

Road Petition #804

To abandon an unnamed/unimproved road.
Rainbow Sub. of Boz. Hot Springs
Section 14, T2S, R4E

CHECKLIST OF PROCEDURES FOR ROAD PETITIONS

Original signed petition must be submitted to the Clerk and Recorder along with a map showing the area of the road under consideration. Stamp the date received on the petition. Get name and phone number of contact person for questions.

NAME Morrison-Maierte - Jonathan Roew PHONE 587-0721

- 1) Determine if there are sufficient qualified signatures.
- 2) Check list of adjacent landowners for completeness.
- 3) Complete "Report of Qualified Signatures".
- 4) Schedule petition on Commissioner's agenda. DATE: 7-16-02
- 5) Make copies of petition and report. Forward to:
 - County Attorney (attach note of date on Commissioner's agenda)
 - County Road Superintendent (attach note of date on Commissioner's agenda)
 - County Commission (3 copies)

- 6) Commissioners receive petition and assign viewing committee.
- 7) Assign Road Petition Number. 804

- 8) Type regular mail envelopes for:
 - All landowners named on the petition
 - All signers on the petition
 - All individuals named in the petition who could be affected
 - The postmaster of the area
 - The Public Lands Access AssociationType and prepare certified mail envelopes for:
 - All owners of land abutting the road
 - All individuals named in the petition who could be affected
 - The postmaster of the area
 - The Public Lands Access Association

- 9) Viewing committee completes road report.
- 10) Schedule public hearing on Commissioner's agenda and prepare notice. DATE
- 11) Publish public hearing notice one time. DATE

- 12) Send a copy of the viewing committee report and public hearing notice to the following:
 - Persons listed in #7
 - County Road Superintendent
 - County Attorney
 - County Commissioners (3 copies)

- 13) Prepare affidavit of mailing for petition file (regarding the viewers report).
- 14) Commissioners hold public hearing to grant or deny petition.
- 15) County Attorney drafts resolution for Commissioners to consider at next public hearing.
- 16) Commissioners pass resolution
- 17) Within 10 days of passage of resolution send copies of resolution to all persons listed in #7 (BY CERTIFIED MAIL)
- 18) Type affidavit of mailing for petition file (regarding the boards decision).
- 19) If the petition is granted, a certified copy of the resolution must be recorded.

PETITION TO ABANDON COUNTY ROAD
(APPENDIX A)

TO: THE BOARD OF COUNTY COMMISSIONERS, GALLATIN COUNTY, MONTANA

COME NOW the undersigned freeholders of the road district of Gallatin County, Montana, and petition this board pursuant to Section 7-14-2601, MCA, to abandon a county road located in Gallatin County, Montana and represent as follows:

1. The road to be abandoned is particularly described as follows: A 20' road located in the Rainbow Subdivision of Bozeman Hot Springs Tract fronting Lots 218, 219, and 220. The road was created with the Plat of Rainbow Subdivision and adjoins the subdivision's west boundary.

(Attach additional page if required).

2. The road is commonly known as: unnamed/unimproved.

3. The general route of the road is described as follows: The road is approximately 298.4' in a N-S direction commencing at the north-west end of Milwaukee Ave and terminating at a dead end at the northwest corner of the Rainbow Subdivision.

4. The lands and owners immediately adjacent to the road are:

LANDOWNER(S)

MAILING ADDRESS

✓ 1. Randall & Stacy Arndt - 50% 7235 Jo Lin Lane
Sidney L. McDougal - 50% Bozeman, MT 59718-8120

Doc.# 2059589

PROPERTY DESCRIPTION

✓ 2. Randy J. Cain PO Box 150
Ennis, MT 59729-0150

Lot 220 Rainbow Subdivision

PROPERTY DESCRIPTION

✓ 3. Leelynn Inc. an Oregon Corp. 225 E Mendenhall
Bozeman, MT 59715

Lots 218 & 219 Rainbow Subdivision

PROPERTY DESCRIPTION

LANDOWNER(S)

MAILING ADDRESS

4.

PROPERTY DESCRIPTION

5.

PROPERTY DESCRIPTION

6.

PROPERTY DESCRIPTION

7.

PROPERTY DESCRIPTION

8.

PROPERTY DESCRIPTION

9.

PROPERTY DESCRIPTION

10.

PROPERTY DESCRIPTION

LANDOWNER(S)

MAILING ADDRESS

11. _____

PROPERTY DESCRIPTION

12. _____

PROPERTY DESCRIPTION

13. _____

PROPERTY DESCRIPTION

14. _____

PROPERTY DESCRIPTION

15. _____

PROPERTY DESCRIPTION

16. _____

PROPERTY DESCRIPTION

(Use additional pages if required)

5. Except for the following landowners the landowners identified in Section 3 consent to the abandonment: (If any of the adjacent landowners do not consent identify them in this paragraph)

6. If a landowner stated in Paragraph 3 cannot be found to determine the landowner's consent, identify the landowner and state the efforts made to locate the landowner:

7. To the best of our knowledge the following are landowners, who do not own land immediately adjacent to the road, but who could be affected by the abandonment of the road:

LANDOWNER(S)

MAILING ADDRESS

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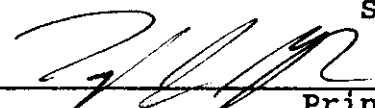
(Use additional pages if required)

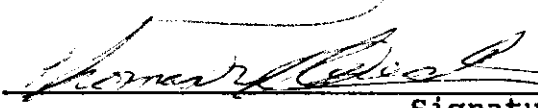
8. The necessity for and advantage of the abandonment of the road are as follows: The Northstar Project at Four Corners has preliminary Plat approval and will make the road obsolete.

The undersigned state that they are owners of real property in the Gallatin County road district which is taxable for the county general road tax. If more than 10 freeholders sign, use additional pages.

not in CST
 deed recorded
 3-29-02
 2061627

✓ 1. Laura A. Lee Signature 71 Potter Ln. Address
Laura A. Lee Printed Name Belgrade, MT 59714 City, State & Zip
May 16, 2002 Date
Lot 12, Block 25 River Rock Sub Phase 10A Description of Property

✓ 2. TYLER GIFFIN Signature 89 PARSONS BROOK LN Address
 Printed Name BELGRADE, MT 59714 City, State & Zip
5/16/02 Date
LOT 6B, BLOCK 17 AMENDED SUB PLAT OF ROYAL VILLAGE 1ST PHASE Description of Property

✓ 3.  Signature 937 MAPPLE PARK Address
Thomas M. Herest Printed Name BELGRADE, MT 59714 City, State & Zip
5-16-02 Date
 Description of Property

✓ 4. Chris Wasia Signature Lot 11, SEC 30 "BEAVER Creek West) Address
CHRIS WASIA Printed Name Big Sky, MT. City, State & Zip
5/16/02 Date

✓ 5. Penny S. Hewest Signature 5530 BURNT ROAD Address
Penny S. Hewest Printed Name Belgrade, MT City, State & Zip
5-16-02 Date

not in CSA
dec'd recorded
10-15-2001
2050482

✓ 6. Phillip J. Forbes Signature 2385 Arnica Dr. Address
Phillip J. Forbes Printed Name Bozeman, MT 59715 City, State & Zip
5.16.02 Date

✓ 7. Jason M. Hicks Signature 158 CHANDLER DR. Address
JASON M. Hicks Printed Name MANHATTAN, MT 59741 City, State & Zip
5/16/02 Date

Description of Property

The undersigned state that they are owners of real property in the Gallatin County road district which is taxable for the county general road tax. If more than 10 freeholders sign, use additional pages.

✓ 1. Martin E. Cayson Signature 3400 Stucky Rd Address
Martin E. Cayson Printed Name Bozeman, MT 59718 City, State & Zip
5/16/02 Date
Acresage (20+) on Stucky Rd. Description of Property

✓ 2. Scott T Bell Signature 15793 Bridger Canyon RD Address
SCOTT T Bell Printed Name Bozeman MT 59718 City, State & Zip
May 21, 2002 Date
Condo C-2 Bridger Pines Description of Property

