Road Petition # 808

To abandon an alley running south from 4th Street in Rainbow Sub. in Boz. Hot Springs
Section 14, T2S, R4E

Send view committee report + pub hear notice to:

West Roberts
162 Pheasant Lane
Belgrade, MT 59714

Eric Berger
81515 Gallatin Rd
Bozeman, MT 59718

Mary L. Askvig
2525 Carter
Cody, WY 82414

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 Lenny Walker PHONE 580-7556

✓ 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. 868

✓ 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 Association

Type 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 12-3-02
✓ 11) Publish public hearing notice one time. DATE 11-27-02

✓ 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.

State of Montana

County of Gallatin

Bozeman

CERTIFICATE OF THE COUNTY CLERK AND RECORDER
RELATING TO
QUALIFICATIONS OF THE SIGNERS

Statement of Purpose: Petition to abandon an alley.

Legal Description: An alley running south from 4th Street, 120' between lots 1, 2, and 3 and 67, 68, 69 in the Rainbow Subdivision of Bozeman Hot Springs in the N ½ and SE ¼ of Section 14, T2S, R4E, on file with the Gallatin County Clerk and Recorder.

STATE OF MONTANA)
)ss
COUNTY OF GALLATIN)

I, Shelley Vance, do hereby certify that I am the qualified and acting County Clerk and Recorder for Gallatin County, State of Montana; that I have examined the petition to which this certificate is attached, and that pursuant to Section 7-14-2601 M.C.A. 2001, it contains the signatures of at least 10 qualified freeholders in Gallatin County.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of my office at Bozeman, the County Seat of Gallatin County, State of Montana, this 28th day of June 2002, A.D.

Shelley Vance

Shelley Vance
Clerk and Recorder
Gallatin County, Montana

RECEIVED
Date 6-17-02
Clerk & Recorder
Gallatin County, Mont.

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: Alley running south from 4th St 120 Feet between lots 1,23 and 67,68,69 rainbow Sub.

(Attach additional page if required).

2. The road is commonly known as: An Alley.

3. The general route of the road is described as follows: Running south from 4th St. 120 Ft.

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

LANDOWNER(S)	MAILING ADDRESS
✓ 1. Lonny Walker	2104 N. Rouse Bozeman MT. 59715
lots 1,2,3 and 67,68,69 Rainbow Sub PROPERTY DESCRIPTION	
2.	
PROPERTY DESCRIPTION	
3.	
PROPERTY DESCRIPTION	

	LOT OWNER(S)	LOT DESCRIPTION
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		
20.		
21.		
22.		
23.		

(Use additional pages if required)

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**

(Use additional pages if required)

8. The necessity for and advantage of the abandonment of the road are as follows: To be consistent with previous abandonment of this same alley to the south. The property adjacent to the Alley to the west and to the east are all owned by the petioner.

PETITION TO DISCONTINUE STREET OR ALLEY IN UNINCORPORATED TOWN
(APPENDIX B)

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

COME NOW the undersigned owners of the lots on the street or alley in an unincorporated town or townsite sought to be discontinued and petition this board pursuant to Section 7-14-2616, MCA, to discontinue the street or alley and represent as follows:

1. The street or alley to be discontinued is particularly described as follows: Alley running South from 4th St. 120 Ft. West of lots 1,2,3, and East of lots 67,68,69 rainbow Sub.

(Attach additional page if required).

2. The general route of the street or alley is described as follows: South of 4th St 120 Feet

3. All of the owners on the street or alley are identified as follows:

	LOT OWNER(S)	LOT DESCRIPTION
1.	Lonny WAlker ~~2704~~	lots 1,2,3 and 67,68,69 rainbow Sub.
2.		
3.		
4.		
5.		
6.		
7.		

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

The undersigned state that they are owners of lots on the street or alley in the unincorporated town or townsite. **Note: ALL OWNERS OF THE LOTS ON THE STREET OR ALLEY ARE REQUIRED TO SIGN THIS PETITION. IF THE STREET OR ALLEY IS TO BE CLOSED FOR SCHOOL PURPOSES, 75% OF THE LOT OWNERS ON THE WHOLE STREET OR ALLEY ARE REQUIRED TO SIGN THIS PETITION.**

1. Signature: [signature] — Address: 81555 Gallatin Rd

Printed Name: Lonny WALKER — City, State & Zip: Bozeman MT 59718

Date: 6-1-02

Description of Property: lots 1, 2, 3 and lots 67, 68, 69 Rainbow Sub

2. Signature _____ — Address _____

Printed Name _____ — City, State & Zip _____

Date _____

Description of Property _____

3. Signature _____ — Address _____

Printed Name _____ — City, State & Zip _____

Date _____

Description of Property _____

4. _____ Signature _____ Address

_____ Printed Name _____ City, State & Zip

_____ Date

_____

_____ Description of Property

5. _____ Signature _____ Address

_____ Printed Name _____ City, State & Zip

_____ Date

_____

_____ Description of Property

6. _____ Signature _____ Address

_____ Printed Name _____ City, State & Zip

_____ Date

_____

_____ Description of Property

7. _____ Signature _____ Address

_____ Printed Name _____ City, State & Zip

_____ Date

_____

_____ Description of Property

8.

Signature	Address
Printed Name	City, State & Zip
Date	

Description of Property

9.

Signature	Address
Printed Name	City, State & Zip
Date	

Description of Property

10.

Signature	Address
Printed Name	City, State & Zip
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. Signature: [signature] Address: 111 SOURDOUGH RIDGE RD

Printed Name: MICHAEL E. VINCENT City, State & Zip: BOZEMAN MT. 59715

Date: 4/30/02

Description of Property

✓ 2. Signature: [signature] Address: 342 Vigilante Trail

Printed Name: Carrie L. Harvey City, State & Zip: Bozeman MT 59718

Date: 4/30/02

Description of Property

✓ 3. Signature: [signature] Address: 9770 Trooper Trail

Printed Name: Daniel K. Jochem City, State & Zip: Bozeman, MT 59715

Date: 5-22-02

Description of Property

4. Signature: [signature]
Address: 2520 Bench Road
Printed Name: LARRY WALKER
City, State & Zip: Three Forks, MT 59752
Date: 5/24/02

Description of Property

5. Signature: [signature]
Address: 106 Winchester Rd
Printed Name: Robert Kaufmann
City, State & Zip: Bozeman MT 59715
Date: 6/3/02

Description of Property

6. Signature: [signature]
Address: 15144 Kelly Can. Rd.
Printed Name: Steven Jones
City, State & Zip: Bozeman, MT 59715
Date: 6-3-02

Description of Property

7. Signature: [signature]
Address: 14757 Kelly Can Rd
Printed Name: HAROLD SCHLOTZHAUER
City, State & Zip: BOZEMAN MT 59715
Date: 6-3-02

Description of Property

Schlotzhauer

8. Ed Sendra — Signature
6750 Campbell Rd — Address
ED SENDRA — Printed Name
Manhattan MT — City, State & Zip
June 8-02 — Date

