the subject instrument granting an interest in property under the Montana Open Space Land and Voluntary Conservation Easement Act is conveyed on or before November 7, 2000." He noted that date as being the date of which the bond passed, and recommended amending the application process to include that language. There was no public comment. Commissioner Murdock moved to accept the recommendation from the unanimous vote of the Open Lands Board to adopt this policy into the application process for Open Space Preservation Funds, and that no application will be accepted where the subject instrument granting an interest in property under the Montana Open Space Land and

**426 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46**

Voluntary Conservation Easement Act is conveyed on or before November 7, 2000. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the consideration of a request for a family transfer exemption for Ron Mosness, located in the NE ¼ SE ¼ of Section 23, T1S, R5E (Springhill Lane; Stonegate Drive). Ms. Koozer summarized the intended use of the family transfer. Ron and Linda Mosness were sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. Commissioner Murdock moved to approve the request as a proper use of the exemption. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported that the applicant requested a one-week continuance on the consideration of a request for preliminary plat approval for the Saddle Peak Ranch. Mr. Johnson stated the applicant would submit the request in writing.

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Commissioner Mitchell announced there was a pending resolution altering the kinds, types and levels of service for the Clarkston Fire Service Area. Commissioner Murdock moved to approve Resolution #2001-135. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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There being no further business the meeting was adjourned at 11:38 A.M.

*Unavailable For  
Signature*  
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CHAIRMAN APPROVAL

*Jelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 18<sup>th</sup> DAY OF DECEMBER 2001**

The meeting was called to order by Acting Chairman John Vincent at 9:04 A.M. Also present were County Commissioner Bill Murdock, and Acting Clerk to the Board Mary Miller. Commissioner Mitchell was absent.

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Acting Chairman Vincent requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**DECEMBER 10, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell, Murdock, and Vincent, and Commission secretaries Stacy Johnston and Glenda Noyes. The Commissioners discussed the records stored in the Courthouse basement belonging to the County Attorney and Justice Court Offices. Commissioner Murdock made a motion to make an offer to County Attorney Lambert and Judge Scott Wyckman to move their records to an offsite storage facility at the Commission's expense, and pay for the first year of storage out of Phase III, IV renovation funds. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously. The Commissioners discussed moving Planner Jennifer Koozer into previous Planner John Shepard's position, changing her title to Planner II from Planner I. Commissioner Murdock made a motion to approve such change, effective immediately. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously. The Commissioner considered a contract for the removal of historical waste at Logan Landfill. Three to five thousand tons of historical waste needs to be removed prior to Cell 2 liner implementation. The cost is \$110.00 per hour for equipment use and \$13.00 for each ton of garbage hauled. HKM engineering has sent a letter recommending that this work needs to be done as soon as possible. The funds for doing so will come from future utilization of the cell,

and is built into the reimbursement from the Cell 2 project. Commissioner Murdock made a motion to approve the contract for removal of historical waste at the Logan Landfill, based on the recommendation of Greg Underhill, Engineer with HKM Engineering. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously. The Commission considered a second amendment to the BRW contract regarding the Big Sky Transportation Study. Commissioner Murdock made a motion to approve said amendment. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously. The Commission considered an invoice for BRW in the amount of \$17,807.28. Commissioner Murdock made a motion to approve said invoice. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously. The Commission considered an invoice dated November 23, 2001 from Transformation Consulting and Seminars, Terry Radcliffe, in the amount of \$2,102.00. Commissioner Murdock made a motion to approve said invoice. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously. The Commission considered a certificate of substantial completion for the subdivision road improvements for Painted Hills RID #376. The contractor and engineer have both indicated that the work has been completed. Commissioner Vincent made a motion to sign off on the certificate of substantial completion for road improvements within the subdivisions in the Painted Hills RID #376. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously. The Commissioners considered a request for transfer of assets submitted by the Youth Probation Department. Commissioner Murdock made a motion to approve a transfer of assets, a printer, from Youth Probation to the Grants Department. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

- The Commissioners attended a special meeting for the purpose of approving claims listed on the voucher list dated December 6, 2001, including check numbers 8006485 – 8006486, totaling \$4,588.30. In attendance were Commissioners Mitchell and Murdock, Auditor Joyce Schmidt, Accounting Clerk Renee Huyser, and Commission Secretary Glenda Noyes. Commissioner Murdock made a motion to approve said claims. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

#### **DECEMBER 11, 2001**

The Commissioners conducted regular County business.

#### **DECEMBER 12, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, and Commission secretaries Stacy Johnston and Glenda Noyes. The Commissioners discussed appointment of interim planning director(s) in the Planning Department due to the resignation of Bill Arnold. Commissioner Murdock made a motion to appoint Randy Johnson, Jennifer Madgic, and Lanette Windemaker as rotating interim planning directors until further notice. Commissioner Vincent seconded the motion. In discussion it was noted that the three indicated would be asked to provide the Commission with a schedule as to the rotation they will be following. All voted aye. Motion carried with a vote of two to zero.

#### **DECEMBER 13-14, 2001**

The Commissioners conducted regular County business.

#### **The following items were on the consent agenda:**

1. Approval of Minutes from September 11, 18, and 20 and October 2, 2001.
2. Claims were presented for approval by the Auditor, dated December 13, 2001 in the amount of \$143,693.78.
3. Consideration of Contract(s): Library Services Agreement with City of Manhattan for FY 2002; Library Services Agreement with City of West Yellowstone for FY 2002; and Contract between TSEP and Gallatin County for Bridge Improvements.
4. Request for Final Plat Approval for Zisch Subdivision, described as the amended plat of Lot 7, Baker Creek Meadows in the NW ¼, of Section 5, T1S, R4E. Preliminary plat approval was granted on July 24, 2001. Belgrade City-County Planner Jason Karp states that the conditions for final plat approval have been met.
5. Continuation of Request for Final Plat Approval of Landmark Subdivision, Phase I, described as COS 999, located in the NE ¼ of Section 33 and the NW ¼ and SW ¼ of Section 34, T1N, R4E. Preliminary plat approval was granted on April 24, 2001. Belgrade City-County Planner Jason Karp states that the conditions for final plat approval have been met.

**428 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46**

Commissioner Murdock read the consent agenda. There was no public comment. Commissioner Murdock moved to approve the consent agenda. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic reported on the continuation of a motion and vote regarding the request for preliminary plat approval of the Autumn Ridge Major Subdivision. Ms. Madgic submitted two letters. Exhibit "A", a letter (dated December 10, 2001) addressed to the Commission from the applicants representative Mike Lilly, requesting another continuation pending receipt of a decision from the Montana Department of Natural Resources and Conservation. Exhibit "B", a letter (dated December 12, 2001) responding to Mr. Lilly from the Commission extending the applicants request, and pointing out additional concerns that were voiced on the record by the public and the Commission during prior hearings. The continuance was granted indefinitely.

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Gallatin County Auditor Joyce Schmidt reported on receipt of the Auditor's quarterly report for the quarter ending September 30, 2001, noting that the report was submitted on November 30, 2001, meeting the statutory requirement. There was no public comment. Commissioner Murdock moved to accept the Auditor's quarterly report, ending September 30, 2001. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Commissioner Vincent reported on the public hearing and consideration of a resolution regarding closure of the Superintendent of Schools' Office on December 24, 26, and 31, 2001. There was no public comment. Commissioner Vincent commented that he had some difficulties with this request, given the work load and the scheduling that all other county employees were going to have to be undertaking on that occasion. Therefore, he suggested modifying the resolution, granting December 24, 2001, as a day the Superintendent's office may be closed, of which personal, compensatory or vacation time would be allotted, and deny the request for December 26 and 31, 2001, as most other County employees would be working on those days. He believed it was warranted to be consistent and fair. Commissioner Murdock concurred, and supported the modification. Commissioner Vincent stated he would support a motion granting the request for December 24, 2001, and amending the resolution by striking December 26 and 31, 2001. He added at that point, the Superintendent of Schools would be free as an elected official to staff the office accordingly. Commissioner Murdock moved to approve the motion, as read by Commissioner Vincent. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Gallatin County Weed Supervisor Dennis Hengel reported on the consideration of a resolution of intent to amend the Weed District FY 2002 budget to include unanticipated grant revenues. There was no public comment. Commissioner Murdock moved to approve Resolution of Intention #2001-137. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported on the consideration of a resolution amending the Sheriff Department's Big Sky Law Enforcement Fund for FY 2002. There was no public comment. Commissioner Murdock moved to approve Resolution #2001-138. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Bozeman Fire Department Operations Chief Chuck Winn reported on the consideration of a resolution of intent to amend the Hazardous Materials Activity within the Public Safety Fund for the purchase of a tandem axle trailer for an amount not to exceed \$10,000. There was no public comment. Commissioner Murdock moved to approve Resolution of Intention #2001-139. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution amending the FY 2001 (last fiscal year) final operating budget in compliance with audit and

state laws. There was no public comment. Commissioner Murdock moved to approve Resolution #2001-140. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Big Sky Fire Chief Bob Stover reported on the consideration of a resolution of intent to use new impact fees toward the acquisition of a water tender for the Gallatin Canyon Consolidated Rural Fire District. There was no public comment. Commissioner Murdock moved to approve Resolution of Intention #2001-141. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the consideration of a request for a family transfer exemption for Gene Kennedy, located in Section 35, T1S, R4E (Jackrabbit Lane.) Ms. Koozer summarized the intended use of the family transfer. Gene Kennedy was sworn in and testified under oath answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. Based on the testimony received and the findings of staff, Commissioner Murdock moved approval, finding it to be a proper use of the family transfer exemption. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Long Range Planning Manager Lanette Windemaker reported on the public hearing and consideration of a resolution of intention to adopt the Gallatin County Trails Plan as a revision to the Gallatin County Plan. Ms. Windemaker stated that this was a request by Gallatin County to adopt the "Connecting Communities: Gallatin County Trails Report and Plan", as part of the Gallatin County Plan, dated March 2001. The Trails Plan would apply to all land within the jurisdiction of the Gallatin County Plan, including property located within the 1990 Bozeman Area Master Plan Update and will serve as both a resource guide and a trails network vision. The Planning Board held a public hearing on this proposal on October 23, 2001, and voted 7-0, with one abstaining to recommend adoption and implementation of the Trails Plan into the Gallatin County Plan. Discussion took place regarding who would review the Trails Plan and future subdivision proposals, conditional use permits, and development proposals for conformance with the Trails Plan. Ms. Windemaker confirmed that currently it would be the Planning Board, although there was a recommendation in the plan to have a committee appointed by the Commission or the Planning Board to review subdivisions or plans in regards to the Trails Plan. Public comment in support: Gary Vodehnal and R. Dale Beland. Commissioner Murdock stated he would like to adopt the Trails Plan as part of the Master Plan and also, request that the Planning Board proceed with advertising for a trails sub-committee. Finding that the Trails Plan does not change the development pattern and the land use plan; that this amendment to include the Trails Plan in the Master Plan constitutes an overall improvement to the Master Plan by providing continuity with countywide planning on the trails policy; the Trails Plan benefits the entire community; and that the Trails Plan is consistent with the overall intent of the Master Plan, Commissioner Murdock moved to approve the Trails Plan, as submitted. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Murdock stated the importance that every development proposal, subdivision and conditional use permit that come before the Commission be reviewed by the Planning Board or its sub-committee, reviewing its conformance and implementation of this Trails Plan. Motion by Commissioner Murdock, asking the Planning Board to proceed with appointing a sub-committee for that purpose, per their by-laws. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Open Lands Board member Grace Morgan reported on the continuation of a request for approval of a \$10,000 grant from the Gallatin County Open Space Program to the Chisholm Farm Partnership, to assist in obtaining an 80-acre Conservation Easement on the Chisholm Family Farm. Chief Civil Deputy County Attorney Chris Gray noted that previously the Open Lands Board reviewed this request, of which met the 11 criteria established by the Board to qualify for funding, and recommended approval of the request of \$10,000. He asked that the final approval be contingent upon completion and compliance with the following conditions: 1. Applicant enter into a conservation easement sale and purchase agreement with Gallatin County and prepare the deed of easement; 2. Gallatin Valley Land Trust enter into an assignment agreement with Gallatin County; 3. The satisfactory proof of value of the conservation easement in an amount of at least the amount of the funding requested; 4. Preparation execution of necessary and customary closing materials and documents; and 5. Final approval of the office of the County Attorney at closing. Debbie Deagen, Executive Director of the Gallatin Valley Land Trust

spoke in support of the request. Commissioner Murdock moved to approve the Chisholm grant application to the Open Lands Board for \$10,000, from the Open Space Program, to assist in obtaining a 80-acre conservation easement on their farm. Finding that the Executive Committee and the full Open Lands Board have recommended funding the \$10,000 application, based on approved evaluation criteria and that the funds be expended from the proceeds of the general obligation bonds, subject to the conditions as read by Mr. Gray. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Open Lands Board member Grace Morgan reported on the public hearing and consideration of a resolution to change the membership of the Open Lands Board from majority of agriculture members to at least five. Ms. Morgan explained that the amended by-laws and an amendment to Resolution #1998-76A, would read as follows: 1. Membership. The Open Lands Board shall consist of not more than 15 members to be appointed by and serve at the will of the Gallatin County Commission. Whatever the total number of Board members at any given time, at least five (5) of the members shall be representatives of the farming and ranching interests in the County. She stated this change was due to the difficulty of finding members to make a complete board, and noted that the farm and ranch members currently seated all agreed this was fair and that it was more important to have a full board. Commissioner Murdock noted that Commissioner Mitchell wished to relay some ideas and requested this be continued, although he did not see this as an issue after attending the Open Lands Board meeting. He stated the major impetus for having a majority requirement in the by-laws was the taxation on the bond issue, which has been removed. Commissioner Vincent concurred. Commissioner Murdock moved to approve Resolution #1998-76B. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the request for preliminary plat approval of the South Fork Phase III Minor Subdivision, consisting of 16.09 acres located in the NE ¼ of Section 2, T7S, R3E, PMM, Gallatin County, Montana. In general, the property is located south of the West Fork Meadows Subdivision, in the Big Sky Meadows area. Allied Engineering Services, Inc., on behalf of Paul and Janet Cronin, requested preliminary plat approval for a five lot commercial minor subdivision. The subdivision will be serviced by community water and sewage disposal facilities. The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the suggested conditions. The County Commission needs to make the following determinations: • A determination as to whether or not the application meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act; and, • A determination as to whether or not the application complies with the provisions of the Gallatin County Subdivision Regulations. If the County Commission approves the subdivision, the following conditions are suggested: 1. The final plat shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates. 2. State Department of Environmental Quality approval shall be obtained for the subdivision. The subdivider shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The subdivider shall obtain the Gallatin County Health Officer's approval. 3. Final installation of all water and sewer service facilities, including as-built plans, shall be approved by WSD 363 prior to final plat approval. 4. Interior road plans, drainage plans, lot access plans, STOP sign and other regulatory or warning signs, and road name sign plans shall be submitted to the County Road & Bridge Department prior to any construction. All signage shall conform to the Manual on Uniform Traffic Control Devices (MUTCD), Millennium Edition. 5. Bobsled Trail, between Spruce Drive and Blue Grouse Subdivision to the north, shall lie within a 60 foot public dedicated right-of-way or public easement, and shall be paved to county standards. 6. A pre-construction meeting shall be conducted with the Gallatin County Road and Bridge Department prior to the start of any road construction. 7. All roadwork shall be built to Montana Public Works Standard Specifications (Fourth Edition, January 1996), and shall be inspected and certified by a Montana registered civil engineer. The subdivider shall obtain written verification from the County Road & Bridge Department that all roads have been brought to county standards. 8. The subdivision property owner's association shall enter into an agreement with all relevant parties for the shared maintenance of Spruce Drive and Bobsled Trail. Any maintenance agreements shall be submitted to the County Road & Bridge Department. 9. The final plat shall contain a statement requiring lot access to be built to the standards of Section 7.G.2 of the Gallatin County Subdivision Regulations. 10. All utility easements are to be shown on the final plat. Utility easements shall be centered along side and rear lot lines wherever possible, and shall be twenty (20) feet wide. Underground utilities, if placed in the road right-of-way, shall be located between the roadway and the right-of-way line. Such underground facilities shall be installed or utility culverts provided before the road is surfaced. In

addition, the following statement must appear on the final plat: *"The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as 'Utility Easement' to have and to hold forever"*. 11. The subdivider shall provide a water supply for fire protection in accordance with the Gallatin County Subdivision Regulations. The subdivider shall have the Gallatin Canyon Rural Fire District review and approve the water supply prior to final plat approval. The subdivider shall obtain written verification from the Fire District that the required water supply has been provided. 12. The subdivider record on the final plat a waiver of right to protest creation of rural improvement districts and local improvement districts. 13. The subdivider shall make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. 14. The subdivider shall make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. 15. The applicant shall provide sheriff protection mitigation acceptable to the County Commission. 16. A property owners' association for the subdivision shall be created. 17. Covenants for the subdivision shall include the following provisions: a. Place responsibility for operation and maintenance of all interior roads in the property owners' association. b. All structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for Seismic Zone 3, and the National Fire Protection Association Codes. c. The control of noxious weeds by the Homeowners' Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (7-22-2101 through 7-22-2153 MCA) and the rules and regulations of the Gallatin County Weed Control District. The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. In the event a landowner does not control the noxious weeds, after 10 days notice from the Homeowners' Association, the Association may cause the noxious weed to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment. d. The artificial feeding of all big game wildlife shall be prohibited. e. All garbage shall be stored in animal-proof containers or otherwise be made unavailable to animals. f. Owners acknowledge that wildlife damage to landscaping will occur, and shall accept that risk and shall not file claims against the owners association or any other governing body for such damages. g. Fencing along the exterior boundaries of lots shall be prohibited. h. The taking of any wildlife species within the property is prohibited, except for catching fish. i. Pets shall be controlled by each owner, and not allowed to roam within the subdivision. j. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 18. Two copies of the covenants, a copy of the preliminary approval document, documents establishing the property owners' association, improvements agreement, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants, documents establishing the property owners' association, improvements agreement, public road easement documents, and certificate of title abstract prior to final plat approval. 19. The developer shall have three (3) years to complete the above conditions and apply for final plat approval. Discussion took place regarding the law enforcement condition, mitigation and the interlocal agreement with Madison County, and the resort tax funding for additional law enforcement. Commissioner Murdock suggested in order to be consistent with all development proposals the following condition be added: The developer shall agree to participate and equitably share in the cost of any traffic management and mitigation program authorized by the Montana Department of Transportation and participated in by Gallatin County which concerns traffic impacts of future land use developments in the Highway 64 traffic shed. The developer shall be entitled to an equitable reimbursement for any disproportionate costs expended by it in connection with participation in such program. The applicants representative Terry Threlkeld of Allied Engineering questioned issues he had with condition #3, should they ask for final plat approval before the utilities are constructed they would not have the sewer districts approval of as built, on account of they will not have been built. Mr. Johnson suggested deleting the words, "prior to final plat approval" as he did not want to release the security, until the Water and Sewer District confirms it has been built to their standards. He also, stated that because it is in the zoning district they cannot issue a land use permit until there are approved water and sewer hookups in place. Mr. Threlkeld commented in regard to condition #8, that an RID is being proposed for the maintenance and there may not be a written agreement. Mr. Johnson confirmed the condition would be met if an RID is established. Mr. Threlkeld expressed a similar issue with condition #11, because they were going to be bonding part of the water main as part of the improvements agreement, and secondly they were under final design for a new million-gallon tank above Hidden Village. Mr. Johnson confirmed that would also, be subject to the land use permit, and the words, "prior to final plat approval" in condition #11 could be deleted. Mr. Threlkeld questioned condition #15,

because of its vagueness. The Commission was in agreement to striking that condition in this case, stating it was a stand alone knowing the situation and what is being pursued at this time. Mr. Threlkeld also, stated concern with condition 17(g), because they border 20 acre properties with existing fences of which is beyond their control. It was determined by Mr. Johnson that this condition could be changed to read: Fencing along the interior boundaries of lots shall be prohibited. Mr. Threlkeld was in agreement to all the amendments and additions to the conditions. There was no public comment. Finding that it is in conformance with the Subdivisions Regulations, the Big Sky Gallatin Canyon Development plan and zoning regulations, Commissioner Murdock moved approval, subject to the following conditions: #1 and 2, as written; amend #3, deleting the words, "prior to final plat approval"; #4-10, as written; amend #11, deleting the words, "prior to final plat approval"; #12-14, as written; delete #15; #16 and 17, as written with the exception of 17(g), changing the word "exterior" to "interior"; #18 and 19, as written; and add #20 to read as follows: The developer shall agree to participate and equitably share in the cost of any traffic management and mitigation program authorized by the Montana Department of Transportation and participated in by Gallatin County which concerns traffic impacts of future land use developments in the Highway 64 traffic shed. The developer shall be entitled to an equitable reimbursement for disproportionate costs expended by it in connection with participation in such program. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the continuation of consideration of a request for preliminary plat approval for the Saddle Peak Ranch PUD/Major Subdivision. The 521.46-acre property is located in Section 1, T1S, R5E, PMM, Gallatin County, Montana. The property is located southwest of the intersection of East Baseline and Walker Roads. The proposed subdivision is within the Middle Cottonwood Zoning District. C & H Engineering and Surveying, Inc., on behalf of Tayabeshockup, Inc, have requested preliminary plat approval for a 41 lot residential subdivision. The proposed subdivision includes approximately 262 acres of common open space. Water supply and sewage disposal will be provided by individual water wells and septic systems within each lot. No variances from the Gallatin County Subdivision Regulations have been requested. The property is within the Agricultural and Rural Residential (AR) Zone, outside of the Deer Winter Range Overlay Area, which allows a density of one (1) single-family dwelling unit per twenty (20) acres. The proposed subdivision utilizes a total of forty-one (41) development rights. Twenty six (26) of those development rights originate from within the property (520 acres divided by a density of one unit per 20 acres), while fifteen (15) development rights originate from other parcels within the (AR) Zone, inside of the Deer Winter Range Overlay Area, which will be transferred to the property under consideration for subdivision approval. If the proposed subdivision is approved by the County Commission, the development right transfers must be recorded with the Gallatin County Clerk and Recorder's Office at the time of final plat recording of the subdivision. Because the proposed subdivision transfers more than two density units, the subdivision requires the approval of a Planned Unit Development. The Commission needs to determine if the PUD/subdivision proposal furthers the goals and policies of the Gallatin County Plan and the purposes set forth in Section 3.2 of the Middle Cottonwood Zoning Regulation. On November 27, 2001, the Gallatin County Planning Board conducted a public hearing for consideration of the preliminary plat for the proposed Saddle Peak Ranch Subdivision. The Planning Board considered all submitted information and written and public testimony and found that the proposed PUD/subdivision complied with the goals and policies of the Gallatin County Plan and the purposes and design criteria of the PUD Section of the Middle Cottonwood Zoning Regulations. The Board further found that the application met the requirements of the Montana Subdivision and Platting Act and the Gallatin County Subdivision Regulations. A motion to forward a recommendation of approval to the County Commission was passed unanimously by the Planning Board. The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the suggested conditions. The County Commission needs to make the following determinations: 1. A determination as to whether or not the PUD/subdivision proposal furthers the goals and policies of the Gallatin County Plan and the purposes set forth in Section 3.2 of the Middle Cottonwood Zoning Regulations; 2. A determination as to whether or not the application meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act; and, 3. A determination as to whether or not the application complies with the provisions of the Gallatin County Subdivision Regulations. The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the following conditions: 1. The fifteen (15) development rights transfers shall be recorded with the Gallatin County Clerk and Recorder's Office at the time of recordation of the final plat. 2. The final plat shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates. 3. Approval of the subdivision shall be obtained from the State Department of Environmental Quality. The subdivider shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The subdivider shall obtain the Gallatin County Health Officer's approval. 4. Copies of any necessary 310 permit(s)



from the Montana Department of Natural Resources and Conservation, and/or 404 permit(s) from the U.S. Army Corps of Engineers, shall be submitted. 5. A 35-foot stream setback from the high water mark of Bostwick Creek and Shaffer Creek shall be delineated on the final plat. 6. The developer shall obtain an approved weed management plan from the Gallatin County Weed Control District prior to any construction projects within the site. The approved weed management plan shall be submitted to the Gallatin County Planning Department prior to final plat approval. Areas disturbed by construction shall be seeded and controlled for noxious weeds. 7. Interior subdivision road and bridge plans, road maintenance plans, drainage plans, lot access plans, and STREET and STOP sign plans shall be submitted to the Gallatin County Road & Bridge Department prior to the construction of the interior subdivision roads. Walker and East Baseline Roads must be included in the plans. 8. All road names for interior subdivision roads shall be approved by the Gallatin County GIS Department. 9. Road name signs shall be installed at all intersections. 10. STOP sign(s) shall be installed at all intersections with county maintained roads. 11. Encroachment permit(s) shall be obtained from the Gallatin County GIS Department for all accesses on to county maintained roads. 12. A "no access strip", is required along all lot boundaries that border county maintained roads. The "no access" strip shall be delineated on the final plat. 13. All interior subdivision roads shall have a 60 foot dedicated right-of-way and 50 foot radius cul-du-sacs. 14. All interior subdivision roads shall be constructed to county standards for paved roads prior to final plat approval. 15. All internal lots shall be limited to one driveway access. Each lot access shall be at least seventy-five (75) feet from the nearest intersection County road. 16. Forty-five (45) feet along the south side of East Baseline Road, and forty-five (45) feet on the east and west side of the centerline of Walker Road shall be dedicated to the public for the entire length of the development. 17. Walker Road (from the southeast corner of the subdivision to its intersection with East Baseline Road), and East Baseline Road (from its intersection with Walker Road to Springhill Road) shall be paved to county standards. 18. A pre-construction meeting shall be conducted with the Gallatin County Road and Bridge Department prior to the start of any road construction. 19. All roadwork shall be inspected and certified by a licensed engineer. Such inspection and certifications must be provided to the Gallatin County Road and Bridge Department in writing. Final approval will not be given until this documentation is received. 20. With respect to paving of county maintained roads, a two (2) year written warranty, from the contractor, is required. This warranty must be submitted to the Gallatin County Road and Bridge Department prior to final plat approval. 21. A written cost breakdown on all paving done on county roads shall be submitted for future payback reimbursements and road impact fee credit to the Gallatin County Road and Bridge Department prior to final plat approval. 22. A copy of the Homeowners' Association covenants shall be supplied to the County Road & Bridge Department prior to final plat approval. 23. The final plat shall contain a statement requiring lot access to be built to the standards of Section 7.G.2 of the Gallatin County Subdivision Regulations. 24. Crosswalks for all trails within the subdivision shall be signed and have pavement marks on all points where they intersect with county and subdivision roads. 25. All utility easements are to be shown on the final plat. Utility easements shall be centered along side and rear lot lines wherever possible, and shall be twenty (20) feet wide. Utility easements for the water lines shall be thirty (30) feet wide. Underground utilities, if placed in the road right-of-way, shall be located between the roadway and the right-of-way line. Such underground facilities shall be installed or utility culverts provided before the road is surfaced. In addition, the following statement must appear on the final plat: *"The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as 'Utility Easement' to have and to hold forever"*. 26. The subdivider shall provide an NFPA water supply for fire protection in accordance with the Gallatin County Subdivision Regulations and the Belgrade Rural Fire District. The subdivider shall obtain written verification from the Fire District that the required water supply and all required fire safety provisions have been provided. 27. The Applicant shall provide Sheriff protection mitigation acceptable to the County Commission. 28. The Applicant shall consult with the US Postal Service with regard to mail service, and the type and location of mail receptacles. If a central located bank of mail receptacles is to be used, the location and access shall be shown on the final plat. 29. The subdivider shall record on the final plat a waiver of right to protest creation of rural improvement districts and local improvement districts. 30. A Property Owners' Association for the Saddle Peak Ranch Subdivision shall be created. 31. Covenants for the subdivision shall include the following provisions: a. All structures within each lot shall be located within 150 foot radius building envelopes. Lots 16, 17, 18, 19, 20, 37, 38, 39 and 40 shall allow an additional 2 acre building envelope for a barn and corral. b. All structures shall be constructed in compliance with the current Uniform Building Codes. c. The control of noxious weeds by the Homeowners' Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (7-22-2101 through 7-22-2153 MCA) and the rules and regulations of the Gallatin County Weed Control District. d. The Homeowners' Association shall be responsible for the operation and maintenance of all common open

space and trails within the subdivision. e. All lots shall have only one driveway access. Each driveway access point must be at least seventy-five (75) feet from the nearest road intersection. f. The property owners' association shall be responsible for the operation and maintenance of all interior subdivision roads. g. Property owners of the subdivision are informed that nearby uses may be agricultural. Property owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. h. All fire protection covenants as required by the Belgrade Rural Fire District. i. The artificial feeding of all big game wildlife shall be prohibited. j. All garbage shall be stored in animal-proof containers or otherwise be made unavailable to animals. k. Owners acknowledge that wildlife damage to landscaping will occur, and shall accept that risk and shall not file claims against the homeowners association or any other governing body for such damages. l. The taking of any wildlife species within the property is prohibited, except for catching fish. m. Pets shall be controlled by each owner, and not allowed to roam within the subdivision. n. Fencing of the interior lot boundaries shall be prohibited. o. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 32. The subdivider shall make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. 33. The Subdivider shall make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. 34. Two copies of the following documents shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. a. Articles of Organization or Incorporation for the property owners' association approved by the Secretary of State of the State of Montana. b. Bylaws controlling the operation of the Homeowners' Association. c. Restrictive and Protective Covenants encumbering the real property contained within the subdivision. e. Improvements agreements. f. Certificate of a Licensed Title Abstractor. The Gallatin County Attorney's Office shall review and approve the above documents prior to final plat approval. 35. The developer shall have three (3) years to complete the above conditions and apply for final plat approval. Mr. Johnson explained that the applicant has agreed to grant a permanent 30-foot access and utility easement along an existing driveway of an adjoining property owner, replacing a prescriptive easement that has been in place for many years and suggested that it be delineated on the plat. The applicant Bill Muhlenfeld gave a brief overview of the zoning and density units, fencing, animals and open space. Mr. Muhlenfeld read into the record and submitted, Exhibit "A", a statement with regard to condition #27 on the proposed Gallatin County Sheriff Assessment. Debbie Deagan, Executive Director for the Gallatin Valley Land Trust spoke in favor of the protection for open space afforded within and off site of this proposed development. Peter Noreen spoke in support of the proposal. Road and Bridge Staff Engineer George Durkin suggested adding to condition #17, that after the roads are paved that they will be stripped. Mike Promisco requested that the 30-foot easement be made a condition of approval, and spoke regarding concerns with becoming land locked, wildlife, water and septic systems. Mr. Muhlenfeld confirmed they would make the 30-foot easement a condition of approval. Mark Chandler and Bill Dreyer, C & H Engineering and Surveying spoke regarding the fieldwork done on the water and septic systems. Mr. Johnson made changes to the following conditions: #31. (n) Fencing of the interior and perimeter lot, except for lots 16-20 and 37-41 boundaries shall be prohibited; #31(a) All structures within each lot shall be located within 150 foot radius building envelopes. Lots 16, 17, 18, 19, 20, 37, 38, 39, 40 and 41 shall allow an additional 2 acre building envelope for a barn and corral; add a condition, requiring a 30 foot access and utility easement along the south boundary of the Promisco property shall be provided on the final plat; #17 Walker Road (from the southeast corner of the subdivision to its intersection with East Baseline Road), and East Baseline Road (from its intersection with Walker Road to Springhill Road) shall be paved and stripped to county standards. Discussion took place regarding condition #27, and the applicant's statement submitted to the Commission. It was suggested by the Commission to strike condition #27, and ask if the developer would consider a voluntary contribution towards law enforcement. Mr. Muhlenfeld did not want this as a condition of approval, although he would be willing to take a second look at it. Commissioner Vincent stated he did take issue with some of Mr. Muhlenfeld's comments and assumptions, but he did agree that at this point there is not a formally adopted policy established by the Commission to reflect the wishes of the Sheriff. He did believe they should do that and anything in this regard would be voluntary, of which he hoped to take the developer at his word that later on he would voluntarily find a way to contribute. He reaffirmed the importance for public safety and having adequate law enforcement. Commissioner Murdock concurred. Finding that this PUD subdivision proposal furthers the goals and policies of the Gallatin County Plan and the purposes set forth in Section 3.2 of the Middle Cottonwood Zoning Regulations; that the application meets the requirements of Section 76-3-608, MCA, of the Montana Subdivision and Platting Act; and that the application complies with the provisions of the Gallatin County Subdivision Regulation, Commissioner Murdock moved to approve the proposal subject to all the conditions as read by staff with the following amendments: #1-16 as written; amend #17, Walker Road (from the southeast

GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 435

corner of the subdivision to its intersection with East Baseline Road), and East Baseline Road (from its intersection with Walker Road to Springhill Road) shall be paved and stripped to county standards; #18-26, as written; delete #27; #28-30, as written; amend #31(a), include lot 41; #31(b)-(m), as written; amend #31(n), Fencing of the interior and perimeter lot, except for lots 16-20 and 37-41 boundaries shall be prohibited; #31(o)-34, as written; and add #35, A 30 foot access and utility easement along the south boundary of the Promisco property shall be provided on the final plat. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 11:41 A.M.

*Unavailable For Signature*  
\_\_\_\_\_  
CHAIRMAN APPROVAL

*Spelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

**PUBLIC MEETING**

**THURSDAY THE 3<sup>rd</sup> DAY OF JANUARY 2002**

The meeting was called to order by Chairman Bill Murdock at 9:02 A.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**DECEMBER 17, 2001**

- The Commissioners attended a special meeting for the purpose of considering approval of additional funds for the completion of the Virtual Town Hall project. In attendance were Commissioners Mitchell, Murdock, and Vincent, GIS Director Allen Armstrong, and Commission Secretary Glenda Noyes. Fiscal Officer Ed Blackman has assured the group that the funds for this project could be secured from the contingency fund. Commissioner Vincent made a motion to approve up to \$4,000.00 from the contingency fund for the completion of the Virtual Town Hall project with Maxim Technologies. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

**DECEMBER 18, 2001**

- The Commission conducted regular County business.

**DECEMBER 19, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, Fiscal Officer Ed Blackman and Commission Secretary Stacy Johnston. Ed Blackman asked the Commission to approve approximately \$25,380 for moving/construction costs associated with Phases III & IV of the courthouse renovation. These costs include \$11,000 to move the Treasurer, Auditor, Planning, Facilities and Accounting offices, including construction for revamping training lab and Community Room; \$2,000 for electrical; \$7,700 for cabling for computers, etc.; \$2,500 for telephone/voice data switch; \$500 to install locks on Community Room doors for security purposes; and \$1,680 for mandatory asbestos testing. Ed noted that only about \$10,000 had been budgeted for the aforementioned items. Commissioner Murdock moved to approve moving costs estimated at \$25,380 to be paid out of the Phases III & IV budget. Commissioner Vincent seconded the motion; motion passed unanimously 2-0.

The Commissioners considered approval of a modification to Contract #2001-004 contract with Montana Department of Natural Resources and Conservation for West Yellowstone Hebgen Basin Composting Project. The modification merely extends the contract period of the grant for one year, expiring December 31, 2002. Commissioner Murdock moved to approve the modification. Commissioner Vincent seconded the motion; motion passed unanimously 2-0.

Richard and Judy Williamson sent a letter asking the County to reinstate Check #19182, which was taken off the books on 01/11/01 as it had been outstanding for over a year. Wells Fargo made a tax payment on #RRF22947 in error, and this action would see they are reimbursed in the amount of \$725.48. Commissioner Murdock moved to approve the reinstatement. Commissioner Vincent seconded the motion; motion passed unanimously 2-0. Stacy Johnston will type a letter for

## 436 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

Commission signature notifying the Treasurer's office immediately.