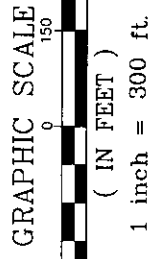
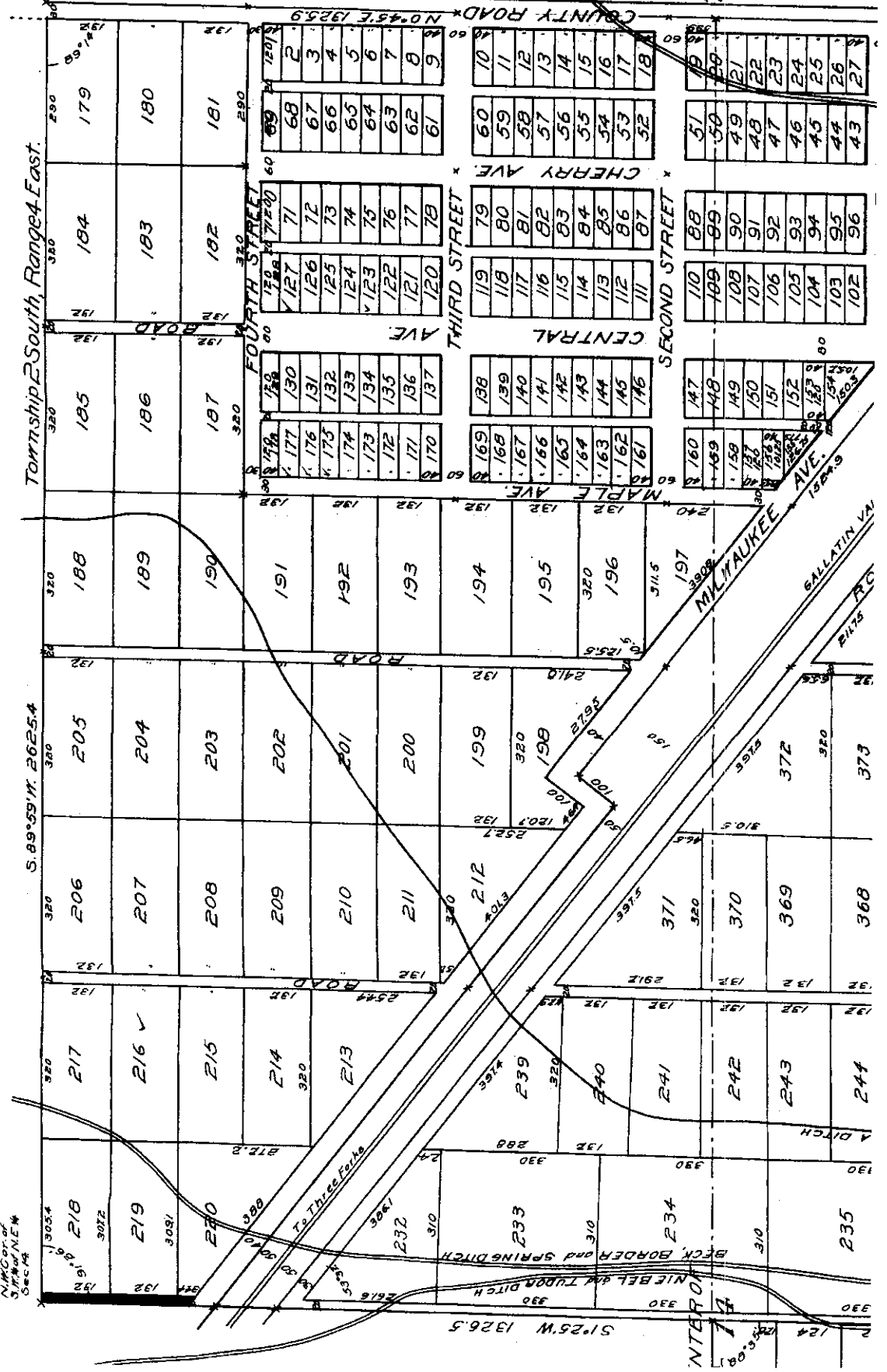
✓ 3. Jack R. Schunke Signature 7650 S. 19th Address
Jack R. Schunke Printed Name Bozeman MT 59715 City, State & Zip
June 4 2002 Date
 Description of Property

Township 2 South, Range 4 East.

S. 89° 59' 11" E. 2625.4

N.W. Cor. of
S. 1/4 of N.E. 1/4
Sec. 14

N.E. Cor. of
S.E. 1/4 of
Sec. 14



Area to be abandoned.

MORRISON MAIERLE, INC.
An Engineer-Owned Company
ENGINEERS
SURVEYORS
PLANNERS
SINCE 1845

CLIENT: _____
FIELD WORK: _____
DRAWN BY: _____
CHECKED BY: _____

DATE: _____
SCALE: 1" = 300'
PROJ. # _____

PLOTTED DATE: May/16/2002 - 09:56:08 am
DRAWING NAME: H:\2335\018\ROAD\Exhibits\abandon.dwg
SHEET _____ OF _____



901 TECHNOLOGY BLVD • P.O. BOX 1113 • BOZEMAN, MT 59771 • 406-587-0721 • FAX: 406-587-1176

ENGINEERS
SCIENTISTS
SURVEYORS
PLANNERS

November 22, 2002

Shelly Vance
Gallatin County Clerk and Recorder/Surveyor
311 West Main
Bozeman, MT 59715

Dear Shelly:

On June 4, 2002, Morrison-Maierle, Inc. submitted a petition to abandon the 20' wide unnamed road located within the Rainbow Subdivision of Bozeman Hot Springs Tract adjacent to Lots 218 and 219. Morrison-Maierle, Inc. has subsequently been informed that the owner of Lot 220, Mr. Cain, has submitted a similar petition (No. 810) to abandon roads fronting Lots 218, 219 and 220. At your request, to reduce what has been determined to be duplicate petitions, Morrison-Maierle, Inc. hereby withdraws the June 4, 2002 petition in favor of Mr. Cain's petition. This is being done with the understanding that the Gallatin County road viewing committee believes that it is feasible and desirable to grant petition No. 810

Please feel free to give me a call with any questions or comments at 587-0721.

Sincerely,
Morrison Maierle, Inc.



Jonathan C. Koen, P.E., P.L.S.

H:\2336\018\DOCS\Abandonwithdraw.doc

"Providing resources in partnership with clients to achieve their goals"

Send view committee report
& notice of hearing on 4
corners abandonments to:

Tony Kolnick
81481 Gallatin Rd
BZN, MT 59718

Mike Kuasnick
720 N. Mentara
BZN, MT 59715



**MORRISON
MAIERLE, INC.**
An Employee-Owned Company

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ENGINEERS
SCIENTISTS
SURVEYORS
PLANNERS

June 4, 2002

Shelly Vance
Clerk of County Commission
311 West Main
Bozeman, MT 59715

Dear Shelly:

Please find enclosed four separate petitions to abandon Magenta Road, Central Street, Azure Road and a 20' unnamed road located within the Rainbow Subdivision of Bozeman Hot Springs Tract. These county roads are currently within the area bounded by the preliminary plat previously submitted to County Planning for the North Star Project at Four Corners.

Please feel free to give me a call with any questions concerning the enclosed applications. Also, please contact me at your earliest convenience with information when the Commissioners will hear the petition.

Sincerely,
Morrison Maierle, Inc.

Jonathan C. Roen, P.E., P.L.S.

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RECEIVED
Date: 6-4-02
Clerk & Recorder
Gallatin County, Mont.

PUBLIC MEETING

TUESDAY THE 3rd DAY OF DECEMBER 2002

The meeting was called to order by Chairman Bill Murdock at 9:05 A.M., at the City Commission Meeting Room. Also present were County Commissioner John Vincent, and Acting Clerk to the Board Mary Miller. Commissioner Mitchell was on vacation.

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

NOVEMBER 25, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, Grants Administrator Larry Watson, Chairman Lonny Walker – Four Corners Advisory Council, Commission Secretary Rose Murrish, and Commission Assistant Glenda Howze. The Commissioners discussed personnel needed for the West Yellowstone Solid Waste Refuse District. Mr. Watson explained that they need individuals for management operations. The Board prefers to use the County payroll system and have benefits provided through the County. Mr. Watson requested utilization of HR Director Randy Kuyath in defining the positions for the basis of the RFP, and the Board will be required to hire their staff through the County processes. The Commission agreed to this plan.

The Commissioners considered approval of a request from the Strategic Planning Recruit and Retain Team for health club membership fee supplementation. The funding of this would come from the health insurance pool, not taxpayer monies. Commissioner Vincent made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a request for asset disposal from the County Attorney's Office. Commissioner Vincent made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered a request from ITS to raise the pay of Anita Malmquist, as she has exceeded that of her initial job posting and is deserving of additional compensation. Commissioner Vincent made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered amending the Maxim Web contract. The amendment is for an additional \$5,000 into the FY 03 budget for web-based surveys. Commissioner Vincent made a motion to approve the amendment to the Maxim Web contract. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

NOVEMBER 26, 2002

- The Commissioners conducted regular County business.

NOVEMBER 27, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, Commission Secretary Rose Murrish and Commission Assistant Glenda Howze. The Commissioners considered approval of a request for a transfer of fund balance for the Health Department. Commissioner Vincent made a motion to approve said request, per the recommendation of Finance Officer Ed Blackman. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a credit card application for the Planning Office. Commissioner Vincent made a motion to approve said request, per the recommendation of Mr. Blackman and Auditor Joyce Schmidt. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a Logan Landfill Intercap Loan Agreement for FY 03. Commissioner Vincent made a motion to approve said agreement, finding that Mr. Blackman and Chief 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.

The Commissioners continued consideration of a request for funding from Sheriff Cashell regarding the jail-overcrowding situation. The discussion surrounded the memo sent to the Commission by the Sheriff, dated November 20, 2002. Commissioner Vincent made a motion to approve/sanction requests two, three, and four as noted in the memo (see minutes of November 21 for details).