Description of Property

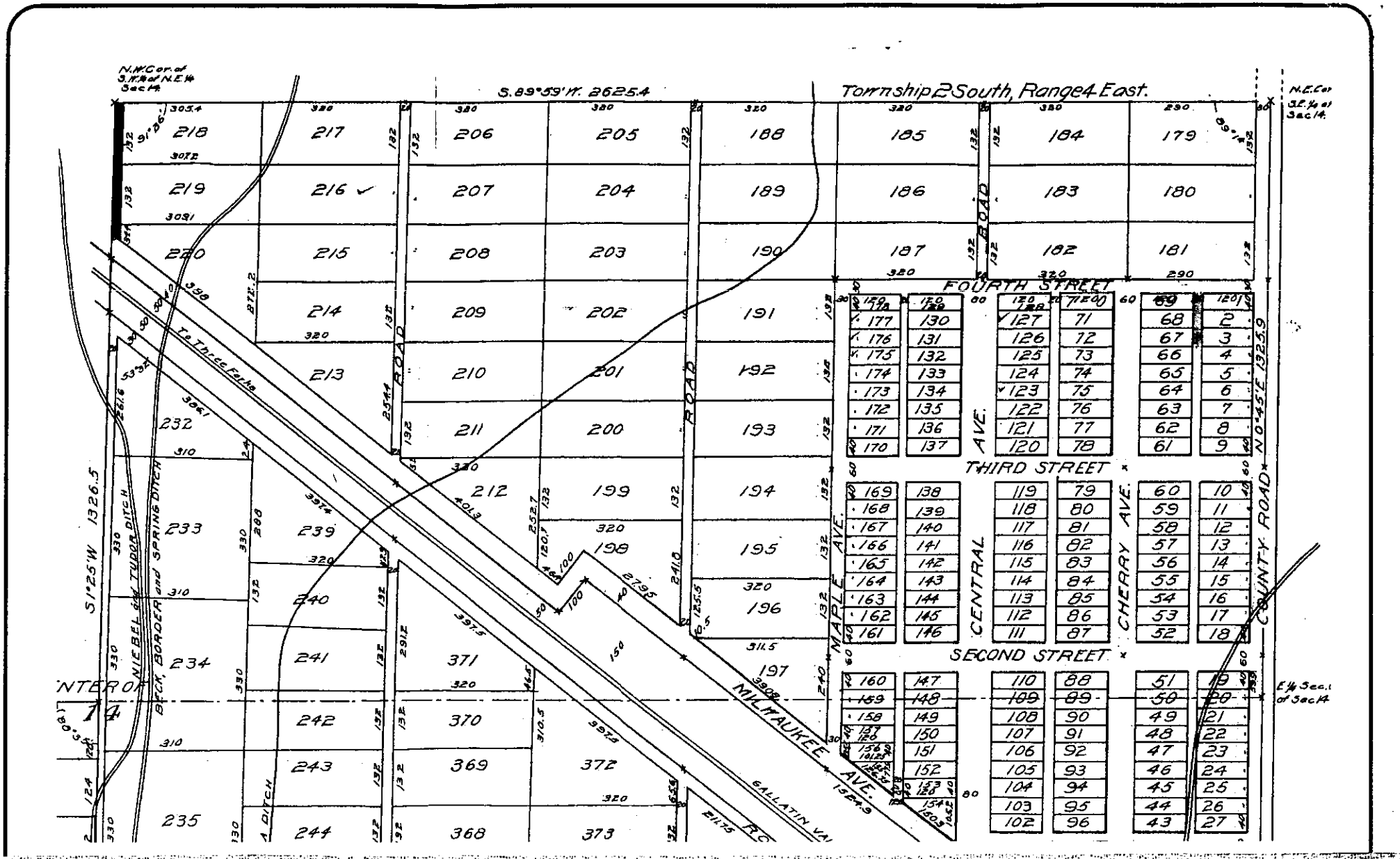
9. Robert Venema — Signature
8220 Chuck Wagon Rd — Address
Robert Venema — Printed Name
Manhattan MT — City, State & Zip
June 8-02 — Date

Description of Property

10. Marvin Greene — Signature
#6 Clovinger Ln — Address
MARVIN GREENE — Printed Name
Bozeman MT 59715 — City, State & Zip
6-15-02 — Date

Description of Property

(Use additional pages if required)


N.W. Cor. of S.W. ¼ of N.E. ¼ Sec. 14
S. 89°59' W. 2625.4
Township 2 South, Range 4 East.
N.E. Cor. S.E. ¼ of Sec. 14.
S1°25'W 1326.5
N 0°45'E 1325.9
E ½ Sec. 1 of Sec. 14
To Three Forks
NIEBEL and TUDOR DITCH
BECK, BORDER and SPRING DITCH
A DITCH
MILWAUKEE AVE.
GALLATIN VAL
RC
ROAD
MAPLE AVE.
CENTRAL AVE.
CHERRY AVE.
COUNTY ROAD
FOURTH STREET
THIRD STREET
SECOND STREET
14
218 217 206 205 188 185 184 179
219 216 207 204 189 186 183 180
220 215 208 203 190 187 182 181
214 209 202 191
213 210 201 192
211 200 193
232 212 199 194
233 239 198 195
240 196
234 241 371 197
242 370
243 369 372
235 244 368 373
177 130 127 71 69 68 2
176 131 126 72 67 3
175 132 125 73 66 4
174 133 124 74 65 5
173 134 123 75 64 6
172 135 122 76 63 7
171 136 121 77 62 8
170 137 120 78 61 9
169 138 119 79 60 10
168 139 118 80 59 11
167 140 117 81 58 12
166 141 116 82 57 13
165 142 115 83 56 14
164 143 114 84 55 15
163 144 113 85 54 16
162 145 112 86 53 17
161 146 111 87 52 18
160 147 110 88 51 19
159 148 109 89 50 20
158 149 108 90 49 21
150 107 91 48 22
151 106 92 47 23
152 105 93 46 24
104 94 45 25
103 95 44 26
102 96 43 27

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

Tony Kolnick
81481 Gallatin Rd
BZN, MT 59718

Mike Kuasnick
720 N. Montana
BZN, MT 59715

RECEIVED
Date 8-2-02
Clerk & Recorder
Gallatin County, Mont.

RECEIVED

Jennifer

July 31, 2002

Mary Askvig
2525 Carter
Cody Wy 82414

Gallatin Co. Commissioners
Jennifer Smith Mitchell
Bozeman, Mt. 59715

Commissioners

As Co-owner of property affected by closure of the alley in Mr Walkers petition, I would like to register my opposition to the abandonment of said county road or alley.

Sincerely
Mary L Askvig

State of Montana

County of Gallatin

Bozeman

CERTIFICATE OF THE COUNTY CLERK AND RECORDER
RELATING TO
QUALIFICATIONS OF THE SIGNERS

Statement of Purpose: Petition to abandon an alley.

Legal Description: An alley running south from 4th Street, 120' between lots 1, 2, and 3 and 67, 68, 69 in the Rainbow Subdivision of Bozeman Hot Springs in the N ½ and SE ¼ of Section 14, T2S, R4E, on file with the Gallatin County Clerk and Recorder.

STATE OF MONTANA)
)ss
COUNTY OF GALLATIN)

I, Shelley Vance, do hereby certify that I am the qualified and acting County Clerk and Recorder for Gallatin County, State of Montana; that I have examined the petition to which this certificate is attached, and that pursuant to Section 7-14-2601 M.C.A. 2001, it contains the signatures of at least 10 qualified freeholders in Gallatin County.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of my office at Bozeman, the County Seat of Gallatin County, State of Montana, this 28th day of June 2002, A.D.

Shelley Vance
Shelley Vance
Clerk and Recorder
Gallatin County, Montana

RECEIVED
Date 6-17-02
Clerk & Recorder
Gallatin County, Mont.

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: Alley running south from 4th St 120 Feet between lots 1,23 and 67,68,69 rainbow Sub.

(Attach additional page if required).

2. The road is commonly known as: An Alley.

3. The general route of the road is described as follows: Running south from 4th St. 120 Ft.

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

	LANDOWNER(S)	MAILING ADDRESS
✓ 1.	Lonny Walker	2104 N. Rouse Bozeman MT. 59715
	lots 1,2,3 and 67,68,69 Rainbow Sub	
	PROPERTY DESCRIPTION	
2.		
	PROPERTY DESCRIPTION	
3.		
	PROPERTY DESCRIPTION	

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 Lonny Walker PHONE 580-7556

✓ 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._____

_____ 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 Association

Type 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.

State of Montana

County of Gallatin

Bozeman

November 19, 2002

Board of County Commissioners
Gallatin County Courthouse
Bozeman, MT 59715

RE: abandonment of a portion of alley located between Lots 1-3 and 67-69 in Rainbow Subdivision of Bozeman Hot Springs.

Dear Board,

The undersigned viewed the area described in Road Petition No. 808 on November 15, 2002. Gallatin County Road Superintendent Lee Provance accompanied the viewing committee as a consultant.

According to 7-14-2603 M.C.A., the Board of County Commissioners shall cause an investigation to be made of the feasibility, desirability, and cost of granting the prayer of the petition. The investigation shall be sufficient to properly determine the merits or demerits of the petition.

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 Lots 67-69. Eric and Christine Berger currently own Lots 4-6. Mary Askvig and West Roberts currently own Lots 65 and 66. The Commission has 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.