The Commission considered cancellation of delinquent taxes totaling \$204.10 (Application No.'s 4554-4563). Commissioner Murdock moved to approve cancellation of taxes as presented. Commissioner Vincent seconded the motion; motion passed unanimously 2-0.

Invoice #175 BS from R. Dale Beland in the amount of \$1,163.55 was presented for payment for services rendered on the Big Sky Transportation Study. Commissioner Murdock moved to approve invoice subject to MDOT's participation and approval. Commissioner Vincent seconded the motion; motion passed unanimously 2-0.

Invoice #0101-8 from Taylor Hanson Kane in the amount of \$9,852.00 was presented for payment for Phases III & IV of the courthouse renovation. Commissioner Vincent moved to approve invoice contingent upon Commissioner Mitchell's review and approval as she has first-hand knowledge of the status of this project. Commissioner Murdock seconded the motion; motion passed unanimously.

Budget transfer requests totaling \$25,755.00 were received from the Clerk and Recorder's (Elections) office. Commissioner Murdock moved to approve transfers as requested. Commissioner Vincent seconded; motion passed unanimously 2-0.

The Facilities Department requested permission to dispose of a fax machine, as it is broken beyond repair. Commissioner Murdock moved to approve disposal. Commissioner Vincent seconded; motion passed unanimously 2-0.

Other items on the agenda were discussed, but no further decisions were made.

### **DECEMBER 20-21, 2001**

- The Commissioners conducted regular County business.

### **DECEMBER 24, 2001**

- The Commissioners conducted regular County business.

### **DECEMBER 25, 2001**

- The Commissioners' office was closed in observance of Christmas Day.

### **DECEMBER 26, 2001**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, and Commission Secretary Glenda Noyes. In attendance for the Claims Approval were Accounting Clerks Jackie Lamke and Renee Huyser. Commissioner Murdock made a motion to approve claims listed on the voucher list dated December 20, 2001, including check numbers 8006832 - 8006885, totaling \$97,524.14. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero. The Commissioners considered approval of a contract between the Gallatin County DUI Task Force and Mothers Against Drunk Driving, Gallatin County Chapter for the sublease of office space. Commissioner Vincent made a motion to approve said contract, finding that Deputy County Attorney Chris Gray has recommended approval. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero. The Commissioner considered approval of an invoice from Transformation Consulting and Seminars, Terry Radcliffe, in the amount of \$1,074.00 for services rendered on contract #2001-130. Commissioner Murdock made a motion to approve said invoice. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero. The Commission considered approval of a purchase of a fax machine for the Commission office in the amount of \$895.00. Ms. Noyes assured the Commission that the appropriate process has been followed for such a purchase, and that Fiscal Officer Ed Blackman had approved and recommended the purchase. Commissioner Murdock made a motion to approve purchase of a fax machine for the Commission Office in the amount of \$895.00. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero. Commissioner Vincent made a motion to authorize payment of \$300.00 to the Gallatin Development Corporation, finding that Mr. Blackman has budgeted for this payment. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

### **DECEMBER 27-28, 2001**

- The Commissioners conducted regular County business.

#### **The following items were on the consent agenda:**

1. Approval of minutes for May 26; June 2, 9, 16, 23, and 30; September 25; October 6, 13, 20 and 27; November 10, 17, and 24; December 1, 8, 15, and 29, 1998.

**GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 437**

2. Claims were presented for approval by the Auditor, dated December 28, 2001 in the amount of \$191,567.12.
3. Consideration of Contract(s): Addendum No. 3 to Contract #1994-079 with Harvey VanDyken & Sons for Historical Waste Project at Gallatin County Landfill #1; Library Services Agreement with City of Three Forks for FY 2002; Agreement with Steve O'Neil for Snowplowing RID 357; and Asbestos Testing in Courthouse with RTI.
4. Request of Approval of Correction Survey for Gaston Engineering.

Commissioner Mitchell read the consent agenda. There was no public comment. Commissioner Vincent moved to adopt the consent agenda. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Commissioner Murdock announced that this was the public hearing and consideration of a resolution changing the location of the public meetings during the year of 2002. Commissioner Mitchell pointed out that currently there were 52 meetings scheduled, with only 6 being held outside the City of Bozeman. She suggested holding some of those meetings in other communities such as Three Forks, Four Corners, and Gallatin Gateway, which would give the Commission an opportunity to expand the number of meetings outside the incorporated City of Bozeman. Therefore, she suggested that they only approve the first two months of the attached schedule at this time, and make a bigger effort to serve the rest of the public by holding meetings around the county. Commissioner Vincent concurred with that approach, although he could not favor it at this time. He stated that the resolution should be subject to revision by resolution, but at this point he felt it was good to establish a schedule for the year, and from time to time the Commission could consider adding other locations outside the general Bozeman area that would work for everyone. Gallatin County Clerk and Recorder Shelley Vance stressed the importance of keeping the level of communication open with staff members in order to meet statute requirements of publishing notices for agenda items. Commissioner Vincent moved to adopt Resolution #2002-01, as currently written. Seconded by Commissioner Mitchell. Commissioners Murdock and Vincent voting aye. Commissioner Mitchell voting nay. Motion carried.

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Gallatin Clerk and Recorder Shelley Vance reported on the receipt of a petition to annex property into the Gallatin Canyon Consolidated Rural Fire District. The petition was received on December 11, 2001. The property to be annexed is described as Phase II of the Corrected Amended Plat of Firelight Subdivision, Phase I, Lots 18A and 19A, Ousel Falls Road, in Gallatin County according to the official plat on file and of record in the office of the County Clerk and Recorder, Gallatin County, Montana (plat reference J-245-D), located in Section 2, T7S, R3E, P.M.M. Ms. Vance reviewed and certified that the petition met the requirements of 7-33-2125, that the property in question is adjacent to the fire district; that the petition contains the signatures of owners of 50% or more of the area of the privately owned lands included within the area to be annexed into the fire district; who constitute a majority of the taxpayers who are freeholders of such area; and whose names appear upon the last completed assessment roll. The Board of Trustees of the Fire District accepted the property for annexation at their meeting on August 28, 2001. She suggested holding the public hearing on February 5, 2002, should the Commission chose to accept the petition in order to meet the publication requirements. There was no public comment. Commissioner Mitchell moved to accept receipt of the petition to annex the property in the Gallatin Canyon Consolidated Rural Fire District, given the testimony of the Clerk and Recorder that it met the requirements of the statute, and to set the public hearing for February 5, 2002, to be held in Bozeman. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Commissioner Murdock stated that the second reading of an ordinance reducing the speed limit in the Rainbow Subdivision with substantive changes from the first reading would be continued on the advice of the County Attorney, until next week. He explained that it is not legal for the Commission to set a speed limit below 25 mph, in this case 15 mph. Therefore, the ordinance will be changed back to 25 mph, which is the lowest they are legally allowed to go.

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Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution to amend the Gallatin County final operating budget for the Communicable Disease Fund for FY 2002. There was no public comment. Commissioner Vincent moved to adopt Resolution #2002-02. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution to use new impact fees toward the acquisition of a water tender for the Gallatin Canyon Consolidated Rural Fire District. There was no public comment. Commissioner Mitchell moved to approve Resolution #2002-03. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Long Range Planning Manager Lanette Windemaker reported on the public hearing and consideration of a resolution to adopt the Gallatin County Trails Plan as a revision to the Gallatin County Plan. There was no public comment. Commissioner Mitchell moved to approve Resolution #2002-04. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 9:33 A.M.

*Unavailable For  
Signature*  
\_\_\_\_\_  
CHAIRMAN APPROVAL

*Shelley Vincent*  
\_\_\_\_\_  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 8th DAY OF JANUARY 2002**

The meeting was called to order by Chairman Bill Murdock at 9:03 A.M., at the Fairgrounds Building #4. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**DECEMBER 31, 2001**

- The Commissioners conducted regular County business.

**JANUARY 1, 2002**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell, and Vincent, and Commission Secretary Glenda Noyes. Commissioner Vincent made a motion to appoint Commissioner William A. Murdock as Chairman of the Commission for 2002. Commissioners Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners discussed approval of a Montana Certified Communities Program Authorizing Resolution with the Gallatin Development Corporation (GDC). GDC does recruiting and will produce a video that helps in this area. This will impact the county positively by providing a vehicle to move towards a Memorandum of Understanding between the County and GDC, and allow the County Commission to have input into the decisions made by the GDC board. GDC is recognized as an economic development entity, and this is a benefit to the County. This item was continued until January 15<sup>th</sup>. The Commissioners considered signing of a vendor invoice from the State of Montana concerning the Junk Vehicle Grant for FY 02. Commissioner Mitchell made a motion to approve the signing of this document. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered an asset disposal request for a computer from the Fiscal Department. Commissioner Vincent made a motion to approve the request. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of Exhibit A, revised 12/17/01, to be added to contract #99-124 with HKM Engineering, Inc. Commissioner Mitchell made a motion to approve Exhibit A, to be added to said contract. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a Certificate of Appropriateness to the City of Bozeman for interior office renovations to the County Courthouse. Commissioner Murdock made a motion to approve and sign the certificate of appropriateness to the City of Bozeman. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered a request from the Road Department to purchase a new printer. Commissioner Mitchell made a motion to sign the request for purchase of a new printer, and asked that the Road Department be told to submit a budget transfer. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

**JANUARY 2-4, 2002**

- The Commissioners conducted regular County business.

**The following items were on the consent agenda:**

1. Claims were presented for approval by the Auditor, dated January 3, 2002 in the amount of \$460,384.69.
2. Consideration of Contract(s): General Engineering Services for Logan Landfill, HKM Engineering, Inc., Task Order 99-124-8; Figgins Sand & Gravel Change Order No. 7 to Contract #2002-24; Library Services Agreement with City of Bozeman for FY 2002; Library Services Agreement with City of Belgrade for FY 2002.
3. Request for Common Boundary Relocation Exemption (Aggregation of Tracts) for John and Jacqueline Hud, located in the SW ¼ of Section 20, T3S, R5E (Portnell Road). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Common Boundary Relocation Exemption for Bruce, Susan and Jeremy Bradford, located in Section 15, T2S, R3E (Wierda Way). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Mitchell read the consent agenda. Commissioner Vincent moved to adopt consent agenda as read. Seconded by Commissioner Mitchell. There was no public comment. None voting nay. Motion carried.

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Two vacancies exist on the Belgrade City-County Planning Board due to the term expirations of Pamela Hainsworth and Gary France. Both members reappplied. These are two-year terms and will expire on December 31, 2004. There was no public comment. Commissioner Vincent nominated Pamela Hainsworth. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Mitchell nominated Gary France. Seconded by Commissioner Vincent. None voting nay. Motion carried. One vacancy currently exists on the Belgrade Rural Fire District due to the passing of Trustee member James (Jim) Balke. Appointment to fill this term will be on an interim basis until the next Fire District election that will be held on May 7, 2002. One application was received from Greg Metzger from Greg Dringle, Vice Chairman of the Board of Trustees. There was no public comment. Commissioner Vincent nominated Greg Metzger. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Two vacancies exist on the Big Sky Transportation District due to the term expirations of Meg O'Leary and James Taylor, Jr. Ms. O'Leary and Mr. Taylor both have applied for reappointment and three new applications have been received from Margaret Perry, David House and John Flach. These are usually three-year terms. However, the staggered terms of this board have somehow been skewed over the years. To correct this error, any new appointee will receive a one-year initial term expiring December 31, 2002, and any current member who is reappointed shall receive a three-year term expiring December 31, 2004. \*NOTE-County Attorney opinion states (based on Resolutions 91-34, 91-39, 91-48, and 94-11; as well as Title 7, Chapter 14, Part 2 MCA) that the person residing on this board must be a registered elector in the district, therefore excluding James Taylor from continued appointment on this board. There was no public comment. Commissioner Mitchell nominated David House. Seconded by Commissioner Murdock, noting that although Mr. House would serve very well, he would not vote in favor due to the fact he received calls from several members of Big Sky recommending Mr. Flach and Ms. O'Leary. Commissioner Mitchell voting aye. Commissioners Vincent and Murdock voting nay. Motion denied. Commissioner Vincent nominated Mr. Flach. Seconded by Commissioner Murdock. None voting nay. Motion carried. Commissioner nominated Ms. O'Leary. Seconded by Commissioner Vincent. None voting nay. Motion carried. One vacancy exists on the Fairview Cemetery Board due to the term expiration of Robert Jones. Mr. Jones was contacted and wished to reapply. This is a three-year term and will expire December 31, 2004. There was no public comment. Commissioner Mitchell nominated Mr. Jones. Seconded by Commissioner Vincent. None voting nay. Motion carried. One vacancy exists on the Gallatin City-County

Board of Health due to the term expiration of Joe Hupka. The member reapplied, and two additional applications were received from Herbert Prussack and Katie Maurer. This is a three-year term and will expire on January 7, 2005. There was no public comment. Commissioner Vincent nominated Joe Hupka. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Two vacancies exist on the Gallatin County Planning Board due to the resignation of Nick Salmon and Greg Metzger. The appointees to these positions will fill the remainder of Mr. Salmon and Mr. Metzger's terms, both expiring on July 31, 2002. Seven applications have been received to date from Mike Boylan, Hans Haumberger, Harry Armstrong, Shannon Nygard, Stanley McHann, Jr., Christina Boyle and Paulette Neshiem. Unfortunately, Mr. Boylan and Mr. Haumberger do not qualify as they live with zoning districts and outside of the donut. There was no public comment. Commissioner Mitchell nominated Paulette Neshiem. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Mitchell nominated Harry Armstrong. Seconded by Commissioner Vincent. None voting nay. Motion carried. One vacancy exists on the Meadow View Cemetery Board due to the term expiration of Paul Skinner. Mr. Skinner was contacted and wished to reapply. This is a three-year term to expire on December 31, 2004. There was no public comment. Commissioner Mitchell nominated Mr. Skinner. Seconded by Commissioner Vincent. None voting nay. Motion carried. One vacancy exists on the Mount Green Cemetery Board due to the term expiration of Jack Cooper. Mr. Cooper was contacted and wished to reapply. This is a three-year term to expire on December 31, 2004. There was no public comment. Commissioner Vincent nominated Mr. Cooper. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Two vacancies exist on the Planning and Zoning Commission due to the passing of Senate Bill 241 during the 2001 Legislative Session. This bill increased the membership on a planning and zoning commission to seven members, allowing for the addition of two residents of the planning and zoning districts to serve as citizen members of the Commission. Two applications were received from Anne Trygstad and Beth Horn. According to 76-2-102, MCA, ...the citizen members must be appointed by the Board of County Commissioners to two-year staggered terms, with one member initially appointed to a two-year term and the remaining member initially appointed to a one-year term. Lots will be drawn at the first meeting with both members in attendance. There was no public comment. Commissioner Mitchell nominated Anne Trygstad. Seconded by Commissioner Vincent. Commissioner Mitchell amended the motion to include that the term not be effective until February 1, 2002, giving these members time to be trained by the County Attorney, as to the guidelines and findings required by the zoning commission. Commissioner Vincent amended the second. None voting nay. Motion carried. Commissioner Vincent nominated Beth Horn, with same stipulation that the appointment be effective on February 1, 2002. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Two vacancies exist on the Tax Appeal Board due to the resignation of Dave Miller and the term expiration of Ed McCrone. Mr. McCrone submitted a request to be considered for reappointment. This appointment is for a three-year term to expire on December 31, 2004. There was no public comment. Commissioner Vincent nominated Ed McCrone. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Two vacancies exist on the Three Forks Mosquito Control District due to the term expiration of Herb Steingruber and Wesley Milner. Both of these members have reapplied to fill the three-year terms, to expire on December 31, 2004. There was no public comment. Commissioner Vincent nominated Herb Steingruber. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Mitchell nominated Wesley Milner. Seconded by Commissioner Vincent. None voting nay. Motion carried. Two vacancies exist on the Weed Board due to the term expirations of Kay Moore and Craig Morgan. Mr. Morgan expressed a desire to be reappointed. These are three-year terms to expire on December 31, 2004. There was no public comment. Commissioner Mitchell nominated Fred Bell. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Mitchell nominated Craig Morgan. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported on the consideration of a resolution to amend the Weed District FY 2002 budget to include unanticipated grant revenues. There was no public comment. Commissioner Mitchell moved to approve Resolution #2002-05. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution amending the Hazardous Material Activity within the Public Safety Fund for the purchase of a tandem axle trailer for an amount not to exceed \$10,000. There was no public comment. Commissioner Mitchell moved to approve Resolution #2002-06. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Community Corrections Coordinator Theresa Flanagan reported on the consideration of sponsorship of an application to Montana Board of Crime Control for continued funding on behalf of the Community Corrections Board. Ms. Flanagan explained that the funds were being used to pay her salary, contracted services, and miscellaneous office expenses, for fiscal year July 2002 through June 2003. There was no public comment. Commissioner Vincent moved to approve the request for the sponsorship of application of the Montana Board of Crime Control for continued funding on behalf of the Community Corrections Board. Seconded by Commissioner Mitchell. Discussion took place regarding the counties obligation to match this, if for some reason it is not in the budget. Gallatin County Grants Administrator Larry Watson stated that the Commission was pledging to the best of their ability that the match would be available, although they have not yet entered into the budgeting process. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the consideration and public hearing on the resolution of intent to adopt the Sperry-Smith zone map amendment in the Gallatin County/Bozeman Area Zoning District. Ms. Koozer explained that this hearing was to consider an application by property owner Elizabeth A. Sperry, represented by Rob Smith and Allied Engineering Services, Inc., to amend the official zoning map of the Gallatin County/Bozeman Area ("Donut") Zoning District. The amendment would change zoning from A-S Agriculture-Suburban to R-3 Residential Medium-Density. The property is a 15-acre +/- parcel located at 5809 Gooch Hill Road, generally south of Huffine Lane across Gooch Hill Road from the Rea Subdivision. The tract is described on Plat 6Fm582 located in the NE ¼ of the SE ¼ of Section 17, T2S, R5E, PMM, Gallatin County, Montana. In reviewing the zone map amendment request, the Commission must consider the following criteria: 1. Relationship/compliance with adopted plans; 2. Consistency with the intent and purpose of the zoning regulations; 3. Compliance with the statutory requirements of Section 76-2-203, MCA; 4. Relationship with prevailing uses in the area; and 5. Whether or not the requested zoning designation benefits a small area and only one or a few landowners. This property is within the jurisdiction of the Gallatin County Plan and the 1990 Bozeman Area Master Plan Update. Ms. Koozer summarized the general and relevant goals of those plans pertaining to this application. Public notice was provided in the High County Independent Press on November 15, 22, and 29, 2001; certified notice was mailed to adjacent property owners on November 19, 2001; and notice was posted along Gooch Hill Road in 3 different locations. The Planning Department received 4 letters in opposition to this request, expressing concerns of community impacts of greater density and potential for violating spot zoning criteria. Two of the letters were from Lisa Banick, on behalf of the Hougen's, and the others from Roger and Bonnie Hougen, James Orestad. On December 11, 2001, the Gallatin County Planning Board held a public hearing, and recommended, with a vote of 6:2, that the Commission deny the request because of its potential to be considered spot zoning, and they felt it would benefit only one landowner. If the Commission, after reviewing the application materials, staff report, and Planning Board recommendation, and after hearing and considering all public testimony, determines that the requested zone map amendment meets the criteria of Section 55 of the Zoning Regulations, then: a. The Commission would adopt a resolution finding that the amendment complies with the Gallatin County Plan and stating the Commission's intent to approve the zone change; b. Following publication of notice of passage of the resolution of intent, a 30-day protest period would commence; and c. Following the 30-day protest period, the Commission would make a final decision on the zone map amendment. As part of any approval, the following condition is suggested: 1. The zone map amendment shall be complete upon submittal of the \$100 mapping fee to the Planning Department for update of the Official Zoning Map. The applicants representative Terry Threlkeld of Allied Engineering briefly addressed the history of the property, and the applicants intent for the zone change being mixed use and multi-family housing. He pointed out the compliance with the Rural Residential Node Designations in the 1990 Urban Growth Plan, and the goals of the Gallatin County Master Plan. He concluded that this was not spot zoning, and stated what they are doing is an extension of existing zoning. Public comment in opposition: Attorney Lisa Banick (representing adjoining land owners Roger and Bonnie Hougen and Vicky Bertz); Britt Hougen; James Orestad; Greg Hall; and Aspen Hougen. Public comment in support: Dan Bomer; Donika Shrauger; Christine Jonas; Debra Newman; and Brian Cox. Some of the concerns of those in opposition were negative impacts such as view shed; noise; traffic; open space; density; water; wildlife; dust; roads; increase in law enforcement; busing for school; increase in road maintenance; and loss of quality of life. Commissioner Murdock noted that he received two phone calls from Hougen's. Ms. Koozer read a letter of support submitted by Matthew Weinheimer, Exhibit "A". Ms. Banick referred to the Montana Supreme Court 3 part test, used to determine spot zoning, which included: 1. Whether the requested use is significantly different from the prevailing use in the area; 2. Whether the area in which the requested use is to apply is small, although not solely in physical size. An important inquiry under this factor is how many separate landowners will benefit from the zone classification; and 3. Whether the requested change is more in the nature of special legislation designed

to benefit one or a few landowners at the expense of the surrounding landowners or general public. Under the third factor for spot zoning, the inquiry also involves whether the requested use is in accord with a comprehensive plan. Commissioner Vincent questioned Ms. Banick how this parcel should be excluded from R3 designation when it has approximately 1800 feet immediately adjacent to R-3. She stated that under the test, the supreme court would not necessarily look at what it is designated but they would look at the prevailing use. She also, addressed the issue of a forty-foot easement initially shown by the applicant as part of their property, although it is owned by the Hougens, saying they would object to any increased use of that easement by further development of the property. Mr. Threlkeld stated that they were told by the Planning Department that their only option to avoid the spot zoning classification was R-3, in order to develop multi-family units, as R2 would do what they needed, but it would be spot zoning. He also, noted that although the Hougen's testified they had no plans to develop, there were no deed restrictions to preclude them from developing. Therefore, he asked the Commission to take the applicants word that their intention is to not build hundreds of units, because their intention is to put in a single-family subdivision with some multi-family. Mr. Threlkeld addressed the water table and availability, stating this was not an issue and that there was more than an adequate water supply. He asked the Commission if it was going to be the policy to deny zone changes for single parcels? He referred to testimony regarding traffic and noise pollution, stating those were issues they will have to address during the subdivision process. Mr. Threlkeld concluded that they were compatible with the Master Plan in that the land uses in the area are adjacent and similar, they have central water and sewer, they are taking a failed agricultural parcel and attempting to develop through this process or the residential node process, they have efficient delivery of public services, and emergency services nearby. Commissioner Vincent stated his preference was to postpone this decision for further consideration until a reasonable later date. He explained that they were facing a legal not a political decision, and he needed to address the dichotomy between prevailing use and potential use, given specific zoning classifications. Ms. Koozer confirmed that there was no time requirement. Commissioners Mitchell and Murdock stated that they would honor the request to postpone their decision. Stating this was a close call, Commissioner Murdock commented that he did not believe this was spot zoning, and that it was contiguous to existing like minded zoning, and even though the applicant is well intentioned, this is a zone change request from A-S to R-3. He stated that this proposal whether voted for or against would not give the assurance of affordable housing. He felt there were other R-3 and affordable housing options in the area, and at this point there was not a public necessity or need. He stated the developer had plenty of options available with the cluster option under current zoning, and he was not inclined to vote in favor of the proposal but would have to look at it. Commissioner Mitchell concurred, stating she did not believe that this request is compatible with existing adjacent uses. The Commission agreed to continue their decision for one week. Discussion took place with Mr. Threlkeld regarding the applicant's mitigation of the proposal, or presenting an amended request that considered the public testimony. He was referred to staff.

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Gallatin County Planner Jennifer Madgic reported on the consideration of a request for preliminary plat approval for Northstar at Four Corners Major Subdivision, located approximately one mile east of the Gallatin River (the junction of US Highway 191, MT Highway 84 and MT Highway 85). The proposed Northstar Major Subdivision is located in Sections 11 and 14, T2S, R4E, PMM, Gallatin County, Montana. Morrison-Maierle Inc., and PC Development have requested preliminary plat approval for a 417-lot mixed use, urban-type major subdivision in two phases, in seven proposed Blocks, on approximately 320 acres northwest and southwest of the Four Corners intersection. The submittal includes eight plats as follows: Plat #1: Vicinity Map; Plat #2: Index of Blocks (block 1-7); Plat #3: Block #1, Commerce Park (south half); Plat #4: Block #1, Commerce Park (north half); Plat #5: Block #2, North Star Village; Plat #6: Block #3, North Star Residential; Plat #7: Blocks #4 & 6, North Star Residential; and Plat #8: Blocks #5 & 7, North Star Residential. The sub-categories are as follows: North Star Residential Community- 180 acres, 347 lots, 596 units; North Star Village- 36 acres, 19 lots; and North Star Commerce Park- 97 acres, 51 lots. The phasing is distributed as follows: Phase 1: North Star Residential (Pods A, D & E), Blocks 3, 6 & 7, 131 lots; North Star Village, Block 2, 19 lots; and North Star Commerce Park, (Lots 27-46), 22 lots. Phase 2: North Star Residential (Pods B & C), Blocks 4 & 5, 216 lots; and North Star Commerce Parks (Lots 3-26 & Lots 47-51), Block 1, 29 lots. No variances are being requested. The project includes residential, commercial and light industrial-type uses. Ms. Madgic briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with the suggested conditions, and a memo she submitted to the Commission on the additional modifications, letters and recommendations received/provided since the December 11, 2001, Planning Board hearing. The Gallatin County Commission has the following determinations to make with this application: 1. A determination as to whether to approve the proposed subdivision. The basis for the decision shall be whether the preliminary plat, and additional information demonstrate that the subdivision meets: The requirements of the

Montana Subdivision and Platting Act; The Gallatin County Subdivision Regulations; and the Gallatin County Plan (substantial compliance). If the Commission decides to approve the proposed subdivision, the following conditions for final plat approval are suggested: 1. The final plats (Phase 1 and Phase 2) shall be finalized sequentially. Conditions apply to both phases unless otherwise noted. 2. The final plat(s) shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 3. Montana Department of Environmental Quality and Gallatin County Health Officer's approvals shall be obtained for the subdivision. Applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department.

4. Two copies of the following documents shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval: A. Articles of organization or incorporation for the property owners' association approved by the Secretary of State of the State of Montana. B. Bylaws controlling the operation of the property owners' association. C. Restrictive and protective covenants encumbering the real property contained within the subdivision. D. Restrictive deed transferring title of all common open space parcels within the subdivision to the property owners' association. E. Public road easements. F. Improvement agreements. G. Certificate of a licensed title abstractor. 5. Applicant shall record on the final plat(s) a waiver of right to protest creation of rural improvement districts, local improvement districts, or the creation of a sewer and/or water district. 6. All utility easements shall be shown on the final plat(s). Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat(s): *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* 7. A Memorandum of Understanding shall be signed between the Weed Control District and the applicant prior to final plat approval(s). 8. Applicant shall create a property owners' association. 9. Applicant shall record the following covenants on or with the final plat(s): a) *The property owner shall be responsible for the control of County-declared noxious weeds.* b) *Individual lot accesses from County public roads shall be built to the standards of Section 7.G.2 of the Subdivision Regulations.* c) *All structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for Seismic Zone 3, and the National Fire Protection Codes.* d) *All new dwellings or home business occupancies built prior to the provision of an adequate water supply for fire fighting purposes shall be constructed with an automatic fire sprinkler system meeting the requirements of NFPA 13D/Uniform Fire Code. The fire district shall receive a stamped set of engineered sprinkler system plans for review and approval prior to construction. Inspections shall be scheduled, with 48-hour notice, during construction and after completion.* e) *The control of noxious weeds by the Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District.* f) *The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds, after 10 days notice from the property owners' association, the association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment.* g) *Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.* h) *All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law.* i) *The property owners' association shall be responsible for the operation and maintenance of all interior subdivision roads, parks and open space.* j) *The maintenance of all exterior boundary fences shall be shared equally with adjacent property owners.* k) *Title to the common open space within the subdivision shall vest in the property owners' association and be maintained and controlled by the board of directors of the association.* l) *Common open space shall be preserved and maintained for passive and active recreation, wildlife habitat, protection of scenic, and unique or important natural features.* m) *Membership in the property owners' association shall be mandatory for each lot owner. Each lot owner shall be required to pay such fees as the board of directors of the association deem appropriate for real estate taxes, insurance, and the maintenance of the common open space.* n) *Membership in the property owners' association shall be mandatory for each lot owner. Each lot owner shall be required to pay such fees as the board of directors of the association deem appropriate for real estate taxes, insurance and the maintenance of the common open space.* o) *The property owners association shall be responsible for liability insurance in an amount to be determined*

by the board of directors of the association, which insurance shall name Gallatin County as a loss payee. p) A portion of the assessments levied by the Board of Directors of the property owners' association shall become a lien on the lots within the subdivision in the event the taxes on the open space become delinquent. The board of directors shall adjust the assessments on the taxes on the common open space increase. q) Ownership shall be structured in such a manner that real property taxing authorities may satisfy tax claims against the common open space lands by proceeding against individual owners in the property owners' association and the dwelling or building units they own. r) Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission. 10. All road names for interior roads must be approved by the County GIS Office. 11. A detailed signage and drainage plan will need to be submitted to the County Road Department for approval, prior to the start of any construction. This plan should specifically address the requirement for road name signs to be installed at all intersections, as well as STOP sign(s) at all intersections with County-maintained roads. STOP signs and other regulatory or warning signs may also be needed on some internal roads, and this should be addressed in the plan. 12. Encroachment permits must be obtained from the County GIS Office for any access points coming off of county maintained roads. Additionally, all internal lots will be limited to one driveway access. Each access must be at least 75 feet from the nearest intersecting County road. 13. A "no-access" strip is required along all lot boundaries that border County-maintained roads. Exception to this will only be made for lots that do not border an internal subdivision road. Access to lots falling under this exception will require further review and the obtaining of an encroachment permit from the County Road Department. 14. Subdivision standards require that any development over six lots must have a second access. Therefore, a second access will be required with each phase and within each block proposed per phase. These accesses will need to be a public easement constructed to County standards. 15. All interior roads shall be built to County paved standards and have a 60-foot right-of-way, dedicated to the public (unless other County road standards apply). Striping of the new roads after paving shall be required. 16. **Phase 1:** The entire length of both North Star Boulevard and Village Lane shall be paved to County collector standards. **Applicant shall pave Timberline Drive to County paved standards.** 17. **Phase 2:** The entire length of Third Street to US Highway 191 shall be paved to County standards. Or if neighborhood concerns warrant, applicant shall construct a cul-de-sac to County standards and standards accepted by the Gallatin Gateway Fire District. 18. Applicant shall prepare a detailed traffic study to identify off-site traffic impacts the development will have on the following existing State roads: Norris Road, Hwy 191 and Jackrabbit Lane. The study shall be used to identify primary and secondary access roads, as well as collectors and arterials in the area of impact. Findings from this study may result in the need to have additional right-of-way along certain County maintained roads dedicated to the public. 19. Applicant shall arrange a pre-construction meeting with the County Road Department prior to the start of any construction. 20. A waiver of protest for creation of future RIDs shall be required. 21. All roadwork shall be built to Montana Public Works Standard Specifications (Fourth Edition, January 1996), inspected and certified by a licensed engineer. Such inspection and certification shall be provided to the County Road Department in writing. Final approval shall not be given until this documentation is received. 22. Applicant shall provide a two-year written warranty from the contractor regarding the paving of all County-maintained roads. Applicant shall submit warranty to the County Road Department. 23. Applicant shall form a property owners' association for the maintenance of all interior roads. A copy of the property owners' association by-laws shall be submitted to the County Road Department prior to final approval. 24. Applicant shall pay road impact fees per the Gallatin County Road Impact Fee standards. 25. All bridges contemplated within project shall be constructed to H-25 (25-ton) standards to handle emergency vehicles. 26. **Phase 1:** Durston Road shall be constructed to full County standards to the west end of property boundary, with a County standard cul-de-sac acceptable to the Belgrade Rural Fire District. 27. Additional road right-of-way may be required to be dedicated for all commercial lot frontage and all roads fronting commercial lots shall be paved to County collector standards of 28 feet. 28. **Phase 1:** Ice Center Lane, Northstar Lane and Durston Road to the end of Block 7, have been identified as minor collectors and shall be paved to County collector standards. Additionally, all east-west roads shall be constructed to a 28-foot paved width consistent with Galactic Park to the west. 29. **Phase 2:** Durston Road has been identified as a minor collector and shall be paved to County collector standards. Construction of Durston Road shall be consistent with Galactic Park to the west. 30. Applicant shall enter into a joint agreement with the property owners association of Garden Center Subdivision, Corner Four Business Park #2 and Minor Subdivision 190, for the joint maintenance of North Star Boulevard, Ice Center Lane, Northstar Lane and Timberline Drive. 31. All road centerlines (Durston Road, Zoot Way, etc.) shall line up with any existing or proposed roads as much as possible to be reviewed and approved by the County Road Department. 32. The final plat(s) shall contain a statement requiring lot accesses be built to Gallatin County Subdivision Regulation standards. 33. Road name signs shall be required at all intersections. Road name signs shall be installed or bonded prior to final plat approval(s). 34. Approved plans for any improvements and/or construction on state highways shall be obtained from the Montana Department of

Transportation and applicant shall enter into a Memorandum of Agreement with the Montana Department of Transportation. A letter satisfying completion of this condition shall be obtained from the Montana Department of Transportation per phase and a copy given to the Planning Department. 35. Encroachment permits shall be obtained from the Montana Department of Transportation for access points off state highways. 36. All parks and open space shall be provided as shown on the preliminary plat. 37. A fully executed and notarized copy of the restrictive deed, transferring title of the park and all common open space parcels within the subdivision to the property owners' association, and the protective covenants shall be recorded in the Office of the Clerk and Recorder of Gallatin County simultaneously with the filing of each final plat. The protective deed shall contain the following restrictions: A. That all parks and open space shall be perpetual in nature. B. Common open space shall be preserved and maintained for passive and active recreation, wildlife habitat, and protection of scenic, unique or important natural features. Construction of non-recreational structures in the park and open space is prohibited. C. The park and open space shall not be further divided or subdivided. D. That any violation of the terms and conditions of the deed restrictions shall be reported to the board of directors of the property owners' association. E. The deed may not be amended or revoked without the mutual consent of the property owners' association and the governing body of Gallatin County. E. All open space parcels shall be dedicated to the property owners' association prior to final plat approval. 39. Applicant shall consult with the County Trails Committee regarding the proposed trail system. 40. Applicant shall submit a parks improvements plan (showing connections between residential uses, commercial uses, recreational uses, etc.), per phase and shall install such improvements prior to final plat approval of each phase. 41. Parkland shall be dedicated per phase as required by the Subdivision Regulations and as proposed under applicant's phasing schedule. Applicant shall provide a landscaping plan for public areas within each phase prior to final plat approval of each phase. 42. Final plat shall provide a 20-foot setback between the ordinary highwater mark of an active ditch or creek and any commercial or residential structure. Additionally, applicant shall comply with Section 76-3-504(9) MCA regarding provision of ditch maintenance easement(s) as appropriate. Applicant shall provide a minimum ditch-maintenance easement of 40 feet, 20 feet on both sides of the watercourse or more if required by the ditch company. 43. Applicant shall obtain written confirmation from the Beck-Border Ditch Company, stating that the proposed development, *ditch relocation* and maintenance easements will not create adverse impacts on the operation and maintenance of the ditch/canal within the subdivision. 44. Applicant shall obtain any appropriate state and/or federal permits pertaining to wetlands and/or other waterways. 45. Applicant shall pay fire impact fees in accordance with the Gallatin County Subdivision Regulations. 46. Applicant shall provide water supply for fire protection in accordance with the Gallatin County Subdivision Regulations. The Belgrade Rural Fire District and Gallatin Gateway Rural Fire District shall approve all fire hydrant locations, installation and operation prior to undertaking any construction within each development phase. Applicant shall also provide Belgrade Rural Fire District and Gallatin Gateway Rural Fire District with a copy of final plat(s) and site plans of all lots before start of construction. All structures must meet the fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief. All commercial structures must submit plans to the Montana State Building Codes Bureau and the Belgrade Fire District for review and approval before construction is started. Applicant shall obtain written verification from the fire districts that the required fire protection measures have been provided. 47. Applicant's mitigation plan for sheriff services shall be acceptable to the County Commission. 48. The water main system serving all lots including all fire hydrants shall be installed prior to final plat approval(s). Applicant shall provide appropriate approvals regarding such systems. 49. The community sewer system including all sewer mains and sewer service pertaining to all lots shall be installed prior to final plat approval(s). Applicant shall provide appropriate approvals regarding such systems. 50. Applicant shall consult with the US Postal Service regarding mail delivery. If a centralized mail system is used, the location must be shown on the appropriate final plat. 51. Applicant shall have three (3) years to complete the above conditions and apply for final plat approval(s). Ms. Madgic outlined the following modification to the project after the Planning Board hearing: The four-lot minor subdivision will be served by community water and sewer, part of the Village Center, and subject to the Village Center, and subject to the Village Center Property Owners Association, covenants and architectural guidelines; Park and Open Space Plan includes six tot lots, central multi-purpose sports area, informal multi-purpose recreational area, picnic area, and comprehensive trail system; Residential Pods A, B & C include alleys; Cottonwood trees and area of preservation denoted on the plat; Covenants/architectural guidelines provided for North Star Commerce Park, North Star Residential and North Star Village Center; Village Commons area and flexibility of layout of Village Commons; Recycling/hazardous waste drop-off in Commerce Park; Monforton School: \$1500/lot; and Sheriff: \$500/lot. She noted the additional following letters: Stephen Barrett (support); Garth Sime (support); Jimmie Lohmeier (fire protection/road maintenance); Michael and Roxanne Pearson (water supply/wastewater treatment for Corners Four Business Park); Kirk and Dawn Smith (project as a PUD, various recommendations); John Kaufman (Lawrence Trust) (connection to central systems w/proposed conditions; Don McHenry (x2) (support; connection to central system); Fred