Commissioner Murdock seconded the motion. In discussion it was noted that the first request be discussed at an appropriate time at a public meeting. All voted aye. Motion carried with a vote two to zero.

NOVEMBER 28-29, 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 November 27, 2002, in the amount of \$635,841.77.
2. Approval of Contract(s): Modification to Impound Agreement, Contract #2002-095; and Architectural Services-Taylor, Hanson, Kane Architects – Martel Bldg. Renov.
3. Request for a "Mortgage Survey" Exemption for JKC Land Partnership, located in the SW ¼ of Section 21, T2N, R4E. (7447 Round Mountain Road, Belgrade, MT). Gallatin County Planner Christopher Scott 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 adoption of the consent agenda. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Commissioner Murdock announced that a request was made to move regular agenda Item #10, the public hearing to consider abandonment of a portion of a 60' Frontage Road in the Peakview Subdivision, closer to the beginning of the agenda because of a scheduling conflict. The Commission was in agreement to the change, making it Item #4.

The Commission agreed to continue presentation of the proclamation declaring December 2002 as Drunk and Drugged Driving (#D) Prevention Month in Gallatin County, until later on in the agenda when a member of the DUI Task Force was in attendance. **No action taken.**

Commissioner Vincent on behalf of Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and a resolution amending the Sheriff-Detention Center Activity FY 2003 operating budget to include unanticipated expenses associated with increase in per meal costs by the County Rest Home in the amount of \$14,800.00. There was no public comment. **Commissioner Vincent moved to approve Resolution #2002-124. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Commissioner Vincent on behalf of Gallatin County Fiscal Officer Ed Blackman reported on the consideration of a resolution of intent to amend the Search and Rescue Fund FY 2003 operating budget to include utilization of operating reserves and correction of cash from FY ending 06/30/01 in the amount of \$31,600.00 for the operations of Search and Rescue including capital expenses. There was no public comment. **Commissioner Vincent moved to approve Resolution of Intention #2002-125. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider abandonment of approximately 200' of a 60' Frontage Road adjacent to Lot 8, Block 1 in Peakview Subdivision #2. (Road Petition #809) Notice of this public hearing was published in the High Country Independent Press on November 27, 2002, and in addition notice of this public hearing and a copy of the viewing committee report was mailed to all those listed in the petition on November 21, 2002. Ms. Vance and Commissioner Vincent viewed the described road in petition #809 on November 15, 2002, with Gallatin County Road and Bridge Superintendent Lee Provance as a consultant. Ms. Vance outlined the viewing committee report as follows: The road has been constructed. There is limited access onto Gallatin Road and the frontage road is used as an internal loop system for access to lots within this subdivision. The frontage road has been

blocked off with large posts lying on the ground on the north end of the lot, with no trespassing signs. The intersection of the frontage road and Wheeler Mountain Way has been removed. A large sign (Antique Barn), paved parking lot, and approximately five feet of the west side of a commercial building have been constructed on the portion of frontage road to be abandoned. Although no one would be land-locked if the abandonment were granted citizens would be denied access to public lands. Therefore, in the best interest of the public's access and safety, the viewing committee believes that it is not desirable to grant the petition. Petitioner Ken Shepard submitted Exhibit "A", a copy of the plat in the area of the proposed abandonment, showing additional accesses onto Gallatin Road. Mr. Shepard explained the processes he followed in order to submit the petition and pointed out that there were additional accesses. Mr. Provance confirmed that the encroachments drawn in on Exhibit "A" were in place. He noted that the road was created to service the subdivision from Garnet Mountain Way to Wheeler Mountain Way so traffic would not have to go onto the highway in order to access the other portion of the subdivision. Because there were already obstructions in the roadway, Commissioner Vincent questioned whether the public safety and well being was unduly compromised or whether the other accesses to the road were adequate to protect the public safety and convenience. Mr. Provance suggested the Commission obtain comment from EMS services such as Gallatin Fire and the Sheriff with regard to health and safety issues. Before making a final decision, Commissioner Vincent preferred a continuance in order to consult with the Gallatin Gateway Volunteer Fire Department with regard to any concerns relative to fire services. Public comment was closed. In response to questions concerning the plat, Ms. Vance noted when the plat was recorded a certificate of dedication from the landowners was included, stating that the tract of land should be known and dedicated as Peakview Subdivision #2 and all land included in the streets of the subdivision are hereby granted and donated to the use of the public forever. Commissioner Murdock explained in some of the older subdivisions it was common practice to have that dedication on the plat however the county did not require the roads to be built and improved. Mr. Shepard was in agreement to a continuance until December 17, 2002. **No action taken.**

X Gallatin County Clerk and Recorder Shelley Vance reported on withdrawal of a petition to abandon a 20' unnamed road fronting Lots 218, 219, and 220, approximately 298.4' in length, running in a N-S direction commencing at the northwest end of Milwaukee Avenue and terminating at a dead end at the northwest corner of the Rainbow Subdivision of Bozeman Hot Springs in the N ½ and SE ¼ of Section 14, T2S, R4E. (Road Petition #~~804~~) Ms. Vance explained that this road petition, filed by Morrison-Maierle Inc., was a duplicate, to Road Petition #810 filed by Randy Cain. She read into the record a letter received from Morrison-Maierle dated November 22, 2002, withdrawing their petition in favor of Mr. Cain's petition, with the understanding that the Gallatin County road-viewing committee believes that it is feasible and desirable to grant Road Petition #810, filed by Mr. Cain. Deputy County Attorney Kate Dinwiddie confirmed that the petitioners could withdraw their petition from consideration. Following further discussion, the Commission agreed to continue their decision until after consideration of Road Petition #810. There was no public comment. **No action taken.**

Commissioner Murdock announced that he received notification to continue regular agenda Item #12, public hearing to consider abandonment of Newman Lane within Minor Subdivision #176. (Road Petition #812) Gallatin County Clerk and Recorder Shelley Vance explained that it was not to be continued however there was a request submitted for withdrawal. It was determined by the Commission to consider regular agenda Item #12 at this time. Notice of this public hearing was published in the High Country Independent Press on November 27, 2002, and in addition notice of this public hearing and a copy of the viewing committee report was mailed to all those listed in the petition on November 21, 2002. Ms. Vance read into the record a letter received from Ray and Shirly White dated December 2, 2002, requesting that their request be withdrawn from consideration. The viewing committee report was not entered into the record. Deputy County Attorney Kate Dinwiddie confirmed that the petitioners could withdraw their petition from consideration however the Commission had the discretion to consider the request since she did not believe there was enough information to decide if all those signing the petition concurred with the withdrawal. Ray White stated that their intent was to convert it from a public right-of-way to private, and after receiving the viewing committee report they made the decision to withdraw their request. He noted that the law did not address changing a public right-of-way to private. They had no intention of abandoning the road and land locking the 5 lot minor subdivision. He explained that he and his wife were 100 percent of the properties affected and 8 of the petition signers were his immediate family. **The Commission agreed to grant the applicant's request to withdraw their petition.**

Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider abandonment of a portion of Milwaukee Avenue and Indigo Road located south and west of Lot 220 and west of Lots 218 and 219 in Rainbow Subdivision of Bozeman Hot Springs. (Road Petition #810). Notice of this public hearing was published in the High Country Independent Press on November 27, 2002, and in addition notice of this public hearing and a copy of the viewing committee report was mailed to all those listed in the petition on November 21, 2002. Randy Cain submitted the petition. Ms. Vance and Commissioner Vincent viewed the described road in petition #810 on November 15, 2002, with Gallatin County Road and Bridge Superintendent Lee Provance as a consultant. Ms. Vance outlined the viewing committee report as follows: Milwaukee Avenue has been constructed and ends approximately at the southeast corner of Lot 213. The portions of roads to be abandoned have not been constructed. There are several mature trees located on the portion of road adjacent to Lots 218 and 219. Leelynn Corp. currently owns lots 218 and 219. According to the petition submitted these lots would have access from the North Star Subdivision, which received preliminary plat approval from the Gallatin County Commission on January 22, 2002. No one would be land locked provided the final plat is approved for North Star Subdivision. No one would be denied access to public lands if the abandonment were granted. The viewing committee believes that it is feasible and desirable to grant the petition provided final plat approval is granted for North Star Subdivision. Public comment: Michael Kvasnick was concerned he would not have access from his property if the North Star Subdivision was not granted final plat. He was not against the closure as long as everyone's needs in the area were met for the future. Tony Kolnik was concerned that traffic from the North Star Subdivision, a light industrial commercial development, would be allowed access through all the small ten-acre lots in the area. As a member of the Advisory Council, Mr. Kolnik requested a continuance so they could review this and gather input from the neighborhood. Clinton Cain stated that he constructed Milwaukee Road and spoke in support of the abandonment. Public comment was closed. Mr. Provance expressed the importance of considering public safety when abandoning a road that is serving property before having a replacement road approved first. He suggested that the Commission continue their decision on these road abandonment's until after final plat was granted to the North Star Subdivision. The Commission agreed to continue action on the abandonment until December 17, 2002, giving them time to review the North Star Subdivision preliminary plat and the conditions of approval to make sure they were addressing all the concerns. **No action taken.**

Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider abandonment of a portion of Azure Street located between Lots 188-194 and Lots 199-205 in the Rainbow Subdivision of Bozeman Hot Springs. (Road Petition #805) Notice of this public hearing was published in the High Country Independent Press on November 27, 2002, and in addition notice of this public hearing and a copy of the viewing committee report was mailed to all those listed in the petition on November 21, 2002. Ms. Vance and Commissioner Vincent viewed the described road in petition #805 on November 15, 2002, with Gallatin County Road and Bridge Superintendent Lee Provance as a consultant. Ms. Vance outlined the viewing committee report as follows: The portion of road to be abandoned has not been constructed. There are two old buildings, brush, and some trees located near the platted road. Lot 198 has access from Milwaukee Avenue. Leelynn Corp. owns Lots 188-194 and 199-205. According to the petition submitted these lots would have access from the North Star Subdivision, which received preliminary plat approval from the Gallatin County Commission on January 22, 2002. No one would be land locked provided the final plat is approved for North Star Subdivision. No one would be denied access to public lands if the abandonment were granted. The viewing committee believes that it is feasible and desirable to grant the petition provided final plat is granted for North Star Subdivision. Deputy County Attorney Kate Dinwiddie noted that there was no statutory timeframe for the Commission to make a decision therefore they could continued action based on whether or not North Star is granted final approval. Public comment: Clinton Cain pointed out a natural gas pipeline and a power line that runs along Azure Road and questioned how the Northwestern Energy right-of-way might conflict in order for them to legally service the line. Marty Gagnon, with Morrison-Maierle on behalf of PC Development stated that they were working with Northwestern Energy on providing easements for the gas line and the power line on the final plat. Mr. Gagnon also stated that PC Development had no problem with the Commission continuing their decision on the road abandonments until final plat approval is granted for North Star. He added that an easement document has been prepared for the Milwaukee Railroad right-of-way, which has not been signed by the owner Dennis Simpson. Public comment: Sam Harvey, on behalf of the Gallatin Valley Snowmobile Association stated that they had no concern with the road abandonments however their concern was an appropriate access for their large equipment. Mike Kvasnick commented regarding his concern with access and the Milwaukee Railroad easement. Lonny Walker quoted from State Statute regarding public utilities, noting that abandonment would not affect the utilities right to maintain their structures. Tony Kolnik stated that he had contacted Northwestern Energy and requested that they attend a meeting with the Advisory

Council. The Commission agreed to continue action on the abandonment until December 17, 2002, giving them time to review the North Star Subdivision preliminary plat and the conditions of approval to make sure they were addressing all the concerns. **No action taken.**

Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider abandonment of a portion of Central Street located between Lots 183, 184, 185, and 186 in the Rainbow Subdivision of Bozeman Hot Springs. (Road Petition #806) Notice of this public hearing was published in the High Country Independent Press on November 27, 2002, and in addition notice of this public hearing and a copy of the viewing committee report was mailed to all those listed in the petition on November 21, 2002. Ms. Vance and Commissioner Vincent viewed the described road in petition #806 on November 15, 2002, with Gallatin County Road and Bridge Superintendent Lee Provance as a consultant. Ms. Vance outlined the viewing committee report as follows: The portion of road to be abandoned has not been constructed. There are large cottonwood and aspen trees and a small stream located on or near the platted road. Lots 183 and 187 have access from Milwaukee Avenue. (Ms. Vance noted an error on the viewing committee report stating Lots 182 and 187). Leelynn Corp. currently owns lots 183-186. According to the petition submitted these lots would have access from the North Star Subdivision, which received preliminary plat approval from the Gallatin County Commission on January 22, 2002. No one would be land locked provided the final plat is approved for North Star Subdivision. No one would be denied access to public lands if the abandonment were granted. The viewing committee believes that it is feasible and desirable to grant the petition provided final plat approval is granted for North Star Subdivision. Public comment: Tony Kolnik was concerned with the public safety factor of getting out on Norris Road to the highway. He also noted concerns of some neighbors with filed water rights issues who have used the Barker Ditch near Central Street to convey West Gallatin water. Teri Kolnik stated that she would like to see Central Avenue built and used as a major access to the Rainbow Subdivision. Sam Harvey, on behalf of the Gallatin Valley Snowmobile Association had no objection to the abandonment however they requested more information on future access through the North Star Subdivision. Stuart Aasgaard had no objection to the abandonment however future planning was relevant. He did not support extension of the road because he did not want the traffic near his property. Marty Gagnon with Morrison-Maierle on behalf of PC Development commented that a buffer zone is shown on the plat around Mr. Aasgaard's lot. He also noted that the Barker Ditch does not run down the right-of-way that is proposed to be abandoned. Mr. Gagnon agreed to provide a copy of the plat for the Commission as requested. Mike Kvasnick commented on the North Star plat. Public comment was closed. The Commission agreed to continue action on the abandonment until December 17, 2002, giving them time to review the North Star Subdivision preliminary plat and the conditions of approval to make sure they were addressing all the concerns. **No action taken.**

Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider abandonment of a portion of Magenta Road located between Lots 206-209 and Lots 214-217 in the Rainbow Subdivision of Bozeman Hot Springs. (Road Petition #807) Notice of this public hearing was published in the High Country Independent Press on November 27, 2002, and in addition notice of this public hearing and a copy of the viewing committee report was mailed to all those listed in the petition on November 21, 2002. Ms. Vance and Commissioner Vincent viewed the described road in petition #807 on November 15, 2002, with Gallatin County Road and Bridge Superintendent Lee Provance as a consultant. Ms. Vance outlined the viewing committee report as follows: The portion of road to be abandoned has not been constructed. Power polls are located on or near the platted road. Lot 213 has access from Milwaukee Avenue. Leelynn Corp. currently owns lots 206-212 and 214-217. According to the petition submitted these lots would have access from the North Star Subdivision, which received preliminary plat approval from the Gallatin County Commission on January 22, 2002. No one would be land locked provided the final plat is approved for North Star Subdivision. No one would be denied access to public lands if the abandonment were granted. The viewing committee believes that it is feasible and desirable to grant the petition provided final plat approval is granted for North Star Subdivision. Public comment: Tony Kolnik submitted Exhibit "A", a letter from himself and his wife to the Commission, attached to a copy of the North Star Project preliminary plat application. He pointed out what he believed were inaccuracies on the application with regard to who owns the property in question. He spoke regarding concerns with the utilities and public safety. Clinton Cain spoke in support of the road abandonment. He also would like to see access from Rainbow Subdivision to Norris Road. Public comment was closed. The Commission agreed to continue action on the abandonment until December 17, 2002, giving them time to review the North Star Subdivision preliminary plat and the conditions of approval to make sure they were addressing all the concerns. **No action taken.**

Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider abandonment of a portion of an alley located between Lots 1-3 and 67-69 in Rainbow Subdivision of Bozeman Hot Springs. (Road Petition #808) Lonny Walker submitted the petition. Notice of this public hearing was published in the High Country Independent Press on November 27, 2002, and in addition notice of this public hearing and a copy of the viewing committee report was mailed to all those listed in the petition on November 21, 2002. Ms. Vance and Commissioner Vincent viewed the described road in petition #808 on November 15, 2002, with Gallatin County Road and Bridge Superintendent Lee Provance as a consultant. Ms. Vance outlined the viewing committee report as follows: The petition submitted did not list all lands and owners immediately adjacent to the road, nor did the petition identify any adjacent landowners who do not consent to the proposed abandonment. Lonny Walker currently owns Lots 1-3 and 67-69. Eric and Christine Berger currently own Lots 4-6. Mary Askvig and West Roberts currently own Lots 65 and 66. The Commission received two letters stating opposition to the abandonment of this alley. (Letter dated July 31, 2002 from Mary L. Askvig and letter dated July 29, 2002 from West Roberts). Montana Code Annotated 7-14-2615 (4) states: "The board may not abandon a county road or right-of-way used to access private land if the access benefits two or more landowners unless all of the landowners agree to the abandonment." The portion of alley to be abandoned has been constructed. Two 6-inch posts have been placed in the alley between the property lines of Lots 3/67 and Lots 4/66. Another roadway is constructed from the alley onto Highway 191 on land between the Walker property and Berger property that is approximately 10 feet in width. It is unknown whether or not this access has been permitted by the State Department of Transportation, and there is no guarantee that this access will remain in the future. According to County Road Superintendent Lee Provance, access from the State Department of Transportation could be limited onto Highway 191 due to safety issues. No one would be denied access to public lands if the abandonment were granted. The viewing committee does not believe it is feasible, desirable, or lawful to grant the petition. Lonny Walker briefly summarized the history of the alley, noting portions of the alley that have already been abandoned. Mr. Walker provided the Commission with several documents, exhibits from the previous alley abandonments, and copies of the law, which were not submitted as exhibits. He did not realize that he had to notify those whose property did not abut the portion of alley to be abandoned. In response to 7-14-2615(4) MCA, he contends the other landowners agreed to the abandonment because they had abandoned the alley adjacent to their property. He stated that Mr. Roberts put in the fence posts to construct his fence. Mr. Walker provided documentation (Bargain and Sale Deed - 77fm2147) where the Department of Highways in 1983 purchased future rights-of-way along Highway 191, reserving ingress and egress to the access he shares with Mr. Berger. Public comment: Tony Kolnik commented with regard to public safety noting that they will need access for the Berger's to bring in water and sewer. Eric Berger stated if the access onto Highway 191 and this alley were to cease, he would be land locked. Mike Kvasnick commented to the previous alley abandonments. Public comment was closed. Commissioner Murdock did not view this request in the same context as the rest of the abandonments. He did not believe this alley was part of a larger transportation network in the area. He stated that it was a fair request and he could not see where it would not be in the public's interest to abandon it. Mr. Provance commented on the potential of the access being cut off onto Highway 191, noting that the easement is not perpetual. He believed the prior abandonment's should not set precedence. Deputy County Attorney Kate Dinwiddie noted provision (7-14-2615(4)) of the law that Mr. Walker quoted was amended in 1999, and the previous abandonment's occurred in 1991. She added that the issue of notification of property owners and what is an access are under advisement in the Cimmaron Road abandonment case with Judge Guenther. Based on the law, Ms. Dinwiddie stated that the statute requires the Commission not grant this petition because of the two or more private landowners that have objected. She believed the decision by Judge Guenther would provide more of a guideline to evaluate these road abandonments. Given Ms. Dinwiddie's legal input, Commissioner Vincent believed it would be wise to wait until they got the summary judgment from Judge Guenther. He had concerns with what the state will do with Highway 191, because of the growth in this area. The Commission agreed to continue action until December 17, 2002. Ms. Dinwiddie stated that she would not be available however she would provide a written report. **No action taken.**

Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider abandonment of a 60' road south of Lot 13 in the Sourdough Hills Subdivision. (Road Petition #811) Dave Garber submitted the petition. Notice of this public hearing was published in the High Country Independent Press on November 27, 2002, and in addition notice of this public hearing and a copy of the viewing committee report was mailed to all those listed in the petition on November 21, 2002. Ms. Vance and Commissioner Vincent viewed the described road in petition #811 on November 15, 2002, with Gallatin County Road and Bridge Superintendent Lee Provance as a consultant. Ms. Vance outlined the viewing committee report as

follows: Sourdough Hills' subdivision plat indicates that lots are accessible by the road right-of-ways surrounding the tracts. The right-of-ways shown on the plat to the north, east, and south have not been constructed. The tracts are located on a hillside and a steep gully runs on the east side of Tracts 8 through 10. The contour of the land makes it impractical and cost prohibitive to construct roads that meet county standards within the existing right-of-ways shown on the plat. No one would be land locked nor denied access to public lands if the abandonment were granted. The viewing committee believes that it is feasible and desirable to grant the petition. Dave Garber stated that he had to put a deed restriction on his property to get a land use permit because of the position of the right-of-way. His main reason for petitioning for the abandonment was to get the deed restriction off the property as well as allow more room through the hilly area. He stated that the neighbors were in favor of the request. There was no public comment. Commissioner Vincent stated that he would vote to approve this request, noting the primary reason was the impracticality of constructing the road from Sourdough to the east, and the improbability of building a road from north to south on the backside. **Given the topographical considerations in this application, Commissioner Vincent moved to approve the road abandonment of 60' of road south of Lot 13 in Sourdough Hills Subdivision. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

The Commission agreed to consider regular agenda Item #16 next.

Gallatin County GIS Coordinator Allan Armstrong reported on the public hearing and consideration of a resolution of a road name change in Gallatin County. (Non-existing name to Claim Creek Road). This was a resident initiated petition. There was no public comment. **Commissioner Vincent moved to approve Resolution #2002-126. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Planner Sean O'Callaghan reported on the public hearing and consideration of approval for C & H Engineering and Surveying, Inc., on behalf of Homelands Development Co. LLC on an extension of preliminary plat approval of the Ramshorn View Estates Major Subdivision, Phases 3 & 4, located in Section 8, T7S, R4E, P.M.M., Gallatin County, Montana. Preliminary plat was granted on May 5, 1998, with an expiration date of May 5, 2001. The preliminary plat of Phases 3 & 4 of the Ramshorn View Estates Subdivision was granted a one-year extension on April 10, 2001, extending the plat's expiration date to May 2, 2002. If approved by the Commission, the preliminary plat of Phase 3 & 4 would expire May 5, 2003. Attorney Susan Swimley, representing Homelands Development Co. LLC stated the reason for the extension was to complete the sewer system. Mark Chandler, on behalf of C & H Engineering was available to answer questions. There was no public comment. **Commissioner Vincent moved to approve the request for a one-year extension for preliminary plat for the Ramshorn View Estates Major Subdivision Phases 3 and 4. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Planner Christopher Scott reported on the continuation of a request for a common boundary relocation exemption for Kenneth Vidar and Thomas Langel, located in the NW ¼ NE ¼ of Section 22, T2N, R3E. (Deerhaven Road, Gallatin River Ranch). Mr. Scott briefly stated the claimant's justification for the boundary relocation was to better utilize existing roads and to enhance the property. Although this claim appeared to meet the criteria for the exemption to subdivision regulations allowed under the Montana Subdivision and Platting Act (76-3-201 through 76-3-210 MCA), the Planning Department noted some history, which made it unclear that it meets the criteria for the exemption. Mr. Scott summarized a timeline of events where the claimants were involved in other boundary relocations in this area, some of which were denied. The hearing on October 29, 2002, was continued and the Commission requested that the applicant better state their justification for the boundary relocation, as the applicant's representative could not answer some of their questions. The applicant Kenneth Vidar was sworn in and testified under oath, answering questions by the Commission to assist with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. He explained that they were not creating any additional parcels or gaining an additional building site. Because of the topography in the area, he stated the only thing they would be gaining would be aesthetics by not having to bring a road up to the ridgeline. There was no public comment. Commissioner Murdock reiterated that Gallatin River Ranch should have gone under subdivision review and gotten some of the public health, safety and welfare concerns met, and in this case a much better configuration for lots and roads. Mr. Vidar commented that this was submitted for subdivision

Provance as the evaluation and selection committee for the RID Engineer proposals. Commissioner Mitchell seconded the motion. In discussion it was noted that Mr. Gray would advise the committee. All voted aye. Motion carried with a vote of two to zero.

DECEMBER 12-13, 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 December 12, 2002, in the amount of \$229,788.10.
2. Approval of Contract(s): Agreement for Lobbying Services w/Jamison Law Firm, 58th MT Legislature; Detention Services Agreement Between Community, Counseling, and Correctional Services, Inc. and Gallatin County; and Maintenance Pro-Snow removal for Rest Home, L&J, HHS, and Courthouse.
3. Consideration of Request for a Mortgage Survey Exemption for Darwin Schmidt, located in the S ½ SW ¼ NW ¼ of Section 2, T3S, R5E. (8180 Fowler Lane, Bozeman, MT). Gallatin County Planner Christopher Scott reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Consideration of Request for Mortgage Survey Exemption for Bar Land L.L.C. (Richard Ogle, member), located in the NE ¼ of Section 23, T1S, R4E. (Kenyon Noble Hardware, off Jackrabbit Lane, south of Belgrade). Belgrade City-County Planner Jason Karp 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 adoption of the consent agenda. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Auditor Joyce Schmidt requested that receipt of the County Auditor quarterly report ending September 30, 2002, be continued until December 18, 2002, at the Commission office meeting. **No action taken.**

Consideration of approval of a grant application to the Montana Board of Crime Control for continuation of the Community Corrections Program was continued indefinitely. **No action taken.**

Commissioner Murdock noted that regular agenda items #7, 8, 9, 10, 11, 12, and 13, concerning road abandonment's would be continued until January 7, 2003, pending additional information requested by the Commission. **No action taken.**



Gallatin County Finance Officer Ed Blackman reported on the consideration of a resolution of intent authorizing the Clarkston Fire Service Area Board of Trustees to decrease the FY 2003 operating budget to reflect actual revenues. The public hearing is scheduled for January 7, 2003. There was no public comment. **Commissioner Mitchell moved approval of Resolution of Intention #2002-131. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Planner Sean O'Callaghan reported on the public hearing and consideration of a request for final plat approval for Lewis Burton and Associates, on behalf of Robert and Janice Remer for the Remer Minor Subdivision. The subdivision includes creation of one additional residential lot located in the Bozeman area. Preliminary plat approval was granted March 26, 2002. The staff report noted that it appeared the conditions for final plat approval were met. The applicant Robert Remer requested the Commission grant approval. **Finding that the Planning Department justified all the conditions for final plat have been met as required by State Statute, the Master Plan, the Gallatin County**