Respectfully submitted,

John Vincent, County Commissioner

Shelley Vance, Clerk and Recorder/Surveyor

State of Montana

County of Gallatin

Bozeman

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Board of Gallatin County Commissioners will conduct a public hearing on December 3, 2002, at 9:00 A.M., in the Bozeman City Commission Meeting Room, 411 E. Main, Bozeman, Montana. The Commission has received five separate petitions to abandon portions of roadway within Rainbow Subdivision of Bozeman Hot Springs. The portions of roadway include the following: Azure Street located between Lots 188 – 194 and Lots 199- 205; Central Street located between Lots 183, 184, 185, and 186; Magenta Road between Lots 206 – 209 and Lots 214 – 217; an alley located between Lots 1 – 3 and Lots 67 – 69; and Milwaukee Avenue and Indigo Road located south and west of Lot 220 and west of Lots 183 and 219. All interested parties are encouraged to attend.

Further information may be obtained from Gallatin County Commissioners Bill Murdock, Jennifer Smith Mitchell, or John Vincent at 311 W. Main, Room 306, Bozeman, Montana 59715, telephone 582-3000.

Dated this 20th day of November 2002.

Shelley Vance

Shelley Vance
Clerk and Recorder
Gallatin County, Montana

Please publish: November 27, 2002
Please Bill: Clerk & Recorder

State of Montana

County of Gallatin

Bozeman

LEGAL NOTICE

(USE ONLY FOR LEGAL ADVERTISEMENTS TO BE PUBLISHED IN THE HIGH COUNTRY INDEPENDENT PRESS)

FAX TO 406-388-6072

THIS FAX CONTAINS 5 **PAGES (PLUS THIS PAGE)**

DATE: 11-21-02 **TIME:** 8:35

SENDER'S FAX NUMBER: 582-3003

SENDER'S PHONE NUMBER: 582-3053

SENDER'S DEPARTMENT: Clerk & Recorder

DESCRIPTION OF AD: (4) notice of hearing for road abandonments

RUN AS: ☒ **LEGAL LINE AD** ☐ **LEGAL DISPLAY AD***

PUBLISH DATES: Nov 27, _____, _____, _____, _____, **2002**

SPECIAL INSTRUCTIONS: _____

BILLING: Clerk & Recorder

State of Montana

County of Gallatin

Bozeman

AFFIDAVIT OF MAILING

STATE OF MONTANA)
)ss
COUNTY OF GALLATIN)

SHELLEY VANCE, BEING FIRST DULY SWORN ON OATH, deposes and says:

That she is the duly elected, qualified and acting County Clerk and Recorder of Gallatin County, Montana.

I hereby certify that copies of the notice of public hearing and viewing committee reports of five separate petitions to abandon portions of roadway within Rainbow Subdivision of Bozeman Hot Springs. The portions of roadway include the following: Azure Street located between Lots 188 – 194 and Lots 199 – 205; Central Street located between Lots 183, 184, 185, and 186; Magenta Road between Lots 206 – 209 and Lots 214 – 217; an alley located between Lots 1 – 3 and Lots 67 – 69; and Milwaukee Avenue and Indigo Road located south and west of Lot 220 and west of Lots183 and 219, as petitioned in Road Petitions #805, 806, 807, 808, and 810 were mailed regular mail to all signers of the petition; landowners named on the petition; individuals named in the petition who could be affected; the postmaster of the area; the Public Lands Access Association on November 21, 2002.

Shelley Vance

SHELLEY VANCE
Clerk and Recorder
Gallatin County, Montana

State of Montana

County of Gallatin

Bozeman

AFFIDAVIT OF MAILING

STATE OF MONTANA)
)ss
COUNTY OF GALLATIN)

SHELLEY VANCE, BEING FIRST DULY SWORN ON OATH, deposes and says:

That she is the duly elected, qualified and acting County Clerk and Recorder of Gallatin County, Montana.

I hereby certify that copies of the notice of public hearing and viewing committee report of a petition to abandon an alley located between Lots 1 – 3 and Lots 67 – 69, as petitioned in Road Petition #808 was mailed regular mail to all signers of the petition; landowners named on the petition; individuals named in the petition who could be affected; the postmaster of the area; the Public Lands Access Association on January 15, 2003.

Shelley Vance

SHELLEY VANCE
Clerk and Recorder
Gallatin County, Montana

State of Montana

County of Gallatin

Bozeman

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Board of Gallatin County Commissioners will conduct a public hearing on January 21, 2003, at 9:00 A.M., in the Bozeman City Commission Meeting Room, 411 E. Main, Bozeman, Montana. Public opinion shall be heard regarding a petition to abandon an alley located between Lots 1 – 3 and Lots 67 – 69 within Rainbow Subdivision of Bozeman Hot Springs. All interested parties are encouraged to attend.

Further information may be obtained from Gallatin County Commissioners Bill Murdock, Jennifer Smith Mitchell, or John Vincent at 311 W. Main, Room 306, Bozeman, Montana 59715, telephone 582-3000.

Dated this 6th day of January 2003.

Shelley Vance

Shelley Vance
Clerk and Recorder
Gallatin County, Montana

Please publish: January 16, 2003
Please Bill: Clerk & Recorder

TRANSACTION REPORT

JAN-06-2003 MON 04:16 PM

FOR: GLTN CNTY COMMISNRS 4065823003

DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
JAN-06	04:15 PM	93886072	39″	2	SEND	OK	402	02

State of Montana

County of Gallatin

Bozeman

LEGAL NOTICE

(USE ONLY FOR LEGAL ADVERTISEMENTS TO BE PUBLISHED IN THE HIGH COUNTRY INDEPENDENT PRESS)

FAX TO 406-388-6072

THIS FAX CONTAINS 2 **PAGES (PLUS THIS PAGE)**

DATE: Jan. 6, 03 **TIME:** 4:15 pm

SENDER'S FAX NUMBER: 582-3003

SENDER'S PHONE NUMBER: 582-3053

SENDER'S DEPARTMENT: Clerk & Recorder

DESCRIPTION OF AD: (1) notice of hearing for road abandonment

RUN AS: ☒ **LEGAL LINE AD** ☐ **LEGAL DISPLAY AD***

PUBLISH DATES: Jan. 16, _____, _____, _____, _____, **2003**

SPECIAL INSTRUCTIONS: _____

BILLING: Clerk & Recorder

Road Petition #
808

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 would be discussed at an appropriate time at a public meeting. All voted aye. Motion carried with a vote of 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.**

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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.

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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.**

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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.**

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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.**

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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 publics' 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.**

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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.**

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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.**

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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.**

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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.**

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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 Cimmeron 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.**

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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 under gone 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

review with 52 less lots, and the Commission at that time was primarily against it. Commissioner Murdock did not believe any more boundary relocations should be approved and suggested the applicant go through a common unified scheme and work something out. Commissioner Vincent was unclear, and preferred to postpone action until after looking into Commissioner Murdock's concern relative to the process as well as review 76-3-201 through 76-3-210 MCA, in order to conclude if it is unclear. It was agreed that the Commission would continue their decision until January 2, 2003, in order to accommodate everyone's schedule. **No action taken.**

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Gallatin County Planner Christopher Scott reported on the request for a common boundary relocation exemption for Kenneth Vidar and Thomas Langel (Meken Corp. & Hill Country, Inc. dba Gallatin River Ranch) and Thomas C. and Sharon D. Andrews, located in the SE ¼, NW ¼ of Section 22, T2N, R3E. (High Meadow Road, Gallatin River Ranch). Mr. Scott explained the claimant's justification for the boundary relocation was to convey enough acreage to the Andrew's, the owners of Tract 40, making the parcel 20 acres, so they can receive a property tax reduction. It was the Andrew's understanding when they purchased the property that it was a 20-acre parcel, and upon further investigation it was found to be less than 20 acres. The Andrew's intend to retain Tract 40A as open space and Tract 40 as their residence. They were only moving the lot line and not changing the orientation of the line. He added that because of the topography, Lot 40A was not a build able tract. Based on review and past history in this area, Mr. Scott stated that this claim did not appear 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). Upon further staff investigation the following options were suggested for Mr. Andrews to receive a tax deduction: Request from the Montana Department of Revenue a classification of agricultural property, for properties under 20 acres; or purchase the adjacent lot. Thomas Andrews submitted a picture of his property. Mr. Andrews reiterated his reason for the request, adding that it would be very hard to him to do either of the staffs suggested options. He stated that he purchased the property thinking the property was 20 acres. Commissioner Vincent suggested that Commissioner Mitchell should see the picture since she requested it before they made a decision. Even though it was only 4 feet, he was concerned with setting a precedent and he wanted to review the statute. Public comment: Kenneth Vidar commented that it seemed he was being penalized because this was being counted as an exemption he was applying for. He stated that nothing would change at the ranch and they were only doing it because the Andrew's requested it. He explained the definition, of legal land twenties which were created when they did the aliquant parts, noting that the Assessor has a different way to calculate and determine what is or isn't a 20-acre parcel. Commissioner Murdock asked if Mr. Vidar could guarantee there would never be another exemption request by a land buyer for similar reasons. Mr. Vidar replied that it would never happen again although he believed it was to bad that he would have to say no. Further discussion took place with regards to the acreage being on the certificate of surveys and prior to that when it was not required. Commissioner Vincent agreed that this should have gone through subdivision review however in fairness he wanted to learn more about how this was marketed and exact measurements of the acreage. Gallatin County Clerk and Recorder Shelley Vance stated that she would like to verify this however based on her memory this area was created in 20 acre deeds, prior to 1993 before the subdivision law changed. She read into the record how the legal description was written on the Andrew's deed and stated that the acreage was on the certificate of survey. It was agreed that the Commission would continue their decision until January 2, 2003, in order to research some issues. **No action taken.**