Bell (support); and Amy Kinney (support). There were 8 letters from the applicant to various individuals and a letter from the Environmental Health Services (Tim Roark), and Monforton School Superintendent (Lee Amberson). Ms. Madgic suggested adding the following conditions: 1. The applicant shall contribute a "voluntary school mitigation fee" in the amount of \$1,500.00 per living unit in the North Star Residential area. Applicant shall contribute \$750.00 per living unit prior to final plat approval of proposed residential lots. Applicant shall contribute \$750.00 per residential unit at the time residential lots are sold. For contribution which occurs following final plat approval, applicant shall enter into an improvements agreement shall be reviewed and approved by the Gallatin County Attorney's Office prior to final plat approval of both Phases 1 and 2; 2. The applicant shall contribute a "voluntary sheriff mitigation fee" in the amount of \$500.00 per living unit in the North Star Residential area. Applicant shall contribute \$250.00 per living unit prior to final plat approval of proposed residential lots. Applicant shall contribute \$250.00 per residential unit at the time residential lots are sold. For contribution which occurs following final plat approval, applicant shall enter into an improvements agreement with Gallatin County for payment of \$250.00 per residential unit. Said improvements agreement shall be reviewed and approved by the Gallatin County Attorney's Office prior to final plat approval of both Phase 1 and 2; 3. Applicant shall create a water and sewer district to accommodate proposed central systems; 4. Applicants shall participate financially in a regional water and sewer district feasibility study. The geographic boundaries of the feasibility study and degree of financial participation by applicant shall be specified in a Memorandum of Agreement between the applicant and the Gallatin County Commission; 5. The proposed water and sewer systems shall be designed to accommodate future expansion and/or connection to a regional facility. Applicant shall extend sewer and water mains to existing adjacent developments; 6. Applicant shall provide a neighborhood recycling area within Commerce Park to be noted in Commerce Park covenants; and 7. Applicant shall submit a parks improvement plan, which reflects parks improvements as shown on the preliminary plat approval updated January 2002. This plan includes approximately six tot lots, three picnic areas, trail system and two multi-purpose sports areas. Applicant shall include provisions for maintenance of these areas and shall install improvements prior to final plat approval of Phase 1 and Phase 2 as appropriate. She made the following corrections: Delete condition #3, of the added conditions as there was already condition #5 of the original conditions to cover it; she stated that the Commission needed to make a decision on condition #17, and determine whether or not 3<sup>rd</sup> Street needs to be paved or if a cul-de-sac should be placed prior to 3<sup>rd</sup> Street; change condition #26 to read as follows: **Phase 1:** Durston Road shall be constructed to full County standards to North Star Blvd, with a County standard cul-de-sac acceptable to the Belgrade Rural Fire District. **Phase 2:** Durston Road shall be constructed to full County standards to the west end of property boundary, with a County standard cul-de-sac acceptable to the Belgrade Rural Fire District; and strike conditions #27. Discussion took place regarding whether or not written concerns, proposed mitigations and conditions from the public were addressed in the amended condition process. Commissioner Murdock noted a letter received yesterday from Kasting, Comb & Kaufman, representing the Lawrence Trust, with proposed options to be included regarding the extension of the water and sewer mains. Ms. Madgic also, noted a recent letter from William Ladwig, and a packet from Tony Kolnik, including documents on the weigh station off of Highway 191, south of the intersection.

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The Commission recessed for lunch.

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Commissioner Murdock announced that the claims approved earlier were incorrect and that it would have to be corrected. Stating this would supersede an earlier motion, Commissioner Vincent moved to approve claims received from the Auditor, dated January 3, 2002, as claims #8007120-8007252, in the amount of \$460,384.69. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Mike Potter, representing Northstar gave a brief presentation of the project plans, and the history of the area. In pointing out highlights of the project, he noted that because of Zoot Enterprises they too, will be served with high capacity fiber optics, enabling them to bring the same technologies to the different components of this project, therefore making it a smart project. He outlined the changes they have made in order to accommodate adjoining landowners, such as rerouting accesses, stubbing water and sewer for future services to adjoining properties, and paving Timberline Road. He commented on the 4-acre mobile home court, adjoining the project of which they would like to acquire but at this point have been unable to do so. However, they have worked it into their master planning by setting the stage for the property to become part of the Village area, relative to the roads, water and sewer. He commented on the concerns with water

quality at the mobile home court, stating they were leaving the door open regarding the extension of water and sewer lines, and felt the County Commission should be involved in the decision making to determine if that use should be continued in that location and if it is appropriate, or should something more appropriate be worked in there. Project engineer Marty Gagnon, with Morrison-Maierle gave an overview on the water, sewer and transportation system. He commented that they had met with the ditch company on the various ditches, regarding relocating and that they will be submitting a formal proposal for the relocation of the ditches along property lines and open space within the development, and Northstar development will accept maintenance of the ditches. He explained the water distribution system including water mains, services, fire hydrants, and an elevated 750,000-gallon water storage reservoir located in the Commerce Park. This system will be sized such that it will service the same sort of a service area as the sewer system and will be capable to connect to the Galactic Park's distribution system should that happen in the future, along with other adjoining properties. He noted the project accesses Norris Road, Jackrabbit Lane and Gallatin Road. They have a signed Memorandum of Understanding on Norris Road, so this development and the Galactic Park development will cost share in the construction of the center turn lane, which will extend past the Zoot Way intersection, and in addition they will cost share and participate in the construction of a right turn lane onto Zoot Way. It was also suggested at the neighborhood meetings that the Corners Four Project wanted a right turn lane into their project on Timberline and he stated that they would also, be willing to participate, although it would need to be addressed with the highway department by the Corners Four Project. He stated they were also, in the process of working on a Memorandum of Understanding for Jackrabbit Lane and Gallatin Road. Mr. Potter addressed the community administrative and organizational issues, and clarified additional areas that would be in the service area. He again referred to the 4-acres mobile home park that was assumed to one day be a commercial area, and noted they did not size the collection system for the approximately mobile homes already there. He stated that initially the water and sewer system would be a private company that would be subject to the state public service commission rules and regulations and once there is an adequate user base the private company can be converted into a public water and sewer and district. He stated that they support the effort of the bigger wastewater issue in the Four Corners area and they want to be part of that program. They are supportive of zoning in the Four Corners area, and they will support zoning as long as it is a broader base community effort and they are not taking the lead. He explained the voluntary mitigations they worked out with the school and the sheriff's department, paying \$1,500 per residential unit to the school and \$500 per residential unit to the sheriff. The two fire districts involved stated that they would like to relocate their current substation near Four Corners that is currently located in the Ramshorn Subdivision. Northstar is willing to work with them on an alternative site if they could get some credit for some of their fire district impact fees. Mr. Potter stated that they would agree to waive their right to protest the creation of a zoning district in the area, and that they do agree to the conditions. He stated their only concern was regarding water and sewer service to the 4-acres at the corner of Jackrabbit Lane and Norris Road, as they did not think it is their responsibility. Public comment in support: Garth Sime; Lonny Walker; Brooks Martin; Jimmie Lohmeier; Roland Schumacher; Mike Kvasnick, (submitted Exhibit "F", letter from the Gallatin Gateway Rural Fire District, dated February 17, 1999); Fred Bell, (submitted Exhibit "G", his letter of support, dated January 7, 2002); R. J. Cain; and Richard Smith. Public comment in opposition or with concerns: Stuart Aasgaard; John Kaufman, representing the Lawrence Trust; Tony Kolnik, (submitting Exhibit "A", copy of his testimony, dated January 8, 2002, signed by Tony and Teresa Kolnik, Joann M. Wattier and Margaret E. Devous, Exhibit "B", a memo from Tony and Teresa Kolnik, dated January 8, 2002, Exhibit "C", agenda for the 4-Corners Information Meeting, dated January 4, 2002, Exhibit "D", Permitted uses for Valley Commons Business Park, and Exhibit "E", letter from Dan Martin, MDOT System Impact Planner regarding traffic impact study, dated November 19, 2001); Kurt Dehmer; Dave Pruitt; and Jim Bogen. Some of the concerns were as follows: preservation of ground water quality and quantity; proactive control of hazardous waste; sewage plume; visual impacts to the Rainbow Subdivision; degradation of wildlife; increased traffic; lack of buffering around commercial area; limitations on building heights; extension of sewer connections for the mobile home park; residential lots near Rainbow Subdivision; pave 3<sup>rd</sup> to 191, and placing water and sewer mains and services in the street prior to paving; right hand turn lane into Timberline Drive; type of impacts light industrial will have on community; noise, odors and dust; pollution of the Gallatin River; density; public safety; and access into Rainbow Subdivision. The following signed up and chose not to speak: Dawn Smith; Gary Griffith; and Edith Randall. LeeAnn Amberson, Superintendent of Monforton School addressed the issue of providing the necessary services to accommodate additional students. They determined there would be approximately 185 additional students as a result of 650 units, taking the average of people per household. In that case they would need to build on in order to accommodate the additional students, therefore, on behalf of the school board she requested \$1,500 per residential unit, of which \$750 is to be paid prior to final plat approval and \$750 on the sale of each residential unit. The money will go into a fund that can be invested to earn interest and will be earmarked for expansion or a building. She stated that Mr. Potter was in agreement. Mark Haggerty, representing the Greater Yellowstone Coalition stated this development was unprecedented within the county and that this was an urban development and needed urban solutions. He spoke regarding the transportation needs and road designs, stating that urban roads should reduce the speed of travel, reduce turning conflicts, reduce delay at intersections, and increase

pedestrian and bike access and safety, and facilitate transit. Mr. Haggerty recommended that the conditions that deal with internal collectors being built to county standards, conditions 14, 15, 16, 17, 26, 28, and 29 should be changed from county standards to urban standard roads. He also, recommended that the traffic study suggested in condition 18, needs to be completed before being approved, and the Commission should work with the state to try and redesign Norris and Amsterdam Roads. He stated that they needed to work with the state to change the design from a rural arterial standard to an urban arterial standard. He suggested that when the Commission moves forward with Growth Policy, to address the county street standards and all urban and community areas, and think more of urban street design areas. Mr. Potter stated they were setting the stage to complete the road connection south to Lower Rainbow, pointing out the right-of-way provided, goes to the old Milwaukee right-of-way owned by Dennis Simpson. He stated that if Mr. Kvasnick can get an easement from Mr. Simpson, that they will extend the road and water and sewer extensions. Mr. Potter addressed the water issue, stating that they were blessed with the East Gallatin aquifer, and with this project it is possible to drill the wells needed or use the existing wells to sustain their water system. He explained they were going to structure the water and sewer lines to the adjacent properties so there would be no impact fee. He thought the suggestion of buffering visual mitigation relative to the Commerce Park adjacent to the Rainbow neighborhood was a good idea, and proposed that they were willing to place a 50-foot buffer in that area, adding that as a condition for consideration. He responded to Mr. Kolnik's request regarding notification to the Rainbow neighborhood, stating he had left a letter, dated January 7, 2002, with the commitments to the neighborhood, outlining the following: water and sewer capacity- sized and built systems to accommodate the needs of the Rainbow neighborhood; Third Street-install water and sewer lines for future extensions and pave; North Trail Connector-will build the trail if the old Central Street easement still exists; Connection to the West-should they prefer to connect Third Street through, they will make reasonable street adjustments within the Commerce Park to minimize through traffic; and the Snowmobile Club-they will cooperate with the Snowmobile Club for water and sewer services as well as consideration for future expansion of their facility. He stated that the state highway department is studying the Norris Road leg, and they are studying the Jackrabbit leg from Four Corners back to the interstate upgrade in Belgrade, looking at that in light of this proposal. They also, looking at the Four Corners to the canyon leg on 191, and relooking at the leg from Four Corners back to Bozeman. He stated that they support the concept of a light at Monforton and Huffine, and they will be willing to support a reduction in the speed limit. In conclusion, Mr. Potter stated that the only concern they have with the conditions, is hooking up sewer and water to the mobile home court. He stated it was a huge decision and should be looked at in the long-term benefits of the community. Because of the complexity of the project, Commissioner Mitchell suggested more time to consider the information in order to make sure it is mitigated to the of their ability by making sure that the health, safety and welfare issues are mitigated. She felt the project was mitigatable, and noted that it is in an identified area of growth. Commissioner Vincent concurred, although he wanted to consider this and develop his own criteria and list of mitigations. He said some of those mitigation's might be substantial, although he did think it was mitigatable. Commissioner Murdock generally agreed, stating there are people that don't want to see development in this area, although this is an area where they do want to develop growth. He stated this is a place where they should promote development responsibly and listen to concerns of the public. Commissioner Murdock stated that Mr. Haggerty brought up some good points, and suggested the Road Office consider what the impact would be to require urban standards. Commissioner Murdock asked if the developer would consent going beyond any deadline. The Commission discussed the time needed for the continuation. Mr. Potter agreed to grant a two-week continuance.

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Commissioner Murdock stated that the consideration of a request for preliminary plat approval for the Galactic Park Major Subdivision would be continued until January 15, 2002. Chris Nelson agreed to grant the extension.

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Gallatin County Planner Jennifer Koozer reported on consideration of a request for preliminary plat approval for the Four Corners Minor Subdivision, described as a portion of Parcel IV of the deed recorded in Film 162, Page 395-396, in the records of the Gallatin County Clerk and Recorder, in the NW ¼ SE ¼ of Section 11, T2S, R4E. The property is generally located on Ice Center Lane, north of and adjacent to the Corners Four Business Park No. 2 commercial subdivision. Morrison-Maierle Inc., and Potter Clinton Development, Inc., on behalf of Leelynn, Inc., have requested preliminary plat approval to subdivide a ~121-acre parcel into four ~1.5-acre commercial lots (with a ~112-acre remainder, which is intended to be subdivided as part of the Northstar Major Subdivision). According to the applicant the underlying contract for this land requires that this land be split off under a separate mechanism. Ms. Koozer briefly discussed the Staff Findings, and noted that Item #4, was incorrect, stating that the lots will not be served by individual septic systems and wells, because they will be incorporated into the central sewer and water system for the entire Northstar project. She pointed out



that the only concern in written correspondence to the Planning Board was regarding Timberline Drive being upgraded to handle more traffic, which they are intending to pave. This project was not included in the traffic study being worked on between Potter Clinton and MDOT. Morrison-Maierle indicated that the traffic from this subdivision would not affect the conclusions of the traffic impact study and MDOT has concurred. The Planning Board recommended unanimous approval of the minor subdivision. The staff report contained criteria for the Commission to evaluate for considering the subdivision, along with the suggested conditions. The Gallatin County Commission has the following determinations to make with this application: A determination as to whether to approve the proposed subdivision. The basis for the decision shall be whether the preliminary plat, and additional information demonstrate that the subdivision meets: The requirements of the Montana Subdivision and Platting Act. The Gallatin County Subdivision Regulations. The Gallatin County Plan (substantial compliance). If the Commission decides to approve the proposed subdivision, the following conditions for final plat approval are suggested: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2. Montana Department of Environmental Quality and Gallatin County Health Officer's approvals shall be obtained for the subdivision. Applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin County Environmental Health Department. 3. Two copies of the following documents shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval: A. Articles of organization or incorporation for the property owners' association approved by the Secretary of State of the State of Montana. B. Bylaws controlling the operation of the property owners' association. C. Restrictive and protective covenants encumbering the real property contained within the subdivision. D. Certificate of a licensed title abstractor. 4. Applicant shall record on the final plat(s) a waiver of right to protest creation of rural improvement districts, local improvement districts, or the creation of a sewer and/or water district. 5. All utility easements shall be shown on the final plat(s). Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat(s): *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* 7. A Memorandum of Understanding shall be signed between the Weed Control District and the applicant prior to final plat approval(s). 8. Applicant shall create a property owners' association. 9. Applicant shall record the following covenants on or with the final plat(s): a) *The property owner shall be responsible for the control of County-declared noxious weeds.* b) *Individual lot accesses from County public roads shall be built to the standards of Section 7.G.2 of the Subdivision Regulations.* c) *All structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for Seismic Zone 3, and the National Fire Protection Codes.* d) *All new dwellings or home business occupancies built prior to the provision of an adequate water supply for fire fighting purposes shall be constructed with an automatic fire sprinkler system meeting the requirements of NFPA 13D/Uniform Fire Code. The fire district shall receive a stamped set of engineered sprinkler system plans for review and approval prior to construction. Inspections shall be scheduled, with 48-hour notice, during construction and after completion.* e) *The control of noxious weeds by the Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District.* f) *The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds, after 10 days notice from the property owners' association, the association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment.* g) *Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.* h) *All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law.* i) *The property owners' association shall be responsible for the operation and maintenance of all interior subdivision roads.* j) *The maintenance of all exterior boundary fences shall be shared equally with adjacent property owners.* k) *Membership in the property owners' association shall be mandatory for each lot owner. Each lot owner shall be required to pay such fees as the board of directors of the association deem appropriate for real estate taxes, insurance and the maintenance of the common open space.* l) *The property owners association shall be responsible for liability insurance in an amount to be determined by the board of directors of the association, which insurance shall name Gallatin County as a loss payee.* m) *All structures must meet the new fire flow*

requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief of the Belgrade Rural Fire District. n) Site plans of all lots must be submitted for review and approval by the Belgrade Rural Fire District before construction is started. o) All commercial structures must submit plans to the Montana State Building Codes Bureau and the Belgrade Rural Fire District for review and approval before construction is started. p) Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission. 9. All road names for interior roads must be approved by the County GIS Office. 10. A detailed signage and drainage plan will need to be submitted to the County Road Department for approval, prior to the start of any construction. This plan should specifically address the requirement for road name signs to be installed at all intersections, as well as STOP sign(s) at all intersections with County-maintained roads. STOP signs and other regulatory or warning signs may also be needed on some internal roads, and this should be addressed in the plan. 11. Encroachment permits must be obtained from the County GIS Office for any access points coming off of county maintained roads. Additionally, all internal lots will be limited to one driveway access. Each access must be at least 75 feet from the nearest intersecting County road. 12. A "no-access" strip is required along all lot boundaries that border County-maintained roads. Exception to this will only be made for lots that do not border an internal subdivision road. Access to lots falling under this exception will require further review and the obtaining of an encroachment permit from the County Road Department. 13. All interior roads shall be built to County paved standards and have a 60-foot right-of-way, dedicated to the public (unless other County road standards apply). Striping of the new roads after paving shall be required. 14. Applicant shall arrange a pre-construction meeting with the County Road Department prior to the start of any construction. 15. A waiver of protest for creation of future RIDs shall be required. 16. All roadwork shall be built to Montana Public Works Standard Specifications (Fourth Edition, January 1996), inspected and certified by a licensed engineer. Such inspection and certification shall be provided to the County Road Department in writing. Final approval shall not be given until this documentation is received. 17. Applicant shall provide a two-year written warranty from the contractor regarding the paving of all County-maintained roads. Applicant shall submit warranty to the County Road Department. 18. Applicant shall form a property owners' association for the maintenance of all interior roads. A copy of the property owners' association by-laws shall be submitted to the County Road Department prior to final approval. 19. Applicant shall pay road impact fees per the Gallatin County Road Impact Fee standards. 20. All roads fronting commercial lots shall be paved to County collector standards of 28 feet. 21. Applicant shall enter into an agreement with the property owners association of Minor Subdivision No. 190 and Corners Four Business Park No. 2 for the joint maintenance of Ice Center Lane and Timberline Drive. 22. The final plat(s) shall contain a statement requiring lot accesses be built to Gallatin County Subdivision Regulation standards. 23. Road name signs shall be required at all intersections. Road name signs shall be installed or bonded prior to final plat approval(s). 24. The plat shall be submitted to Montana Department of Transportation for their review and determination regarding any necessary improvements to Norris Road and Jackrabbit Lane. Applicant shall document participation in a Memorandum of Understanding with MDT regarding any improvements, or shall provide documentation that improvements are not required. 25. Approved plans for any improvements and/or construction on state highways shall be obtained from the Montana Department of Transportation and applicant shall enter into a Memorandum of Agreement with the Montana Department of Transportation. A letter satisfying completion of this condition shall be obtained from the Montana Department of Transportation per phase and a copy given to the Planning Department. 26. Final plat shall provide a 20-foot setback between the ordinary highwater mark of an active ditch or creek and any commercial structure. Additionally, applicant shall comply with Section 76-3-504(9) MCA regarding provision of ditch maintenance easement(s) as appropriate. Applicant shall provide a minimum ditch easement of 40 feet (20 on both sides), or more if required by the ditch owner. 27. Applicant shall obtain written confirmation from the Beck-Border Ditch Company, stating that the proposed development and maintenance easements will not create adverse impacts on the operation and maintenance of the ditch/canal within the subdivision. 28. Applicant shall obtain any appropriate state and/or federal permits pertaining to wetlands and/or other waterways. 29. Applicant shall pay fire impact fees in accordance with the Gallatin County Subdivision Regulations. 45. Applicant shall provide a fire protection method in accordance with the Gallatin County Subdivision Regulations, which is acceptable to the Belgrade Rural Fire District (BRFD). If applicant intends to use the Valley Ice Gardens fill site, applicant shall provide documentation of agreement from the owners. Applicant shall provide a final subdivision plat to the BRFD. The fire protection water supply shall be in place, tested and approved by the BRFD. Applicant shall provide written verification from BRFD that all requirements have been met. 46. Applicant's mitigation plan for sheriff services shall be acceptable to the County Commission. 47. Timberline Drive, from Norris Road to the southern boundary of the subdivision, shall be paved to a width of 28 feet. 48. Applicant shall have three (3) years to complete the above conditions and apply for final plat approval(s). There was not a condition 30-44. Ms. Koozer

GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 451

explained that for the Northstar Subdivision, a "voluntary sheriff mitigation fee" in the amount of \$500 per living unit is proposed. She asked the Commission to determine if a mitigation payment should be required for the four commercial lots that comprise this minor subdivision in regards to condition #46. In addition, she stated that the following conditions added, as an addendum to the Northstar conditions would apply to this minor subdivision: 4. Applicants shall participate financially in a regional water and sewer district feasibility study. The geographic boundaries of the feasibility study and degree of financial participation by applicant shall be specified in a Memorandum of Agreement between the applicant and the Gallatin County Commission; 5. The proposed water and sewer systems shall be designed to accommodate future expansion and/or connection to a regional facility. Applicant shall extend sewer and water mains to existing adjacent developments. She also, recommended a condition making sure that these four lots hook into the central water and sewer system. After discussion it was determined that it would be appropriate for the conditions to be as identical as possible as applicable for both the minor and Northstar. The applicant Mr. Potter concurred that the two subdivisions should be considered parallel. He stated that they have agreed it will hook up to the sewer and water; be part of the owners association of the Village Area and be subject to that property owners association; and the architectural guidelines. He stated theoretically there was not a sheriff's condition as on the Northstar project the sheriff department mitigation was only tied to living units, and not to commercial property. He was in agreement to the two-week extension. Dave Pruitt was signed up to speak and was unavailable. Commissioner Mitchell stated her comment was the same and would like to extend this to follow the Northstar decision. Commissioner Vincent and Murdock concurred.

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There were no pending resolutions. There being no further business the meeting was adjourned at 4:57 P.M.

*unavailable for  
signature*  
\_\_\_\_\_  
CHAIRMAN APPROVAL

*Shelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 15th DAY OF JANUARY 2002**

The meeting was called to order by Chairman Bill Murdock at 9:05 A.M., at the Willson School Board Room, Bozeman. Also present were County Commissioner John Vincent, and Acting Clerk to the Board Mary Miller. Commissioner Mitchell was attending a RC & D conference in Butte.

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Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**JANUARY 7, 2002**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell, Vincent, and Commission secretary Glenda Noyes. The Commissioners considered support for an application to Montana Board of Crime Control for the Drug Court Urinalysis Testing Grant. This is a continuation grant, in its third year, and the match comes from the District Court Judge's budget. Commissioner Mitchell made a motion to approve said application. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of asset disposal requests from the Detention Center and Road Department. Commissioner Vincent made a motion to approve the asset disposal requests from the Detention Center (2). Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously. Commissioner Mitchell made a motion to approve the asset disposal requests from the Road Department (3). Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

**JANUARY 8, 2002**

- The Commissioners conducted regular County business.

**JANUARY 9, 2002**

- The Commissioners attended a special meeting for the purpose of approving claims listed on the voucher list dated January 4, 2002. In attendance were Commissioners Murdock and Mitchell, Auditor Joyce Schmidt, Accounting Clerk Renee Huyser, and Commission secretary Glenda Noyes. Commissioner Mitchell made a motion to approve claims including check numbers 8007253-

**452 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46**

8007261, totaling \$173,956.79. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

**JANUARY 10-11, 2002**

- The Commissioners conducted regular County business.

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- Payroll for December 2001: \$1,187,203.25.
- Clerk & Recorder's Fees Collected for December 2001: \$73,724.89.
- New Hire Report for December 2001: Daniel Eschenbaum, James Jones, Danette McMillan, and Nikki Rassler
- Terminated Employees' Report for December 2001: Rest Home -- Laura Johnson, Erin Arnst, and Christine Seaton

**The following items were on the consent agenda:**

1. Claims were presented by the Auditor, dated January 10, 2002 in the amount of \$485,837.07.
2. Consideration of Contract(s): Hobough Construction-Snowplowing FY 2001-2002, 336 Sunset Heights.
3. Request for Common Boundary Relocation Exemption for the Estate of Elwin Kundert (c/o RoAnne Kundert), located in Sections 20, 21, 28 and 29, T3S, R5E (West of Cottonwood Canyon Road). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Vincent read the consent agenda. There was no public comment. Commissioner Vincent moved to approve the consent agenda, as read. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Commissioner Murdock announced that this was a public hearing and consideration of a resolution setting an additional County Commission public meeting, to be held in the Belgrade City Council Chambers, at 1:30 P.M., on January 16, 2002. Commissioner Vincent moved to adopt Resolution #2002-07. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Commissioner Murdock announced that regular agenda Items #7, 8, 9, 10, 11, 12, and 13 will be opened and continued until January 16, 2002.

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Gallatin County Fiscal Officer Ed Blackman reported on the consideration of sponsorship of an application to the Montana Board of Crime Control for continued funding on behalf of the Missouri River Drug Task Force. Mr. Blackman noted that Gallatin County is the fiscal agent for the entire task force made up of various towns and cities. There was no public comment. Commissioner Vincent moved to approve the sponsorship and application to the Montana Board of Crime Control for continued funding on behalf of the Missouri River Drug Task Force. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Alicia Bradshaw, on behalf of Gallatin Development Corporation reported on the consideration of a resolution recognizing Gallatin Development Corporation as the economic development entity for Gallatin County. There was no public comment. Commissioner Vincent moved to approve Resolution #2002-08. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Commissioner Vincent announced that this was the continuation of a second reading of an ordinance reducing the speed limit in the Rainbow Subdivision with substantive changes from the first reading. The first reading was conducted, which requested that the speed limit be lowered in the Rainbow Subdivision near Four Corners. On the basis of public testimony, the Commission changed the ordinance from establishing a 25 mph speed limit to a 15 mph speed limit in that area. Subsequent to that decision the Commission was informed by the County Attorney and the Road and Bridge

Superintendent that they could not legally authorize a 15 mph speed limit, although the Commission felt that 15 mph was appropriate. The ordinance was changed back to 25 mph, which is the lowest speed limit the Commission can impose on the streets enumerated in the ordinance. Gary Ferguson thanked the Commission for their time and efficiency of including all the roads, and questioned if the Commission would include in the ordinance if at such time the legislature changes the law that the speed limit be set at 15 mph. Commissioner Murdock stated that it was included on their list of proposed legislative changes. Commissioner Vincent moved to adopt Ordinance #2001-08, as amended to 25 mph. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the continuation of consideration and public hearing on a resolution of intention to adopt the Sperry-Smith zone map amendment in the Gallatin County/Bozeman Area Zoning District. Ms. Koozer stated that the applicant's representative informed her that they wished to withdraw the request. The applicant's representative Terry Threlkeld stated that after discussion, it was clear they made a good case that this is not spot zoning. However, because this process did not allow them to submit a binding site plan, they chose to withdraw and submit a plat which will be binding. He openly invited all the neighbors to meet with him and try to work their concerns into a plan that will work for everyone. The Commission felt that was a good approach for all the parties involved.

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Commissioner Murdock stated that in light of the County Commission reviewing Zoot's preliminary plat approval the County Attorney's advised them to disclose, that the Commission passed Resolution #2001-123, which was a sponsorship by Gallatin County of a large infrastructure loan to Zoot. The resolution outlines the perimeters of that sponsorship. He pointed out that this sponsorship in no way implies that the Commission has granted any undue preliminary approval of this subdivision. The sponsorship is for Lot A, only.

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the continuation of consideration of a request for preliminary plat approval for the Galactic Park Major Subdivision, consisting of approximately 160 acres, located in the W1/2 of Section 11, T2S, R4E, P.M.M., Gallatin County, Montana. Morrison-Maierle, Inc., on behalf of Zoot Enterprises, Inc., requested preliminary plat approval for the Galactic Park Major Subdivision located approximately one mile west of Four Corners. The proposed subdivision application includes the following: 42 single-family lots; one lot for the development of up to 120 residential condominiums; 22 commercial lots; and, 45 acres of parks and open space. Subsequent subdivision review will be required for the condominiums. The subdivision will be serviced by on-site community water supply system and wastewater treatment systems. The Galactic Park property is not within the boundaries of an existing zoning district. The development of the subdivision and the installation of required infrastructure are planned in five phases. Final plats for each development phase must comply with the Subdivision Regulations; installation of required infrastructure; applicable health and safety issues; and, required administrative provisions. Mr. Johnson briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with the suggested conditions. He outlined the following: Land use; Topography/Geology; Groundwater; Soils; Floodplain; Vegetation; Wetlands; Open Space; Access/Roads; Traffic; Water Supply; Waste Water; and Utilities. He explained that the west half of the proposed subdivision property is located within the drainage basin and floodplain of the West Gallatin River. The lowest portions of the site (Mixed Use Phase) are within the 100-year floodplain. According to the Flood Boundary and Floodway Map (Panel #300027-007), no lots are located within the floodway of the West Gallatin River. Bridge and utility crossings over the Spain-Ferris Ditch constitute the only construction activities within the designated floodplain. The applicant acknowledges that bridge and utility construction may require a Floodplain Development Permit, DNRC 310 Permit, and COE 404 Permit. Staff suggests that the preliminary subdivision plat and floodplain evaluation studies be forwarded to the Montana Department of Natural Resources and Conservation, Floodplain Management Section, for their review and confirmation prior to final plat approval. Mr. Johnson pointed out that the applicant is working with the MDOT to enter into a Memorandum of Understanding for future improvements and impact mitigation for Norris Road. One variance from the Road Design Standards of the Gallatin County Subdivision Regulations has been requested. Specifically, a variance from the road centerline curve radius standard has been requested for the interior road "Our Way" from the curve near "A Court" to Lot 58. As designed, the centerline radius for "Our Way" is 150 feet. Section 7.J.3. Table 1. of the Gallatin County Subdivision Regulations require a centerline curve radius of 300 feet. According to the applicant, for the amount of

traffic and recommended speed limit of 25 miles per hour, a 300-foot radius is an unnecessary design constraint and will result in unnecessary impacts to the existing vegetation and wildlife habitat. In addition, "Our Way" is a local street that provides direct access to individual lots and will not have the traffic counts warranting construction to a collector road standard. The Gallatin County Road & Bridge Department supports the requested variance. Staff reviewed the proposed subdivision for compliance with the Gallatin County Plan, and identified the following goals, for the Planning Board to consider: Fish and Wildlife Goal I - Encourage the conservation of important wildlife habitat. Policy 2- Through subdivision review, require buffer zones around important wildlife habitat areas, especially riparian zones; Floodplain Protection Goal I - Consistent with floodplain regulations, limit land uses that could be negatively impacted by flooding of streams and rivers; and Residential Goal IV - Minimize residential development impacts in areas of important wildlife habitat. On December 11, 2001, the Gallatin County Planning Board unanimously recommended approval, with one member abstaining. The Gallatin County Commission has the following determinations to make with this application: A determination as to whether or not the application substantially complies with the Gallatin County Plan; A determination as to whether or not the requested variance should be granted (Findings No. 11). According to Section 13 of the Subdivision Regulations, the County Commission may grant reasonable variances from the design and improvement standards of the regulations where it is found that strict compliance would result in undue hardship and is not essential to the public health, safety, and general welfare; A determination as to whether or not the application meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act; A determination as to whether or not the application complies with the provisions of the Gallatin County Subdivision Regulations. If the County Commission recommends approval of the application, the following conditions are suggested: 1. The developer shall have three (3) years from the date of preliminary plat approval to complete all conditions, and apply for final plat approval for each development phase. **Required conditions to be completed prior to final plat approval for the first development phase:** 1. The preliminary subdivision plat and floodplain evaluation studies shall be forwarded to the Montana Department of Natural Resources and Conservation, Floodplain Management Section, for their review, confirmation and/or approval. A copy of the approval shall be submitted to the Gallatin County Planning Department. 2. All subdivision road names shall be reviewed and approved by the Gallatin County GIS Department. 3. The Applicant and the Montana Department of Transportation shall enter into a Memorandum of Agreement (MOA) for future highway and intersection improvements on Montana Highway 84 (Norris Road). A copy of the MOA shall be submitted to the Gallatin County Planning Department. 4. The developer shall obtain an approved weed management plan from the Gallatin County Weed Control District prior to any construction projects within the site. The approved weed management plan shall be submitted to the Gallatin County Planning Department prior to final plat approval. Areas disturbed by construction shall be seeded and controlled for noxious weeds. 5. A property owners' association for the subdivision shall be created. 6. Covenants for the subdivision shall include the following provisions: a. All structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for Seismic Zone 3, and the National Fire Protection Association Codes. b. The control of noxious weeds by the Homeowners' Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (7-22-2101 through 7-22-2153 MCA) and the rules and regulations of the Gallatin County Weed Control District. The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. In the event a landowner does not control the noxious weeds, after 10 days notice from the Homeowners' Association, the Association may cause the noxious weed to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment. c. Title to the common open space within the subdivision shall vest in the Property Owners' Association and be maintained and controlled by the Board of Directors of the Association. d. Common open space shall be preserved and maintained for passive and active recreation, wildlife habitat, protection of scenic, and unique or important natural features. e. Membership in the Property Owners' Association shall be mandatory for each lot owner. Each lot owner shall be required to pay such fees as the Board of Directors of the Association deem appropriate for real estate taxes, insurance, and the maintenance of the common open space. f. The Property Owners' association shall be responsible for liability insurance in an amount to be determined by the Board of Directors of the Association, which insurance shall name Gallatin County as a loss payee. g. A portion of the assessments levied by the Board of Directors of the Property Owners' Association shall become a lien on the lots within the subdivision in the event the taxes on the open space become delinquent. The Board of Directors shall adjust the assessments as the taxes on the common open space increase. h. Ownership shall be structured in such a manner that real property taxing authorities may satisfy tax claims against the common open space lands by proceeding against individual owners in the Property Owners' Association and the dwelling or building units they own. i. Property owners of the subdivision are informed that nearby uses may be agricultural. Property owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise.

Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. j. The maintenance of all exterior boundary fences shall be shared equally with adjacent property owners. k. All dwellings and commercial buildings shall be constructed with an automatic fire sprinkler system meeting the requirements of the NFPA 13D/Uniform Fire Code. The Fire District shall receive a stamped set of engineered sprinkler system plans for review and approval prior to construction. Inspections shall be scheduled, with 48 hours notice, during construction and after completion. l. The property owners' association shall be responsible for the operation and maintenance of all interior subdivision roads, parks, and open space. m. Fencing along the exterior boundaries of lots is prohibited. n. The artificial feeding of all big game wildlife shall be prohibited. o. All garbage shall be stored in animal-proof containers or be made unavailable to animals. p. Owners acknowledge that wildlife damage to landscaping will occur. Owners shall accept that risk and shall not file claims against the Owners Association or any other governing body for such damages. q. Pets shall be controlled by each homeowner, and not allowed to roam within the subdivision. r. The taking of any wildlife species within the property is prohibited, except for catching fish. s. The planting of wildlife attracting vegetation shall be prohibited. t. All trees removed within each lot by the construction of homes, accessory buildings and driveways, shall be replaced by the lot owner. u. Off-street pedestrian walkways shall be established and maintained throughout the year by the property owner's association. v. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. **Required conditions to be completed for each Phase final plat recordation:** 1. The final plat shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates. 2. All parks and open space shall be provided as shown on the preliminary plat. 3. A Restrictive Deed, transferring title of the park and all common open space parcels within the subdivision to the Galactic Park Property Owners' Association, shall be recorded in the Office of the Clerk and Recorder of Gallatin County simultaneously with the filing of each final plat for the subdivision. The Deed shall contain the following restrictions: a. That all parks and open space shall be perpetual in nature. b. Common open space shall be preserved and maintained for passive and active recreation, wildlife habitat, and protection of scenic, unique or important natural features. Construction of non-recreational structures in the park and open space is prohibited. c. That the park and open space shall not be further divided or subdivided. d. That any violation of the terms and conditions of the Deed Restrictions shall be reported to the Board of Directors of the Property Owners' Association. e. The Deed may not be amended or revoked without the mutual consent of the Property Owners' Association and the governing body of Gallatin County. 3. A Floodplain Development Permit shall be obtained prior to the construction of roads and bridges within the designated floodplain. 4. All flood zone boundaries shall be delineated on the final plat. 5. The Applicant shall obtain all necessary state and federal wetland permits (310 and 404) prior to final plat approval. Copies of the required permits shall be submitted to the Gallatin County Planning Department with the final plat application. 6. A minimum 20-foot wide irrigation ditch maintenance easement, along both sides of the irrigation ditch/canal shall delineated on the final plat. 7. The Applicant shall file and record ditch easements in accordance with Section 76-3-504(10) MCA. 8. Written confirmation shall be obtained from the Spain-Ferris Canal Company, stating that the proposed development and maintenance easements will not create adverse impacts on the operation and maintenance of the ditch/canal within the subdivision. 9. Interior subdivision road plans, bridge plans, road maintenance plans, drainage plans, lot access plans, STOP sign and other regulatory or warning signs, and road name sign plans shall be submitted to the County Road & Bridge Department prior to the construction of the interior subdivision roads. All signage shall conform to the Manual on Uniform Traffic Control Devices (MUTCD), Millennium Edition. 10. Encroachment permit(s) shall be obtained from the Montana Department of Transportation for access points off State highways. 11. Primary and secondary road access for each phase shall be provided. The primary and secondary access roads shall lie within a 60-foot public dedicated right-of-way or public easement, and shall be constructed to county standards for paved roads. 12. Interior subdivision roads shall lie within a 60-foot public dedicated right-of-way or public easement, and shall be constructed to county standards for paved roads. After paving, all interior roads shall be striped. 13. County standard cul-de-sacs shall be constructed at the end of Court A, B, and C. 14. All bridges shall be rated to H-25 (25 tons) standards. 15. The Applicant shall either: a) construct all interior and off-site roads as required prior to final plat approval or; b) enter into an improvements agreement with the County for the completion of all required road construction. The improvements agreement shall comply with all requirements of the Gallatin County Subdivision Regulations. 16. A pre-construction meeting shall be conducted with the Gallatin County Road and Bridge Department prior to the start of any road construction. 17. All roadwork shall be built to Montana Public Works Standard Specifications (Fourth Edition, January 1996), and shall be inspected and certified by a Montana registered civil engineer. The subdivider shall obtain written verification from the County Road & Bridge Department that all roads have been brought to county standards. 18. With respect to paving of county maintained roads, a two (2) year written warranty, from the contractor, is required.

This warranty must be submitted to the Gallatin County Road and Bridge Department prior to final plat approval. 19. The subdivider shall be responsible for the shared maintenance of the primary and secondary access roads with all affected parties. Any maintenance agreements shall be submitted to the County Road & Bridge Department. 20. The final plat shall contain a statement requiring lot access to be built to the standards of Section 7.G.2 of the Gallatin County Subdivision Regulations. 21. Road name signs shall be required at all intersections. Road name signs shall be installed or bonded prior to final plat approval. 22. State Department of Environmental Quality approval shall be obtained. The subdivider shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The subdivider shall obtain the Gallatin County Health Officer's approval. 23. All required water and sewer infrastructure improvement shall be installed for each development phase. The subdivider shall either: a) complete the infrastructure installations prior to final plat approval of each phase, or b) enter into an improvements agreement with the County for the completion of the infrastructure installations. The improvements agreement shall comply with all requirements of the Gallatin County Subdivision Regulations. 24. The subdivider shall provide water supply for fire protection in accordance with the Gallatin County Subdivision Regulations. The Belgrade Rural Fire District shall approve all hydrant locations, installation and operation prior to undertaking any construction within each development phase. The subdivider shall also obtain written verification from the Fire District that the required fire protection measures have been provided. 25. Sheriff protection mitigation acceptable to the County Commission. 26. Areas disturbed by construction shall be seeded and controlled for noxious weeds. 27. All utility easements are to be shown on the final plat. Utility easements shall conform to Section 6.D.2 of the Gallatin County Subdivision Regulations, and as modified by width and location permitted by approved waiver or modification No. 6, and shall be shown on the final plat. In addition, the following statement must appear on the final plat: *"The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as 'Utility Easement' to have and to hold forever"*. 28. The Applicant shall contact the Montana Historical Society Historical Preservation Office if any item of historic potential significance is discovered during site construction within the subdivision. 29. The subdivider shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, and water and sewer districts. 30. The subdivider shall make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. 31. The Subdivider shall make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation.

32. A fully executed and notarized copy of the Restrictive Deed for the common open space and the Protective Covenants for the Galactic Park Subdivision shall be recorded among the records in the Office of the Clerk and Recorder of Gallatin County simultaneously with the filing of the Final Plat. 33. Two copies of the following documents shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. a. Articles of Organization or Incorporation for the property owners' association approved by the Secretary of State of the State of Montana. b. Bylaws controlling the operation of the Property Owners' Association. c. Restrictive and Protective Covenants encumbering the real property contained within the subdivision. d. Restrictive Deed transferring title of all common open space parcels within the subdivision to the Galactic Park Property Owners' Association. e. Public road easements. f. Improvements agreements. g. Certificate of a Licensed Title Abstractor The Gallatin County Attorney's Office shall review and approve the above documents prior to final plat approval. Required condition for the Mixed Use Phase final plat recordation: 1. A minimum 35-foot wide watercourse setback, along both sides of the Gallatin River, shall be delineated on the final plat. 2. In cooperation with a wildlife biologist, all home sites and driveways shall be located in areas, which minimize the removal of mature trees within each lot. Required condition for the Commercial No. 1 Phase final plat recordation: 1. A county standard cul-de-sac shall be constructed at the north end of Zoot Way. 2. Zoot Way, from Norris road to Linux Drive, shall be constructed to a 26 foot paved width. Attorney Joby Sabol, the applicant's representative gave a brief presentation of the proposed project plans, and the history of the area. He submitted Exhibit "A", the preliminary plat of the Galactic Park Subdivision. He pointed out one major difference with Galactic Park as opposed to Northstar was the impact on the Monforton School, of which the school had verified they were able to absorb the students this subdivision would generate. Mr. Sabol explained that the covenants contain new and relatively exciting ideas in that they hoped to have set a benchmark for other subdivisions and developments throughout the county. Because of the number of trees on this property, they are adopting a recommendation of Wildlife Biologist Kurt Alt to have a wildlife biologist sight both the homes sites and the driveways, to minimize the impact and effect on the natural environment. He noted the variance was also, related to Mr. Alt's recommendation to preserve some trees and habitat, while minimizing some of the effect on the natural environment. Any trees removed during the construction of infrastructure are to be replaced with a species indigenous to this area, in a



location designated by the wildlife biologist retained by the subdivision, and will hold true with any owner of a lot who develops. To insure that, the covenants will provide that the homeowners association will include in its annual budget, funding for a wildlife biologist who will be on retainer with the subdivision. The wildlife biologist will give recommendations to the owners association as to what needs to be done on an ongoing basis long into the future to sustain the viability of the wildlife habitat on this property. There will be onsite year around management of the roads, and three homeowners associations proposed. One for the commercial, one for residential, and one for the condominium phase. Relative to police protection, the applicant agreed to adopt the same types of mitigation efforts as voluntarily proposed by the Northstar Subdivision, a per lot contribution to offset and mitigate the impacts. Mr. Sabol stated that the increase in tax base by virtue of the new Zoot Headquarters is going to substantially offset any impacts that this residential development will have on Monforton School. In conclusion, he stated that this is a stand alone unique project, and one of the most unique aspects is that the applicant wants to build a subdivision where people work, live and play, and in doing so he is building the headquarters on the property and has made a commitment to his employees that they can buy property in this development at cost. Land use planner, Bob Lee with Morrison-Maierle spoke regarding compliance with the Gallatin County Master Plan. James Nickelson with Morrison-Maierle discussed the projects engineering, related to the water system, wastewater system and the roads. Mr. Nickelson pointed out the proposed road system on Exhibit "B", a traffic circulation exhibit for Galactic Park. Engineer Chris Wasia, submitted the following: Exhibit "C", a Galactic Park Subdivision Floodplain map, Exhibit "D", 100 YR Event Water Surface Elevations of floodplain cross sections, Exhibit "E", Floodplain evaluation of the West Gallatin River, Exhibit "F", proposed homesites of Galactic Park, and Exhibit "G", decision of approval the from DNRC, regarding the floodplain alteration of the West Gallatin River at Forest Park, dated November 7, 1986. Mr. Wasia gave a synopsis of the floodplain review. He referred to his exhibits that included information from the FEMA flood insurance studies (1976 & 1979) and the Morrison-Maierle field data (1985), pointing out that significant changes have occurred since the data was collected such as removal of gravel and bridges. In conclusion, Mr. Wasia stated that no lots within the Galactic Park Subdivision are located in the 100-year floodplain, as per the 1984 data, or the revised data by Morrison-Maierle which was accepted and approved by FEMA and DNRC. He stated that all homes in this area have an elevation of two and half feet above ground. He briefly discussed the wildlife changes suggested by Dr. Eng and Dr. Mackie which included moving roads in order to miss mature cottonwood stands, and moving lots to insure brush and shrubs used for small birds nesting habitats are preserved. Wildlife biologist Dr. Dick Mackie reported on the assessment of wildlife and potential effects on the wildlife habitat in the Galactic Park Subdivision, conducted by himself and Dr. Robert L. Eng. The assessment was based on the reconnaissance of the site during summer, which included general observations of species in habitat, their knowledge of species associated with similar habitat, and the estimation of changes in the habitat that could occur now or in the future with development. In the course of their survey it became evident that the site was a highly productive wildlife habitat. It was characterized by nearly all species associated with cottonwood riparian woodland habitats in the Gallatin Valley. In summarizing their findings, they found no evidence that it is a key or critical habitat for any species, and that it was unlikely that any species will be lost from this site. While some species will likely decline others will increase. They found no evidence of specific corridors or well used trails. If specific pathways or movement through and across the area exist they are not well defined and could only be determined through a more intensive study of individual species. They believe that Galactic Park should not interfere with transit movement of any birds, big game or other mammals along the Gallatin River. He stated that measures proposed by them would reduce impacts to the extent that much of the existing habitat complexity and adversity will remain and they expect little or no change in the kinds or number of wildlife species using the site. Dr. Robert Eng, a certified wildlife biologist concurred with Dr. Mackie's presentation and emphasized the point that this is a very diverse and productive type of habitat. Chris Nelson, the applicant thanked his team and gave a brief update on Zoot Enterprises and future plans. Public comment in support: Brooks Martin; Gary Griffith, Monforton School Trustee; Leeanne Amberson, Superintendent of Monforton School; Dave Pruitt; and Alisha Bradshaw. Mr. Griffith explained the schools position of not asking for a voluntary impact fee from this development. In large, he stated that the \$16 million dollar headquarters building would be a significant part of the tax base, especially in the initial stages of the changes in the tax base. He commented that this one building will pay back an amount equal to, in 20 years the \$1,500 per unit fee offered by the Northstar development. He stated that everyone in the district would pay less, and the taxes from the building would go to the state and benefit all children in the state and would be distributed through the foundation program. He stated that the School Board was aware and agreed with this logic. Ms. Amberson pointed out other unique ways that Zoot could contribute towards the school, such as housing after school programs and the boys and girls club, sharing equipment when upgrading, talking with students and sharing their knowledge and enriching the educational process. They believe that including the people from Zoot into their community is going to increase their academic expectations. Discussion took place regarding whether or not the 1985 data was endorsed by FEMA as the most updated data

relative to the existing floodplain. Commissioner Vincent questioned how confident they should be, by not being concerned about flood considerations in the housing area? Mr. Wasia stated that one assurance was the enormous landmass between that area and the river. He noted that they did an additional survey to verify cross sections, which did not show any significant change. Commissioner Vincent requested clarification from Dr. Mackie and Dr. Eng regarding their statement and observations by suggesting that the site is probably, as complete and productive in terms of wildlife habitat species, both in kind and numbers as any other in the Gallatin valley. Dr. Eng stated they should have specified that it is as good as riparian habitat gets in the Gallatin Valley. Commissioner Vincent was concerned that over the years each new development would have some adverse impact to negatively effect the overall wildlife habitat situation in Gallatin County, and that one day it would cease to exist. In reference to Exhibit "F", discussion took place clarifying proposed home sites, building envelopes, and what would be included in the building envelope. Mr. Lee clarified that these particular envelopes were looked at because of the minimal intrusion to removing trees, and he stated that the opportunity still existed to combine driveways. Mr. Johnson questioned if the building envelope map was part of the original application. Mr. Lee replied that it was not. Mr. Johnson stated that he had not had the opportunity to review it, or provide any conditions. Commissioner Murdock stated that he liked the proposal, and wanted to send a high sign to proposed development that is in appropriate parts of the county. Although, he concurred with Commissioner Vincent regarding setting a precedent for others where they have reduced to zero the chance for wildlife migration. Mr. Sabol responded to questions of accumulative affects, stating that the diverse habitat that exists on this property exists in no small part because it is a cottonwood forest, of which its life span is on its tail end. Commissioner Murdock stated he was satisfied with the explanation received from the Monforton School District Board and the Superintendent relative to the school mitigation fee. Mr. Johnson stated the revised language for condition #5: The proposed water and sewer system shall be designed to accommodate for future expansion and/or connection to a regional facility. Applicant shall provide sewer and water easements to existing adjacent developments. Mr. Johnson made the following additions to the covenants: Condition #6 v. The Galactic Park Federation shall include in its annual budget sufficient funds to retain a wildlife biologist holding a Ph.D. in Wildlife Biology and having at least two years experience with the species and types of habitats found in southwest Montana. The Federation shall also include in its annual budget, funds established by such retained wildlife biologist to implement those actions, enhancements, protections, and adjustments to the open space as may be suggested and reasonably required to insure the continued and increased viability and sustainability of the existing wildlife habitat. w. For any tree having a diameter greater than six inches, three feet above the ground which is removed by the developer or lot owner for infrastructure including buildings, roads, water, sewer, or other utilities, the developer or lot owner shall be required to either replant a tree having at least a four inch diameter, one foot above the ground of a species indigenous to the area or deposit into the Galactic Park Federation's bank account an amount equal to the value of two such four inch diameter trees, which funds shall be used as directed by the wildlife biologist to be retained by the Federation to oversee, preserve, and protect the sustained viability of the open space within the subdivision. x. No permanent structure shall be located outside of a building envelope as delineated on the final subdivision plat. Mr. Johnson made the following additions and revisions to the conditions: The following three conditions would apply to the entire subdivision, and not to any specific phase. 1. The applicant shall contribute a "voluntary sheriff mitigation fee" in the amount of \$500.00 per residential living unit. Applicant shall contribute \$250.00 per residential living unit *prior* to final plat approval of proposed residential lots. Applicant shall contribute \$250.00 per residential living unit at the time residential lots or living units are sold. For contribution, which occurs *following* final plat approval, applicant shall enter into an improvements agreement with Gallatin County for payment of \$250.00 per residential living unit. Said improvements agreement shall be reviewed and approved by the Gallatin County Attorney's Office. 2. The applicant shall participate financially in a regional water and sewer district feasibility study. The geographic boundaries of the feasibility study and degree of financial participation by applicant shall be specified in a Memorandum of Agreement between the applicant and the Gallatin County Commission. 3. The proposed water and sewer systems shall be designed to accommodate future expansion and/or connection to a regional facility. Applicant shall provide sewer and water easements to existing adjacent developments. The following two conditions would be additional requirements for the mixed-use phase. 1. Building envelopes shall be designated within each lot. The location of the building envelopes shall be approved by the Galactic Park Federation's wildlife biologist. 2. A thirty-foot wide public trail easement, located between the north and south boundary, shall be provided on the final plat. The Commission questioned if the Road Department was in favor of the following: Required condition for the Commercial No. 1 Phase final plat recordation: 2. Zoot Way, from Norris road to Linux Drive, shall be constructed to a 26 foot paved width. George Durkin of the Road Department commented that it should be a 28-foot width, as all the other roads in the commercial areas of the development are 28 feet, which would make it consistent. Mr. Nelson commented how they had worked very hard at being a good neighbor, specifically in that area for the right-of-way for Zoot Way from Norris Road to the beginning of the subdivision. He pointed out that they own the 26-foot strip of land from Norris Road to

the corner, and over the years the surveys had gotten skewed. Approximately 16 years ago, Dave Pruitt mistakenly planted trees on their property along the road. In an attempt to save the trees, Mr. Pruitt asked the applicant if they could go to the other landowners and negotiate an easement onto their property so the road could be moved to save the trees. Through negotiation and payment for some of the easements they were able to acquire an additional 34 feet of easement in order to get the entire 60 feet. Within those 60 feet they were able to engineer a 26 foot wide paved surface. He stated this was done to protect the environment and the habitat for wildlife. Mr. Durkin questioned if it would not cause an hourglass effect on the road. Brooks Martin commented with regards to high speed in that area. Kelly Coffin stated that it would be extremely difficult to go another 2 feet to the east, as there were existing utility poles and several of the neighbors have fences and shrubbery. Bruce Nelson explained that he negotiated the easements with the neighbors and pointed out that under those easements they have the legal right within that 60-foot right-of-way to put the road where they want it, but having the right to do something does not necessarily make it the right thing to do. He asked the Commission to honor the handshake agreement they have with their neighbors, as with the exception of the Road Department everyone else would be satisfied. Mr. Pruitt spoke regarding the history of the road. Commissioner Murdock stated the right-of-way is important, and there is 60 feet, and if the public convenience and necessity at some point requires, it can be made wider. He commented that he liked this subdivision, as unlike many developers the applicant has come forward and not just made promises, they are committed to doing a clean industry, high tech park with fiber optic redundancy. He believed the County Commission should work with the applicant within the perimeters of the public interest. He stated that it is in a designated growth area, and he was persuaded they are not setting a precedent to the north, because those areas are not growth areas. He pointed out that the applicant has consented to all the conditions, and worked with the sheriff and the schools. Commissioner Murdock stated that it was consistent with the Master Plan. Mr. Johnson reiterated that the applicant requested a variance from the Street Design Standards of the Gallatin County Subdivision Regulations. Specifically, a requirement that the centerline radius be at 300 feet on "Our Way", and the applicant has requested that the radius be reduced to 150 feet. According to the applicant the amount of traffic and low speed limit it is an unnecessary design constraint and will result in unnecessary impacts to the existing vegetation and wildlife habitat. Given the entry by Mr. Johnson, Commissioner Vincent moved to approve the variance as reflected. Seconded by Commissioner Murdock, adding the finding that it meets the variance criteria and they are not placing an undue hardship on anyone, and it would be in the public convenience and necessity to do so. None voting nay. Motion carried. Commissioner Vincent motioned that given the testimony and the observations of Commissioner Murdock, and the stated changes and additions to the conditions that the application be approved. Seconded by Commissioner Murdock, adding that the application is in conformance with the Subdivision Regulations, the law and the Growth Policy. Commissioner Vincent expressed his concerns, some of which are site specific and some reflect a long-term concern about two aspects that were already stated. He stated he was concerned about the potential flooding in this area, as there have been times this area has flooded, and it is inevitable that it will happen again. Likewise, he stated that it has been recognized by the applicant that this is one of the very best, possibly one of the best wildlife habitats of its kind in the Gallatin Valley, and with this action today they are saying that somehow they can put a number units on that piece of wildlife habitat and walk away without reservations. He stated within 2 months there would be another application with the same argument, and someday the last best subdivision will erase the last best wildlife habitat if it continues to go in that direction. Despite those concerns, Commissioner Vincent stated that every other aspect of the subdivision is first rate. He hoped he could take the applicant at his word that they will manage this wildlife area, as truly viable habitat, by giving a strong priority to maintaining that environment and consider all the aspects. Commissioner Murdock concurred, stating there will be a riverian corridor that will be connected through the floodplain and a pedestrian trail easement open to the public, someday linking one end of the county to the other following the Gallatin River. He stated this development has been nothing but professional and thanked the team for a good presentation. None voting nay. Motion carried.

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Commissioner Vincent motioned to open regular agenda Items #7 through 13, as listed on the agenda and continue until January 16, 2002, at 1:30 P.M., in Belgrade. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 2:55 P.M.

*unavailable for signature*  
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 CHAIRMAN APPROVAL

*Shelley Vasner*  
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 CLERK ATTEST

**PUBLIC MEETING****TUESDAY THE 16th DAY OF JANUARY 2002**

The special meeting was called to order by Chairman Bill Murdock at 1:30 P.M., at the Belgrade City Council Chambers. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**There were no consent agenda items for consideration.**

Commissioner Murdock explained that this special meeting was set to consider continued agenda items #7 through 13, of the public meeting held January 15, 2002.

Gallatin County Planner Jennifer Madgic explained that the following pertained to the next three agenda items regarding cell towers. County Attorney (Opinion #01-01) has set forth the following opinion regarding the creation of a subdivision through a leasehold –Telecommunications Regulation: The lessees or lessors (the lease agreements provide that the lessees must comply with all applicable governmental rules and regulations, so arguably, under the leases, the lessees should apply for review) for both leases must make an application for subdivision review pursuant to State law and Gallatin County regulations.

Gallatin County Planner Jennifer Madgic reported on the consideration of a request for preliminary plat approval for a subdivision created by rent or lease to accommodate a telecommunications facility in the Chestnut area, located in the SE ¼ of Section 20, T2S, R7E, PMM, Gallatin County, Montana. Derik Budig of Proland, LLC, on behalf of Verizon Wireless requested preliminary plat approval for a 3,000-square foot parcel by lease (Lot L) in an unzoned area of Gallatin County. The purpose of the "lease lot" is to facilitate the installation of a telecommunications facility (cell tower). Ms. Madgic noted that the subdivision regulations do not make specific provisions for cell towers, so she applied the standards as applicable. She explained that there were a number of variances that concerned road standards. The Road Department supported the variances, agreeing that the road standards did not apply in this case. She stated that Section 13A of the Gallatin County Subdivision Regulations states that the Commission may grant reasonable variances from these Regulations where it is found that strict compliance would result in undue hardship and such strict compliance is not essential to the public health, safety and general welfare. The County Commission has six determinations to make with this application: 1. A determination whether or not to approve the applicant's request for the following variances: a. Establishment of a private road instead of a public road. [Section 7(B).] b. Reduction of standard 60-foot right-of-way width to 20 feet. [Section 7(B).] c. Cul-de-sac in excess of 2,500 feet. [Section 7(F); Table 1, Street Design Standards.] d. Construction of road which does not meet County gravel standards. [Section 7(F); Table 2, Street Design Standards.] and e. Construction of road on grade in excess of 10 percent for over 100 feet. [Section 7(F); Table 1, Street Design Standards.] The basis for the Commission's decisions regarding the variances shall be whether it is found that strict compliance would result in undue hardship and such strict compliance is not essential to the public health, safety and general welfare; and 2. A determination whether or not to approve the proposed subdivision created by lease. The basis for the Commission's decision shall be whether the preliminary plat, and additional information demonstrate that development of the subdivision meets the requirements of the Montana Subdivision and Platting Act and the Gallatin County Subdivision Regulations. The following conditions for final plat approval are suggested if the Commission decides to recommend approval of the subdivision created for lease: 1. Applicant shall submit the following items for review and approval by the Gallatin County Attorney's Office: A. Covenants, restrictions, lease agreement(s); B. Encroachment permit; and C. Easement agreement(s); 2. Applicant shall submit a certificate of installation of improvements by a licensed engineer; and 3. Applicant shall submit a plan showing all boundary lines, lease lot lines, road easement, etc., prior to final plat approval. Such plan shall include a certificate of County Commissioners to be approved and signed by the Chairman of the Board of County Commissioners; 4. A Memorandum of Understanding shall be signed between the Weed Control District and the applicant prior to final plat approval; 5. Applicant shall record the following covenants with the final plat: a) The property owners association shall be responsible for the control of County-declared noxious weeds. b) All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law. c) Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the

covenants, and the County Commission; 6. Applicant shall record with the Clerk and Recorder's Office an explanation regarding proposed Lot L and the dissolution of such "lot" upon termination of lease agreement. 7. Applicant shall provide a water supply or fire protection plan for fire protection in accordance with the Subdivision Regulations (Section 6(E)). Applicant shall have the Bridger Canyon Fire Chief review and approve the water supply and/or plan prior to final plat approval. Applicant shall obtain written verification from the fire district that the required water supply and/or plan have been provided. Inspections shall be scheduled, with 48-hour notice, during construction and completion. 8. Applicant shall provide a drainage plan on proposed access road to mitigate run-off and potential erosion. The drainage plan shall be reviewed and approved by the Gallatin County Road Department. 9. Applicant shall dismantle cell tower and all accompanying equipment and material within six months following abandonment of such tower. 10. Applicant shall have three (3) years to complete the above conditions and apply for final plat approval. On January 8, 2002, the Planning Board voted 5:2 with one abstention to recommend approval of the site. Those voting in opposition to the project expressed concern with visibility of the cell tower from Interstate 90. The applicant offered to paint cell tower green as a potential mitigation. The Planning Board voted 5:0 with 3 abstentions to submit the following finding: Proposed Chestnut cell tower location would be in direct line of site of eastbound traffic for some traveling distance (as much as two miles) on Interstate 90. Planning Board also expressed concern for grade of access road and erosion control on such road. Planning Board voted 7:0 with one abstention to recommend approval of all five of the applicant's requested variances. Ms. Madgic submitted Exhibit "A", a map of the proposed cell tower site at Chestnut. She stated that the View Section of the Gallatin County Plan would apply to this application. The applicant's representative Rod Michaelis stated that they agreed with the Planning Board and Staff on the recommendations. Mr. Michaelis explained that the area is surrounded by steep cliffs and hills on both sides, making it impossible to get coverage and that is why that particular site was chosen. This site is designed to be a repeater from the Bozeman Pass. Discussion took place regarding whether or not a blinking light would be placed on the tower. He commented that in searching the MCA, he found it was the policy of Montana to maintain universal availability of basic telecommunications services at affordable rates. Mr. Michaelis submitted photos, Exhibits "B" and "C". The Commission discussed the significant visual impacts, the necessity and demand for the service in the area, and the removal, should the tower be abandoned. Mr. Michaelis stated that some of the demand was for convenience purposes and 911 services but mostly the population was demanding perfect coverage. He explained in order to eliminate the number of towers they were building towers large and sturdy enough to handle multiple carriers. He pointed out that one of the reasons for choosing this area was because there is power, telephone and access readily available. Belgrade Rural Assistant Fire Chief Bryan Connelley commented from his experience in the Chestnut area, that communications are poor whether it be radio or cell. He suggested the possibility of having 911 located there if the tower was approved, saving the county another lease fee. He also stated that if needed, emergency services would use the access and concurred the roads did not need to be built to county road standards. Public comment: Bonny Milligan. Mr. Michaelis noted that Verizon does participate with 911 county services in all locations, and they would consider Mr. Connelley's suggestion. Commenting on the convenience, necessity and public safety features, Commissioner Murdock stated the cell towers were intrusive, and a plague on the landscape. He stated that he would go along with approving it but he had some concerns with lights, being a danger to traffic and the proliferation of towers. He suggested limiting it by mutual consent with the Commission as a covenant on the plat. He was also, supportive of not building the roads to county standards. He pointed out the need for an arrangement for the removal of the cell tower should it be abandoned. Commissioner Mitchell stated she did not like the location and that there were other places where it would not stand out as much. She did not feel that the little extra coverage gained was worthwhile. She did not have a problem with the variances, and agreed those types of impacts should be kept to a minimum. Commissioner Vincent stated he had a hard time dealing with the need for a structure like this which he believed is contrary to the goals in the Gallatin County Plan, relative to the benefits that this site would provide. He did not think there was a compelling argument on behalf of public safety in regard to this structure but that is not why this application was being made. He stated that at this point he did not think that the trade off was warranted, relative to the view shed and the actual utilization of the phone service along that stretch of road, and for brief periods of time that people will be traveling it. Commissioner Vincent stated that at the present time he would oppose this facility at this particular location and encourage Verizon to do what they can if they feel the compelling need to provide customer service in this area and look for an alternative site. Commissioner Murdock stated he planned to try and come up with some mitigating conditions for his concerns but at this time he would not if the Commission was inclined to vote no. Commissioner Vincent stated he had no reservations relative to the conditions that would be applied if approved but he was not prepared to do that. He made it clear that there were no objections to the conditions, should an alternate site be found so the applicant could proceed with the reasonable expectation that those conditions would be met. Commissioner Mitchell concurred with the suggestion for removal, and stated she too, would not support this application strictly because of this location. Commissioner Vincent motioned that the application to

place a cell tower at the referenced Chestnut site be denied, finding that it is contrary to the Gallatin County Plan in regard to protecting views within Gallatin County and that the public need and necessity does not offset the Commission's obligation to met the intent of the Gallatin County Plan as stated. Seconded by Commissioner Mitchell. Commissioner Murdock reiterated that this could be mitigated. Commissioners Vincent and Mitchell voting aye. Commissioner Murdock voting nay. Motion denied.