PUBLIC MEETING

TUESDAY THE 17TH DAY OF DECEMBER 2002

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

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

DECEMBER 9, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell and Vincent, Treasurer Anna Rosenberry, Clerk and Recorder Shelley Vance, Auditor-elect Jennifer Blossom, Finance Officer Ed Blackman, and Commission Assistant Glenda Howze. The Commissioners considered approval of a request for signature on periodic cost estimate #3, Gallatin County RID paving and road maintenance program, 2002. Commissioner Vincent made a motion to approve said request. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a request for an external audit of the Auditor's Office. This is a time sensitive matter, and needs to be followed as a matter of standard operating procedure. Commissioner Mitchell made a motion to follow standard operating procedure and proceed with an external audit of the Auditor's Office. The firm chosen will be asked to work with Auditor Schmidt on timing for the audit, but it must be completed by December 31. Commissioner Vincent seconded the motion. In discussion it was noted that the audit will be no more and no less than was previously conducted on the offices of the Treasurer, Open Lands Board Executive Director, and the Sheriff. It was also noted that none of these individuals were in attendance at the time the decision was made to conduct an audit of their offices. All voted aye. Motion carried unanimously. Commissioner Mitchell made a motion to contract with A Z & Co. for the purposes of said audit, and it will be paid for from PILT. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of budget transfer requests from the Finance Office for the following: County Attorney, General Fund Misc., General Fund Capital Reserves, Poor Fund, District Court, County wide planning, Open Space Fund, public safety, drug forfeiture and PILT. Commissioner Vincent made a motion to approve all requests with the exception of that of the Open Space Fund and PILT. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a change order for Phase III, IV in the amount of \$10,351.00. Commissioner Mitchell made a motion to approve said change order. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

DECEMBER 10, 2002

- The Commissioners conducted regular County business.

DECEMBER 11, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, Accounting Clerks Liane Bennett and Jeannie Brown, and Commission Assistant Glenda Howze. The Commissioners considered approval of claim listed on voucher list dated December 5, 2002 including check number 8016268; totaling \$149,997.25. Commissioner Vincent made a motion to approve said claim. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered an extension of contingencies on the Martel Building. The sellers have agreed to extend the contingencies until December 20. Commissioner Mitchell made a motion to authorize the chairman to sign the addendum to the buy-sell agreement contingencies until December 20, 2002. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered formation of a committee to evaluate the RID Engineer proposals. The goal is to have one engineer for all RIDs. Chief Deputy County Attorney Chris Gray has determined that a new RFP needs to be done, fixing the committee appointment to evaluate the proposals. Commissioner Vincent made a motion to appoint Ed Blackman, Larry Watson, and Lee

formation of county water and sewer districts. He was provided with another list of questions submitted by the Advisory Committee members, noting many were depictive of questions already answered. Mr. Lambert stated that he would review them and comment later. Bruce Nelson, as construction project manager for Zoot Construction Company representing petitioner Chris Nelson outlined the history of how they got to this point, noting that the Commission suggested the landowners in the area come together and cooperate on a centralized system in the creation of a water and sewer district. They wanted the engineering of the proposed treatment plant, disposal plant, and collection system to not only serve the Zoot and North Star developments but also to be expandable and serve the rest of the Four Corners area in the future. Mr. Nelson pointed out that nobody is in the proposed boundary that does not want to be in the district; nobody was in the proposed boundary that can't afford to be in the district; nobody outside the proposed boundary would pay anything for services of the district until and unless they obtain those services; and it is designed to serve as a core that can be expanded to serve the rest of the Four Corners area in the future. In explaining the funding process required for paying back the bonds, Mr. Nelson stated that Zoot would incur \$2.3 million dollars of indebtedness on their property, and in addition they would have to provide \$525,000 dollars of credit enhancements in the form of those funds in escrow or a letter of credit to guarantee to the bond holders that the initial payments will be paid on the project for the first three years as well as have liens placed against their property. Mr. Nelson went on to explain that after they submitted the petition the Commission appointed the Four Corners Advisory Council of which at that point they thought was a little late because they would have liked to work with them during the process. Although he believed the Commission did a great job of appointing a council that represented diversity and continuity, he added that they were all put in a difficult position, noting it was not always an easy process. However after many meetings, they came up with a Memorandum of Understanding between the petitioners and the Advisory Council that embodies an agreement that accomplishes and reconciled both the needs of the petitioners and the needs of the community. Although he acknowledged there was a question about the status of the MOU and that the County Attorney was going to caution the Commission to make sure they did not get entangled by trying to enforce it, he added both Chris Nelson and himself were Montanan's and one of the great traditions about Montana is our word is our bond, and they intended to keep their commitments. He was very much aware that there was a lot of work to be done still, adding that this was just the start of a long-term solution to the wastewater treatment and disposal needs of the Four Corners area. He stated they would have to look a taking lines east across Jackrabbit Lane; plant expansion; additional disposal space; and explore the possibility of integrating this core system into a larger system in the future. In conclusion, Mr. Nelson stated that this was good for everyone, giving the petitioners the assurance they need that the district will be formed, the financing can and will be obtained and that construction will be under way in the spring and they have met their final plat conditions. Petitioner Mike Potter spoke regarding the technicalities and legalities of the Memorandum of Understanding, the boundary, and future annexation. He started out by stating the Memorandum of Understanding was from the heart, and reinforced as the designated representative of the petitioners that they were committed, and that they had a moral and ethical responsibility to it. In reference to the boundary he noted three critical things so the district could move forward and those were: that they needed a positive vote; they needed assurances and predictability regarding the financing; and they needed some sort of a schedule that will work as it is being proposed. He stated if they could get this launched, they would then have an open door for annexations. He further expanded on why predictability was so important; noting that this \$9.5 million was loan money and it has to be guaranteed. In conclusion, they had to look at a larger financial perspective and be responsible to their business interest and the interest of their financial institutions. He stated that there were provisions for the annexation process as illustrated and the petitioners group has agreed to allow annexation by ordinance, which does not necessarily require an election. He stated that they had a financial incentive as well because the more people hooking up to this system, the more cost effective it becomes. On behalf of the petitioners, Mr. Potter respectively requested that the Board move forward with this proposal. Lonny Walker, Chairman of the Four Corners Advisory Council reported how this water and sewer district would impact the Four Corners area. The Council concluded: A public water and sewer district would most benefit the Four Corners area, and in that Four Corners would gain some representation in the district. Mr. Walker went on to explain that the council made two proposals to the Commission. The initial proposal was to include some property the petitioners felt their existing facility had the capacity to handle. Since then based on concerns of the petitioners, the Council came up with the Memorandum of Understanding, that was voted on unanimously, with the exception of one council member abstaining. Part of reason they entertained this was that the underlying theme was, they needed to have a district, and they believed this was an opportunity to get something started. The members who voted for the MOU believe the intentions of the petitioners are sincere and genuine. Mr. Walker submitted Exhibit "C", the original MOU regarding the Four Corners County Water and Sewer District, between the Four Corners Advisory Council and the Four Corners Water and Sewer District Petitioners Group. Public comment in support of accepting the petition as presented: Don Regli(Advisory Council member); Judy Cain(Advisory Council member); Dave Pruitt; Kirt Harding; Mike Kvasnick; Helen Daffry(passed); Joann Wattier; and Penni Terry. George Metcalfe encouraged the Commission to continue the hearing in order to accomplish the following: allow