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The Commission agreed to continue the proclamation declaring December 2002 as Drunk and Drugged Driving (#D) Prevention Month in Gallatin County until December 10, 2002, when a member of the DUI Task Force was in attendance. **No action taken.**

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There were no pending resolutions. There being no further business the meeting was adjourned at 12:45 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

Road Petition #
80e

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.

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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

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.**

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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.**

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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.**

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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.**

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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.**

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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**

Subdivision Regulations, and all other requirements, Commissioner Mitchell moved approval of the Remer Minor Subdivision. 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 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.**

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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 to 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 the 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 lay offs 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

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

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 Aasguard 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

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;

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.**

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

CHAIRMAN APPROVAL

CLERK ATTEST

Road Petition *
808

PUBLIC MEETING **TUESDAY THE 7TH DAY OF JANUARY 2003**

The meeting was called to order by Chairman John Vincent at 9:03 A.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and Bill Murdock and, Acting Clerk to the Board Mary Miller.

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Chairman Vincent requested that everyone join together in a moment of silence for reflection or prayer followed by the Pledge of Allegiance. The following proceedings were had to wit:

DECEMBER 30-31, 2002

- The Commissioners conducted regular County business.

JANUARY 1, 2003

- The Commission Office was closed in observance of New Year's Day.

JANUARY 2, 2003

- The Commissioners attended a special meeting for the purpose of electing the new Chairman for the Board of County Commissioners. In attendance were Commissioners Vincent, Murdock and Mitchell and Commission Secretary Rose Murrish and Commission Assistant Glenda Howze. Commissioner Murdock made a motion to appoint Commissioner John Vincent as Chairman of the Board of County Commissioners for 2003, effective immediately. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

JANUARY 3, 2003

- 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 2, 2003, in the amount of $10,366.84.
2. Approval of Contract(s): Agreement for Lobbying Services for MT 58th Legislature Session w/Don Hargrove; and Prouse Construction – RID Snowplowing FY 2002-2003.
3. Request for Common Boundary Relocation Exemption for Charles W. & Lois L. Kent located, on Government Lots 4 and 5 and the SE ¼ of the SW ¼ of Section 18 part of the NW ¼ of the NE ¼ and part of the NW ¼ of Section 19, T1N, R1E, PMM, Gallatin County, MT. Gallatin County Planner Christopher Scott reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

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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 Vincent announced a request from Martin E. Gagnon, of Morrison-Maierle, Inc., on behalf of PC Development to removed regular agenda Items #4, 5, and 6, (Road Petitions #805, 806, and 807) considerations of road abandonments in the Rainbow Subdivision of Bozeman Hot Springs. The request was to table them until final plats for the Northstar Subdivision are ready for consideration by the Commission due to concerns regarding how these road abandonments would be affected at such time. Prior to the meeting Commissioner Vincent contacted the petitioner regarding regular agenda Item #3, (Road Petition #809) consideration of a road abandonment in Peakview Subdivision #2, and asked him for a continuance of one week, in order to obtain a letter from the Gateway Fire Board, indicating that there is no compromise to the public safety in regard to that road abandonment. Although regular agenda Item #8, (Road Petition #810) consideration of a road abandonment in the Rainbow Subdivision of Bozeman Hot Springs, submitted by Randy Cain was not in the request to be continued relative to the

Northstar development, it was noted that Gallatin County Road Superintendent Lee Provance requested it be continued until more is learned, given the information requested or until the Northstar Subdivision is given final plat approval. Gallatin County Clerk and Recorder Shelley Vance noted that there had been some confusion on regular agenda Item #7, (Road Petition #[redacted]) consideration of a road abandonment in the Rainbow Subdivision of Bozeman Hot Springs, to abandon a portion of an alley, submitted by Lonny Walker. Apparently it was noted in the record on December 17, 2002, that his petition was withdrawn. Ms. Vance spoke with Mr. Walker and he did not want to withdraw his petition. It was determined that notice was not properly given and on the advice of Deputy County Attorney Kate Dinwiddie, if the Commission wished they could proceed with this petition after she re-published the notice and re-sent notification to everyone including anyone who protested. Ms. Vance stated they would be able to consider this petition on January 21, 2003. Commissioner Murdock did not believe this petition should be included with the rest of the petitions submitted by the developers of the Northstar Subdivision, as it was a separate isolated issue. He suggested that the Commission take Ms. Vance's recommendation. The Commission concurred. Ms. Vance concurred that regular agenda Item #8, should be included with the other abandonments relative to the Northstar Subdivision. Commissioner Murdock suggested they follow Mr. Provance's recommendation. As an update of the prior hearing, Commissioner Mitchell reiterated that the Commission requested that the developers provide them with an existing map of the platted roads that are proposed to be abandoned and an overlay of their proposal to see how it would impact all of the properties and accesses. To date, they have received a plat of the new layout and did not receive an overlay situation where they could compare them. It was agreed by all to continue regular agenda Items #3, 4, 5, 6, 7, and 8, and noted that they would update the public relative to any subsequent action. Dave Pruitt pointed out ditches in the area and suggested that the Commission consider access to ditches and head gates when making their decision. He pointed out some of the areas proposed to be abandon and stated that they would be the logical right-of-ways should the Sewer and Water District expand in the future. **No action taken.**

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One vacancy exists on the Mount Green Cemetery District Board due to the term expiration of Chan Cooper. This position is for a three-year term and will expire on December 31, 2005. Mr. Cooper was notified and indicated a desire to be reappointed to the board. To date, no additional applications have been received. There was no public comment. **Commissioner Mitchell moved to re-appoint Chan Cooper. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

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Gallatin County GIS Coordinator Alan Armstrong reported on public hearing and consideration of a resolution for a road name change in Gallatin County. (Fer Nan Way to Gray Owl Lane). Residents in Big Sky initiated the petition. Public comment in support: Dudley Livingston and Jim Johnson. **Commissioner Mitchell moved to approve Resolution #2003-003. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

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Gallatin County Planner Christopher Scott reported on the public hearing and consideration of a request for a family transfer exemption for Rhonda Rose-Drecksler, located in the NW ¼ of Section 28, T1S, R5E, PMM, Gallatin County, Montana. (1410 Harper Puckett Road). Mr. Scott outlined the staff report and proposal for the Commission. The following comment was noted from Gallatin City-County Environmental Health: Tract A contains an existing development (single family dwelling & barn) with a permitted drainfield and a well. Tracts 3B & 3C are currently undeveloped, but both are proposed for one 5-bedroom single-family dwelling (SFD) and one 2-bedroom guesthouse (GH) per lot. Each tract to have one well and one septic system shared by the SFD & GH. Since one of the transferees is under age, Commissioner Mitchell questioned if a trust fund had been set up. Deputy County Attorney Kate Dinwiddie noted a letter from Rhonda Rose-Drecksler, which stated her intention of setting up a separate trust for the child. She added that it did comply with the Uniform Transfer to Minor Act, and appeared to be legally appropriate. The applicant's representative Mark Chandler, of C & H Engineering gave an overview of the proposal. Rhonda Rose-Drecksler was sworn in, via speakerphone from Florida, 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. Ms. Drecksler noted a problem with reception. During testimony Ms. Rose-Drecksler stated that she did not own any other property in Gallatin County except the property in question. It was brought to Commissioner Murdock's attention by Mr. Scott that Ms. Rose-Drecksler owned a lot in Valley Creek Subdivision, Phase 1, Lot 7, Block 5. He questioned her regarding that