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Gallatin County Planner Jennifer Madgic reported on the consideration of a request for preliminary plat approval for a subdivision created by rent or lease to accommodate a telecommunications facility in the Logan area, located in the NE ¼ of Section 19, T2N, R3E, PMM, Gallatin County, Montana. Rod Michaelis of Proland, LLC, on behalf of Verizon Wireless, requested preliminary plat approval for a 3,000-square-foot parcel created by lease (Lot L) in an unzoned area of Gallatin County. The property is generally located approximately two-and-one-quarter miles northeast of Logan; approximately 1,500 feet off of Horseshoe Cottonwood Road. Ms. Madgic stated this was basically the same request but in a different location. She stated that Section 13A of the Gallatin County Subdivision Regulations states that the Commission may grant reasonable variances from these Regulations where it is found that strict compliance would result in undue hardship and such strict compliance is not essential to the public health, safety and general welfare. The County Commission has five determinations to make with this application: 1. A determination whether or not to approve the applicant's request for the following variances: a. Establishment of a private road instead of a public road. [Section 7(B).] b. Reduction of standard 60-foot right-of-way width to 20 feet. [Section 7(B).] c. Cul-de-sac in excess of 2,500 feet. [Section 7(F); Table 1, Street Design Standards.] d. Construction of road which does not meet County gravel standards. [Section 7(F); Table 2, Street Design Standards.] The basis for the Commission's decisions regarding the variances shall be whether it is found that strict compliance would result in undue hardship and such strict compliance is not essential to the public health, safety and general welfare. 2. A determination whether or not to approve the proposed subdivision created for by lease. The basis for the Commission's decision shall be whether the preliminary plat, and additional information demonstrate that development of the subdivision meets the requirements of the Montana Subdivision and Platting Act and the Gallatin County Subdivision Regulations. If the Commission decides to approve the subdivision created for lease, the following conditions for final plat approval are suggested: 1. Applicant shall submit the following items for review and approval by the Gallatin County Attorney's Office: A. Covenants, restrictions, lease agreement(s); B. Encroachment permit; and C. Easement agreement(s); 2. Applicant shall submit a certificate of installation of improvements by a licensed engineer; 3. Applicant shall submit a plan showing all boundary lines, lease lot lines, road easement, etc., prior to final plat approval. Such plan shall include a certificate of County Commissioners to be approved and signed by the Chairman of the Board of County Commissioners; 4. A Memorandum of Understanding shall be signed between the Weed Control District and the applicant prior to final plat approval; 5. Applicant shall record the following covenants with the final plat: a) The property owners association shall be responsible for the control of County-declared noxious weeds. b) All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law. c) Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission; 6. Applicant shall record with the Clerk and Recorder's Office an explanation regarding proposed Lot L and the dissolution of such "lot" upon termination of lease agreement. 7. Applicant shall provide a water supply or fire protection plan for fire protection in accordance with the Subdivision Regulations (Section 6(E)). Applicant shall have the County Fire Chief review and approve the water supply and/or plan prior to final plat approval. Applicant shall obtain written verification from the fire district that the required water supply and/or plan have been provided. Inspections shall be scheduled, with 48-hour notice, during construction and completion. 8. Applicant shall dismantle cell tower and all accompanying equipment and material within six months following abandonment of such tower. 9. Applicant shall have three (3) years to complete the above conditions and apply for final plat approval. Ms. Madgic explained that on both the Logan and Bozeman Pass site that there are existing towers. The applicant's representative Rod Michaelis stated that they did contact Western Wireless about co-locating on their existing tower and there was no room. The Verizon tower would be built to handle 2 additional carriers. He stated there were no homes near the site. There was no public comment. Commissioner Mitchell stated this location was more acceptable, and she was inclined to approve it if there was a majority. Commissioner Murdock and Vincent concurred. Commissioner Mitchell moved approval to grant the establishment of a private road instead of a public road. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Mitchell moved approval to grant a reduction of standard 60-foot right-of-way width to 20-feet. Seconded by Commissioner Vincent. Commissioner Murdock stated that the Commission did not find that the public necessity and convenience would require the standard criteria on any of the variances. None voting nay. Motion carried. Commissioner Mitchell moved approval to grant a cul-de-sac in excess of 2,500 feet. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Mitchell moved approval to

grant construction of a road which does not meet County gravel standards. Seconded by Commissioner Vincent. None voting nay. Motion carried. Discussion took place regarding the wording of condition #8, and it was suggested that they post a surety bond or enter into an agreement with the County. Commissioner Murdock asked the applicant if he would agree. Mr. Michaelis stated he had never done it before but it has been done. Ms. Madgic suggested the following language for condition #8: The applicant shall enter into an agreement with Gallatin County to include if necessary an improvements agreement for the costs of removal to be reviewed and approved by the County Attorney's office. Discussion took place regarding an estimated cost of dismantling a cell tower. Commissioner Murdock suggested that the condition be a standard for any future applications such as these. Mr. Michaelis stated that there is a provision in the documents that Verizon has with the landowner for sale to successors. Ms. Madgic commented that she needed to review with the County Attorney if the bond should be placed with the property owner, as Verizon is leasing, and the tower and the owners would be the ones to get stuck with the tower if abandoned. Ms. Madgic changed condition #8 to read as follows: Applicant shall enter into an agreement with Gallatin County and/or the landowner, to include if necessary an improvements agreement and/or bond, for the cost of removal, to be reviewed and approved by the County Attorney's office. Commissioner Mitchell moved to approve the preliminary plat for the creation of the lease parcel to accommodate the telecommunication facility at the Logan site, finding that it meets the requirements of the Montana Subdivision and Platting Act and the Gallatin County Subdivision Regulations, and that the approval be contingent upon the conditions as supplied by staff and the rewording of condition #8. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic reported on the consideration of a request for preliminary plat approval for a subdivision created by rent or lease to accommodate a telecommunications facility in the Bozeman Pass area, located in the SW ¼ of Section 13, T2S, R2E, PMM, Gallatin County, Montana. Rod Michaelis of Proland, LLC, on behalf of Verizon Wireless, requested preliminary plat approval for a 7,500-square-foot parcel created by lease (Lot L) in an unzoned area of Gallatin County. The purpose of the "lease lot" is to facilitate the installation of a telecommunications facility (cell tower). The property is generally located approximately one half mile south of Interstate 90 in the Bozeman Pass Area. She noted that the site is located considerably farther off the highway than the Chestnut site and along a ridge with existing towers and structures. She stated that Section 13A of the Gallatin County Subdivision Regulations states that the Commission may grant reasonable variances from these Regulations where it is found that strict compliance would result in undue hardship and such strict compliance is not essential to the public health, safety and general welfare. The County Commission has five determinations to make with this application: 1. A determination whether or not to approve the applicant's request for the following variances: a. Establishment of a private road instead of a public road. [Section 7(B).] b. Reduction of standard 60-foot right-of-way width to 20 feet. [Section 7(B).] c. Cul-de-sac in excess of 2,500 feet. [Section 7(F); Table 1, Street Design Standards.] d. Construction of road which does not meet County gravel standards. [Section 7(F); Table 2, Street Design Standards.] 2. A determination whether or not to approve the proposed subdivision created for by lease. The basis for the Commission's decision shall be whether the preliminary plat, and additional information demonstrate that development of the subdivision meets the requirements of the Montana Subdivision and Platting Act and the Gallatin County Subdivision Regulations. If the Commission decides to approve the subdivision created for lease, the following conditions for final plat approval are suggested: 1. Applicant shall submit the following items for review and approval by the Gallatin County Attorney's Office: A. Covenants, restrictions, lease agreement(s); B. Encroachment permit; and C. Easement agreement(s); 2. Applicant shall submit a certificate of installation of improvements by a licensed engineer; 3. Applicant shall submit a plan showing all boundary lines, lease lot lines, road easement, etc., prior to final plat approval. Such plan shall include a certificate of County Commissioners to be approved and signed by the Chairman of the Board of County Commissioners; 4. A Memorandum of Understanding shall be signed between the Weed Control District and the applicant prior to final plat approval; 5. Applicant shall record the following covenants with the final plat: a) The property owners association shall be responsible for the control of County-declared noxious weeds. b) All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law. c) Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission; 6. Applicant shall record with the Clerk and Recorder's Office an explanation regarding proposed Lot L and the dissolution of such "lot" upon termination of lease agreement. 7. Applicant shall provide a water supply or fire protection plan for fire protection in accordance with the Subdivision Regulations (Section 6(E)). Applicant shall have the Fort Ellis Fire Chief review and approve the water supply and/or plan prior to final plat approval. Applicant shall obtain written verification from the fire district that the required water supply and/or plan have been provided. Inspections shall be scheduled, with a 48-hour notice,

during construction and at completion. 8. Applicant shall dismantle cell tower and all accompanying equipment and material within six months following abandonment of such tower. 9. Applicant shall have three (3) years to complete the above conditions and apply for final approval. The Planning Board held a public hearing on the project on January 8, 2002, voting 7:0 with one abstention to recommend approval of the applicant's four variance requests; and voting 8:0 to recommend approval of the proposed site. The one difference in this application is that the applicant is proposing a 180-foot lattice self-support tower for telecommunications purposes. Ms. Madgic added the following change to condition #8: Applicant shall enter into an agreement with Gallatin County and/or the landowner, to include if necessary an improvements agreement and/or bond, for the cost of removal, to be reviewed and approved by the County Attorney's office. Mr. Michaelis stated that the proposed tower was the same height as the existing facility owned by Telecommunications Resources but it will be further down the hill. He noted that they did approach Telecommunications Resource about co-locating and they were already to capacity. There was also, an existing road, power, and telephone. There was no public comment. Commissioner Vincent moved approval to grant establishment of a private road instead of a public road. Seconded by Commissioner Mitchell. Commissioner Murdock added the standard criteria, finding the public necessity would not require the standard and the Commission is not imposing any undue hardship on anyone. None voting nay. Motion carried. Commissioner Vincent moved to allow for the reduction of standard 60-foot right-of-way width to 20 feet. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Vincent moved to approve the variance request for a cul-de-sac in excess of 2,500 feet. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Vincent moved to approve the variance requested for construction of road which does not meet County gravel standards. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Vincent moved approval of the request for preliminary plat approval for the creation of a lease parcel to accommodate a telecommunications facility cell tower at the Bozeman Pass site, given the conditions referenced, finding it is consistent with the Gallatin County Plan. Seconded by Commissioner Mitchell, stating that she was in concurrence as long as the change to condition #8 applied the same. Commissioner Vincent amended his motion to include the change. Commissioner Mitchell amended the second. None voting nay. Motion carried.

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Belgrade City-County Planner Jason Karp reported on the continuation of consideration of a request for preliminary plat approval for the Cameron Bridge Estates Minor Subdivision No3, described as Lot 5 of Minor Subdivision No. 2999 in the S ½, SW ¼ of Section 16, T1S, R4E, P.M.M., Gallatin County, Montana. Gaston Engineering on behalf of Thomas E. Rapp requested preliminary plat, approval of a two lot subdivision on 20 acres. The subdivision is located west of Belgrade near the northeast corner of Linney Road and Cameron Bridge Road off Rocking Horse Drive. Mr. Karp stated that because this is a subsequent subdivision from a tract of record, adjoining property owners were notified of the public hearing to review this project and the notice of public hearing was placed in the High Country Independent Press. The applicant also submitted a summary of probable impacts as required by the County Subdivision Regulations. During review of the Cameron Bridge Estates Minor No. 1, the Planning Board and County Commission required that the developer place a covenant on the lots restricting further subdivision of the lots with the exception of Lot 5, which would be allowed to be further divided one time. There are no variances requested. The Belgrade City County Planning Board reviewed this application and unanimously voted approval on December 19, 2001. Mr. Karp briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with the suggested conditions. The Commission needs to make the following determinations: A determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Board finds that the proposed subdivision meets the requirements of 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat. 5. The developer shall record covenants on the final plat including the following provisions. a. Requiring



control of county declared noxious weeds. b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and tenants of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c. All fences bordering agricultural lands shall be maintained by the Homeowners in accordance with State Law. d. All structures must meet the fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief. e. Site plans of all lots must be submitted for review and approval by the Belgrade Rural Fire District. f. Owners of Lots 5A and 5B shall adhere to the covenants for the Cameron Bridge Estates Minor Subdivision No. 1 (Minor Subdivision No. 2999) including the covenants to maintain Rocking Horse Drive and the fill-site. g. Further subdivision of the lots 5A and 5B is prohibited. h. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 6. Two copies of the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval. 7. Applicant shall make payment of road impact fees and fire impact fees in accordance with the Gallatin County Subdivision Regulations. 8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval. 9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department. 10. The final plat shall show a no access strip prohibiting vehicles direct access to Linney Road. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. Dennis Foreman the applicant's representative confirmed that they were in agreement to the recommended conditions of approval. There was no public comment. Commissioner Mitchell moved to approve the Cameron Bridge Estates Minor Subdivision No. 3, finding that it meets all the requirements of the State Statutes, the County Master Plan, the Belgrade Area Plan, and subject to the recommended conditions of approval. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Belgrade City-County Planner Jason Karp reported on the continuation of consideration of a request for preliminary plat approval for the amended plat of the High K Subdivision, described as the amended plat of Lots 4, 5 and 16 of the High K Major Subdivision, and Lots 33A and 34A of High K Subdivision Phase 2, located in the SE ¼ and SW ¼ of Section 4, T1S, R4E, P.M.M., Gallatin County, Montana. The project is located west of Belgrade near the corner of Royal Road and Amsterdam Road. Three of the amended lots are on High K Street off Royal Road, and the others are on Buckskin Road off Amsterdam Road. C & H Engineering on behalf of High K, L.L.C. requested preliminary plat approval of an amended plat of the High K Subdivisions to split 6 existing lots into 12 lots. The subdivision would be developed in two phases. Mr. Karp explained the reason for the large lots to begin with was because of high nitrate levels on the site. In order to receive DEQ approval it was a requirement to make them larger than originally planned. He noted that since this area has been developing and there are no more new manure applications or farming, the nitrate levels have dropped significantly. They now feel they can get DEQ approval for the smaller lots. Belgrade City County Planning Board reviewed this application on December 19, 2001, and voted unanimously to recommend approval, subject to the conditions. Mr. Karp stated that because this is a subsequent subdivision from existing tracts of record, adjoining property owners were notified of the public hearing to review this project and the notice of public hearing was placed in the High Country Independent Press. He stated there would be no significant additional impacts. Due to the proximity to Belgrade, existing development and the Master Plan stating that as they get closer to Belgrade the density should increase, the Planning Board felt that smaller 1 acre lots were appropriate and more desirable. Mr. Karp briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with the suggested conditions. The Commission needs to make the following determinations: A determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Board finds that the proposed subdivision meets the requirements of 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer

service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat. 5. The developer shall record covenants on the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and tenants of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c. All fences bordering agricultural lands shall be maintained by the Property Owners in accordance with State Law. d. All structures must meet the fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief. e. Site plans of all lots must be submitted for review and approval by the Belgrade Rural Fire District. f. All commercial structures must submit plans to the Montana State Building Codes Division and the Belgrade Rural Fire District for review and approval. g. Lot owners shall adhere to the covenants for the High K Subdivision including the covenants to maintain High K Street, Buckskin Road and the fill-site. h. No lot owner may remove water or cause to be removed water from irrigation ditches without deeded water rights, and before any maintenance or improvements are performed on any of the ditches, the owner of the waterway must give written permission for the work to be done. i. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 6. Two copies of the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval. 7. Applicant shall make payment of road impact fees and fire impact fees in accordance with the Gallatin County Subdivision Regulations. 8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval. 9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department. 10. The road names for the 2 new cul-de-sacs must be approved by the Gallatin County GIS Department. Both roads shall be a 60 foot right-of-way, dedicated to the public, and be paved to County Standards with cul-de-sacs at their west ends. 11. A detailed signage and drainage plan shall be submitted to the Gallatin County Road Department. Road name signs and Stop signs shall be installed as required by the County Road Superintendent or a bond must be posted with the Gallatin County Road Office to cover the cost of the signs and the developer shall submit a speed limit study after the road is paved. 12. All required road construction shall be inspected and certified by a licensed engineer. Inspection and certification shall be provided to the County Road Department in writing, and the paving contractor shall submit a two year written warranty to the County Road Office prior to final plat approval. 13. The final plat shall contain a statement that includes the following language: Lots abutting irrigation ditches may have water rights as described in deeds. No owner may remove water or cause to be removed water without deeded water rights. 14. The final plat(s) shall show a maintenance easement of a minimum of 15 feet on one side, and 5 feet on the other side of the irrigation ditches or as required by the ditch owner consistent with subdivision regulations, and before any maintenance or improvements are performed on any the ditches, the owner of the waterway must give written permission for the work to be done. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. Mr. Karp made a correction to condition #11, deleting the words: and the developer shall submit a speed limit study after the road is paved. Commissioner Mitchell questioned the graph showing the nitrate levels rising in some wells. Nadia Beiser the applicant spoke with regards to the high nitrate levels, the monitoring and the phasing. She addressed the seasonal variations caused by an increase in irrigation, and stated that it was expected and occurs annually. There was no public comment. It was determined that phasing was not addressed in the staff report and Mr. Karp amended condition #10 adding the words: prior to final plat approval of Phase 2. The condition will read as follows: The road names for the 2 new cul-de-sacs must be approved by the Gallatin County GIS Department. Both roads shall be a 60 foot right-of-way, dedicated to the public, and be paved to County Standards with cul-de-sacs at their west ends, prior to final plat approval of Phase 2. In reference to the nitrate levels, Bill Dreyer with C & H Engineering stated that the testing would be on going for approximately 3 to 4 years, or until the subdivision is filled out. Ms. Beiser commented that it is a condition of DEQ approval of the original subdivision and all of the subsequent changes. Commissioner Vincent moved to approve the High K Subdivision amended plat application, finding that it meets the

criteria of the State Statute, the Gallatin County Plan, the Belgrade Area Plan, and noting the amendment of conditions #10 and 11, as per Mr. Karp's request. Seconded by Commissioner Mitchell. Commissioner Murdock stated that he did not think it has to conform to the Gallatin County Plan because the Gallatin County Plan does not have jurisdiction of the Belgrade Area Plan. None voting nay. Motion carried.

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Belgrade City-County Planner Jason Karp reported on the continuation of consideration of a request for preliminary plat approval for the Pipkin Subdivision, located in the SE ¼ of Section 34, T1N, R4E, P.M.M., Gallatin County, Montana. The subdivision is located west of Belgrade off Thorpe Road between Summit Subdivision and I-90. Rocky Mountain Engineers on behalf of Jeff Pipkin requested preliminary plat approval of a 7 lot commercial subdivision on 10 acres. The Belgrade City County Planning Board reviewed this application at their December 19, 2001, and voted unanimous approval, subject to the conditions. Notice of this public hearing was published in the High Country Independent Press, and adjoining property owners were notified by certified mail. Mr. Karp briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with the suggested conditions. The Commission needs to make the following determinations: A determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Board finds that the proposed subdivision meets the requirements of 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval:

1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates.
2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever."
3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval.
4. A waiver of right to protest creation of Rural Improvement Districts, Water and Sewer Districts, and annexation into the City of Belgrade shall accompany the final plat.
5. The developer shall record covenants with the final plat including the following provisions.
  - a. Requiring control of county declared noxious weeds.
  - b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and residents of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.
  - c. The covenants shall provide for the establishment of a Property Owner's Association.
  - d. All fences bordering agricultural lands shall be maintained by the Property Owners Association in accordance with State Law.
  - e. Owners of Lots 2-7 within the subdivision shall participate in the shared maintenance of Pipkin Way.
  - f. All structures must meet fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Chief.
  - g. Site plans of all lots must be submitted for review and approval by the Belgrade Rural Fire District.
  - h. All commercial structures must submit plans to the Montana State Building Codes Division (or the City of Belgrade Building Department if annexed by the City) and the Belgrade Rural Fire District for review and approval.
  - i. No lot owner may remove water or cause to be removed water from irrigation ditches without deeded water rights, and before any maintenance or improvements are performed on any of the ditches, the owner of the waterway must give written permission for the work to be done.
  - j. All exterior lighting shall be directed downward so as not to effect neighboring residential properties.
  - k. Outside storage of materials or equipment shall be shielded from public view by fences or landscaping.
  - l. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County.
6. Two copies of the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval.
7. Fire and road impact fees shall be paid as per County impact fee regulations.
8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval.
9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road

Department. 10. Pipkin Way shall be constructed and paved to Gallatin County Standards from Thorpe Road to its northwest end with a 60 foot right-of-way, dedicated to the public. Paving of the road may be deferred with the approval an improvement's agreement and financial guaranty as per the Gallatin County Subdivision Regulations-with the exception of the of the first 75 feet off Thorpe Road which must be paved prior to final plat approval. Stop signs, traffic control devices, road name signs, etc. shall be installed as required by the Gallatin County Road Department. 11. All roadwork will need to be inspected and certified by a licensed engineer. The inspection and certification must be provided to the County Road Office in writing prior to final plat approval. 12. The developer shall be responsible for providing a water supply for fire protection as per Belgrade Rural Fire District requirements. If the Fire Department determines that nearby fill-sites may be utilized the developer shall be responsible for paying a proportionate reimbursement of the total construction cost of the fill site(s) to the Belgrade City-County Planning Office which will reimburse the entity responsible for maintaining the fill site(s). 13. The final plat shall contain a statement that includes the following language: Lots abutting irrigation ditches may have water rights as described in deeds. No owner may remove water or cause to be removed water without deeded water rights. 14. The final plat(s) shall show a maintenance easement of a minimum of 15 feet on one side, and 5 feet on the other side of the irrigation ditches, and before any maintenance or improvements are performed on any the ditches, the owner of the waterway must give written permission for the work to be done. 15. The name of the irrigation ditches shall be indicated on the final plat. 16. The driveway to the property to the south east of the Thorpe Road corner shall be repaired to its original state (prior to development activity on the site) or better prior to final plat approval. 17. *(additional condition recommended by the road office)* 45 feet of Thorpe Road north of the centerline and west of Pipkin Way shall be dedicated to the public on the final plat. 18. *(additional condition recommended by the road office)* Encroachment permits must be obtained from the County GIS office for any access points coming off of county maintained roads. Additionally all internal lots will be limited to one driveway access. Each access must be at least seventy-five feet from the nearest intersecting County road. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. Mr. Karp noted that conditions #17 and 18, were recommended by the road department and had not be covered by the Planning Board. Ray Center with Rocky Montana Engineering stated that they were in agreement with all the condition, except condition #18. Mr. Center stated that the limitation of one encroachment to each lot would make it difficult for semi-trucks to turn around, and they preferred having two. Public comment: Jess and Dina Tucker. The Tuckers, being adjacent property owners voiced the following concerns: protecting the access into their property; increased traffic; and lighting on buildings and billboard. Mr. Tucker stated that since this would be a corner intersection, it would be difficult to access his property from any other area off Thorpe Road. Discussion took place regarding condition #16, which addressed Mr. Tucker's access concern. Mr. Center stated that the driveway to the Tucker's is the south half of Thorpe Road in the area where it turns and goes west, and from that point east, the south 30 feet is dedicated right-of-way by the subdivision and the north half is a county road easement, making a 60 foot right-of-way. He stated that only recently since the billboard was erected that there was any disturbance to the road. He noted that it has not been maintained or plowed by the County. Jeff Pipkin pointed out the area of his property that qualified for two commercial billboards along the freeway. He stated he basically leased the land to the billboard company, and they got the permits through the state highway department, which allowed the 14 x 48 billboard with lights on the base that point upwards. He commented regarding the truck traffic on Thorpe Road, stating the east-side is a dedicated road so anybody can drive on it but it is undeveloped, with a fence across it. He stated that the Tucker's driveway is on his side of the property that will be dedicated, and the 30 feet dedicated to the north of the Tuckers is a 6 foot deep hole. He pointed out that property which is only a 198 feet wide was approved as a subdivision without its own access off Thorpe Road. George Durkin, on behalf of the Road Department stated that he could agree to Mr. Center's concerns regarding two accesses to facilitate semi-truck traffic, since this area is commercial and the lots are large enough. It was determined that the billboard is outside the Belgrade Zoning jurisdiction, and is regulated by the Montana Department of Transportation. Mr. Karp commented that the MDOT may have some restrictions as far as lighting and impacts on neighboring properties, and he would look into the billboard lighting issue. The covenant pertaining to lighting was intended for commercial buildings, and there was no intent regarding the billboard. Mr. Karp pointed out that they were trying to limit any new accesses onto Thorpe Road, which mainly would be Lot 1, and suggested adding the following language to condition #18: All internal lots will be limited to one driveway access onto Thorpe Road. Mr. Pipkin stated that he plans on doing a site buffer, to serve as a berm so the irrigation ditch will not come over into the property, and he is going to relocate approximately 100 trees on Lot 1, to give it a shaded buffer line. He was in agreement to making that a condition. Mr. Karp drafted condition #19 to read as follows: Landscape berm shall be installed along Thorpe Road, as approved by the Belgrade Planning Department. Discussion took place as to how the traffic would be addressed along the undeveloped portion of Thorpe Road. Mr. Karp commented that the condition states that it will be restored, and perhaps if it is to be used for truck traffic and a driveway access, it should be upgraded to a county gravel standard. He noted that it is a public right-of-way and can not be restricted. Mr. Pipkin

commented on his plans for the road and stated that he did not plan on using it beyond the first 200 feet from the intersection. He said that if it was to be dedicated that it also, needs to be maintained by the county. Commissioner Murdock stated that the policy has been if it is a road by petition, then by law the county must maintain it, although they have not accepted a county road by petition in many, many years. The difference of road by use, and road by petition was discussed in regards to who should maintain it. Mr. Durkin was uncertain without research if it was a petitioned road. Mr. Center commented that the east west portion of Thorpe Road is petition #74, and the north south portion is a road by use. Mr. Karp proposed a condition #20 to read as follows: Seventy-five feet of Thorpe Road east of Pipkin Way shall be paved to County standards. Commissioner Murdock suggested Mr. Tucker take his concerns with the maintenance of the road to the county road office, and find out the answer as whether or not they are responsible for maintaining it. Commissioner Vincent moved to approve the application of the Pipkin Commercial Subdivision with changes in the conditions, as stated by Mr. Karp. Adding to condition #18, and the addition of conditions #19 and 20, finding that the application is consistent with State Statute and the Belgrade Area Plan, and the Gallatin County Plan. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Belgrade City-County Planner Jason Karp reported on the continuation of consideration of a request for preliminary plat approval for the Milligan Minor Subdivision, described as a Tract of land located in the NW ¼ of Section 13, T1S, R4E, P.M.M., Gallatin County, Montana. Allen and Associates on behalf of Richard and Bonny Milligan requested preliminary plat approval of a 5 lot minor subdivision on 20 acres. The subdivision is located south of Belgrade on Floss Flats, which is off Jackrabbit Lane. The Belgrade Planning Board reviewed this application on December 19, 2001, and voted to recommend preliminary plat approval, subject to the conditions recommended by staff. There are no variances requested. Mr. Karp briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with the suggested conditions. The Commission needs to make the following determinations: A determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Board finds that the proposed subdivision meets the requirements of 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts, Water and Sewer Districts, and annexation into the City of Belgrade shall accompany the final plat. 5. The developer shall record covenants with the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and residents of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c. The covenants shall provide for the establishment of a Property Owner's Association. d. All fences bordering agricultural lands shall be maintained by the Property Owners Association in accordance with State Law. e. Lot owners within the subdivision shall participate with the Floss Flats Subdivision property owners for the shared maintenance of Floss Flats and the fill-site. f. All structures must meet fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Chief. g. Site plans of all lots must be submitted for review and approval by the Belgrade Rural Fire District. h. All commercial structures must submit plans to the Montana State Building Codes Division (or the City of Belgrade Building Department if annexed by the City) and the Belgrade Rural Fire District for review and approval. i. No lot owner may remove water or cause to be removed water from irrigation ditches without deeded water rights, and before any maintenance or improvements are performed on any of the ditches, the owner of the waterway must give written permission for the work to be done. j. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 6. Two copies of

the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval. 7. Fire and road impact fees shall be paid as per County impact fee regulations. 8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval. 9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department. 10. A second access to subdivision as approved by the Gallatin County Road Department must be provided for this subdivision (unless a variance is granted). 11. All roadwork will need to be inspected and certified by a licensed engineer. The inspection and certification must be provided to the County Road Office in writing prior to final plat approval. 12. The developer shall be responsible for providing a water supply for fire protection as per Belgrade Rural Fire District requirements. If the Fire Department determines that nearby fill-sites may be utilized the developer shall be responsible for paying a proportionate reimbursement of the total construction cost of the fill site(s) to the Belgrade City-County Planning Office which will reimburse the entity responsible for maintaining the fill site(s). 13. The final plat shall contain a statement that includes the following language: Lots abutting irrigation ditches may have water rights as described in deeds. No owner may remove water or cause to be removed water without deeded water rights. 14. The final plat(s) shall show a maintenance easement of a minimum of 15 feet on one side, and 5 feet on the other side of the irrigation ditches, and before any maintenance or improvements are performed on any the ditches, the owner of the waterway must give written permission for the work to be done. 15. The name of the irrigation ditch shall be indicated on the final plat. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. Mr. Karp made the following changes and additions to the conditions: condition #10, A second access to the subdivision as approved by the Gallatin County Road Department must be provided for this subdivision, constructed to Gallatin County gravel standards (unless a variance is granted); and the addition of condition #16, Floss Flats shall be paved to county standards from Jackrabbit to the east boundary of Lot 5. The applicant's surveyor Ron Allen on behalf of Allen and Associates, discussed the accesses. Richard Milligan the applicant stated that they were in agreement with the conditions as proposed. He explained that their intended use for the location was for their tractor and equipment business. George Durkin, on behalf of the Road Department questioned how wide the road would be paved. There was no public comment. Commissioner Mitchell moved to approve the Milligan Minor Subdivision, finding that it meets the Belgrade Planning Board requirements, the State Statute, the County Master Plan, and subject to the conditions, with the adjustments to condition #10, and the addition of condition #16. Seconded by Commissioner Vincent. None voting nay. Motion carried..

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There were no pending resolutions. There being no further business the meeting was adjourned at 4:25 P.M.

*Unavailable for signature*  
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CHAIRMAN APPROVAL

*Shelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

**PUBLIC MEETING TUESDAY THE 22nd DAY OF JANUARY 2002 -SEE PAGE 491**

**PUBLIC MEETING TUESDAY THE 29th DAY OF JANUARY 2002 - SEE PAGE 497**

**PUBLIC MEETING TUESDAY THE 5th DAY OF FEBRUARY 2002**

The meeting was called to order by Chairman Bill Murdock at 9:00 A.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**JANUARY 28, 2002**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell and Vincent, Clerk and Recorder Shelley Vance, and Commission secretary Glenda Noyes. The Commissioners approved Ms. Vance's request for additional, temporary help in the Accounting Department through the end of the year. The Commissioners also discussed the road viewing committee for Morgan Road. Commissioner Mitchell made a motion to substitute Commissioner Murdock for Commissioner Vincent, finding that Commissioner Vincent is unable to fulfill the obligation. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a reimbursement request for the Montana Department of

## GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 471

Transportation for R. Dale Beland, LLC, Invoices #162, 169, and 175. Commissioner Murdock made a motion to approve said reimbursement. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of Invoice #13706 from HKM Engineering, Task Order 99-124-8, Logan Landfill, Phase 2 Cell 6.98 Acre lining expansion. Commissioner Murdock made a motion to approve said invoice. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of budget transfer requests from the Weed Department (1) and Sheriff's Office (2). Commissioner Murdock made a motion to approve the budget transfer requests from the Weed Department and Sheriff's Office. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

### JANUARY 29, 2002

- The Commissioners attended a special meeting for the purpose of approving claims listed on the voucher list dated January 24, 2002. In attendance were Commissioners Murdock and Vincent, Auditor Joyce Schmidt, and Commission secretary Glenda Noyes. Commissioner Vincent made a motion to approve claims including check numbers 8007576-8007809, totaling \$353,963.72. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

### JANUARY 30-FEBRUARY 1, 2002

- The Commissioners conducted regular County business.

#### **The following items were on the consent agenda:**

1. Claims were presented for approval by the Auditor, dated January 31, 2002 in the amount of \$436,054.88.
2. Consideration of Contract(s): Modification to Contract #2002-08 between the Sheriff's Office and USFS; and Snowmobile Lease Between Sheriff's Office and Jerry's Enterprises, West Yellowstone.
3. Request for Final Plat Approval for Bradley Subsequent Minor Subdivision (Amended Plat of Lot 1A of Mountain Meadows Subdivision G-44-A). Preliminary plat approval was granted on April 11, 2000. Gallatin County Planner Jennifer Koozer states that the conditions for final plat approval have been met.
4. Request of Relocation of Common Boundaries Between a Single Lot Within a Platted Subdivision and Adjoining Land Exemption for Marvin Doornbos and Jacob and Sadie Oostema, located in the NW ¼ of Section 13, T1S, R3E (Churchill Road). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Relocation of Common Boundaries Exemption for Craig and Gretchen White and JD and Debra Sue Clark, located in the NW ¼ of Section 34, T2S, R5E (Patterson Road). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Murdock announced proposed changes to the order of the agenda. He stated that they would not be making board appointments at this time to the West Yellowstone/Hebgen Basin Solid Waste Management District, and that regular agenda Items 5, 6, 7, and 8 would follow agenda Item 2, and Items 9 and 10 would be reversed.

Commissioner Mitchell read the consent agenda. There was no public comment. Commissioner Vincent moved to adopt the consent agenda, as read. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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One vacancy exists on the Gallatin Gateway Rural Fire District Board of Trustees due to the resignation of Ed Jackson on December 30, 2001. Appointment to fill this term will be on an interim basis until the next Fire District Election that will be held on May 7, 2002. One application was received from Ray Gadberry, as well as a letter of recommendation in favor of Mr. Gadberry from Larry Wyatt, Chairman of the Board of Trustees. There was no public comment. Commissioner Vincent moved to appoint Mr. Gadberry. Seconded by Commissioner Mitchell. None voting nay. Motion carried. One vacancy exists on the Bozeman City Planning Board (County Appointee) due to the term expiration of Mark Haggerty. Mr. Haggerty was notified and expressed his desire to be reappointed. This is a two-year term and will expire on January 31, 2004. Two additional applications were received from Donald Bachman and

Mark Evans. There was no public comment. Commissioner Mitchell moved to appoint Mark Evans. Seconded by Commissioner Murdock. Commissioner Mitchell and Murdock voting aye. Commissioner Vincent voting nay. Motion carried. Seven vacancies exist on the Open Lands Board due to the resignations of John Baden and Nancy Flikkema, and term expirations of Joe Axtell, Ranger Dykema, Mike Lane, Grace Morgan, and Ray Rasker. These are two-year terms and will expire on February 9, 2004. All members were notified of their term expirations and they all expressed a desire to be reappointed to the board. Ten additional applications were received from: Don Jackson; Jeff Krauss; Jeff Krogstad; Ron Laden; Cynthia Mernin; Phil Olson; Gus Pfahler; James Simons; Kristen Swenson; and Tracy Valazquez. There was no public comment. Commissioner Mitchell moved to reappoint Joe Axtell. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Vincent moved to reappoint Ranger Dykema. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Mitchell moved to reappoint Mike Lane. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Vincent moved to reappoint Grace Morgan. Seconded by Commissioner Murdock. Commissioner Murdock and Vincent voting aye. Commissioner Mitchell voting nay. Motion carried. Commissioner Mitchell moved to appoint Phil Olson. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Vincent moved to nominate Ray Rasker for reappointment. Seconded by Commissioner Murdock. None voting nay. Motion carried. Commissioner Mitchell moved to appoint Jeff Krogstad. There was no second to the motion. Commissioner Vincent moved to nominate Cynthia Mernin. Seconded by Commissioner Murdock. Commissioner Murdock and Vincent voting aye. Commissioner Mitchell abstained. None voting nay. Motion carried.

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There was no one available to present the bid recommendation for Phases III and IV, Courthouse Renovations. The Commission continued the recommendation for the time being to try and locate the architect.

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Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution to amend the Gallatin County FY 2002 final operating budget for receipt of unanticipated revenues for the Willow Creek Rural Fire District. There was no public comment. Commissioner Mitchell moved to approve Resolution #2002-13. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution amending the Disaster and Emergency Services Project Impact Activity within the Public Safety Fund for the purchase of machinery and equipment not to exceed \$85,000. There was no public comment. Commissioner Vincent moved to adopt Resolution #2002-14. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution to amend the Gallatin County final operating budget for the Junk Vehicle Program Fund for FY 2002. Junk Vehicle Director Dave Fowler confirmed that this is county money and not state money. There was no public comment. Commissioner Mitchell moved to approve Resolution #2002-15. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Commissioner Murdock announced that the architect requested a continuance on the bid recommendation until next week.

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Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution to amend the Weed District FY 2002 budget to include unanticipated grant revenues in the amount of \$5,000.00. There was no public comment. Commissioner Vincent moved to adopt Resolution #2002-16. Seconded by Commissioner Mitchell. None voting nay. Motion carried.