Subdivision Regulations, and all other requirements, Commissioner Mitchell moved approval of the Remer Minor Subdivision. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the public hearing and consideration of final plat approval for Allied Engineering Services, Inc., on behalf of Gallatin Peaks Land & Development, L.L.C., for the Uplands Residential Cluster "B" Major Subdivision. The subdivision includes 16 residential lots and 20 acres of common open space. The subdivision is located south of the West Fork Meadows area of Big Sky. Preliminary plat approval was granted June 15, 1999. Mr. Johnson reviewed all the required conditions for final plat approval and based on his review the applicant met all the required conditions. There was no public comment. **Finding that according to staff all the conditions needed for final plat approval have been met and all applicable requirements have been met or exceeded, Commissioner Vincent moved to approve the request for final plat approval for the Uplands Residential Cluster "B" Major Subdivision. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Commissioner Murdock announced the process and procedure of the public hearing on a petition to create the Four Corners County Water and Sewer District. Local Water Quality District Manager Alan English spoke in support of the concept of the proposed water and sewer district. He addressed the Commission regarding the benefits of a central water and sewer system in relation to protecting ground water quality and public health. He submitted Exhibit "A", a written copy of his testimony signed by Chairman Phillip Butterfield and himself. They felt that the petitioner's proposal with the changes agreed upon by the Four Corners Advisory Council on December 4th was reasonable. However, they were concerned if an agreement could not be reached, that the proposed district may not be created. Gallatin County Grants Administrator Larry Watson made comments germane to creating an opportunity for grant and loan funding to increase the affordability and accessibility of water and sewer services for all of the residents of the Four Corners area. He explained creation of the water/sewer district was the paramount issue for eligibility therefore, by creation of a district the eligibility is developed and the capability to pursue federal, state and local funding for water/sewer system service is created. A concern he had was the time line that takes place when developing a proposal for these funds. Typically, that time line is a 3 to 4 year process, and the key to that process is the need to approach the Montana legislature for the bulk of the funding. Since it was too late to put together a proposal for the 2003 session the earliest possible time would be the 2005 session with proposals being developed over the next year and half, for submission to the legislature for consideration. With funding coming out of that session, the earliest they could approach project development would be July 2005, with possible construction in the Spring of 2006. He went on to explain what it takes to acquire this funding and the qualifications, noting that they have not done their homework on the Four Corners area in terms of grant loan eligibility outside the work that has been done by the developers within the boundaries of their own proposed system. He expressed the need for a comprehensive engineering survey that would tell them about growth patterns in the Four Corners area, and an engineering plan for expansion of water/sewer system services in the Four Corners planning area, defined as the growth area. He pointed out one of the major programs that support the accessibility of public facilities to low or moderate-income individuals was the Community Development Block Grant program in Montana. It was noted that Gallatin County has not done a needs assessment under that program since 1994, and in order to be competitive for a proposal in the next legislative session under that program, they needed to do a new needs assessment in Gallatin County. He added that they were only weeks away from signing the contract for that needs assessment, working with the Rural Conservation Development District and with Gallatin Development Corporation as partners. Another very important part of eligibility determination for Gallatin County was the eligibility for Economic Development Authority administration money, of which Gallatin County has never qualified, because unemployment levels have been fairly good, with no significant layoffs in any sectors of our economy until recently. He believed by doing a Community Economic Development survey, Gallatin County would gain eligibility for funding through the Economic Development Administration. With that information they could gain competitive proposals, as current information was severely lacking not only countywide but in the Four Corners area. He believed in fairness to those making major decisions about what was going to happen in the Four Corners area, we as a County should be doing everything possible to gather all the information about all of the programs and disclose every opportunity to the people in the Four Corners area, before decisions were made. Gallatin County Attorney Marty Lambert noted on behalf of the Clerk and Recorder that notice of this hearing was published in the High Country Independent Press on December 5 and 12, 2002. He submitted Exhibit "B", a copy of the notice for the record. Mr. Lambert briefly summarized his response (Opinion No. 02-01) to a series of questions presented to him by the Commission pertaining to the

treatment system as follows: the water system is a very expandable system, which currently has a 500,000-gallon tank and a number of wells that serve the water supply system including a fire protection capability; and noting the wastewater system is more complicated, because there are certain guidelines to follow for DEQ that are to be used when calculating usage. In conclusion, he added that the Board of Directors has the discretion to allocate the capability of the plant for those who want to annex in. He stated that there are tons of capacity not being used, because it will take years and years for the subdivisions to build out therefore when those who hook up pay their fees it will go into an expansion fund for plant facilities. Mr. Potter stated that the signed affidavits requesting to be a part of the district from inception, presented a huge problem for them. He explained as the designated representative for the petitioners group (PC Development, Zoot, New West, Garden Center, Hot Springs) that they have a certain ability to underwrite the finances and in this case, are willing to put their land up, have assessments put on their land, and they are willing to provide the financial guarantees as wells as approximately \$2 million dollars in financial assurances put into an escrow account to help get this started. He noted that this is a sizable and complex commitment and if variables were thrown in, it would destroy the financial integrity. He believed as a petitioners group, they have shown faith and have gone the distance and he did not think there was anything more they could have done. They had no idea they would encounter all these time delays and problems and noted the urgency to start construction this spring. He stressed that they tried to cooperate and show flexibility and thought coming to peace with the Advisory Council was a huge step however it was very frustrating that several members of that board who signed the MOU, now wanted to include their lands at inception. It seemed inconsistent, problematic and difficult to work with. As the designated representatives, Mr. Potter and Mr. Nelson were instructed to present a letter withdrawal to the Commission, if the board was inclined to change the district boundary as proposed. Further discussion took place regarding annexation and costs. Commissioner Murdock asked Mr. Potter if they would consider passing the MOU as a resolution, which would then be legally binding. Mr. Potter stated that he was absolutely committed to doing so. He pointed out on Exhibit 1 and 3A, the Tier 1 area, noting the infill areas immediately adjacent to North Star, Galactic Park and the Hot Springs. The properties include Corners Four Business Park; Pearson, Jones and Lelind properties; Corner Court; McHenry and Cain property; and all of North Rainbow Subdivision. He noted that it would be easy for them to adjust the Tier 1 boundary and they would be happy to do so. Attorney John Brown stated that each of the petitioners had their own legal council however he was speaking as council for the district, should it be created. Mr. Brown spoke regarding the legalities of the boundary issue. He asked how many written applications were received by the Commission to be included within the district. The Commission did not have an answer at this time. Mr. Brown agreed with Mr. Lambert's analysis of Section 7-13-2209, which requires a written application process with Commission analyzing those applications. He pointed out that each of those applying are required to show that their property is going to be benefited by inclusion within the district. Based on the today's testimony, he heard no factual testimony that any of the applications stated they would be benefited, which gives the Commission discretion to deny those applications. On behalf of the petitioners, Mr. Brown asked that the Commission use their discretion to deny those applications because they would jeopardizes creation of the district. He reiterated that all the applicants have the ability to be annexed in after the district is created, and the petitioners have discussed how they will facilitate that in the MOU. He pointed out if the district is created it will be governed by the same open meeting laws as the Commission. He asked that the Commission allow the current petition to go forward with the current boundaries and have one election to create the district, elect the board of directors and approve the financing. Mr. Nelson stated that the MOU was a good faith agreement that addressed the concerns of the Advisory Council by assuring annexation of those adjacent areas as soon as possible after the district is created and that they would turn over the board in a reasonable time to local individuals. Mr. Nelson submitted Exhibit "G", the withdrawal letter, and trusted the Commission would honor their request to withdraw the petition if they decided to change the boundary as it was submitted on August 23, 2002. Mr. Lambert asked if the petitioner would be willing to withdraw the letter and allow a few more days so he could work with Gallatin County Clerk and Recorder Shelley Vance to prepare the resolution as well as add some of the properties that have been suggested to Tier 1. Mr. Potter agreed. It was noted the petitioners were in agreement to adding to the Tier 1 properties, as suggested. Further discussion took place regarding which properties were already included in Tier 1. Mr. Potter confirmed that all the properties suggested were already in Tier 1 except the northeast and southeast corner. Surprised by this turn of events, Commissioner Mitchell reminded the petitioner that when it was agreed to have this hearing process started, it was acknowledged that this could take up to four weeks, and she questioned if Mr. Potter relayed that to the group. Mr. Potter apologized and stated that they thought they were underway by having their agreement with the Advisory Council, adding that they would be willing to work with everyone in order to accomplish what they needed to get done. Public comment was closed. Mr. Kauffman requested to view the withdrawal letter. The Commission received letters from the following: Crowley Haughey Hanson Toole & Dietrich, representatives for the petitioners; Four Corners Advisory Committee; several pieces of correspondence from Rosie Foust; Bob and April Meyer, on-site managers of Forest Park Mobile Home Park; Judy Cain; Kaylie Utter; Kirt Harding; Joann Wattier and Margaret Devous; Penny Freeland;