property. She replied that it was sold in November. He also questioned her regarding the proposed intent to construct one 5-bedroom single-family dwelling (SFD) and one 2-bedroom guesthouse (GH) per lot. Ms. Rose-Drecksler replied that she was unaware of that statement and did not plan for a guesthouse. Commissioner Vincent clarified that was written on the staff report under the section: Intended recipients, disposition and use of parcels. Mr. Chandler responded that is what was submitted for the sanitation approval on the property in order to give the applicant more options however; they did not have to utilize that amount of usage. While this would give the applicant more options, the Commission was concerned with lifting restrictions such as these. Commissioner Mitchell compared it to a 5 lot minor, taking it out of review of access and public safety issues. Mr. Chandler noted that they could go to the state at a later date and do the same thing therefore they were giving them more options upfront. Commissioner Murdock questioned Ms. Rose-Drecksler about previous property ownership in Gallatin County. Ms. Rose-Drecksler noted that information was included in a letter submitted to the Planning Department. There was no public comment. With regard to the intent of the property Ms. Rose-Drecksler stated that she wanted whatever is allowed however it was not her goal to build at this time. If it would make a difference she stated that she did not care about the guesthouse and that provision could be eliminated. Commissioner Vincent suggested that there should be more communication between Mr. Chandler and the applicant to see if the septic application is consistent with the applicant's wishes. Mr. Chandler noted that it could be eliminated, as the approval had not yet been written. The Commission expressed concern with the intent as well as the exemption itself. Commissioner Murdock stated that he was not comfortable with the exemption and did not see it as a proper use of the exemption based on the applicant's prior history with recent purchase and sale of properties in Gallatin County. He added that he would be happy to review this as a minor subdivision. Mr. Chandler noted that he went over the state and county regulations and family sale with Ms. Rose-Drecksler and believed that she understood the intent for the parcels quite thoroughly. With the knowledge of prior ownership of land in Gallatin County, including the 160 acres proposed as a subdivision, Commissioner Mitchell stated that it indicated Ms. Rose-Drecksler liked to develop properties. Because this one was already planned for extra septic permits she believed it would be better suited for a 5-lot minor, adding that this was a very specialized exemption that was a privilege, not a right. Ms. Rose-Drecksler explained her prior purchase and sale history of property in Gallatin County, adding that she had been in the real estate business for over 25 years. Commissioner Vincent clarified that the first of a series of questions asked of Ms. Rose-Drecksler under oath, asked the following: Are you or any of your immediate family real estate professionals, developers, or builders? Initially, Ms. Rose-Drecksler answered "no". She replied that she thought the word was developer after real estate. She pointed out that it was also noted in her letter that she was a real estate broker in the state of Florida. Mr. Chandler believed Ms. Rose-Drecksler was sincere in her request, adding that the sanitation issue was their doing and that possibly they did not communicate enough with the applicant. While Commissioner Murdock did not question Ms. Rose-Drecksler's sincerity however he noted that she has a pattern of buying and selling lots in Bozeman and he could not support this exemption. **Commissioner Murdock moved to deny the exemption for reasons stated in the record. Seconded by Commissioner Mitchell, adding this is not the primary residence, and there was a history of previous attempts for development which is not a bad thing however it is part of the criteria the Commission has to examine for family transfers.** Commissioner Vincent concurred, adding that the statement relative to the applicant's history is relevant. He explained to Mr. Chandler for the sake of further applications when the Commission reads what could develop on these lots, given the latitude of the septic permit, it is on the record and if it were to develop in that fashion they would be looking at a minor subdivision, without subdivision approval. Therefore, he too could not support the exemption. **None voting nay. Motion carried.**

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Gallatin County Planner Sean O'Callaghan reported on the continuation of a public hearing and consideration of a request for preliminary plat approval for Rocky Mountain Engineers P.L.L.C. on behalf of Gail Chemodureau Williams for the Sourdough Creek Minor Subdivision, described as Tract A-1-A of Minor Subdivision No. 236C, located in the NE ¼ and NW ¼ of Section 31, T2S, R6E, P.M.M., Gallatin County, Montana. The property is approximately 114 acres and is generally located on the west side of Sourdough Road, between Brajenka Road and Cobble Creek Road at Streamside Lane. The proposed 5 lot residential subdivision is within the Agricultural Suburban (AS) District of the Gallatin County/Bozeman Area Zoning District. Water supply and sewage disposal will be provided by individual water wells and septic systems. Photos of the area were provided for the Commission however at the request of Mr. O'Callaghan they were not labeled as exhibits. The proposed subdivision was previously subdivided in June 1998 as Sourdough Meadows Minor Subdivision, and has subsequently been aggregated into a single parcel, Tract A-1-A. The current proposal is re-creating the previous five lot minor subdivision, noting the one difference from the original proposal was that Tract 3

is larger due to boundary relocations. At their meeting on November 26, 2002, the Gallatin County Planning Board considered the proposed subdivision. The Planning Board expressed concern over the minimum twenty-five (25') foot trail easement standard outlined in the County Trails Plan, and thought that there should be some flexibility in this easement width. The Board also expressed concern over the conditions that were recommended by the Fire District and suggested that the Commission take a closer look at those conditions. After considering all information presented in the staff report, the applicants presentation, and all public testimony, the Planning Board recommended approval of the proposed subdivision. (7:0). Mr. O'Callaghan summarized the proposal in relation to the Master Plan and Zoning Regulations Review. The 1990 Bozeman Area Master Plan Update Neighborhood Plan Revision to the Gallatin County Plan land use classification for the property is Rural Residential and Public Lands and Open Space. The Limestone Creek and Sourdough Creek corridors are within the proposed subdivision and are labeled as Public Lands and Open Space by the Master Plan Update. There are three development options in the A-S District. The applicant has chosen the Standard Development Option, which is one dwelling unit per twenty (20) acres. The total area of the proposed subdivision is approximately 114 acres. Mr. O'Callaghan briefly summarized the staff report that contained criteria for the Commission to evaluate and staff findings for considering the subdivision along with the suggested conditions. The Commission needs to make the following determinations: 1. A determination as to whether or not the application complies with the 1990 Bozeman Area Master Plan Update Neighborhood Plan Revision to the Gallatin 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 Commission approves the subdivision, the following conditions for final plat approval are suggested (underline and strikeout reflect Planning Board's recommendations for modifications to staff-suggested 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 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~~, and shall obtain the Gallatin County Health Officer's approval. 3. As shown on the preliminary plat, a 50 foot wide watercourse setback, along both sides of Limestone Creek, and the east side of Bozeman/Sourdough Creek, shall be delineated on the final plat. 4. ~~As shown on the preliminary plat, the regulatory 100 year floodplain shall be delineated on the final plat. Any development within the regulatory 100 year floodplain shall take place in accordance with the Gallatin County Floodplain Regulations.~~ 4a. The area within the 100 year floodplain shall be designated as a "no build zone" on the final plat. 5. A copy of the approved 310 permit for the Streamside Lane 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. 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. Forty-five feet (45') of the Sourdough Road right-of-way, west of the centerline and extending the entire length of the development, shall be dedicated to the public on the final plat. 8. A "no access" strip for Sourdough Road shall be located along the east boundary line of Lots 1, and 5, except at existing and approved county approaches. The no access strip shall be delineated on the final plat. 9. Interior 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. 10. Streamside Lane shall be within a 60-foot right-of-way dedicated to the public. The first seventy five feet (75') west from the Sourdough Road intersection shall be paved to County standards, and the remaining portion shall be constructed to County gravel standards. 11. All road construction shall be inspected and certified by a Montana registered civil engineer. Prior to final plat approval, the subdivider shall obtain written verification from the County Road & Bridge Department that all roads have been brought to County standards. 12. All areas of public right of way disturbed during construction activities shall be sodded or reseeded. 13. Subdivision road names shall be reviewed and approved by the County GIS Department prior to final plat approval. 14. A road name sign at the intersection of Sourdough Road and Streamside Lane shall be installed or bonded prior to final plat approval. 15. A STOP sign at the intersection of Sourdough Road and Streamside Lane shall be installed or bonded prior to final plat approval. 16. 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. 17. The subdivider shall reimburse the developers of the Triple Tree Ranch Subdivision for their proportionate share of the cost of improvements previously made to Sourdough Road. 18. 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"*. 19. ~~The applicant shall comply with all fire protection conditions of approval and covenants as specified by the Sourdough Rural Fire District as provided in the Sourdough Rural Fire District letter regarding the Sourdough Creek Minor Subdivision (or as revised and approved by the Sourdough Rural Fire District). Applicant shall obtain a letter of compliance with such and covenants from the Sourdough Rural Fire District prior to final plat approval.~~ 20. The developer shall provide, at their expense, the fire protection authority having jurisdiction (FPAHJ) with 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(approved and provided by the Gallatin County GIS Department). The fire protection authority having jurisdiction shall approve all addressing. All addressing data, maps, and any related information shall be provided to the Gallatin County GIS Department in a medium approved by the Gallatin County GIS Department. 21. Prior to final plat approval, a summary fire protection note, approved by the Sourdough Fire Department, shall be recorded on the final plat. If Fire Protection Sprinkler System Option is selected that note shall read - "Summary Fire protection Note - All inhabitable structures or buildings (including mobile and modular buildings or homes and others) with any residential or commercial capacity or use shall have a fire sprinkler system installed. Any building with in 50' of a building equipped with a fire sprinkler system shall have a fire sprinkler system installed. Other fire protection requirements apply, see covenants." 22. The subdivider 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. 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. The applicant shall provide a mitigation plan for sheriff services that is acceptable to the County Commission. 26. A property owners' association for the subdivision shall be created. 27. Covenants for the subdivision shall include the following provisions: a. All structures shall be constructed in compliance with the current International Building Codes. b. The property owners' association shall be responsible for the control of noxious weeds within the creek setbacks and all road right-of-ways. Lot owners shall be responsible for the control of noxious weeds within their property. c. The property owners' association shall be responsible for the operation and maintenance of all interior subdivision roads. d. 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. e. All fire protection covenants as required by the Sourdough Rural Fire District. f. The artificial feeding of all wildlife and big game shall be prohibited, including providing any food, garbage or other attractant. 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 at large. i. Owners acknowledge that wildlife damage to landscaping and other property may occur. Owners shall accept the risk and shall not file claims against the Owners Association or any other governing body for such damages. 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. 28. 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 Owner's Association c. Restrictive and Protective Covenants encumbering the real property contained within the subdivision. d. Improvements agreements. e. Certificate of a Licensed Title Abstractor. The Gallatin County Attorney's Office shall review and approve the above documents prior to final plat approval. 29. The developer shall dedicate a trail easement along the West edge of Lot 3, East of Sourdough Creek, extending from the North property line to the South property line. The exact location <u>and width</u> of the trail easement is to be approved by the County Planning Department. 30. The developer shall have three (3) years to complete the above conditions and apply for final plat approval. Mr. O'Callaghan outlined the following Exhibits attached to the staff report: Exhibit "A", Trails Advisory Committee; Exhibit "B", Gallatin Valley Land Trust; Exhibit "C", Sheriff Cashell's comments; Exhibit "D", Environmental Health Department comments; Exhibit "E", Montana Fish Wildlife and Parks, pointing out comments with regard to compatible uses within the floodplain; Exhibit "F", Applicant's justification; and Exhibit "G", Public comment. A letter was received from the