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Gallatin County GIS Coordinator Allen Armstrong reported on the continuation of a public hearing and consideration of a resolution establishing a policy for re-naming existing roads in Gallatin County. Mr. Armstrong noted that this was continued from last week in order to clear up questions regarding the term landowner. In working with Deputy County Attorney Chris Gray, they came up with a term "Landowner(s)" referring to the Landowner(s) of record in the Clerk and Recorder Office. There was no public comment. Commissioner Mitchell moved to pass Resolution #2002-17. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Commissioner Mitchell read the first reading of proposed Ordinance #2002-01, reducing the speed limit on the unpaved East/West access road between the Trident Road and Clarkston/Logan Road (through Holnam Property). There was no public comment. Commissioner Mitchell moved to approve the first reading of the speed reduction for the Logan/Trident Road. Seconded by Commissioner Vincent. The second reading will be held on February 19, 2002. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the public hearing and consideration of a request by the Great Beginnings Montessori, Inc., for a conditional use permit to allow a school and day care center in the Gallatin County/Bozeman Area ("Donut") Zoning District, described as a tract of land in the NE ¼ SE ¼ of Section 23, T1S, R5E, MPM, Gallatin County, Montana, and as described according to a survey recorded in Book 155 of Deeds, page 484, Gallatin County, Montana. The applicant's 1-acre parcel-5860 Springhill Lane is generally east of Springhill Road on the south side of Springhill Lane. The question before the Commission is: Given the circumstances involved and conditions suggested, is the proposed use appropriate for this zone and area? Are additional conditions necessary? Or is the use unacceptable given any conditions? The staff report contained the following criteria for the Commission to evaluate for considering the conditional use permit; 1. That the site for the proposed use is adequate in size and, topography to accommodate such use, and all yards, spaces, walls and fences, parking, loading and landscaping are adequate to properly relate such use with the land and uses in the vicinity; 2. That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use; 3. That the proposed use will have no adverse effect upon the abutting property; 4. That the proposed use shall be in conformance with the Gallatin County Plan; 5. That the conditional use has complied with all conditions stipulated in Sections 46, 47, and 50; 6. That any additional conditions stated in the approval are deemed necessary to protect the public health, safety and general welfare. Such conditions may include but are not limited to: a. Regulation of use, b. Special yards, spaces and buffers, c. Special fences, solid fences and walls, d. Surfacing of parking areas, e. Requiring street, service road or alley dedications and improvements or appropriate bonds, f. Regulation of points of vehicular ingress and egress, g. Regulation of signs, h. Requiring maintenance of the grounds, i. Regulation of noise, vibrations, odors, j. Regulation of hours for certain activities, k. Time period within which the proposed use shall be developed, l. Duration of use, m. Requiring the dedication of access rights, and n. Other such conditions as will make possible the development of zoning jurisdiction in an orderly and efficient manner. If the Commission, after hearing and considering all public testimony, determines that the request as proposed by the applicant meets the six criteria under Section 53.030, the following conditions are suggested: 1. The conditional use permit will be valid only after the applicant has provided documentation of the following approvals: a. Final site plan approval from the Gallatin County Planning Department. Such approval will require: i. Parking plan in compliance with Section 47, including improvement detail information (typical parking space, typical handicapped parking space, handicapped signage). ii. Landscape plan in compliance with Section 46. iii. Clear street-vision triangle in compliance with Section 50.80. ~~iv. Confirmation that any shrubbery in the right of way has been removed.~~ v. Confirmation that the corner pins have been located and marked to demonstrate that required setbacks can be maintained and to ensure that landscaping and signage is located on private property. b. Sign permit approval from the Gallatin County Planning Department (if signs are not included in site plan). c. Land use permit approval from the Gallatin County Planning Department, if any structures are constructed, altered or erected. d. Building permit and/or occupancy permit from the City of Bozeman (if either is required by the City). e. Approval for a septic permit from the Gallatin City-County Health Department and/or a letter stating that the on-site wastewater treatment system is adequate to meet the needs of the proposed use. f. Approval from the Gallatin City-County Health Department and Montana Department of Environmental Quality for any replacement, expansion or improvements required for the wastewater treatment system and/or water supply system. g. The applicant shall participate in a shared maintenance agreement for Springhill Lane. **Conditions required by the Gallatin County/Bozeman**

**Area Zoning Regulation (Section 53.030.B):** 2. The right to a use and occupancy permit shall be contingent upon the fulfillment of all general and special conditions imposed by the conditional use permit procedure. 3. All of the special conditions shall constitute restrictions running with the land use, shall be binding upon the owner of the land, his successors or assigns, and shall be recorded as such with the Gallatin County Clerk and Recorder's office by the property owner prior to the issuance of any building permits, final site plan approval or commencement of the conditional use. 4. All conditions specifically stated under any conditional use listed in this title shall apply and be adhered to by the owner of the land, successors or assigns. 5. All special conditions shall be consented to in writing by the applicant. Ms. Koozer spoke regarding the adjacent land use and zoning, permitted uses, dimensional standards, parking, landscaping, permits. The following conditions were required by the Gallatin County/Bozeman Area Zoning Regulations: 1. That the right to a use and occupancy permit shall be contingent upon the fulfillment of all general and special conditions imposed by the conditional use permit procedure. 2. That all of the special conditions shall constitute restrictions running with the land use, shall be binding upon the owner of the land, his successors or assigns, and shall be recorded as such with the Gallatin County Clerk and Recorder's office by the property owner prior to the issuance of any building permits, final site plan approval or commencement of the conditional use. 3. That all conditions specifically stated under any conditional use listed in this title shall apply and be adhered to by the owner of the land, successors or assigns. 4. That all of the special conditions shall be consented to in writing by the applicant. She noted that an existing building does not meet the front yard set back in the dimensional standards for the R-S zone and the plans provided for parking do not meet the parking requirements, therefore they suggested as a condition of approval that a further site plan be required to meet those standards and the same with landscaping. Public notice was published in the High Country Independent Press on December 27, 2001 and January 3, 2002, posted on-site at the driveway, and mailed to adjacent property owners. There was one letter of support received from an adjacent property owner. The Planning Board held a hearing January 22, 2002, on this request and unanimously recommended approval. The Planning Board suggested the addition of condition 1.g. and the deletion of 1.a.iv., after finding that the mature vegetation (shrubbery) in the right-of-way does not create a public health and safety issue and therefore should be retained. On behalf of the Great Beginning Montessori, Victoria Brailsford gave a brief history of the non-profit Montessori school. She explained that two families with students attending the school purchased the property and that they will be leasing it back with plans to purchase it. She spoke briefly on the Springhill Park Subdivision maintenance and septic and water. She stated that they were in agreement with all the other conditions. Kris Hansen, one of the owners of the property spoke with regard to paving the parking lot. He pointed out that the requirement to pave the parking lot as opposed to providing a gravel lot puts somewhat of an economic hardship on the school. He felt given the rural setting of the location that the gravel parking lot was with keeping with the area, and should this property revert back to its original use as a single family home, a large paved parking lot would be a liability. Gallatin County Road and Bridge Superintendent Lee Provance was in agreement with the deletion of the condition concerning the shrubbery. There was no public comment. Discussion took place with regards to whether or not the Commission was required to have the applicant pave the parking lot. Ms. Koozer read the following paving requirements: if there are 15 lots or more; the lot is not adjacent to a paved street; and the applicant shall enter into an improvements agreement with the county agreeing that the lot shall be paved within 9 months of the time that any adjacent roadway is paved. She stated that it appeared if the Commission did not require paving it would require a variance, of which the applicant had not applied. It was determined that the applicant would not be precluded from applying for the variance at a later date, if approval was granted today. Although the Commission did not feel that paving the parking lot was a necessity, they concurred that the policy was clear. Commissioner Mitchell moved to approve the conditional use permit for the Great Beginnings Montessori school and day care center, with all the conditions, and striking condition 1.a.iv., and finding that the proposal meets the 6 criteria under Section 53.030, of the Gallatin County/Bozeman Area Zoning Regulations. Seconded by Commissioner Vincent. Commissioner Mitchell encouraged the applicant to consider a variance on the paving requirements. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing and consideration of a petition to annex property described as Phase II of the Corrected Amended Plat of Firelight Subdivision, Phase I, Lots 18A and 19A, Ousel Falls Road, in Gallatin County according to the official plat on file and of record in the office of the County Clerk and Recorder, Gallatin County, Montana (plat reference J-245-D), located in Section 2, T7S, R3E, P.M.M. into the Gallatin Canyon Consolidated Rural Fire District. Notice of this public hearing was published in the High Country Independent Press on January 24 and 31, 2002. On January 3, 2002, the Commission accepted receipt of the petition. No protests were received and there was no public comment. Seeing no public comment contrary to the annexation, Commissioner Mitchell moved approval to annex Phase II of the Corrected Amended Plat

of Firelight Subdivision, Phase I, Lots 18A and 19A, into the Gallatin Canyon Consolidated Rural Fire District. Seconded by Commissioner Vincent. Commissioner Murdock added that the Clerk and Recorder will work with the County Attorney to draft the resolution. None voting nay. Motion carried.

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the consideration of a Traffic Mitigation Plan Agreement, Improvements Agreement, and final plat approval for the Firelight Meadows Subdivision. Preliminary plat approval was granted on March 13, 2001. The Firelight Meadows Subdivision was approved as a one lot minor subdivision for the development of 216 multi-family residential condominium units. The development is located in the West Fork Meadows Area of Big Sky, approximately 3.5 miles west of the intersection of Highways 191 and 64. C & H Engineering and Surveying, Inc., on behalf of Firelight Meadows LLC, is requesting final plat approval. Mr. Johnson stated that he reviewed the conditions for final plat approval, including the draft Traffic Mitigation Plan Agreement and Improvements Agreement. He stated that if the Commission entered into the agreements, that the conditions will have been met. The Planning Department did not receive any written comments regarding the agreements. Commissioner Murdock stated that he received two phone calls. Big Sky Owners Association Chairman Bill Olson, with the Properties and Trails Committee stated that he did not recognize the time limit on getting all the trail easements in order, although he had verbal commitments from all the other landowners. The plan was to build the trail this summer. He requested an extension in order to get the easements in place, or as an alternative to offer the easement with the contingency if he does not have others in a reasonable time that the easement would be null and void. He stated that he was confident he could obtain the easements by early April, if granted the extension. Mike Lilly, on behalf of Firelight Meadows followed up on Mr. Olson's comments by stating that they came to an agreement as to location of the trail last spring, which indicates that they are committed to the idea of the trail. However, Mr. Lilly stated that because the committee had not created a legal entity in order to take title to the easement it makes it an impossibility to satisfy this condition. To his understanding that is why TM Westland granted an easement to their homeowners association at the outset and in turn will convey it once the entity is created. He also, pointed out that because they do not have an agreement in place at this time, that they were still committed and that sometime in the future an easement could be worked out with the homeowners association. His concern was that when they have final plat approval the land over which this easement will pass will belong to the homeowners association, and it will no longer belong to Firelight Meadows. Therefore, he was uncomfortable with having a two-step process from a legal prospective and pointed out if an extension were granted to the committee as requested, the Commission would be changing condition #19. He commented that Section 76-3-611(2), states that the Commission is not entitled to change the wording of any condition. Discussion took place regarding the applicant and the committee working in good faith towards a mutual agreement. Mr. Olson stated that they were forming a separate non-profit corporation to handle some of the other easements that are separate from the BSOA however, this portion of the trail would be under the community corporation that currently exists. Commissioner Murdock stated that he did not think condition #19, had been met, and that Mr. Olson stated on record that if given more time, he would good faith meet all the requirements of condition #19. He stated if for some reason that they can not perform within a reasonable amount of time, then he would find that the condition had been satisfied to the best of the applicants ability. Commissioner Mitchell concurred. Gallatin County Attorney Marty Lambert stated that this was an illusory condition. He stated that the condition has third parties involved over which Firelight Meadows and the Commission have no jurisdiction. He pointed out that the developer had done their best to meet this condition and the lack of not fulfilling the condition is of no fault to developer. Mr. Lambert advised the Commission not to find that condition #19, had not been met. He stated the developer was entitled to have a determination on final plat approval today, and that any extension would be entirely up to the developer. Firelight Meadows President Paul S. Pariser spoke regarding the projects progress to date. Mr. Lilly was asked if there was any room for compromise. Mr. Lilly replied that they were anticipating final plat approval today, as people were counting on closings on properties, and if they were to defer they would have to confer with those people. He also, noted that there was substantial debt with this property because of the roads and infrastructure, so everyday that goes by there is a significant interest expense to the developer. He believed the trail is an asset to the development and reiterated that they would be more than happy to continue working with the committee through the homeowners association. Mr. Lambert pointed out that without hearing from landowners from either side, the condition can not be fulfilled, and reiterated why this developer could not be held hostage regarding the easement. Commissioner Vincent stated that it was an unfortunate state of affairs and he did not like it, he did not think it was best, and it was not right but he thought it was legal and that is what they have to consider. He stated that it was indicated that the applicant was not interested in an extension, however, he did think that the County Attorney's legal interpretation of condition #19 was, unfortunately correct. Commissioner Vincent moved to adopt the Traffic Mitigation Plan, as stipulated. Seconded by Commissioner Mitchell.

**476 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46**

Commissioner Murdock added the finding that the County Attorney and staff have reviewed and recommended approval. None voting nay. Motion carried. Commissioner Mitchell moved to approve the Improvements Agreement for Firelight Meadows LLC, finding that it has been reviewed by staff and the County Attorney and meets their requirements. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Murdock and Mitchell concurred that they would not vote in favor of final plat approval, because of the discussion on condition #19, stating that there was a lot of opportunity for the developer and the Big Sky trails committee to work together and get this completed in good faith. Commissioner Vincent stated that he did not disagree with the Board, but it was unfortunate and symptomatic of the situation up in Big Sky, and that there is plenty of room for more compromise and accommodation in working things out the spirit of the community. He concurred with their reasoning although, on the other hand a vote to deny final plat approval would put them on legal ice that is thin, so he would not support it. Commissioner Vincent moved to grant final plat approval. Seconded by Commissioner Mitchell. Commissioner Vincent voting aye. Commissioner Mitchell and Murdock voting nay. Motion denied.

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Gallatin County Planner Jennifer Koozer reported on the consideration of a request for relocation of common boundaries exemption for Bozeman Hot Springs Inc./Duwane Sand located, in the NW ¼ NE ¼ SE ¼ of Section 14, T2S, R4E (Highway 191 south of Rainbow Subdivision). Ms. Koozer explained that former Gallatin County Planning Director Bill Arnold recommended further discussion on this because the reconfiguration of these parcels is so radical. There are 5 parcels involved and 3 of them are parcels most recently created by a boundary realignment, and the other two were created by the Rainbow Subdivision. All 5 parcels are to be sold for commercial use. She clarified from the regulations, the proper use of a boundary realignment exemption. Public comment: Dave Albert, a land surveyor for Stahly Engineering, submitted Exhibit "A", a sketch with an overlay showing the before and after boundary lines. He stated that the test of a realignment changing the shape of the lot is a very subjective test. Dennis Simpson, the owner of the Bozeman Hot Springs spoke regarding plans for the future development. Ms. Koozer stated that the criteria to consider was whether or not the intent is to evade review under the Subdivision and Platting Act. Gallatin County Zoning and Subdivision Review Manager W. Randall Johnson added that another guideline would be that they do not create an additional parcel. The Board discussed subdivision review versus the boundary realignment and the impacts created by commercial use. Commissioner Vincent moved to accept the application for the relocation of common boundaries as submitted, finding that the application is consistent with and conforms with applicable statute. Seconded by Commissioner Mitchell. Commissioner Murdock and Vincent voting aye. Commissioner Mitchell voting nay. Motion carried.

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There were no pending resolutions. There being no further business the meeting was adjourned at 11:07 A.M.

*Unavailable for  
Signature*  
\_\_\_\_\_  
CHAIRMAN APPROVAL

*Shelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 12th DAY OF FEBRUARY 2002**

The meeting was called to order by Chairman Bill Murdock at 9:05 A.M., at the Fairgrounds Building #4. Also present were County Commissioner John Vincent, and Acting Clerk to the Board Mary Miller. Commissioner Jennifer Smith Mitchell was attending the MACo mid-winter conference in Kalispell.

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Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**FEBRUARY 4, 2002**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, City Staff Roger Sicz and Karen Finke, LWQD Director Alan English, and Commission Secretary Glenda Noyes. The Commissioners considered a request from the City of Bozeman for a commitment of \$10,000 from Gallatin County to host a joint household hazardous waste collection event and conditionally exempt small quantity generators

**GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 477**

(CESQG) business waste collection event for the City of Bozeman and Gallatin County residents. Ms. Finke explained that the cost of the event will be approximately \$50,000 - \$55,000. In the past this event was held only for residents that lived within the City of Bozeman, and no commercial was allowed. This time commercial will be allowed, but charged a fee. The money that was designated from the Logan Landfill lawsuit (Douma) for this purpose must be put towards the funding of this event, and additional funds to bring the total to up-to \$10,000 is being requested. The Commission asked that this item be continued until February 6<sup>th</sup> for a decision. The review and discussion regarding Looking Glass RID was put on hold for re-notice and a letter to the owners with intention and public hearing outcome outlined. The Commission also discussed the HB 223 Grant Application and agreed to approve and certify the levy of county mills for the application.

**FEBRUARY 5, 2002**

- The Commissioners conducted regular County business.

**FEBRUARY 6, 2002**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell, and Vincent, Deputy County Attorney Chris Gray, and Commission Secretary Glenda Noyes. The Commissioners continued their discussion regarding a commitment of up to \$10,000 for the Household Hazardous Waste Collection event. Commissioner Vincent made a motion to approve up to \$10,000 for the Household Hazardous Waste Collection event with the City of Bozeman, including use of the lawsuit monies from the Douma/Logan Landfill suit. Commissioner Mitchell seconded the motion. In discussion, it was noted that this motion is based on the recommendation of Fiscal Officer Ed Blackman that it is a good idea and there are funds available to cover the costs. All voted aye. Motion carried unanimously.

The Commissioners discussed RID 378 engineer payments to Gaston Engineering. This portion of the meeting was closed based on threat of litigation.

The Commissioners discussed the possibility of a feasibility study on the Bozeman Armory. Commissioner Vincent made a motion to approve up to \$6,420 to fund said study, if the CIP committee agrees and is comfortable with this action. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a budget transfer request from the road department in the amount of \$38,356.17. Commissioner Vincent made a motion to approve said transfer. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

**FEBRUARY 7, 2002**

- The Commissioners conducted regular County business.

**FEBRUARY 8, 2002**

- The Commissioners attended a special meeting for the purpose of a hiring decision for Personnel Director. In attendance were Commissioners Mitchell and Vincent. Commissioner Vincent made a motion to offer Randy Kuyath the position of Personnel Director. Commissioner Mitchell seconded the motion. In discussion, Commissioner Vincent cast Commissioner Murdock's proxy as a vote of yes for the motion. All voted aye. Motion carried unanimously. Commissioner Vincent made a motion that the position of Personnel Director be offered to Mr. Kuyath at a monthly salary of 4,251.78. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero. Commissioner Murdock did not vote on this matter as his proxy only pertained to the offering of the position, not salary.

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- A101's for January 2002: \$9,918.95.
- Landfill Revenue for December 2001: \$83,897.02.
- Payroll for January 2002: \$1,167,766.15.
- Clerk & Recorder's Fees Collected for January 2002: \$84,686.20.
- New Hire Report for January 2002: Sheriff – Gregory Johnson; Rest Home – Peggy Palylyk, Nicole Essex, Danica Heyder, Jeffrey Stanton, Vicki Durick, Colleen O'Donnell, Sarah Wilber, Stephanie Gallagher; Fairgrounds – Karlene Pisarcik; 911 – Amber Toney; and Environmental Health – Laurie Bachar
- Terminated Employees' Report for January 2002: Rest Home – Dustin Hinrichs

**The following items were on the consent agenda:**

## 478 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

1. Claims were presented for approval by the Auditor, dated February 7, 2002 in the amount of \$501,217.10.
2. Approval of Minutes for October 9, 16, 23 and 30, 2001; and November 6 and 20, 2001.
3. Cancellation of Delinquent Taxes Totaling \$652.19 (Application No.'s 4567-4557).
4. Consideration of Contract(s): Gallatin County Guardian Ad Litem Program; Negotiated Agreement Between Gallatin County/Teamster's Union; and Amendment to the RTI Asbestos Abatement Contract #2002-085.
5. Request for Final Plat Approval for Marc Pierce One-Lot Minor Subdivision. Preliminary plat approval was granted on June 19, 2001. Manhattan Planning Consultant Ralph Johnson states that the conditions for final plat approval have been met.

Commissioner Vincent read the consent agenda. There was no public comment. Commissioner Vincent moved to adopt the consent agenda, as read. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Commissioner Murdock announced that regular agenda Item 1, Board appointments to the 4Dot Meadows Water District Board of Trustees would be continued until February 19, 2002.

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Commissioner Murdock announced the continuation of the bid recommendation and award for Phases III and IV, Courthouse Renovations, stating that they were in receipt of a letter of recommendation from Jerry Taylor, of Taylor, Hanson and Kane Architects. Mr. Taylor reported that there were 6 bids received and that the lowest responsible bidder upon review including the three alternates was Ingram-Clevenger Construction of Helena. Their base bid along with the Alternates 1, 2, and 3 totaled \$926,900, which falls well within the estimate and the projects budget. Mr. Taylor stated it was their recommendation to award the bid to Ingram-Clevenger, including the Alternates 1, 2, and 3. Gallatin County Fiscal Officer Ed Blackman provided for the Commission a breakdown of the Capital Improvement Project FY 2002, Courthouse Phase III and IV, Exhibit "A". Mr. Blackman recommended approval of the contract, as presented. Mr. Taylor added that they would try to commence construction by the first of March. Commissioner Vincent moved to grant the bid award for Phases III and IV, renovations to the Gallatin County Courthouse, to Ingram-Clevenger Construction of Helena, noting as indicated in the letter to the architect, that their base bid along with Alternates 1, 2, and 3, total \$926,900, which is as noted well below the estimate and project budget. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported on the consideration of support for a grant application to the Montana Board of Crime Control for the Victim Witness Program. Mr. Watson stated that this was one of two grant applications on behalf of violent crime against women in Gallatin County. Victim Witness Program Director Gloria Edwards reported on the history of the program and statistics of the victims served in Gallatin County. Ms. Edwards encouraged the Commissions support for the program. There was no public comment. Noting that this is an excellent and very necessary program and that the needs will only expand over time, Commissioner Vincent moved to grant approval or indicate the Commission's support for the grant application to the Montana Board of Crime Control for the Victims Witness Program. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported on consideration of support for a grant application to the Montana Board of Crime Control for the Freedom from Fear. Mr. Watson stated this was a continuation proposal for the sixth year of funding for the operation of Freedom of Fear. This grant proposal allows the Gallatin County Sheriff's Department to assign Detective Don Hansen to the task of investigating violent crime against women on a full time basis. There was no public comment. Commissioner Vincent moved to grant approval and participation for the grant application of Montana Board of Crime Control for the Freedom from Fear Program. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Gallatin County Weed Supervisor Dennis Hengel reported on the consideration of a resolution to amend the noxious Weed District FY 2002 budget to include unrestricted revenues in the amount of \$1,785.71. There was no public comment. Commissioner Vincent moved to approve Resolution #2002-19. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Chief Deputy County Attorney Chris Gray reported on the consideration of amendments to the Gallatin County Dog Ordinance. Mr. Gray explained that this would be amendments to the existing dog control ordinance, which is currently Ordinance #98-04. He noted that the changes are housekeeping changes and he recommended moving forward with the procedure, as it relates to the changes. Motion by Commissioner Vincent to waive the first reading of the ordinance. Commissioner Murdock asked if there were any objections to the waiver of the reading of the ordinance. There were no objections to the motion to waive the reading. Seconded by Commissioner Murdock. None voting nay. Motion carried. Mr. Gray pointed out that the two changes were marked with footnotes on page 1 and 6. The purpose of the changes are on behalf of the ability to prosecute crimes under this ordinance. Discussion took place regarding Section 6, Barking Dogs. Commissioner Murdock asked if there any written or oral public comment. There was no public comment. Commissioner Vincent moved to approve the first reading of Ordinance #2002-02. Seconded by Commissioner Murdock. None voting nay. Motion carried. The second reading will be held on February 26, 2002.

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Manhattan Planning Consultant Ralph Johnson reported on the consideration of a request for preliminary plat approval for Burnt Road Two-Lot Minor Subdivision, located in the N ½ of Section 18, T1N, R4E, P.M.M., Gallatin County, Montana. The property is generally located northwest of Belgrade on the south side of Burnt Road. Penny S. Henensh requested preliminary plat approval of a two lot, first minor, subdivision on approximately 2.5 acres. The two lots are 1.13 and 1.30 acres in size. This proposal is located within the Manhattan City-County Planning Board's jurisdiction and at their January 17, 2002, meeting the Board reviewed the submittal and recommended approval of the proposed subdivision. The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the suggested conditions. The County Commission has to make a determination as to whether the proposed subdivision should be approved. The basis for the County Commission's decision shall be whether the preliminary plat, and additional information demonstrate that development of the subdivision meets the requirements of the Montana Subdivision and Platting Act and the Gallatin County Subdivision Regulations. If the Commission decides to approve the subdivision, the following conditions for final plat approval are suggested: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2. The applicant shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, or the creation of a sewer and/or water district. 3. All utility easements shall be shown on the final plat. Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat: *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* 4. A Memorandum of Understanding shall be signed between the Weed Control District and the applicants prior to final plat approval. 5. The applicant shall record the following covenants on or with the final plat: *a) The property owner shall be responsible for the control of County declared noxious weeds. b) Individual lot accesses from County public roads shall be built to the standards of Section 7.G.2 of the Subdivision Regulations. c) Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. d) All fences bordering agricultural lands shall be maintained by the property owners in accordance with state law. e) Before any maintenance or improvements are performed on any watercourse, drainage way, channel, ditch, or canal the owner of the waterway must give written permission for the work to be done. f) Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.* 6. Two copies of the covenants, a copy of the conditions of preliminary approval and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the

covenants and certificate prior to final plat approval. 7. The applicant shall obtain an encroachment permit from the Gallatin County Road and Bridge Department. 8. The final plat shall indicate that a minimum of 30 feet of Burnt Road, south of the section line shall be Public Road along the entire length of the subdivision. 9. The applicant shall make payment of road impact fees in accordance with the Gallatin County Subdivision Regulations. 10. The applicant shall make payment of fire impact fees in accordance with the Gallatin County Subdivision Regulations. 11. The applicant shall provide an appropriate fire protection method in accordance with the Subdivision Regulations. The sub-divider shall have the Belgrade Rural Fire District review and approve the fire protection method prior to final plat approval. The sub-divider shall obtain written verification from the fire district that the requirement has been met. 12. A 35-foot setback from all building envelopes shall be indicated on the final plat for cleaning and maintenance of adjacent ditches/creeks. 13. The applicant shall have three (3) years to complete the above conditions and apply for final plat approval. Mr. Johnson noted modifications to the conditions that would read as follows: #7- The applicant shall obtain an encroachment permit from the Gallatin County Road and Bridge Department. Each access must be at least 75 feet from the nearest intersecting road. All areas of the public right-of-way disturbed during construction activities must be sodded or reseeded; and #8- The final plat shall indicate that a minimum of 45 feet of Burnt Road, south of the section line shall be Public Road along the entire length of the subdivision. Jonathan Roen with Morrison-Maierle requested to change condition #3 to read as follows: All utility easements shall be shown on the final plat. Utility easements shall be twenty (20) feet wide, and be located along the property lines. Easements should be 10 feet to each side of the common lot lines. In addition, the following statement shall appear on the final plat: *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* Mr. Roen also, suggested omitting the words water or sewer, from the above condition because there is no water and sewer service in that area. He stated that he had spoke with Mr. Durkin and the requested change for condition #8, would be adequate as written with the 30 feet. There was no public comment. George Durkin spoke on behalf of the Road Department regarding condition #8, stating that they would like 45 feet but 30 feet would be adequate on minor collectors or arterial roads. Discussion took place regarding the water and sewer language. It was determined it would be best to leave the language, as written. Commissioner Vincent moved to grant preliminary plat approval for the Burnt Road Two-Lot Minor Subdivision, finding that it is consistent and meets the requirements of the Montana Subdivision and Platting Act, the Gallatin County Subdivision Regulations and the Gallatin County Growth Policy Plan, and noting the following amendments to conditions: #3- All utility easements shall be shown on the final plat. Utility easements shall be twenty (20) feet wide, and be located along the property lines. Easements should be 10 feet to each side of the common lot lines. In addition, the following statement shall appear on the final plat: *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever;* #7- The applicant shall obtain an encroachment permit from the Gallatin County Road and Bridge Department. Each access must be at least 75 feet from the nearest intersecting road. All areas of the public right-of-way disturbed during construction activities must be sodded or reseeded; and # 8, remain unchanged. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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Belgrade City-County Planner Jason Karp requested that regular agenda Item #8, the consideration of a request for a family transfer exemption for Ione and Perry Price be continued until February 19, 2002.

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Belgrade City-County Planner Jason Karp reported on the consideration of a request for preliminary plat approval of the Quake Industries Minor Subdivision, described as the amended plat of Lot 1 of Belgrade North Business Park Phase 1, situated in the NE ¼ NE ¼ of Section 35, T1N, R4E, P.M.M., Gallatin County, Montana. The subdivision is located north of the Belgrade City Limit line at the corner of Cruiser Lane and Jackrabbit Road. Quake Industries (formerly the Kid Kart building) is located at the site. Mr. Karp stated that Gaston Engineering on behalf of Quake Industries requested preliminary plat approval of a two lot minor subdivision on 6 acres. The Belgrade City-County Planning Board reviewed the proposed subdivision and voted at their January 28, 2002, meeting to recommend preliminary plat approval subject to the conditions. The staff report contained criteria for the



Commission to evaluate for considering the subdivision along with the suggested conditions. The County Commission needs to make the following determination: A determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the County Commission finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest annexation into the City of Belgrade, creation of Rural Improvement Districts, and Water and Sewer Districts shall accompany the final plat. 5. The developer shall record covenants on the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b. A section addressing possible problems associated with the nearby airport's operations and affirming the airport's right to operate. The language shall state as follows: Lot owners are informed that an airport exists adjacent to the subdivision. Lot owners and users of the subdivision are aware of its proximity to the airport and that the area is subject to frequent low level aircraft over flight and noise associated with aircraft operations and shall waive all rights to protest about aircraft and airspace use and shall affirm the aviation industry, both public and private, the right to fly. c. No lot owner may remove water or cause to be removed water from irrigation ditches without deeded water rights, and before any maintenance or improvements are performed on any of the ditches, the owner of the waterway must give written permission for the work to be done. d. The Property Owners Association shall be responsible for participating with the Belgrade North Business Park Subdivision for the maintenance of Cruiser Lane. e. A Property Owners Association shall be established. f. Plans must be submitted to the State of Montana, Building Codes Division, and the Belgrade Rural Fire District for review and approval for all commercial structures. g. All structures must meet minimum fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief. h. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 6. Two copies of the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval. 7.

Road Impact fees and Fire Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact Fee Regulations. 8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval. 9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department. 10. An NFPA compliant fill-site or other Belgrade Fire Department approved water supply is required. If the developer plans to use the City of Belgrade Water Supply to provide water for fire protection, the developer shall be required obtain permission from the Belgrade City Council. 11. The final plat shall contain a statement that includes the following language: Lots abutting irrigation ditches may have water rights as described in deeds. No owner may remove water or cause to be removed water without deeded water rights. 12. The final plat(s) shall show a maintenance easements as shown on the preliminary plat for the irrigation ditches or as required by the ditch owner consistent with subdivision regulations, and before any maintenance or improvements are performed on any the ditches, the owner of the waterway must give written permission for the work to be done. 13. The name of the irrigation ditch owner shall be indicated on the final plat. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. Discussion took place regarding annexation into the City. The applicant's representative, Dennis Foreman, reviewed the conditions and stated that they were in agreement. There was no public comment. Commissioner Vincent moved to grant application for the Quake Industries preliminary plat approval two-lot minor subdivision on 6 acres, finding that it meets the requirements of the State Statutes, the Gallatin County Subdivision Regulations, and the Gallatin County Growth Policy Plan. Seconded by Commissioner Murdock. None voting nay. Motion carried.

## 482 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

Commissioner Murdock announced a pending resolution regarding the decision concerning the petition to abandon a portion of Old Morgan Road. Commissioner Vincent moved to adopt Resolution #2002-20. Seconded by Commissioner Murdock. None voting nay. Motion carried.

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There being no further business the meeting was adjourned at 9:55 A.M.

*Unavailable For  
Signature*  
\_\_\_\_\_  
CHAIRMAN APPROVAL

*Shelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

### PUBLIC MEETING

TUESDAY THE 19th DAY OF FEBRUARY 2002

The meeting was called to order by Chairman Bill Murdock at 9:00 A.M., at the Willson School Board Room, Bozeman. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

#### FEBRUARY 11, 2002

- The Commissioners attended a special meeting for the purpose of appointing an individual to fill out the remaining term of Representative Steve Vick who resigned on January 24. In attendance were Commissioners Murdock, Mitchell (via conference call) and Vincent, County Attorney Marty Lambert, and Commission secretary Glenda Noyes. Mr. Lambert outlined the timeline, stating that the resignation was received by the Secretary of State on January 24, a letter was sent to the Commission by the Secretary of State on January 31, and names were submitted by the Republican Central Committee, pursuant to 5-2-4, MCA, for consideration on February 11. Mr. Lambert also noted that this meeting has been called in an emergency status, as according to state statute the appointment must be made by today, February 11, 2002, and that the press, namely the Bozeman Daily Chronicle, has been notified and is present for said appointment. The names submitted by the Republican Central Committee's nominating committee are: Morgan Hinesley, Todd Reier, and John Sinrud. Commissioner Mitchell made a motion to adopt resolution 2002-18, appointing a representative for House District 31, said appointee being Mr. John Sinrud. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

#### FEBRUARY 12, 2002

- The Commissioners conducted regular County business.

#### FEBRUARY 13, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, Chief Deputy County Attorney Chris Gray, and Commission secretary Glenda Noyes. The Commission discussed the open staff position within the Commission office and directed Ms. Noyes to work with Human Resource Director Randy Kuyath on a job description for a receptionist/secretary, to complete projects as directed by the Commission, and offer a sense of redundancy in the office. The Commissioners considered approval of a contract with Stahly Engineering for preliminary engineering and construction engineering for the Gallatin Gateway CTEP project STPE 16(38) Pedestrian-Trail, Gallatin Gateway. Commissioner Vincent made a motion to approve said contract, contingent on Fiscal Officer Ed Blackman and Grants Administrator Larry Watson's approval. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a budget transfer request from the Sheriff's Office. Commissioner Vincent made a motion to approve the request. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners discussed the classification of Planner Jennifer Madgic. Commissioner Vincent made a motion to reclassify Ms. Madgic as a Planner III, maintaining steps, with the promotion retroactive to January 1, 2002. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered appointment of Commissioner Vincent to the HRDC Board of Directors. Commissioner Murdock made a motion to appoint Commissioner Vincent to the HRDB

**GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46 483**

Board of Directors. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a request and authorization for records disposal and/or destruction of records from the Treasurer's office. Commissioner Vincent made a motion to approve said transfer. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

**FEBRUARY 14-15, 2002**

- The Commissioners conducted regular County business.

**The following items were on the consent agenda:**

1. There were no claims presented for consideration.
2. Consideration of Contract(s): Negotiated Agreement Between Gallatin County and Deputy Sheriff's Association; Negotiated Agreement Between Gallatin County and Gallatin Rest Home Bargaining Unit; and Turning Point Mini Grant - Victim Witness Assistance Program.
3. Request for Relocation of Common Boundaries Exemption for Patricia Matzinger and Dale R. Koelzer, located in NE ¼ and NW ¼ of Section 22 and the SE ¼ of Section 15, T12S, R5E (Koelzer Road). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Relocation of Common Boundaries Exemption for Connelly Dawson, LLC, located in the E ½ of the NE ¼ of the NW ¼ of Section 33, T2S, R7E and the W ½ of the NW ¼ of the NE ¼ of Section 33, T2S, R7E (Trail Creek Road). Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Relocation of Common Boundaries Exemption for Ronda Donnelly and Helen H. Cremer, located in the S ½ of Section 31, T2S, R5E (Gooch Hill Road). Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
6. Request for Correction Survey for Ron Allen, Allen and Associates, located in the SE ¼ of Section 28, T1S, R5E. Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Mitchell read the consent agenda. There was no public comment. Commissioner Vincent moved to adopt the consent agenda, as read. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Commissioner Murdock announced that the board appointment for the 4Dot Meadows Water District Board of Trustees was to be continued on the advice of Deputy County Attorney Kate Dinwiddie.