members of the community that wish to become charter members of this proposed district to do so now and confirm that they do own property, and are willing to accept liens, etc; and ask the developers for a breakdown of how the costs to install this system relate to the estimates they suggested regarding hook ups and fees. Teri Kolnik spoke regarding many of her concerns. Ms. Kolnik submitted Exhibit "D", a notice to the Gallatin County Commission requesting that both she and her husband as owners of 11 lots in the Rainbow Subdivision be included in the district at its inception. Jerry Ritter (Advisory Council member) spoke in support of the proposal and urged the Commission to consider including property on the eastside of Gallatin Road as Tier 1 properties. Jimmie Lohmeier(Advisory Council member) speaking for the Corners Four Business Park, that includes fifteen property owners. Mr. Lohmeier made note that he had statements from 9 owners representing 11 lots, requesting to be included at inception. Tony Kolnik(Acting Vice-Chairman of the Advisory Council) stated many concerns, noting that he was the member who did not sign the MOU. Roland Schumacher owner of three lots in the Corners Four Business Park requested to be included at the inception of the district. Mr. Schumacher spoke in support of the proposal and submitted Exhibit "E", his letter of request. Joe Wilson, representing the Forest Park Mobile Home Park stated that he did not think it was fair that they were included in the boundaries and requested not to be included. They believed they should have an option. Dan Biggerstaff, Vice President of Western Plant Breeders and property owner in the Corners Four Business Park stated at the present time they have their own well and sewer system and that initially they would not want to hook in however they wanted to have the system available, should it be needed in the future. He urged the Commission to go forth and start the process. Richard Smith, a landowner in the Four Corners area spoke in support of the petitioners moving ahead, noting as soon as the system comes on he will petition for annexation. John Kauffman, representing owners of the Four Corners Trailer Park and the Grateful Shed requested that they be included in the district at inception. Since there was no definition of an application in the statute, he wanted it to be known that he was requesting orally as well as having submitted a written request dated November 14, 2002. He also requested that the Commission make a condition of approval that the properties in the Tier 1, waive their right to protest. Don McHenry, as a property owner in Tier 1 requested inclusion in the district. Clinton Cain requested confirmation from the Commission if the system was private or public. Mr. Lambert confirmed that it was a public system. Mr. Cain was in support of the district. Stuart Aasgaard whose property borders on two sides of the proposed North Star Subdivision, supports the idea of central water and sewer however, he suggested continuing the hearing and proceed with caution. He added that he has never been approached as an adjacent property owner. Frank Silva (Advisory Council member) commented in order to be a true Four Corners Water and Sewer District there needs to be immediate representation by the residents and the businesses already established in the area, as well as the developers. He recommended that the Commission expand the district boundaries to include the Tier 1 properties. If that was not possible he recommended keeping the five developers on the Board of Directors and within one year of inception of the district, three members of the district board will resign and a general election would take place with all the people in the district voting for those vacancies. Mr. Kolnik stated that cost must be identified. He requested that the Commission grant a continuance in order to conduct another work session with the developers and the council. He believed the MOU was unnecessary. Mr. Walker, as a resident, believed one advantage to putting in the district as proposed was that there were a lot of federal and state funds available for covering engineering costs and determining costs. He believed the urgency was that they had a proposed district with people who are financially willing and able to facilitate it and recommended approval of the district as proposed.

The Commission recessed for lunch.

Mr. Lohmeier submitted Exhibit "F", (8) notices from individuals requesting to be included in the district at its inception. Commissioner Vincent requested that the petitioner address the idea of capacity relative to long term planning, and what was possible with regard to expansion and annexation. He also asked the petitioners to address the question of whether or not they would be agreeable with signed affidavits from the Corners Four Business Park as an expression of wanting to come into the district from its inception, and if they were in opposition or that it could not be accommodated, for what reasons. Commissioner Mitchell requested that the petitioner address: details regarding their comment that adding other properties into the district would negatively impact the loan; describe what Tier 1 meant, compared to being added to boundaries now; and the cost to be added into the district at this time. Mr. Potter addressed several of the concerns expressed as follows: the DEQ review process, noting that it was their expectation to be done so they could start construction in the spring or early summer; downsizing facilities, adding that there was no question that a private system would be less costly to build, than a public system; and identification of costs, noting that the \$9.5 million dollar figure was mentioned in the flier that was distributed, as well as anticipated monthly rates; it was confirmed that there was no intent to force anyone into the district, in reference to comments made by the representative for Forrest Park. He pointed out that everything is competitively bid and some estimated monthly rates could come down. He addressed questions about capacity, pointing out a couple of key points regarding the design of the water system and the wastewater

Joan and Clyde Mulligan; Hugo Martin; several items of correspondence from Tony Kolnik. It was also noted as part of the record: two recommendations from the Four Corners Advisory Committee; a General Information pamphlet for the proposed Four Corners County Water and Sewer District, dated October 2002; a clarification from the Four Corners Water and Sewer District; and the County Attorney Opinion No. 02-01. Ms. Vance stated that the petition included a written legal description as submitted however; she had a concern regarding the legal description for additional properties, should they be added. Mr. Lambert stated they were going with the petition, as submitted. Noting that public comment was closed and there would be no other meetings, Commissioner Vincent suggested calling a special public meeting, which would allow time for Mr. Lambert and Ms. Vance to review the law and documentation with regard to preparing the resolution. Commissioner Murdock commented on his thoughts of an ideal boundary situation, adding that it is good to think big and plan big for the future. He expressed sympathy for developers who were told under conditions of approval to go out and do a central water and sewer district that involved the public. He apologized for the Commission by not acting sooner on creating the Four Corners Advisory Committee, and allowing more time to work things out. He hoped they could put that aside and come up with a compromise. Commissioner Mitchell stated that it was distressing to have a hammer held over their heads when they were trying to create something that takes a lot of community effort and it was disconcerting because the developers do not want anyone else to be a part of the district at the beginning. She respected all their efforts although she did not have a comfort level because it lacked the ability to have representation on the board of at least one member who lived in the area. Commissioner Vincent stated he was ready to proceed, believing it was a forgone conclusion that they will have at least a sewer district or a combination of districts that will cover the 191-Jackrabbit corridor from Gallatin Gateway to Four Corners to Belgrade and out from Huffine Lane. He believed this was a substantial first step and one that needed to be taken. Noting that the MOU had no legal standing, he believed it was a critical element, and represented a busload of faith and a test of all those who signed on. He added that it had political and public standing, and the ace in the hole was that the petitioner's standing and representation was at stake in this community with this MOU and with the Commission as well, because if the promises and commitments expressed were not met then their standing would be damaged. Commissioner Murdock reiterated that the system was expandable and that DEQ will require it and that the board will accept properties even if they are not included today. He noted that the petitioners will withdraw if the Commission does not accept their petition as submitted, which does take away the Commission's discretion however he believed their reasons were honest. He believed the effort put into this by the petitioner's required prompt action on their developments behalf. He stated the district under those terms was better than none at all. Mr. Lambert and Ms. Vance agreed they could be ready with the resolution at 8:30 A.M., on December 20, 2002. Mr. Brown confirmed that the letter of withdrawal was solely tied to the boundaries, and there was no time deadlines built in therefore they were in agreement with a continuance. Mr. Brown offered his assistance if needed. Mr. Lambert agreed. **No action taken.**

There were no pending resolutions. There being no further business the meeting was adjourned at 2:53 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

SHELLEY VANCE
CLERK & RECORDER, GALLATIN COUNTY
311 WEST MAIN, ROOM 204
BOZEMAN, MT 59715-4574

Laura A. Lee
71 Potter Lane
Belgrade, MT 59714

804

Tony Kolnick
81481 Gallatin Road
Bozeman, MT 59718

804

Randy J. Cain
PO Box 150
Ennis, MT 59729-0150

Mike Kvasnick
720 N. Montana
Bozeman, MT 59715

Isla A. Cain
2551 Magenta Road
Bozeman, MT 59718

804

Chris Wasia
1020 Villard St.
Bozeman, MT 59715

804

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Tony Kolnick
81481 Gallatin Road
Bozeman, MT 59718

2. Article Number
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Tony Kolnick
81481 Gallatin Road
Bozeman, MT 59718

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LeeLynn, Inc.
225 E. Mendenhall
Bozeman, MT 59715

2. Article Number
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7000 0520 0014 2179 7973

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1. Article Addressed to:

Mike Kvasnick
720 N. Montana
Bozeman, MT 59718

2. Article Number
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Mike Kvasnick
720 N. Montana
Bozeman, MT 59718

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Restricted Delivery Fee (Endorsement Required)	
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LeeLynn, Inc.
225 E. Mendenhall
Bozeman, MT 59715

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1. Article Addressed to:

Randall & Stacy Arndt
Sidney L. McDougal
7235 Jo-Lin Lane
Bozeman, MT 59718-8120

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Recipient's Name (Please Print Clearly) (To be completed by mailer)
Randall & Stacy Arndt

Street Apt. No. or PO Box No. City, State, ZIP or Lin. Lane
Sidney L. McDougal
7235 Jo-Lin Lane
Bozeman, MT 59718

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Bozeman Postmaster
5711 Baxter Lane East
Bozeman, MT 59719

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Bozeman, MT 59719

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1. Article Addressed to:

Randy J. Cain
PO Box 150
Ennis, MT 59729-0150

2. Article Number (Transfer from service label)

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Recipient's Name (Please Print Clearly) (To be completed by mailer)
Randy J. Cain

Street Apt. No. or PO Box No. City, State, ZIP or Lin. Lane
PO Box 150
Ennis, MT 59729-0150

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1. Article Addressed to:

Public Land Access Assoc.
 % Bill Fairhurst
 105 3rd Ave East
 Three Forks, MT 59752

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 Addressee
X

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Total Postage & Fees	\$	

Recipient's Name (Please Print Clearly) (To be completed by mailer)
Public Land Access Association
Street, Apt. No., or PO Box No.
 % Bill Fairhurst
City, State, ZIP+4
 105 3rd Ave East
 Three Forks, MT 59752
 PS Form 3800, February 2000 See Reverse for Instructions

Public Land Access Association
 % Bill Fairhurst
 105 3rd Ave East
 Three Forks, MT 59752

Bozeman Postmaster
 5711 Baxter Lane East
 Bozeman, MT 59719

Randall & Stacy Arndt
 Sidney L. McDougal
 7235 Jo-Lin Lane
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 PO Box 150
 Ennis, MT 59729-0150

Leelynn, Inc.,
 225 E. Mendenhall
 Bozeman, MT 59715