applicant's representative Attorney Susan Swimley suggesting modifications to conditions #25 and 29. It also noted that on March 26, 1996, Ms. Williams paid Gallatin County $1,471.20 for the proportionate share of the costs of improvements previously made to Sourdough Road. It is the applicant's intent to ask the County to agree that the 1996 payment meet the requirement of condition #17. It was also noted that Ms. Williams would ask the Planning Department to consider a waiver of Fire Impact fees based upon the 1996 contribution of $2,045.78. The Sourdough Fire Department was consulted and concurs with the waiver. Ms. Swimley summarized her letter dated January 6, 2002, with the suggested modifications to the conditions. She noted that the applicant's were in agreement with the conditions, except the following conditions: condition #25 "The applicant shall provide a mitigation plan for sheriff services that is acceptable to the County Commission." She requested the condition be stricken because the Commission has in recent history not adopted this language; condition #29 "The developer shall dedicate a trail easement along the West edge of Lot 3, east of Sourdough Creek, extending from the North property line to the South property line. The exact location and width of the trail easement shall be approved by the County Planning Department." She believed that this condition directly conflicts with the letter dated December 9, 2002, from Kurt Alt and Patrick Byorth of the Montana Department of Fish, Wildlife and Parks. In the letter, Mr. Alt and Mr. Byorth state that Sourdough Creek is in relatively pristine condition supporting a diverse and healthy fish community. They state that trails have minimal effects on streams and wildlife so long as they are kept a safe distance from the active stream channel. They requested building be avoided in the 100 year flood plain and a requirement that property owners are prohibited from removing vegetation, exclusive of weeds. Based on the wildlife habitat issues and preservation of the creek, the applicant requested that they not require a trail easement along the creek. It was believed that people and animal interaction would occur which would limit the wildlife that have access to that creek as well as degrade the creek banks, should people wonder off the trail. Additionally it would cause problems with the west end of the property because they are agreeing to not build in the 100-year flood plain, and this would limit the build able area on Lot 3. As an alternative they asked the Commission to agree that this pristine area needs to be preserved and if a trail connection is important to be able to go from Main Street out to the Triple Tree trails that are dedicated to the public they would ask to modify condition #29 to read as follows: "The subdivider shall dedicate a public 14 foot wide trail easement on the easterly edge of the property adjacent to Sourdough Road." It was noted that the property to the north was subdivided with no trail easement. Ms. Swimley noted that when they come back for final plat that they will be asking the Commission to determine that the developers 1996 payment under the first subdivision to Triple Tree for improvements to Sourdough Road, be credited. There was no impact from the 1996 subdivision because it was never built. They will be asking the Planning Director to consider a waiver of fire impact fees based on those fees paid in 1996. She also noted in preliminary discussions with DNRC with regards to condition #5, that they would not need a 310 permit. In that case they will come back and show evidence. Mr. O'Callaghan suggested they modify condition # 5, adding the words "if required", at the end of the first sentence. Further discussion followed regarding the re-channeling of Limestone Creek, as mentioned by Montana Fish, Wildlife & Parks, and the location of the trail. Ms. Swimley stated that they were in agreement to adding a covenant prohibiting livestock. Ms. Swimley clarified that the letter from Fish, Wildlife & Parks should have stated that "a previous landowner", not "the landowner" in reference to the re-channeling of Limestone Creek. By that statement, they meant some way of enhancing the bank so it would create a channel as opposed to a flood area. She stated they would be willing to do that as an enhancement to the property anyway. Commissioner Vincent questioned if there would be any consideration to clustering in this location. Ms. Swimley cautioned that the Commission needed to be careful about using any part of the Growth Policy or the 1990 Bozeman Area Update policy, as that was where that discussion comes from, not the Subdivision Regulations. Discussion followed regarding building envelopes, specifically on Lot 3 and water rights. It was suggested by Mr. O'Callaghan not to include building envelopes but instead to put the no build language in the floodplain. The applicant, Clayton Williams spoke regarding water rights. Ray Center, on behalf of Rocky Mountain Engineers made comments with regard to Sourdough Creek, the floodplain and the trail. Commissioner Vincent questioned if there had been any testing of groundwater or data to be considered regarding septic or water quality and availability. Mr. Center stated that they had not done any, and would do so in the future. Public comment: Dave Pruitt replied to comments made regarding ditches and water rights. Mr. Pruitt stated if they were going to subdivide this land that they needed to protect agricultural waters, noting when water rights are divided, they are destroyed and useless. He added that water rights can be sold separately and they do not have to go with the land. He stated that it would be better if they drilled their wells and the leave water rights to a better use. Ms. Swimley replied that they could transfer the water rights to the homeowners association or specifically, reserve it to go back to the Williams/Chemodureau Ranch so they do not get split up. Commissioner Vincent stated that there were a lot of unanswered questions and although the law enforcement mitigation was not a requirement, he would favor some accommodation. He believed because the development was so close to Bozeman that it would have protection if needed. He was concerned about the trail and wanted to learn more. He was also concerned that they did not have any