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Commissioner Mitchell announced the public hearing and consideration of a resolution amending resolution 2002-01, changing the location of the public meetings during the year of 2002. There was no public comment. Commissioner Mitchell moved to adopt Resolution #2002-21. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Treasurer Anna Rosenberry reported on the cancellation of personal taxes and mobile home delinquents over five years old. Ms. Rosenberry stated that on January 25, 2002, the Commission was in receipt of the lists of personal property and mobile home tax parcels that have been delinquent for five years or more. She requested that the Commission examine the lists, make any necessary corrections and approve the cancellation of these delinquent taxes. The amount of cancellations for personal property totaled \$29,866.86 and the mobile home delinquents totaled \$10,354.68, for the years 1990 through 1996. There was no public comment. Commissioner Mitchell moved to accept the County Treasurer's request to cancel personal property taxes in the amount of \$29,866.86 and mobile home delinquencies totaling \$10,354.68, finding that the delinquent collected dollars on personal property and mobile homes for March 31 through December 31 totals \$428,055.17, and this is a very minuscule amount compared to what has already been collected in delinquent taxes by the county's

## 484 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 46

delinquent tax collector Arletta Derleth and Ms. Rosenberry. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Commissioner Murdock announced a change in the regular agenda, by moving Item #8, the continuation of consideration of a request for a family transfer exemption for Ione and Perry Price ahead of Item #4.

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Belgrade City-County Planner Jason Karp reported on the continuation of consideration of a request for a family transfer exemption for Ione and Perry Price located, in the SW ¼, of Section 14, T1S, R4E (600 Parker Lane). Ione and Perry Price were sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. Commissioner Mitchell moved to accept the request of the family transfer exemption for Ione and Perry Price, finding that they do not appear to be evading subdivision regulations. Seconded by Commissioner Vincent. Commissioner Murdock agreed that this was a proper use based on the testimony. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the receipt of certification of a petition to place a ballot issue to the voters for issuance of general obligation bonds to fund an Adult Detention Facility. Ms. Vance stated that she examined the petition to which the certificate will be attached, and she certified pursuant to 7-7-2225 MCA, that there were approximately 10,250 signatures submitted. She noted that 9,761 of those signatures possessed all of the qualifications required of signers of such a petition, and the qualified signers constituted more than 20 percent of the registered electors of Gallatin County. Ms. Vance explained the process used, in order to certify the signatures on the petition. When questioned by the Commission if they had any discretion in the matter, or if they were directed by the petition to place to the voters the question as presented in the petition, Gallatin County Marty Lambert responded that the statute seemed to give them some discretion, however he explained there was a case law where the Montana Supreme court has said that "may" means "shall", and that there is no discretion on the part of a public official when citizens are relying on an action of government. Therefore, the petition having been certified by the Election Administrator, the Commission shall submit the question that the petition addressed, regarding the \$18+million dollars to build the site at Oak Street. Mr. Lambert noted that the Election Administrator has discretion in how the election is to be conducted because of fiscal concerns. Brian Leland, a member of Citizens for the Gallatin County Detention Center expressed his thanks to all the people who helped and supported them throughout the process of collecting the signatures and the businesses that allowed them into their business to collect the signatures. He also, thanked Ms. Vance for the diligence she put into helping them out with the petition. Mr. Leland urged the Commission to do whatever was necessary from a budgetary standpoint to help Ms. Vance with regards to her election schedule workload. Commissioner Vincent moved to accept the Clerk and Recorder's certificate, relative to the acceptance of the signatures on the petition. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Sheriff Jim Cashell reported on the public hearing and consideration of resolutions to submit ballot issues for the Adult Detention General Obligation Bonds and Public Safety Mill Increase to fund the jail operation. Sheriff Cashell expressed his thanks and gratitude for all those who worked so hard to gather the signatures and get this process moving. He thanked the Election Administrator Shelley Vance and her election crew for all their effort in verifying all the signatures. Sheriff Cashell summarized the first resolution, as a resolution of the Board of Commissioners of the County of Gallatin, Montana, submitting to the qualified electors of the County of Gallatin at a mail ballot election on May 24, 2002 or in accordance with law, the question of issuing general obligation bonds in the amount of up to \$18,370,000 for the purpose of funding the acquisition, design, construction, equipping and financing of an adult detention facility on property owned by Gallatin County south of Oak Street, east of North 19<sup>th</sup> Street and west of North 7<sup>th</sup> Street, Bozeman, Montana and providing that the number of years through which the bonds are to be paid shall be 20 years. He noted that the whereases detailed the history of on going problems of the Gallatin County Detention Center from 1981 to the present time. Gallatin County Attorney Marty Lambert briefly spoke regarding problems with the current facility and pointed out that there were concerns with the equipment and infrastructure before the jail was even opened. He commented on the concerns of overcrowding and classification problems, which are

creating safety problems for both the inmates and staff. Mr. Lambert stated that if the voters pass this issue, they will still have to wait another two and half years, before opening the facility. Therefore, he stated they have to manage the system that is in place and they are committed to reform and have enacted such reforms, as the Adult Treatment Court, the only one in the state of Montana, and have utilized other sources such as community service in lieu of jail time. In reference to the resolution, Mr. Lambert recommended that the Commission approve the mail ballot in order to reach the greatest number of citizens and approve the money for the return postage. Commissioner Mitchell questioned, should the mill levy and the bond election fail, and the Commission passes a resolution to put the issue on the ballot in the November general election could they not put the mill levy on it as well? Mr. Lambert could not answer the question, because there is a difference between the general obligation bond statutes and the process leading up to that, and the operations for the public safety mill levy issue. He stated that the facility itself could be submitted again, as early as November and the only time constraints would be with regard to the Election Administrator. Karen Pfaehler urged the Commission's approval for the return postage on the ballot. Gus Pfaehler waived his time to Ms. Vance. Gallatin County Clerk and Recorder Shelley Vance stated that once the Commission has submitted a resolution to her as the Election Administrator requesting a particular election, this being the Detention Center bond election to be conducted as a mail ballot election it is her duty within five days to determine whether it is economically and administratively feasible to conduct the requested election by mail ballot. Because of the pressing nature of the issue, Ms. Vance stated that she would not be taking five days to make her determination and would do so at this time. She stated that this election would be conducted, however that was not the issue. The issue is when the election will be conducted. Currently there is \$67,000 budgeted for a countywide mail ballot election, and those costs included the following presumptions: that the three full-time trained election staff would be available; room within the election department would be available; the utilization of the equipment within the election department; and the county would not pay the postage for mailing the ballot back to the election department. She informed the Commission that the figure for the return postage, based upon 42,000 ballots was \$16,275. Ms. Vance explained and pointed out on color coded calendars the election departments schedule between April 1 and June 4, without considering trying to conduct a countywide mail ballot election within that time frame. She noted there were several elections already scheduled along with the processes required in preparing for the elections. She stated that in discussion with Gallatin County Attorney Marty Lambert, that he suggested that the election could be held on May 24, 2002, if the Commission would provide her with dollars needed, temporary help, and the facilities needed to house the election. Discussion took place regarding the space, supplies and equipment needed in order for the election to be held on May 24<sup>th</sup>. She explained the logistical problems with having a secure space outside the Courthouse, because the signatures on the affirmation envelope in which the ballot is held, have to be confirmed with the signers signature on their voter registration card before it can be accepted. Ms. Vance stated that it was her duty, based upon the information that she provided to the Commission, to determine pursuant to 13-19-202, MCA that it was not economically and administratively feasible to conduct a requested election by mail ballot on May 24, 2002. Ms. Vance stated that she preferred and requested that the earliest date to hold the election be July 16, 2002. If that were the Election Day, then the close of registration would be June 17, 2002, and they would be prepared to send the ballots out by June 26, 2002. If the election were held on July 16<sup>th</sup>, there would not be the logistical problems should it be held on May 24<sup>th</sup>. Mr. Lambert stated that he thought the Commission would have the ability to go forward with capital facilities resolution, as written. He commented that the call of whether or not it is economically feasible is the Commission's call however, administratively the Election Administrator is correct. Karen Pfaehler questioned why the scheduled elections that may or not take place in May would take priority over the citizen's election, and wondered if those elections could be held at another time. Ms. Vance replied that the fire district and school district statutes state that they have regular annual scheduled elections every year, which are held on the first Tuesday after the first Monday in May. Brian Leland questioned, if the resources were available, could the Election Administrator still conduct the mail ballot election on May 24<sup>th</sup>? Ms. Vance answered, no that it was not administratively feasible. Mr. Leland asked the Commission to do whatever possible to help the Election Administrator because of the costs associated with delays. Discussion took place regarding the petition language. In an attempt to explain the petition language, Mr. Leland stated that the statute requires that you must wait at least 90 days, before holding the election. The language in the petition specified that the election be held within 5 days after that deadline, and the reason for that was to make sure that things did not get held up. Commissioner Murdock stated that he wanted to respect the petition process to the greatest degree possible. He stated that the law allows the Election Administrator to set the date, and according to the County Attorney the language as written, as a date specific or in accordance with law, is the Election Administrator's discretion. He committed his support towards any administrative or budgetary concern of the Election Administrator in order to expedite the election. He stated he was going to vote in favor of this resolution, as written. Commissioner Vincent questioned what position it would put Gallatin County and the Clerk and Recorder in, should the Commission make a motion to pass the resolution as written. He was unclear relative to where they stood, by leaving the May 24<sup>th</sup> date in the

resolution, although it states in accordance with law. It also meant leaving it as an open question, with nothing definitive except that the Elections Administrator's statement that it is not administratively feasible to hold the election on May 24<sup>th</sup>. He stated if passed they would assume that there will not be an election on May 24<sup>th</sup> but there will be an election in accordance with the law as soon as it is administratively and economically feasible. He was concerned with the sanctity of the petition, because the petition does contain language relative to the timing of the election. Mr. Lambert stated that it does put the Commission in conflict with the stated language of the petition, which was the 5 days from the 90 day date of receipt, and if it goes beyond that it would potentially put the whole initiative effort at risk. He stated that if the election is not held on May 24<sup>th</sup>, and they could not sever that clause regarding the date of the election from the remainder of the language in the initiative then the initiative would fail. Mr. Lambert suggested the Commission continue this decision for a day or so to study these issues. He was concerned with the effect on the citizen's petition by not having this election on or before May 24<sup>th</sup>. The Commission discussed the continuation and the notice requirements. The Commission was in agreement to continue this decision until February 21, 2002. Sheriff Cashell reported on the resolution of the Board of Commissioners of the County of Gallatin, Montana, submitting to the qualified electors of the County of Gallatin at a special election held on May 24, 2002, the question of authorizing the Gallatin County Commission to make a levy of up to 13 mills in addition to the mill levy limit imposed by law for the purpose of funding operations for a new Gallatin County Adult Detention Facility. Sheriff Cashell stated that this resolution proposes an increase in the current operational budget of the Gallatin County Detention Center approximately \$1,600,000. He noted that the purpose of doing it this way is in an effort to be up front with the taxpayers of Gallatin County. The costs are estimates and would be refined over time as the design of the facility came on line. The current budget is approximately \$1.3 million dollars. Discussion took place regarding additional staff and transportation that was included in the 13 mills. Commissioner Mitchell was concerned whether or not this amount was adequate. Gallatin County Fiscal Officer Ed Blackman clarified there were approximately 43 additional staff in this proposal, with a total of 68.6 positions included. He stated that there were 5 full-time transportation officers included in the budget. Mr. Blackman commented that he was comfortable with the up to 13 mills. He stated it will cost the taxpayer approximately \$95 a year for 20 years, and afterwards will go down to \$28 a year, based on a \$100,000 home. Mr. Lambert commented that he hoped to have the 144 beds filled, which would provide additional revenue for the operation of this facility should they include people from other counties. He felt it was quite appropriate to consider both of these issues at the same time. He noted that there is flexibility built into the resolution and at the FY 2002 mill rate \$1,614,847 would be raised by 13 mills, so if there were increased revenues from outside resources and increases in the mill value there is the option to levy less in the future. He pointed out that this levy would not be imposed any sooner than October 2004, and only in the event that there is a new facility to fund. Mr. Lambert felt it would be prudent to continue this decision along with the bond issue. Public comment: Brian Leland stated that they were specific in the petition language in that they crafted the petition, calling for a mail ballot election, with the idea they wanted the Commission to piggyback the operations costs on the same ballot. Commissioner Mitchell commented that she was concerned about whether or not the people understand that this petition is for the Oak Street location, and that it basically pre-determines that they will be paying for a new Law and Justice Center at that site because of transportation costs. Commissioner Murdock announced that these decisions would be continued until February 21, 2002, at 9 A.M., in the Willson School Board Room.

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Gallatin County Grants Administrator Larry Watson reported on the public hearing and consideration of availability of funding through the Community Development Block Grant (CDBG) and HOME Programs. Mr. Watson stated that this was the first of two public hearings required to retain Gallatin County's eligibility for application for CDBG and HOME funds. The purpose of this meeting is to 1) Inform citizens about the CDBG and HOME Programs, 2) Identify the amount of funds available, 3) Explain how it may be used, 4) Discuss the range of activities eligible for funding, and 5) Explain other program requirements. He briefly summarized the four funding categories under the CDBG Program. 1) Economic Development, 2) Public Facilities, 3) Housing and 4) Planning Grants (Housing and Public Facilities). He noted that the Montana Department of Commerce proposed several changes of which he summarized. A second public hearing will be held on March 12, 2002. There was no public comment.

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Gallatin County Grants Administrator Larry Watson reported on the public hearing and consideration of availability of funding and solicitation of applications for projects under the Community Transportation Enhancement Program. Mr. Watson stated that the FY 2002 allocation estimate would be \$140,000 and the total reserve for this year is \$262,372. He pointed out that a year ago they reserved \$75,000 for the Trident Park, leaving a total allocation in the amount of \$187,372. The minimum project size is

\$10,000; 13.42% non-federal match requirement; projects must be located on existing public property or property procured for public use; project administration, staff salaries, and project development funding is not provided. Post application administrative costs are useable as match; projects must follow competitive bidding process; and projects must be maintained for as long as they remain in the system. All projects have bidding process. He briefly discussed the eligible project categories. Applications are due by the end of May. There will be two more public hearings held on April 9, and 23, 2002. The five pending projects are as follows: Gallatin County Courthouse revolving door; Gallatin Valley Land Trust and the citizens of Big Sky are working to propose the continuation of the bike path into the meadow; Gallatin Valley Land Trust is working on a project for a proposed tunnel trail parking area from Drinking Horse Mountain to the end of the Sourdough to Bridger Project; Town of Manhattan proposed sidewalk, curb and gutter project; and Mayor Gene Townsend's Trident trail project in Three Forks.

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There were no pending resolutions. There being no further business the meeting was adjourned at 11:54 A.M.

Unavailable For  
Signature  
\_\_\_\_\_  
CHAIRMAN APPROVAL

Shelley Vance  
\_\_\_\_\_  
CLERK ATTEST

**PUBLIC MEETING**

**TUESDAY THE 21st DAY OF FEBRUARY 2002**

A special meeting was called to order by Chairman Bill Murdock at 9:07 A.M., at the Willson School Board Room. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

Commissioner Murdock stated that this was a continuation on the discussion and decision of the two resolutions calling for an election on the Adult Detention Center facility general obligation bond and the related mill levy operations question. They were continued in order to determine if the petition was valid, should the election not be held in May. Gallatin County Attorney Marty Lambert noted that if the election were held on May 24<sup>th</sup> there would be no issue. He reported on his research, while referring to State Statute 7-7-2223, requiring a unanimous adoption of a resolution by the Commission in order to submit a general obligation bond issue to the voters, along with providing that if a petition is signed by at least 20 percent of the registered electors of the county, and that it is received and certified by the Election Administrator that the Commission submit the question. He stated that there was no mandatory language in the petition with regard to a time for setting the election, nor does it state that the petitioners have to specify a date for an election. He stated that the absence of direction, called for an interpretation and the Commission and the Election Administrator had some discretion in setting the date of the election. He noted that State Statute 7-7-105, Challenges to local government bond elections, would arguably be involved should someone take issue with this election for any reason. He commented on some of the claim issues, although he did not think any of them had occurred, and noted that any challenge that would come out of this would be defensible. He commented on several Montana Supreme Court cases, stating that they have only the most general sort of applicability to this situation. He said that when annotating the two statutes, there was really no direction from the Attorney General or the Supreme Court about this situation. In pointing out issues with regards to the general rules that govern, Mr. Lambert stated that he saw no problem with this petition and no due process problem with the language in the petition, nor a due process problem if they were to eliminate the phrase "but no later than 95 days from filing this petition". He stated that the bottom line for the voters is that they want to vote on a jail as soon as practical, spend \$18 million, issue bonds to pay for it, and that it be at the Oak Street site. He did not think the timing of the election was so critical, that someone would think they have been misled. It was his opinion if the election is not held on May 24<sup>th</sup>, and held within a reasonable time then the petition would not be invalidated. Mr. Lambert confirmed for Commissioner Mitchell that if these issues were to fail, there were no limitations with regard to the resubmission to the voters with either of these issues. Public comment: Karen Pfaehler stated that she was not satisfied with answers from last Tuesday, regarding the postponement of the regularly scheduled elections taking place in May. She requested that the Commission ask the Election Administrator to postpone those elections until July, and hold this election in May, stating that it was the Commission's responsibility to look at the public safety and the priorities of the entire county. She stated that the other elections were not as critical to the public safety of the county as this election. Ms. Pfaehler questioned if

the Election Administrator had checked with other counties to see if they had qualified personnel to loan for this election. Attorney Dave Penwell, representing the group that prepared the petition stated that they want to have the election held on May 24<sup>th</sup>, as stated in the petition, however they understood that these problems have come up. Therefore, he asked the Board to do their duty and carry out the responsibility without being presumptuous and if the election is not held on May 24<sup>th</sup>, to have it at the earliest possible date. Bozeman City Manager Clark Johnson offered the services of four people from their Treasury Department to assist in the holding election for as much as a weeks time for 40 hours. In response to the suggestions and offers, Ms. Vance expressed her heart-felt appreciation for the City of Bozeman's support on such an important issue that needs to come before the voters. She reiterated her response regarding the Election Administrator's duties, in that there are a lot of responsibilities and procedures, which the general public does not understand, and a tremendous amount of regulations, processes, procedures, and rules that must be followed. Some are State Statute and others are administrative rules presented by the Secretary of State and some are Federal mandates. She explained that those rules and regulations and procedures are written for the sole purpose in her mind to insure the integrity of the election process. She stated that she was trying to convey to the Commission that it would be administratively impossible for her to conduct the election on May 24<sup>th</sup>, and she did not say she could not conduct the election it was when. It was an issue of timing. She further explained that in state law, Title 13, the state legislature set aside specific dates, for specific elections. She told in detail of the different types of elections and mandated dates. She stated that Ms. Pfaehler was asking her to ignore the law by setting the other elections aside in order to hold this very important public safety issue question that must come before the voters. She told of the fire districts and water and sewer districts holding elections in May, stating that they may be presenting their elections because they too, may have public safety issues. She clarified that by law on May 7<sup>th</sup> she will be conducting a minimum of 6 elections, and that she does not have the authority to postpone those elections. She commented with regard to going to other counties, that they too, hold the same elections and have the same deadlines. Ms. Vance stated that she did not want to see Gallatin County jeopardize the integrity of the election process, however she stated that she could not hold this election on May 24<sup>th</sup>. She stated that she would do it as soon as possible and that she was prepared to count the ballots on the jail bond election on July 16<sup>th</sup>, and that she hoped they would be mailed on June 21<sup>st</sup>, and if not, no later than June 26<sup>th</sup>. She pointed out that one of the things the citizens requested on Tuesday was that the county pay the postage, and that it currently was not in the budget. Based on 42,000 ballots the amount was \$16,275. The other costs associated with this have been estimated into the \$67,000 already budgeted. Discussion took place regarding how the prepaid postage would be processed. Commissioner Mitchell reiterated that it was never a question of whether or not there would be an election, the only question was when. She stated that the ability to vote is the core of the entire democracy. It appeared to her that the statue was not written to require local government to do the impossible. Commissioner Mitchell stated she was happy to put this to the voters, but she believed that they needed to do it in a time that they are able to do so, which has to be determined by the Clerk and Recorder. She stated that it was her personal preference not to pay for return postage, as it has not been done in the past and she did not see the need now. Commissioner Murdock stated that his feelings have not changed on this matter. He commented that they were directed by 11,000 plus or minus signatures to put this to the voters on or about the date submitted in accordance to law. He expressed his utmost respect for Ms. Vance, and that there was no subterfuge in what she stated and that she was not trying to stall this, she was overwhelmed. He stated he was in favor of taking the resolution as written and putting its to the voters, the question of the bond election as submitted by the petition, and giving the Election Administrator all the resources they possibly can to hold this election as expeditiously as possible. He stated it was up to her and he would respect her decision. He stated that he did not think July 16<sup>th</sup> was the end of the world. Commenting that this has possibly been the most difficult decision to date on the Commission because it involved such fundamental issues and because it involves people he knows and respects, Commissioner Vincent stated that it served no purpose to look back. He stated that the situation was obviously conflicted because there were two fundamental foundations of democracy at stake, one being the integrity of the election process and the other the sanctity of the petition. He noted that the petition is secure, regardless of when the election is held and that it was also clear that the authority to set the election date rests primarily if not exclusively with Gallatin County's Election Administrator. He stated that the statement in the petition to submit the measure pursuant to Montana law as soon as legally possible, but no later than 95 days of the filing of this petition with the County Commissioners was contradictory. Because the stipulation that the election be held no later than 95 days of the filing of this petition with the County is not in and of itself pursuant to Montana law, therefore is not in accordance with the law, specifically 7-7-228 sub-sections 2 and 3. He stated that while the election date stipulation in his opinion had no legal authority, it does have profound political standing because it reflects a strong and legitimate sense of urgency on a critical public safety issue that has dragged on and on far to long. To endorse the spirit of the petition, Commissioner Vincent stated that he would vote for the language in the resolution reflecting the petitions specific election day of May 24<sup>th</sup> while at the same time recognizing that the Election Administrator has a moral and legal obligation to conduct elections in a manner she believes to be in the best interest of maintaining the sanctity and the integrity of the election process. He added that she has the authority to set, and will set an election date on this issue consistent with the obligations of her office. He commented that



he regretted that an accommodation that he believed could and should have been made on this matter was not accomplished. **Commissioner Vincent moved to adopt Resolution #2002-021, a resolution calling for an election of Adult Detention facility general obligation bonds, as currently written. Seconded by Commissioner Mitchell.** Commissioner Mitchell questioned if the motion as stated gives the Election Administrator the discretion to hold the election when feasibly, physically, administratively, and legally possible? Mr. Lambert stated that the resolution for the facility itself had more relaxed language than the operations resolution, including the words, "or in accordance with law", therefore there was some flexibility for the Election Administrator to set the election. He cautioned the Commission that the operations resolution stated a specific date. Commissioner Vincent stated that he planned to amend the resolution by inserting the words, "or in accordance with the law". Mr. Lambert stated that he could not pass judgment on the legal ramifications of when the Election Administrator sets the election date; he could only say that May 24<sup>th</sup> would be ok. Commissioner Vincent stated that without the language, "or in accordance with the law", he would not support the resolution because he felt it would be contradictory, if not a violation of the law if that language were not in the resolution and actually setting an absolute firm election date. Mr. Lambert pointed out that Chief Civil Deputy County Attorney Chris Gray worked with bond council on the language, although he thought he had some liberty to deal with the language on the operations resolution. Commissioner Murdock stated that it was his understanding based on Mr. Lambert's legal discourse that this language allowed the Election Administrator to set a date other than May 24<sup>th</sup> but they might be more vulnerable to a legal challenge if it is a date other than May 24<sup>th</sup>. Mr. Lambert noted there were approximately four places in the resolution, should they decide to add the language, "or in accordance with law". Ms. Vance requested a short recess to confer with Mr. Lambert. Ms. Vance reported that she had nothing further to add, as Mr. Lambert would not support her question. Commissioner Murdock asked Mr. Penwell if the group planned to pursue a legal challenge if for some reason the Election Administrator chooses not to hold the election on May 24<sup>th</sup>. Mr. Penwell stated that the subject had been discussed, and that they wanted the Commission to understand while they were surprised at what the Clerk and Recorder reported on Tuesday that they understand that sometimes these problems occur. However, he stated from a legal standpoint if they brought suit in the District Court and the petition was upheld, what was the District Court going to do, order the Clerk and Recorder to do something she has stated that she is unable to do. He stated that it also was not the spirit that they wished to perceive in coming before the Commission with the petition and that it would be counterproductive. He confirmed that the answer was no, although they have discussed and considered it but they would not bring a suit against the Commission if the election is not held on May 24<sup>th</sup>. He stated that they did wish that by approaching in that spirit that it is taken with the understanding that they do want the election to take place at the earliest possible date. He also requested that the Commission allow for the return postage. **Commissioner Mitchell added the finding, that she was willing to support this motion providing that it is in accordance of law; guarantees that the Election Administrator hold the election on the soonest date possible, noting that it may not be held on May 24<sup>th</sup>; and that the law supports this, as this is their best interpretation of the language of the petition and the resolution itself. None voting nay. Motion carried.**

Discussion took place with regard to the change of language in the resolution asking the question of authorizing the Commission to make a levy up to 13 mills in addition to the mill levy limit imposed by law for the purpose of funding operations for a new Gallatin County Adult Detention facility. Mr. Lambert noted that the language, " or in accordance with law", would be inserted in the resolution and the attached notice six different times, after the words May 24, 2002. The changes were in the title on page 1; page 4, paragraph 5; page 5, in the notice and at the end of the proposition; and page 7, in the notice and at the end of the proposition. Sheriff Cashell reported on Cascade County operating cost comparisons with Gallatin County proposed operating costs. Commissioner Murdock pointed out that it was crucial that the words, "up to" are in the resolution and that it was not an automatic 13 mill increase in his mind and he supported the language. He stated that Gallatin County Fiscal Officer Ed Blackman convinced him that it would not be honest to go to the voters with anything less than this, and they did not want to misinform the public and under estimate. **Commissioner Vincent moved to adopt Resolution #2002-022, calling for a special election held on May 24, 2002, or in accordance with law on the question of authorizing the Gallatin County Commission to make levy up to 13 mills in addition to the mill levy limit imposed by law for the purpose of funding operations for a new Gallatin County Adult Detention facility. Seconded by Commissioner Mitchell.** Commissioner Mitchell added that she was concerned that they were only asking for half of what they needed for operations, as everyone of the experts have told them that they will meet if not exceed the amount of the construction bond in operations within 3 years or less. She stated that she would support the resolution, although she thought the voters would be asked for more operations money. **None voting nay. Motion carried.**

Commissioner Vincent pointed out that the language, "in accordance with law" did not appear in the notice and at the end of the proposition on pages 4 and 5, of Resolution #2002-021, and suggested that they reconsider their action. Mr. Lambert noted hesitation with changes to the resolution however, he stated that they could reconsider and interlineate those dates to include that language. **Commissioner Vincent moved**

to reconsider the action taken on Resolution #2002-021, solely for the purpose of adding, "or in accordance with law" on page 4 and page 5 in the notice of election. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Vincent moved to insert the language, "or in accordance with law" on page 4 after the words May 24, 2002, and on page 5 below the proposition of Resolution #2002-021. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

Ms. Vance confirmed that she can administratively prepare ballot language for both issues and that they would be on the same ballot.

Commissioner Murdock stated that he was in favor of expending the other \$16,275, in addition to the \$67,000 for the return postage for this mail ballot election. Gallatin County Fiscal Officer Ed Blackman confirmed the following three expenditure sources that could be used; the balance of the 911-election budget; the money set aside for the Detention Committee for architectural and professional services; and the contingency fund. Mr. Lambert conveyed a suggestion from Ms. Pfaehler regarding the use of the no return postage necessary, if mailed in the United States. Ms. Vance responded that there were certain statutory requirements and administrative rules that she must follow from the Secretary of State and the mail ballot laws. She stated that she will do her best to save the taxpayers of Gallatin County the most money she can to run an efficient election, but she must follow certain rules and regulations. Ms. Vance explained situations where there were much better turnouts with return postage paid. She pointed out that in the past, some mail ballot elections the ballots were returned without postage and consequently that postage was taken out of the Commission's budget. Discussion took place with regards to setting a specific dollar amount in the motion or making a commitment to pay the postage without specifying a dollar amount. **Commissioner Vincent moved to authorize the County Commission to pay the postage necessary to conduct this mail ballot election with return postage and without specifying a specific amount. Seconded by Commissioner Mitchell,** adding that it is not required by law and that it has not been done before. She felt this issue was contentious enough and that the public would return their vote. She believed that they could spend that money elsewhere on other county needs. Therefore, she would not support motion. Commissioner Murdock commented that this is extraordinary event and unprecedented in Gallatin County, and for that reason alone it justifies affording every opportunity to the public to return the ballot. Commissioner Vincent commented that it lends itself to the sense of urgency, which this issue deserves. **Commissioner Murdock and Vincent voting aye Commissioner Mitchell voting nay. Motion carried.**

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There were no pending resolutions. There being no further business the meeting was adjourned at 10:45 A.M.

*Unavailable for  
Signature*  
\_\_\_\_\_  
CHAIRMAN APPROVAL

*Shelley Vance*  
\_\_\_\_\_  
CLERK ATTEST

**PUBLIC MEETING****TUESDAY THE 22nd DAY OF JANUARY 2002**

The meeting was called to order by Chairman Bill Murdock at 9:02 A.M., at the Belgrade City Council Chambers. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**JANUARY 14, 2002**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent and Commission secretary Glenda Noyes. The Commissioners considered approval of invoice #0101-9, Taylor Hanson Kane Architects, in the amount of \$29,566.00, for Phases III & IV Courthouse renovations. Commissioner Murdock made a motion to approve said invoice for payment. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a fax maintenance agreement with Terrell's Office Machines, Inc. in the amount of \$311.00 – for the Commission Office's new fax machine. Fiscal Officer Ed Blackman denied signing of the agreement, noting that he does not feel it to be fiscally reasonable to do so. Commissioner Murdock made a motion to deny entering into the fax maintenance agreement with Terrell's Office Machines, Inc. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

**JANUARY 15-16, 2002**

- The Commissioners conducted regular County business.

**JANUARY 17, 2002**

- The Commissioners attended a special meeting for the purpose of approving claims listed on the voucher list dated January 15, 2002. In attendance were Commissioners Murdock and Vincent, Auditor Joyce Schmidt, and Commission secretary Glenda Noyes. Commissioner Vincent made a motion to approve claims including check numbers 8007525 – 8007531, totaling \$263,306.35. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

**JANUARY 18, 2002**

- The Commissioners conducted regular County business.

**The following items were on the consent agenda:**

1. Claims were presented for approval by the Auditor, dated January 16, 2002 in the amount of \$41,448.52.
2. Consideration of Contract(s): Terrell's Office Machines, Inc. -Copier Maintenance Agreement with Personnel Services.
3. Request for Release Zoning Improvements Agreement for Mountain West Bank, Certificate of Deposit #50012225.

Commissioner Vincent read the consent agenda. There was no public comment. Commissioner Mitchell moved approval of the consent agenda, as read. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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One vacancy exists on the West Yellowstone/Hebgen Basin Solid Waste Management District Board, due to the term expiration of Doug Edgerton. This position is the town appointee to the board. The Town Council asked Mr. Edgerton if he would be willing to serve another term. Mr. Edgerton is a resident of the Town, and the Town Council supports his reappointment and asked the Commission to give consideration to this recommendation. This is a four-year term and will expire on December

31, 2005. There was no public comment. Commissioner Vincent moved to appoint Doug Edgerton. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on receipt of a petition to abandon a road commonly known as Bitterroot Way and another unnamed road both located in the Pleasant Valley Subdivision, described as: Area #1- An unnamed access road located between Lots 7 and 8 of Pleasant Valley Subdivision in Section 11, T2S, R5E; and Area #2- A road commonly known as Bitterroot Way located between Lots 5 and 6 of Pleasant Valley Subdivision in Section 11, T2S, R5E. The petition was received on December 5, 2001. Ms. Vance certified that she examined the petition and pursuant to the instructions by the Gallatin County Commission it does contain signatures of at least 10 qualified freeholders in Gallatin County. She noted that the process procedures suggest that the Commission appoint a viewing committee. Commissioner Mitchell moved to accept the petition. Seconded by Commissioner Vincent. None voting nay. Motion carried. The viewing committee was appointed consisting of Commissioner Mitchell, Ms. Vance and Road and Bridge Superintendent Lee Provance as a consultant.

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Gallatin County Clerk and Recorder Shelley Vance reported on receipt of a petition to abandon Sun Field Drive, as described as shown on the plat of the Belgrade Commercial Park Subdivision, Phase 1, located in Section 34, T1N, R4E. The petition was received on December 3, 2001. Ms. Vance certified that she examined the petition and pursuant to the instructions by the Gallatin County Commission it does contain signatures of at least 10 qualified freeholders in Gallatin County. She noted that the process procedures suggest that the Commission appoint a viewing committee. Commissioner Vincent moved to accept the petition. Seconded by Commissioner Mitchell. None voting nay. Motion carried. The viewing committee was appointed consisting of Commissioner Vincent, Ms. Vance and Road and Bridge Superintendent Lee Provance as a consultant.

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Gallatin County Weed Supervisor Dennis Hengel reported on the consideration of a resolution of intent to amend the Weed District FY 2002 budget to include unanticipated grant revenues. There was no public comment. The public hearing is scheduled for February 5, 2002. Commissioner Mitchell moved to approve Resolution of Intention #2002-09. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported on behalf of the Road and Bridge Superintendent on the consideration of a resolution of intent to increase the Gallatin County final operating budget for the Junk Vehicle Fund for FY 2002. There was no public comment. The public hearing is scheduled for February 5, 2002. Commissioner Mitchell moved to approve Resolution of Intention #2002-10. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County DES Coordinator Jason Shrauger reported on the consideration of a resolution of intent to amend the Disaster and Emergency Services Project impact activity within the Public Safety Fund for the purchase of machinery and equipment not to exceed \$85,000. There was no public comment. The public hearing is scheduled for February 5, 2002. Commissioner Mitchell moved to approve Resolution of Intention #2002-11. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Willow Creek Rural Fire Chief George Reich reported on consideration of a resolution of intent to amend the Gallatin County FY 2002 final operating budget for receipt of unanticipated revenues for the Willow Creek Rural Fire District. There was no public comment. The public hearing is scheduled for February 5, 2002. A correction was made to the resolution changing it from 2001 to 2002. Commissioner Mitchell moved to approve Resolution of Intention #2002-12. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic reported on the continuation of a request for preliminary plat approval for Northstar Major Subdivision at Four Corners. Ms. Madgic gave a brief synopsis of the January 8, 2002, public meeting which ended in board discussion. She pointed out the over all Northstar design on the revised plats for the North Star Village and North Star Commerce Park, showing adjustments made such as buffering, continuations of pedestrian parkways and pathways to address concerns expressed during public comment. She noted that even though public comment was closed she received additional letters from Tony Kolnik, dated January 17, 2002 and Mark Haggerty, dated January 16, 2002. Ms. Madgic provided 13 additional conditions offered as mitigations by the applicant as follows:

1. The applicant shall contribute a "voluntary school mitigation fee" in the amount of \$1,500.00 per living unit in the North Star Residential area. Applicant shall contribute \$750.00 per living unit *prior* to final plat approval of proposed residential lots. Applicant shall contribute \$750.00 per residential unit at the time residential lots are sold. For contribution, which occurs *following* final plat approval, applicant shall enter into an improvements agreement with Gallatin County for payment of \$750.00 per residential unit. Said improvements agreement shall be reviewed and approved by the Gallatin County Attorney's Office prior to final plat approval of both Phases 1 and 2.
2. The applicant shall contribute a "voluntary sheriff mitigation fee" in the amount of \$500.00 per living unit in the North Star Residential area. Applicant shall contribute \$250.00 per living unit *prior* to final plat approval of proposed residential lots. Applicant shall contribute \$250.00 per residential unit at the time residential lots are sold. For contribution, which occurs *following* final plat approval, applicant shall enter into an improvements agreement with Gallatin County for payment of \$250.00 per residential unit. Said improvements agreement shall be reviewed and approved by the Gallatin County Attorney's Office prior to final plat approval of both Phases 1 and 2.
3. Applicants shall participate financially in a regional water and sewer district feasibility study. The geographic boundaries of the feasibility study and degree of financial participation by applicant shall be specified in a Memorandum of Agreement between the applicant and the Gallatin County Commission.
4. The proposed water and sewer systems shall be designed to accommodate future expansion and/or connection to a regional facility. Applicant shall extend sewer and water mains to existing adjacent developments as subdivision plat phases are completed. Future hook-up of adjacent developments is subject to any and all subdivision regulatory requirements including Montana Department of Environmental Quality approval of water and sewer extension plans and related water plant and sewer plant capabilities. Future hook-up of adjacent development is also subject to operations and management provisions of the empowered Water and Sewer Company or Public Water and Sewer District.
5. Applicant shall include in Commerce Park covenants a provision allowing a neighborhood recycling area as a permitted use on at least one lot within the proposed Commerce Park.
6. Applicant shall submit a parks improvements plan, which reflects parks improvements as shown on preliminary plat approval updated January 2002. This plan includes approximately six tot lots, three picnic areas, trail system and two multi-purpose sports areas. Applicant shall include provisions for maintenance of these areas and shall install improvements prior to final plat approval of Phase 1 and Phase 2 as appropriate.
7. Phase 2: Applicant shall pave Third Street to Maple Street to County Standards. Applicant shall provide a 60-foot easement from Maple Street west of Third Street to Commerce Park cul-de-sac. Applicant shall provide a pedestrian pathway in easement.
8. Phase 2: Applicant shall provide 30 to 40 feet of additional right-of-way along the west side of Maple Street to create a 60-foot right-of-way.
9. Phase 2: Applicant shall extend sewer and water lines from Maple Street along Third Street to Hwy 191 right-of-way.
10. Phase 2: Applicant shall provide a 50-foot open space buffer on the west and north perimeter of Steward Aasgaard property to protect existing cottonwood trees and accommodate the Barker Ditch.
11. Phase 2: Applicant shall provide a pedestrian path from the north corner of Maple Street and 2<sup>nd</sup> Street to the north through open space to connect with interior sidewalk system.
12. Phase 2: Applicant shall install a six-foot-high solid wood fence and a 10-foot landscape buffer on the east edge of Lots 9, 10 and 11 (of Commerce Park). Landscape buffer shall include drip irrigation line and landscaping.
13. The following covenant shall be added: No owner, guest or invitee may use or occupy the common area, common facilities, roads or any lot in such a manner as to disturb or interfere with the peaceful use, occupancy or enjoyment of any other lot owner in the subdivision or adjacent properties including, glaring lights, noise, smoke, odors, dust or other specific nuisances. Violations shall be enforced as provided for in Article XIII Enforcement. Ms. Madgic also, included the following corrections to existing conditions:

5. Applicant shall record on the final plat(s) a waiver of right to protest creation of rural improvement districts, local improvement districts, zoning district or the creation of a sewer and/or water district.
26. Phase 1: Durston Road to North Star Boulevard shall be constructed to full County standards with a County standard cul-de-sac acceptable to the Belgrade Rural Fire District.
26. Phase 2: Durston Road from North Star Boulevard to west property boundary shall be constructed to full County standards with a County standard cul-de-sac

acceptable to the Belgrade Rural Fire District. 29. Phase 2: Durston Road has been identified as a minor collector and shall be paved to County collector standards. ~~Construction of Durston Road shall be consistent with Galactic Park to the west.~~ Ms. Madgic stated that with the exception of making an additional change to condition #3, the applicant agreed to all the changes and additional conditions. She stated that Mike Potter requested to add the following language to condition #3: Financial participation shall be on a fair share/pro rata basis. Commissioner Vincent asked Ms. Madgic to review a letter received from Mr. Kauffman, representing the Lawrence Trust, dated January 22, 2002, and comment regarding his suggestions. She stated that it was her understanding that Mr. Kauffman is satisfied with condition #4, as it originally read. Discussion took place regarding Mike Kvasnick's concerns expressed during public testimony. Ms. Madgic concluded that it concerned right-of-way outside of this project and outside the scope of the developers ability. Mike Potter talked about the key points addressed during public testimony as follows: Rainbow neighborhood and the paving of Third Street; Maple Street easement; landscape buffers; path connector; extension of water and sewer; and lights, dust and noise. He felt they had found a good solution with the Rainbow neighborhood and represented the general consensus. Mr. Potter explained that they were working with Mr. Simpson and Mr. Kvasnick regarding the easement concern expressed by Mr. Kvasnick. He discussed plans for traffic mitigation, noting that they will have a traffic calming design into Northstar. In reference to a meeting with Bryan Connelley of the Belgrade Fire Department, Mr. Potter explained that they have agreed to pay the \$496.00 on multi family lots at the time of plat, plus they would pay for the number of housing units as they sell them and there would be provisions where each additional housing unit would be escrowed and paid to the fire district, or they have agreed to trade impact fee credits for land which would take further discussion. He stated they would be in agreement to making that a condition. Assistant Chief Bryan Connelley of the Belgrade Rural Fire District spoke in favor of the mitigations offered and stated he was comfortable with their agreement regarding the conditions. Mr. Potter addressed Mr. Kauffman's concern, with the Lawrence property hook up by stating the language in condition #4, was input was from Morrison-Maierle and the intent of the condition was to make sure that anyone that wants to hook up can do so, as long as they go through the normal procedures. He stated that they preferred not to cut a deal with anyone with hook up and that everybody should play by the same rules. Although, the Commission was in board discussion, Commissioner Murdock stated that if anyone in the public had a specific comment or question regarding any of the conditions they would be allowed to speak. Tony Kolnik questioned if there would be a charge to the adjacent property owners on Third Street to hook into the water and sewer system. In response to Mr. Kolnik's question, Mr. Potter replied that as Third Street is upgraded, sewer and water will be put in, and all the lots along Third Street will be stubbed. He added, that at every intersection, water valves will be placed and water stubs will be extended down adjacent roads. He explained that the water and sewer company and the district would be structured so that they do not have hook up fees. Discussion took place regarding the water and waste water system capacity. Kalie Utter on behalf of the Lawrence Trust questioned the new language in condition #4. She stated that during the process of Potter-Clinton approaching them to buy the property they received a memo that said, "We hope we can enter into negotiations, but if we can't come to a deal we will just wall you off." She was concerned that that language gives Potter-Clinton the right to wall them off. Commissioner Vincent requested that she provide that documentation for the Commission. Commissioner Vincent asked for an update on Mr. Haggerty's suggestions of applying urban road standards. Ms. Madgic stated that they typically will not require above and beyond county road standards although the applicant has expressed a willingness to do so. Mr. Potter stated that they have developed streetscape plans for all their internal streets, walks and boulevards, along with different pavement widths depending on the function of the roads. Mr. Provance commented on the issue he had with condition #7, stating that he believed Maple Street should be run through without a cul-de-sac, and that the fire department and sheriff concurred. Ms. Madgic clarified that condition #7 was the outcome of original condition #17, based on the neighborhood consensus and testimony. Mr. Provance noted problems with traffic calming and stated that he was not in favor of the plan. He commented that the Greater Bozeman Area Transportation Plan has not been adopted therefore, he did not believe the Commission could impose urban standards for this development. On behalf of the neighborhood, Mr. Kolnik reported that his neighbors are concerned about safety where Third Street meets Highway 191, although he had no objection to running the street through. He was pleased with the proposed pedestrian crossing although he mentioned there may be concerns with the hours of operation where people are coming up and down the road and lights. He stated that he would like to see it pushed on through for safety reasons, and that he was willing to tolerate the extra traffic noise to better serve the community. He stated he would rather see it done in Phase 1, rather than Phase 2, because it would provide better access for emergency services. Discussion took place regarding the increase of commercial traffic on Third Street and the impacts it may cause. Mr. Potter stated that there were two points of view within the Rainbow neighborhood of whether Third Street should go through or not. He stated that they intentionally planned the cul-de-sac with a 90-degree curve and a 60 foot easement, so if the road did go through it

would be an indirect route out of that end of the Commerce Park. He stated they would be in support of some sort of emergency connection to meet the fire districts preference. Ms. Madgic clarified that all the conditions on the original staff report, the additional conditions and changes to the original conditions on the memo dated January 18, 2002, and the following changes to those additional conditions would apply as follows: condition #3, add the words, Financial participation shall be on a fair share/pro rata basis; change condition #5 to read, Applicant shall include in Commerce Park covenants a provision allowing a neighborhood recycling/hazardous waste disposal area as a permitted use on at least one lot within the proposed Commerce Park; and change condition #7 to read, Applicant shall pave Third Street to Commerce Park cul-de-sac to county standards or applicant shall provide a 60-foot easement from Maple Street west of Third Street to Commerce Park cul-de-sac with provisions for emergency access as acceptable to the County Road Department. Pedestrian access shall be provided as appropriate. Commissioner Vincent moved to approve the Northstar application, finding it is consistent with the Gallatin County Master Plan; Gallatin County Subdivision Regulations; it meets the criteria of the State Statute; and includes all the conditions as written in the original staff report and the additional conditions and changes in the January 18, 2002, memo except as amended by the statement of Ms. Madgic, that included changes to conditions #3, 5, 7. Seconded by Commission Mitchell, finding that the applicant's made every effort to mitigate the impacts of this proposed mixed-use subdivision application. Commissioner Vincent spoke regarding the lighting and suggested that they contact the City of Helena regarding their adoption of a lighting ordinance, and perhaps receive some assistance on the latest in lighting technology and lighting application. He also stated that he still had a concern regarding the mobile home park, relative to affordable housing. He stated it was critical, to be sensitive to the needs of affordable housing, and he encouraged the applicant to make any and every effort they could to preserve it. He believed the applicant had done a great deal to raise the bar and set a new standard. Commissioner Mitchell stated she was supportive of this development, however in general she was concerned about developers paying additional impact fees and fees that are not officially form plated by the Commission because she believed they will be passed on to the people purchasing these properties. She felt the more fees extracted from the developers the more the housing costs will be. Commissioner Murdock concurred, and stated it was incumbent upon the Commission to continue working on the sewer district and the zoning district in the area, because Gallatin County is in partnership with developers and the existing community of Four Corners to create a new city. He stated they were trying to promote development in the Four Corners area in a responsible fashion. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the continuation of a request for preliminary plat approval for the Four Corners Minor Subdivision. Ms. Koozer summarized the proposal and suggested the same conditions would apply as listed in the original staff report with the changes outlined in a memo dated January 18, 2002. She pointed out a problem with the numbering in the original staff report that jumps from #29 to 45. She noted she would refer to them with the incorrect numbering and correct them in the Findings of Fact. Ms. Koozer recommended the following additions and changes to existing conditions: Add condition #49 to read as follows: Applicant shall participate financially in a regional water and sewer district feasibility study. The geographic boundaries of the feasibility study and degree of financial participation by applicant shall be specified in a Memorandum of Agreement between the applicant and the Gallatin County Commission. Financial participation shall be on a fair share/pro rata basis; Change condition #2 and 4 to read as follows: #2 Montana Department of Environmental Quality County Health Officer's approval shall be obtained for the subdivision. Applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. Each lot shall connect to the North Star Subdivision's central water and sewer system; and condition #4 to read as follows: Applicant shall record on the final plat(s) a waiver of right to protest creation of rural improvement districts, local improvement districts, zoning district or the creation of a sewer and/or water district. Since these conditions mirror the Northstar Subdivision, she explained there was a question regarding condition #46 that reads as follows: Applicant's mitigation plan for sheriff services shall be acceptable to the County Commission. Ms. Koozer stated that for the Northstar Subdivision, a "voluntary sheriff mitigation fee" in the amount of \$500 per living unit is proposed. She questioned if a mitigation payment should be required for the four commercial lots that comprise this minor subdivision, and if this condition should be changed, eliminated or kept as-is? Commissioner Mitchell stated her willingness to strike the sheriff mitigation condition, being as there are no living units and they are designated commercial. Mr. Potter confirmed that through the covenants there will be no residential units on these lots. Commissioner Murdock allowed additional public comment. Jimmy Lohmeier questioned if this subdivision would be classified as part of the Corners Four Business Park or a stand-alone. Ms. Koozer replied that it would be a stand alone, however one of its conditions of

final plat approval is that they connect to their sewer and water system and that the covenants would be the same as the Northstar Village. Mr. Potter responded that the four lots are considered part of the Village area, with the same homeowners association, covenants, conditions, restrictions and architectural guidelines. They are interconnected but separate. Finding that this application meets the criteria of the Gallatin County Growth Policy, Subdivision Regulations, and State Statutes, and noting the changes and additions to the conditions made by Ms. Koozer, Commissioner Vincent moved to approve the application. Seconded by Commissioner Mitchell, suggesting condition #46 be stricken. Commissioner Vincent included in his motion to strike condition #46. Commissioner Mitchell and Murdock added the findings that the Four Corners Minor met the Master Plan and that it was in substantial compliance. None voting nay. Motion carried.

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On behalf of the Sierra Club, Louisa Wilcox made a presentation to consider a request for adoption of a countywide garbage ordinance. The presentation included garbage management and bear sanitation issues and the safety of our communities. Ms. Wilcox acknowledged several agency representatives in attendance. Kevin Frey, submitted Exhibit "A", Big Sky-Gallatin County Bear Management 1994-2001. Mr. Frey gave an overall briefing and provided a slide show, portraying bear problems in the Big Sky area. Dean Ulrich, on behalf of BFI Waste Management discussed converting their side load system over to a front load system in Big Sky to accommodate the bear proof containers. Discussion took place regarding the possibility of using resort tax funds to help the business community convert their enclosures. Doug Goessman, a special agent with the US Fish and Wildlife Services stated he was making a determination regarding funds and what was needed in the Big Sky/West Yellowstone area concerning the dumpsters. Commissioner Murdock pointed out that there was a resort tax in both Big Sky and City of West Yellowstone and that the City of West Yellowstone and the Big Sky Zoning District has bear proof container provisions. Montana Fish Wildlife and Parks biologist Kurt Alt confirmed that the West Yellowstone ordinance has been in place quite a few years, and the South Gallatin Zoning Ordinance and the Gallatin Canyon Big Sky Ordinance has been in effect for some time. Jane Ruchman, on behalf of the Gallatin National Forest reported on the fee campgrounds in the Gallatin Canyon area. Campground manager Esther Fishbaugh spoke regarding the Gallatin National Forest campgrounds that abut the bear habitat and the high costs of hauling trash from the campgrounds. Monica Fella spoke regarding her active campaign in the Big Sky and West Yellowstone area communities by informing people on how to bear proof their residents. Commissioner Murdock noted that the Hegben Lake Zoning District was in the process of a rewrite and suggested they be contacted regarding the inclusion of input on this issue, and he also suggested contacting the County Health Department. Kevin Frey commented on working towards solving issues with the bears. Commissioner Murdock suggested that they could contact Gallatin County Grant Administrator Larry Watson who has worked with the refuse district and Gallatin County Planner Jennifer Madgic regarding zoning.

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There were no pending resolutions. There being no further business the meeting was adjourned at 12:05 P.M.

unavailable for  
Signature  
CHAIRMAN APPROVAL

Shelley Vance  
CLERK ATTEST



**PUBLIC MEETING****TUESDAY THE 29th DAY OF JANUARY 2002**

The meeting was called to order by Chairman Bill Murdock at 9:03 A.M., at the Senior Center, Basement Mtg. Room. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**JANUARY 21, 2002**

- The Commission Office was closed in observance of Martin Luther King, Jr. Day.

**JANUARY 22-23, 2002**

- The Commissioners conducted regular County business.

**JANUARY 24, 2002**

- The Commissioners attended a special meeting for the purpose of discussing the asbestos sampling for Phases III, IV of the courthouse remodel. ITS Director Ed Kawa and Facilities Director Bob Isdahl have recommended that the amount of funding set aside for the asbestos sampling be increased from \$750 to \$900, due to an increase in need for coverage. The Fiscal Officer and County Attorney have approved the request. Commissioner Vincent made a motion to increase the amount as recommended. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

**JANUARY 25, 2002**

- The Commissioners conducted regular County business.

**The following items were on the consent agenda:**

1. Claims were presented for approval by the Auditor, dated January 24, 2002 in the amount of \$353,963.72.
2. Consideration of Contract(s): Amendment to Contract #2000-04 with Mountain Land Rehabilitation, L.C.
3. Request for Common Boundary Relocation Exemption for Russ Estes-Belgrade Commercial Park Corporation, located in the SE ¼ of Section 34, T1S, R4E (west of Belgrade on Bullrush Ave). Belgrade City-County Planner Jason Karp reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for a Family Transfer Exemption for Jack and Judy Reese, located in the E ½, SE ¼, of Section 8, T1S, R4E (3255 Linney Road). Belgrade City-County Planner Jason Karp reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Release of Financial Guaranty for the Cheri Subdivision. The Gallatin County Road Department, has verified that all conditions pertaining to the roads for the Cheri Subdivision have been met. Belgrade City-County Planner Jason Karp recommends that the County Commission direct the Clerk and Recorder to release the Letter of Credit to the applicant.
6. Request for Final Plat Approval for the Andres Minor Subdivision. The County Commission voted at their August 14, 2001, public meeting to grant preliminary plat approval. Belgrade City-County Planner Jason Karp reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
7. Request for Mortgage Survey Exemption for Scott LeProwse, located in the SW ¼ of Section 31, T1N, R6E (East Baseline Road). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
8. Request for Mortgage Survey Exemption for Stan Schlueter, located in the NE ¼ of Section 21, T6S, R3E (Old Toby Road). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
9. Request for Relocation of Common Boundaries within a Platted Subdivision for Richard and JoAnne Smith, located in the NW ¼ of Section 12, T3S, R5E (Lorelei Drive and Jade Street).

Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

10. Request to Amend Relocation of Common Boundaries Adjoining a Platted Subdivision for Eric Amend and Merle and Tannis Adams, located in the NE ¼ of Section 11, T3S, R4E (Rabel Lane). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Vincent read the consent agenda, noting that the claims would be continued until after 11:30 A.M., in order to meet the 48-hour notice requirement. There was no public comment. Commissioner Mitchell moved to approve the consent agenda, as read. Seconded by Commissioner Vincent, noting the continuation of the claims. None voting nay. Motion carried.

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Two vacancies exist on the Manhattan City-County Planning Board due to the term expirations of Cathy Ligtenberg and Ron Klompfen. Both members reapplied. These are two-year terms, both to expire on December 31, 2003. Two additional applications were received from Daniel Strong and Kristen Swenson. Commissioner Mitchell moved to reappoint Cathy Ligtenberg. Seconded by Commissioner Murdock. Commissioner Mitchell and Murdock both stated they received calls in support of Ms. Ligtenberg. None voting nay. Motion carried. Commissioner Mitchell moved to reappoint Ron Klompfen. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance noted that all the bids received for the bid opening for Phase III and IV renovations, for the Gallatin County Courthouse were received prior to the deadline at 4:30 P.M. on January 28, 2002. Commissioner Murdock opened the bids, confirming the Montana Public Contractor Registration number and the acknowledgment of the addendums. Jerry Taylor with Taylor Hanson & Kane Architects confirmed the amount of the bid bond, the base bid, and the alternates as follows: Kovash Construction, 11 Willow Drive, Livingston, MT, Montana Public Contractor's Registration #10496, bid bond in the amount of 10%, base bid \$905,070.61, alternate #1- \$126,388.09, #2- \$4,127.90, #3- \$2,696.44, acknowledgment of receipt of addendums 1, 2, and 3; Ingram-Clevenger, Inc., P.O.B. 5387, Helena, MT, Montana Public Contractor's Registration #2009, bid bond in the amount of 10%, base bid \$798,400.00, alternate #1- 120,000.00, #2- \$4,000.00, #3- \$4,500.00, acknowledgment of receipt of addendums 1, 2, and 3; Taylor Construction, P.O.B. 1254, Bozeman, MT, Montana Public Contractor's Registration #6068, bid bond in the amount of 10%, base bid \$821,900.00, alternate #1- \$146,400.00, #2- \$4,000.00, #3- \$3,000.00, acknowledgment of receipt of addendums 1, 2, and 3; Edsall Construction Company, P.O.B. 1147, Bozeman, MT, Montana Public Contractor's Registration #1720, bid bond in the amount of 10%, base bid \$856,000.00, alternate #1- \$138,270.00, #2- \$3,700.00, #3- \$3,450.00, acknowledgment of receipt of addendums 1, 2, and 3; Dick Anderson Construction, Inc., 3424 Hwy 12 East, Helena, MT, Montana Public Contractor's Registration #4391A, bid bond in the amount of 10%, base bid \$935,000.00, alternate #1- \$105,500.00, #2- \$5,000.00, #3- \$5,000.00, acknowledgment of receipt of addendums 1, 2, and 3; and Swank Enterprise, Montana Public Contractor's Registration #2146, bid bond in the amount of 10%, base bid \$898,400.00, alternate #1- \$103,000.00, #2- \$7,800.00, #3- \$3,100.00, acknowledgment of receipt of addendums 1, 2, and 3. Mr. Taylor announced that all the bids were within the budget allowed for the project. He requested time to evaluate the base bids and the alternates and make a recommendation on the apparent low bidder next Tuesday.

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Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution establishing a policy for re-naming existing roads in Gallatin County. Mr. Armstrong explained that the Geographic Information Systems Department is the County office responsible for assigning individual addresses to new construction in Gallatin County, naming and re-naming of roads where necessary, and re-addressing non-compliant structures to State of Montana Standards and National Emergency Numbering Association (NENA) guidelines pursuant to Resolution #2000-128. He noted that Resolution #2000-128, a resolution establishing a policy for the standardization of property addresses and road naming in Gallatin County. The purpose for this resolution is to enhance the easy and rapid location of properties by law enforcement, fire protection services, search and rescue and emergency medical services to protect public health and safety of all persons living, working or visiting in Gallatin County. He stated that this provides a policy to have this initiated by the landowner or GIS, and a policy for establishing a percentage of signatures (51%), and gives the

County the responsibility of mailing and notifying the residents and the post office. At the present time there is no official policy for changing a road name. GIS would rename roads if there was conflict within the county, thus emergency response has trouble finding a road. Discussion took place determining the definition of a landowner. Mr. Armstrong stated it was his understanding if there were two owners of a lot, each one would count. It was noted that the Gallatin County Clerk and Recorder would determine the 51% of the landowners along the road, and that notification would be handled by the GIS Department. Mr. Armstrong stated that Assistant Fire Chief Bryan Connelley of the Belgrade Rural Fire District voiced his support of this resolution as far as fire protection and E911. Cathy Ligtenberg questioned if it was 51% of the people who live along the road, or 51% of the property ownership. Susan Hance commented that it would be cumbersome to track people if it was 51% of timeshare landowners. Gallatin County Clerk and Recorder Shelley Vance stated that she worked with Mr. Armstrong on this and did not believe it was the intent of this process to change a bunch of road names, and that the GIS Department has been working with duplicate names. They were trying to make an opportunity, should there be landowners that want to change the name of their road by having a procedure for them to follow. Ms. Vance noted prior to the Commission making a decision that notification would be made to the landowners and a public hearing would be held. She stated that she had several opinions from the County Attorney's office in regards to the definition of a landowner for such matters as zoning, fire districts, and water and sewer districts. For the purposes of voter registration, Ms. Vance as the Election Administrator stated she was in full support of the alleviation of duplicate road names. Debra McAtee suggested that they get the language right the first time, to avoid having this argued over in court. Commissioner Murdock suggested that they define landowner as a minimum of one owner of record per parcel. Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson asked about condo ownership. Ms. Vance recommended that they contact Deputy County Attorney Chris Gray for advice, and reiterated that there were multiple definitions of a landowner. The Commission was in agreement to consult with Mr. Gray and continue their decision for one week.

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Gallatin County Planner Jennifer Koozer reported on the consideration of a request for a preliminary plat approval of the Smith Minor Subdivision, described as Tract 1 of COS 1613-A, located in the SE ¼ of Section 36, T6S, R3E, PMM, Gallatin County, Montana. The property is generally located at the intersection of Highway 64 and Skywood. C & H Engineering and Surveying, Inc., on behalf of Phillip and Wanda Smith, requested preliminary plat approval to subdivide an approximately 30-acre parcel into three lots. The staff report contained criteria for the Commission to evaluate for considering the subdivision along with the suggested conditions. The County Commission needs to make the following determination: A determination as to whether the proposed subdivision should be approved. The basis for the County Commission's decision shall be whether the preliminary plat and additional information demonstrate that development of the subdivision meets the requirements of: The Montana Subdivision and Platting Act; and The Gallatin County Subdivision Regulations. If the County Commission approves the subdivision, the following conditions are suggested: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2. The final plat shall include a waiver of right to protest creation of rural improvement districts, local improvement districts, and the creation of sewer and/or water districts. 3. A Property Owners' Association for the subdivision shall be established and incorporated. 4. Applicant shall record the following covenants with the final plat: a. The control of noxious weeds by the Property Owners' Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District. b. The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. In the event a landowner does not control the noxious weeds, after 10 days notice from the Property Owners' Association, the Association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment. c. Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. d. All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law. e. Property owners acknowledge that the subdivision is in a wildland-urban interface area and in Seismic Zone 3. All structures shall be constructed in compliance with the National Fire Protection codes and in compliance with Montana State adopted codes for construction, including

codes for Seismic Zone 3. Flame retardant roofing materials shall be used. Spark arrestor screens shall be placed on all fireplace and woodstove chimneys. Smoke detectors shall be installed on each level of dwelling units. Areas within 30 feet of habitable structures shall be cleared of all flammable materials. Open fires shall be prohibited. f. The artificial feeding of all big game wildlife shall be prohibited. g. All garbage shall be stored in animal-proof containers or be made unavailable to animals. h. Owners acknowledge that wildlife damage to landscaping will occur. Owners shall accept that risk and shall not file claims against the Owners Association or any other governing body for such damages. i. Fencing along the exterior boundaries of lots shall be prohibited. j. The taking of any wildlife species within the property is prohibited, except for catching fish. k. Pets shall be controlled by each homeowner, and not allowed to roam within the subdivision. l. Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners and the County Commission. 5. A copy of the conditions of approval, documents establishing the property owners' association, covenants, certificate of a licensed title abstractor, and public road easement documents shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the required covenants and certificate prior to final plat approval. 6. The applicant shall forward the preliminary plat and "hydraulic analysis" to the Montana Department of Natural Resources and Conservation, Floodplain Management Section, for their review, confirmation and approval. Written confirmation of approval shall be submitted to the Gallatin County Planning Department. 7. All boundaries of the 100-year floodplain shall be delineated on the final plat. Surveyed ground elevations along the creek shall be shown at one-foot contours. Both the floodplain and the area within two feet of the base flood elevation shall be designated as a "no build zone." 8. A 35-foot watercourse setback on both sides of South Fork Creek shall be shown on the final plat. 9. The final plat shall show all utility easements. Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat: *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* 10. Interior road plans, drainage plans, lot access plans, STOP sign and other regulatory or warning signs, and road name sign plans shall be submitted to the County Road & Bridge Department prior to any construction. All signage shall conform to the Manual on Uniform Traffic Control Devices (MUTCD), Millennium Edition. 11. All internal lots shall be limited to one driveway access. Each access must be at least seventy-five feet from the nearest intersecting road. On Lot 3, there shall be no more than one driveway per structure used for human occupancy. Excess driveways shall be eliminated unless the applicant provides written confirmation of existing easement(s). 12. All interior roads shall have a 60-foot right-of-way as a public road easement. 13. All interior roads shall be built to county (gravel) standards. The finished width of the roads shall be determined based on the average daily trips (ADTs), pursuant to the road improvement standards in the Gallatin County Subdivision Regulations. The applicant shall research and calculate the ADTs, which shall be approved by the County Road Department. 14. The property owners' association shall be responsible for the maintenance of all interior roads. The property owners' association bylaws shall be approved by the County Road Department. 15. All roadwork shall be built to Montana Public Works Standard Specifications (Fourth Edition, January 1996), inspected and certified by a licensed engineer. Such inspection and certification must be provided to the County Road Department in writing. The subdivider shall provide written verification from the County Road & Bridge Department that all roads have been brought to county standards. 11. The applicant shall provide confirmation that the existing bridge has a certified load rating of 25 tons, or more if required by the Gallatin Canyon Consolidated Rural Fire District. 12. Applicant shall make payment of road impact fees in accordance with the Gallatin County Subdivision Regulations. 13. Applicant shall make payment of fire impact fees in accordance with the Gallatin County Subdivision Regulations. 14. Applicant shall provide a fire protection method in accordance with the Gallatin County Subdivision Regulations, which is acceptable to the Gallatin Canyon Consolidated Rural Fire District. Applicant shall have the Gallatin Canyon Consolidated Rural Fire District review and approve the fire protection method prior to final plat approval. Applicant shall obtain written verification from that all requirements have been met. 15. The applicant shall provide sheriff protection mitigation acceptable to the County Commission. 16. A Memorandum of Understanding shall be signed between the Weed Control district and the applicant prior to final plat approval. 17. Applicant shall have three (3) years to complete the above conditions and apply for final plat approval. There was an error in the numbering of the conditions on the staff report, it was determined there were a total of 22 conditions. Discussion took place regarding the sheriff mitigation condition, and Commissioner Murdock noted

that the difference in Big Sky is that they have a contract with Madison County, and a resort tax, which funds extra deputies. Ms. Koozer stated that there was no comment from the Sheriff other than the standard letter and noted the fact that these lots are already developed. Mark Chandler, on behalf of C & H Engineering stated that this subdivision should not have much of an impact for public services. Mr. Chandler expressed a concern with the additional information requested on the floodplain study in condition #7, and he questioned if conditions #16 and 20, applied or not. He also, questioned the road and fire impacts since there were already existing structures on each lot. Discussion took place regarding the reason for the additional information requested on the floodplain and Commissioner Vincent stated this was a cautionary measure in order to protect those that may build near these areas. Mr. Chandler suggested that it might be more appropriate to note on the plat that all buildings need to be at least two feet above the flood elevation. There was no public comment. Ms. Koozer clarified issues such as the process for placing additional structures on these lots, ground elevations and contours. In clarifying condition #7, Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson stated at this point they want to make sure they are taking a look at the accumulative affect on the water supply in the whole area. Ms. Koozer stated that she left the impact fees in as a standard condition, and under the regulations they can request a waiver on any lot already developed and show no further impacts. Mr. Johnson addressed Mr. Chandler's concern regarding condition #16, by stating that this application is being submitted as a 3-lot subdivision, and the road design standards require that all roads in a subdivision be built to county standard, including bridges. He stated that if they did not want to build any part of the road or bridge to county standard they would have to require a variance. Commissioner Murdock stated his support of the conditions as written, with the exception of the sheriff mitigation, because in this case Big Sky has a higher level of police and sheriff protection than the rest of the county and they pay extra through their resort tax. He suggested striking condition #20. Commissioner Mitchell moved to approve the Smith Minor Subdivision with all the conditions, and striking condition #20, finding that it meets the State Statute 76-3-608; the Gallatin County Master Plan; the Subdivision Regulations; and including Commissioner Murdock's findings. Seconded by Commissioner Vincent, stating that because he made an issue relative to law enforcement and subdivision approval, he does approve of striking condition #20, based on Commissioner Murdock's rationale. He also, made a comment relative to wildlife and wildlife habitat, stating this is standard language, that a given area is not critical, although it will still have a negative impact and step by step incrementally subdivision by subdivision we are eliminating wildlife habitat and that will continue until there is a way to assess accumulative impacts and apply them to individual subdivisions. Commissioner Murdock added the finding that this minor subdivision is consistent with the Big Sky Zoning District. None voting nay. Motion carried.

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the consideration of a request for a reduction in road impact fees by Allied Engineering Services, Inc., on behalf of Gallatin Peaks Land & Development, L.L.C., for the Gallatin Peaks Upland Cluster "A" Major Subdivision. On August 10, 1999, the County Commission granted preliminary plat approval for the Gallatin Peaks Uplands Cluster "A" Major Subdivision. The subdivision includes nine single-family lots. Condition #21 and 34 of the Commission's August 10, 1999, Findings of Fact and Order require the subdivider to make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. Mr. Johnson noted that attached to the staff report was a study prepared by Marvin and Associates, a traffic transportation-engineering firm. If the County Commission determines that the independent road impact fee calculation for the Gallatin Peaks Uplands Cluster "A" Major Subdivision meets the requirements of the Gallatin County Road Impact Fee Regulation, a road impact fee of \$566.91 or \$62.99 per lot shall be submitted with the final plat application. He stated that Road and Bridge Superintendent Lee Provance reviewed this request and submitted a memorandum stating that as a comparison he had Robert Peccia and Associates do a re-calculation of the impact fee reduction that was done for a prior subdivision, by Bob Marvin. Mr. Provance stated that Peccia and Associates worked out a better methodology, using exact figures for the distance of Cottonwood Road. There was one error in the study with the gas tax revenue credit, which was corrected. The applicant's representative Terry Threlkeld explained Bob Marvin's initial calculations for the independent traffic impact fee, which was the standard until Peccia's review. Mr. Threlkeld stated that he concurred with Peccia's rationale. The new figure for Cluster "A", is \$363.10 or \$40.35 per lot, according to the subdivision regulations for the independent calculation. Commissioner Vincent moved to grant the request to establish the road impact fee at \$363.10 or \$40.35 per lot. Commissioner Murdock, added that this would be for Gallatin Peaks Upland Cluster "A", Major Subdivision. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the consideration of a request for a reduction in road impact fees by Allied Engineering Services, Inc., on behalf of Gallatin Peaks Land & Development, L.L.C., for the Gallatin Peaks Upland Cluster "B" Major Subdivision. On June 15, 1999, the County Commission granted preliminary plat approval for the Gallatin Peaks Uplands Cluster "B" Major Subdivision. The subdivision includes seventeen single-family lots, with one elimination due to geotechnical concerns. Condition #21, 34, and 45 of the Commission's June 15, 1999, Findings of Fact and Order require the subdivider to make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. If the County Commission determines that the independent road impact fee calculation for the Gallatin Peaks Uplands Cluster "B" Major Subdivision meets the requirements of the Gallatin County Road Impact Fee Regulation, a road impact fee of \$1,952.64 or \$122.04 per lot shall be submitted with the final plat application. Mr. Johnson advised the Commission to disregard the staff report figures if the same methodology used in Cluster "A", applied to Cluster "B". He suggested the staff suggested action to be modified and the new figures for Cluster "B", to read as \$645.60 or \$40.35. There was no public comment. Commissioner Vincent moved to grant the request for a reduction in road impact fees for the Gallatin Peaks Upland Cluster "B" Major Subdivision to \$645.60 or \$40.35 per lot. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the consideration of a request for a time extension of the preliminary plat approval period for Allied Engineering Services, Inc., on behalf of Gallatin Peaks Land & Development, L.L.C., for the Gallatin Peaks Cluster "B" Major Subdivision. This subdivision received preliminary plat approval by the Commission on June 15, 1999. The preliminary plat for the subdivision will expire on June 15, 2002. The proposed subdivision would divide approximately 71 acres into sixteen residential lots. The property is located south of the West Fork Meadows area of Big Sky. Section 3.D.7 of the Gallatin County Subdivision Regulations gives the Commission the authority to grant a one-year extension of preliminary plat approval. If approved by the Commission, the preliminary plat of the Gallatin Peaks Uplands Cluster "B" Major Subdivision would expire of June 15, 2003. Mr. Johnson stated that the Planning Department and the Road Department had no problem with the extension. He noted that this was noticed and no comments were received and it was also in conformance with state law and the Subdivision Regulations. There was no public comment. Commissioner Vincent moved to grant a one-year extension for the preliminary plat approval for the Gallatin Peaks Upland Cluster "B" Major Subdivision. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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The Commission will reconvene at 11:30 A.M., to consider approval of the claims.

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There were no pending resolutions. There being no further business the meeting was adjourned at 10:38 A.M.

*Unavailable For Signature*  
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CHAIRMAN APPROVAL

*Shelley Varnas*  
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CLERK ATTEST