data relative to groundwater. Further discussion took place with regards to continuing action, until the applicant provided information relative to the Commission's concerns. Commissioner Murdock did not have a problem with the subdivision however he preferred that it be clustered. He was not in favor of the sheriff mitigation for reasons mentioned; his only major concern was with the trial. Mr. Center pointed out on a quad map, all the land in Sourdough Creek Properties, which had adequate water. Based on the terrain, he did not expect to see problem with water. Mr. Williams spoke with regard to ground water levels, noting no problems. He added that the land is has a very high slope and way above the creek level. Further discussion took place with regards to why the applicant chose not to cluster. Mr. Williams stated they were not developers and preferred not to have a cluster development, noting they had the financial responsibility for weed abatement and security problems. Commissioner Mitchell pointed out her observation of various issues in the area, noting she was uncomfortable with the proposal. While noting the applicant had the right to do want they wanted with their land, she added that the Commission had the responsibility to make sure they have the best growth and the most accessible way to deal with public issues. She believed that a trail should be accommodated, and would like to see a continuation of the trail corridor in some manner and the 100-year flood plain preserved. Although Commissioner Murdock agreed with Commissioner Mitchell he stated that he would not vote no. He would vote for it as presented, with the conditions as amended: Condition #5, add the language "if required" at the end of the first sentence; strike condition #25; and leave condition #29, as written. His reasoning for leaving condition #29, as written was because of his awareness of the expressed desire by all those involved in parks and trails efforts to extend the Main Street to the mountains idea, up Sourdough. He was not in favor of moving the trail up by Nash Road. He did not believe it was inconsistent to put the trail in the flood plain and that it would not harm property values. He stated that it was proven in public record that values go up. He pointed out that it was a fundamental requirement in state law and the Subdivision Regulations to consider public health, safety and convenience, including recreation and trails. Commissioner Vincent agreed with Commissioner Murdock relative to condition #29 however he had some other serious questions about proceeding a past preliminary plat approval without having what he felt was adequate data with regard to water quantity and quality. He had no objection to a subdivision in this location however he personally felt it should be clustered and wanted to look at the Donut Regulations to make an estimation in his own mind whether or not they had the authority to see if they could head in that direction. He did not feel comfortable proceeding on the basis of the following issues: water; fire impact fees; building envelopes; and covenants. Commissioner Mitchell concurred, noting that she wanted answers regarding water rights and livestock. On behalf of the applicant, Ms. Swimley agreed to a continuance until January 21, 2003. Public comment was closed. **No action taken.**

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the request for final plat approval for the Ramshorn View Estates, Phase 3D, Major Subdivision. Preliminary plat approval was granted May 5, 1998. On December 3, 2002, the Commission granted an extension of the preliminary plat for Phases 3 and 4. Phase 3D includes five single-family lots. The subdivision is located along U.S. Highway 191, south of Buck's T-4 in Big Sky. Based on review, Mr. Johnson stated that it appears all conditions for final plat approval have been satisfied. There was no improvements agreement. There was no public comment. **Finding that the Planning Department stated that the requirements and conditions for the Ramshorn View Estates, Phase 3D, Major Subdivision have been met, Commissioner Mitchell moved to approve final 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 11:17 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

#808

PUBLIC MEETING **TUESDAY THE 21st DAY OF JANUARY 2003**

The meeting was called to order by Chairman John Vincent at 9:00 A.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and Bill Murdock, and Clerk to the Board Shelley Vance.

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Chairman Vincent requested that everyone join together in a moment of silence for reflection or prayer followed by the Pledge of Allegiance. The following proceedings were had to wit:

JANUARY 13, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent, Murdock, and Mitchell, Grants Administrator Larry Watson, Gallatin Development Corporation Director Alicia Bradshaw, RC&D Coordinator Josh Kellar, and Auditor Jennifer Blossom (taking minutes). The Commissioners considered approval of a contract with the Gallatin Development Corporation and RC&D for a CEDS/Needs Assessment. This is for data collection that will involve and assist all entities. Commissioner Mitchell made a motion to approve said contract, finding that both Chief Deputy County Attorney Chris Gray and Finance Office Ed Blackman have approved the contract. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

  The Commissioners considered approval of contract #MT-CDBG-ED-SBIR-TA-02-01A with the Montana Department of Commerce. This is a time extension only contract. Commissioner Murdock made a motion to approve said contract. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

  The Commissioners considered payment of invoice #2 to the Bozeman Shelter Care. A contract has never been signed. It was noted that CJCC should be the ones recommending to the Board of County Commissioners whether or not to fund the Bozeman Shelter Care. Commissioner Murdock made a motion to pay the invoice, finding that until the contract is worked out or CJCC has a chance to review this matter, the shelter needs its funding. Commissioner Vincent seconded the motion. Commissioners Vincent and Murdock voted aye. Commissioner Mitchell voted nay. Motion carried with a vote of two to one.

JANUARY 14-15, 2003

- The Commissioners conducted regular County business.

JANUARY 16, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent and Murdock, Commission Secretary Rose Murrish, and Commission Assistant Glenda Howze. The Commissioners considered approval of budget transfers for Health (WIC), Extension, Project Impact, and Environmental Health Services. Commissioner Murdock made a motion to approve all noted requests for budget transfers. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

  The Commissioners considered approval of requests for inventory disposal for the Rest Home, Clerk and Recorder and Gallatin (Pogreba) Airport. Commissioner Murdock made a motion to approve said inventory disposal requests. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

  The Commissioners considered approval of a contract with Don Hargrove for lobbying services for the 58th Legislative session. Commissioner Murdock made a motion to approve said contract. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

  The Commissioners considered a change order for Phase III, IV for the re-model of the wall in the Commission office. Commissioner Murdock made a motion to approve said change order. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

JANUARY 17, 2003

- 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 15, 2003, in the amount of $118,371.52.
2. Approval of Contract(s): Mountain-Pacific Quality Health Foundation/Gallatin Rest Home; and Motor Vehicle Copier Maintenance Agreement w/Davis Business Machines.
3. Request for Common Boundary Relocation Exemption for Lyle W. Ryen, Bertha M. Ryen, and Chad Combs, located in the SE ¼ of Section 24, T1N, R5E P.M.M., Gallatin County, Montana. (Johnny Martinez Way, Tracts 26 & 27 Smoky Hollow) Gallatin County Planner Christopher Scott reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Common Boundary Relocation Exemption for Johannes Pieter Hendrik DeMeij/Neil & Debra Jamieson, located in the NW ¼ of Section 36, T2S, R6E, P.M.M., Gallatin County, Montana. (Bear Canyon Road). Gallatin County Planner Christopher Scott 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 Vincent. None voting nay. Motion carried.**

One vacancy exists on the Logan Landfill Advisory Board due to the term expiration of Robert Marshall. This position is for a three-year term and will expire on December 31, 2005. Mr. Marshall was notified and indicated a desire to be reappointed to the board. To date, no additional applications have been received. There was no public comment. **Commissioner Murdock moved to re-appoint Mr. Marshall. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Chief Deputy County Attorney Chris Gray reported on the public hearing and consideration of the second reading, substantive changes from the first reading of Dog Control Ordinance #2003-01. There was no objection from the public to reading the ordinance therefore the reading was waived. Mr. Gray summarized ordinance and noted the substantive changes. There was no public comment. Correspondence was received from Kyle Klicker and Kristy & Beth Pierce in support. **Commissioner Murdock moved to approve Ordinance #2003-01, as amended. Seconded by Commissioner Mitchell. None voting nay. Motion carried.** The ordinance will take effect in 30 days.

Gallatin County Finance Officer Ed Blackman reported on the public hearing and consideration of a resolution amending the Public Safety FY 2003 Operating Budget eliminating funding of (2) patrol officer positions and addition of (4) detention officers without an increase in budget, within the Sheriff Department. There was no public comment. **Commissioner Mitchell moved to adopt Resolution #2003-008. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Finance Officer Ed Blackman reported on the public hearing and consideration of a resolution amending the Clarkston Fire Service Area #6 FY 2003 budget to reflect actual revenues. There was no public comment. **Commissioner Murdock moved to adopt Resolution #2003-009. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

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* Road Petition #808

Gallatin County Clerk and Recorder Shelley Vance reported on the continuation of a public hearing to consider abandonment of a portion of alley located between Lots 1 – 3 and Lots 67 – 69 in Rainbow Subdivision of Bozeman Hot Springs. During a prior hearing it was discovered that notice was not mailed to individuals who protested the abandonment. On the advice of Deputy County Attorney Kate Dinwiddie it was recommended that this be re-advertised and notify those individuals who protested the abandonment. Notice of this public hearing was mailed to all those listed in the petition on January 15, 2003, including those individuals submitting letters of protest. Notice was published on January 16, 2003, in the High Country Independent Press. Lonny Walker explained there were two previous petitions to abandon portions of this alley and his request was to abandon the last 120 feet. The reason stated for the prior

abandonments was that the alley was not used as public access nor did the adjoining property owners use it. Mr. Walker provided a copy of a Bargain and Sale Deed from the Department of Transportation, which guaranteed his shared access with Eric Berger to Highway 191. Public comment: Eric Berger spoke regarding his concern with emergency access. He also pointed out the need for future water and sewer access. Terri Kolnik spoke against the closure. She pointed out the previous abandonments, noting that one owner owned all of the lots and it did not affect anyone's access. Since that time, travel on Gallatin Road has become increasing hazardous and access has become less desirable. She stated that closure of this alley was premature because of the reassurance they have with joining the water and sewer district and because so much is undecided with the future of Four Corners. She agreed with the viewing committees report. Lee Provance, County Road Superintendent reported that the MDOT will be limiting access onto 191 and advised not to abandon roadway. Mr. Walker stated the only way to guarantee access is with a deed, which he has and submitted. He stated that no one would be denied access. Public comment was closed. **Commissioner Mitchell moved to deny application for abandonment. Seconded by Commissioner Vincent.** Commissioner Mitchell agreed that this abandonment was premature. Commissioner Murdock was in favor of the abandonment for the reasons stated by Mr. Walker and suggested what is good for one is good for the other because of the prior abandonment issues. Commissioner Vincent agreed this was premature and was in favor of the motion. **Commissioners Mitchell and Vincent voting aye. Commissioner Murdock voting nay. Motion carried.**

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Mike Harris, Open Lands Coordinator reported on the public hearing and consideration of authorization of expenditure of funds in the amount of $950,000 from the Open Space Fund for the purchase of a conservation easement on 956 acres of property located approximately 5 miles north of Belgrade owned by the Cowan & Skinner Ranch Company. The final appraised value of the conservation easement was $3,600,000. The funds from the Open Space Bond will be leveraged with $1,000,000 from the Federal Farmland Protection Program, $60,000 from the Doris Duke Foundation, and the Cowan & Skinner Ranch Company will donate the remaining $1,600,000. Total leverage from outside sources amounts to roughly 74% of the market value of the easement. The Cowan/Skinner easement received a final recommendation for the allocation of funds from the Open Space Bond at the January 13th board meeting. Deputy County Attorney Chris Gray outlined the terms and conditions of the easement with recommendations. Mr. Gray stated that the review reveals that this transaction is appropriate. There was no public comment. **Motion by Commissioner Murdock to approve the expenditure of $950,000 of the Open Lands bond money for the Skinner conservation easement acquisition. Seconded by Commissioner Mitchell.** Mr. Gray advised that the Commission's order include the authorization that a wire transfer be made from the Treasurer's office pursuant to the agreement. **Commissioner Murdock amended the motion to include the terms described Mr. Gray and any other details needed by the County Attorney and other county offices. Commissioner Mitchell amended the second. None voting nay. Motion carried.**

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Gallatin County Planner Christopher Scott reported on the public hearing and consideration of a request for a family transfer exemption for Kay Van Norman and George Gephardt, located in the NW ¼ of Section 2, T3S, R5E, PMM, Gallatin County, Montana. (7880 Fowler Lane, Bozeman, MT). Mr. Scott briefly summarized the exemption request. Kay Van Norman was sworn in and testified under oath answering questions 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. **Motion by Commissioner Murdock to approve the family transfer exemption for Norman and Gephardt as requested, finding that it meets the exemption criteria and is the proper use. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

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Gallatin County Planner Christopher Scott reported on the public hearing and consideration of a request for a family transfer exemption for DeWin L. Madill, located in the SW ¼ of Section 23, T2S, R6E, PMM, Gallatin County, Montana. (Mount Ellis Lane). Mr. Scott briefly summarized the exemption request. DeWin L. Madill was sworn in and testified under oath answering questions 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. **Motion by Commissioner Murdock to approve the exemption for Madill as presented, finding that it is a proper use based on the testimony. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

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Gallatin County Planner Christopher Scott reported on the public hearing and consideration of a request for a family transfer exemption for Douglas L. Smith, located in the SE ¼ SW ¼ of Section 3, T2S, R5E, PMM, Gallatin County, Montana. Mr. Scott briefly summarized the exemption request. Douglas L. Smith was sworn in and testified under oath answering questions 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. **Motion by Commissioner Murdock to approve the exemption for Mr. Smith, finding that it is the proper used based on the testimony. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planner Sean O'Callaghan reported on the public hearing and consideration of a Conditional Use Permit for Northwestern Energy to allow the expansion of the Sourdough existing electric substation in the Residential Suburban (RS) District of the Gallatin Count/Bozeman Area Zoning District (the "Donut"). Mr. O'Callaghan provided the Commission with pictures (3 sheets) of the existing station, labeled Exhibit "H", additional conditions labeled Exhibit "I", and a landscaping plan labeled Exhibit "J". The existing facility is located on approximately 1.5 acres, located in the SE ¼ of section 18, T2S, R6E, PMM, Gallatin County, Montana. The property is generally located at the southwest corner of the intersection of South Church Street and Lincoln Street (if extended), South of Bozeman. Mr. O'Callaghan briefly summarized the staff report. At their meeting on January 14, 2003, the Gallatin County Planning Board recommended approval (5:0) of the application with the conditions as suggested by staff. After hearing and considering all public testimony, the Gallatin County Commission needs to make the following determinations: 1. A determination as to whether or not to approve, conditionally approve or deny the requested conditional use permit. 2. A determination as to whether or not the request as proposed by the applicant meets the criteria of Section 53.030A of the Regulation: *A. 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 uses in the vicinity; B. 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; C. That the proposed use will have no adverse effect on the abutting property; D. That the conditional use has complied with all conditions stipulated in Sections 46, 47, and 50;* E. *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, n. Other such conditions as will make possible the development of the zoning jurisdiction in an orderly and efficient manner.* If the County Commission recommends approval, the following conditions for the granting of the conditional use permit are suggested: 1. According to Section 53.030.B of the Regulation, the Commission shall, in addition to all other conditions, impose the following general conditions upon every conditional use permit granted: *a. 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; b. 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; c.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; d. That all of the special conditions shall be consented to in writing by the applicant.* 2. This conditional use permit shall not be valid until the applicant has obtained a land use permit from the County and a building permit from the City of Bozeman. 3. Any development within the 100 year floodplain shall take place in accordance with the Gallatin County Floodplain Regulations. 4. Fire services and/or providing a water supply for fire fighting purposes shall be reviewed and approved by the Sourdough Rural Fire District. The applicant shall obtain written verification from the fire district that this condition has been satisfied **prior to the issuance of a land use permit.** 5. The substation shall be buffered from adjoining lands by a combination of screening and landscaping that is approved by Planning Department through the site plan review process as described in the Regulation. 6. Prior to land use permit approval, the two parcels containing the electric substation shall be aggregated. 7. A decorative ~~ten~~ eight foot masonry wall shall be constructed on the north, south, and east sides of the proposed substation equipment. 8. The proposed chain-link fence on the southern part of the west side of the equipment shall be moved approximately 15 feet further away from the creek. The area in between the fence and the creek shall be improved with

appropriate riparian vegetation to mitigate the removal of vegetation within the proposed easement and to help prevent the spread of noxious weeds. 9. The applicants shall grant an additional public access easement necessary to equal a total of 60 feet of right-of-way for Lincoln Street (approximately 10.5 feet). 10. The applicant shall grant the required additional public street and utility easements for one-half of a 90 foot right-of way (45 feet) for South Church Avenue. The following deletions, additions, and corrections were made to the conditions: 2. This conditional use permit shall not be valid until the applicant has obtained a land use permit from the County and a building permit from the City of Bozeman if required. ~~7. A decorative ten eight- foot masonry wall shall be constructed on the north, south, and east sides of the proposed substation equipment.~~ 11. Within one year of commencing construction of the expansion, a ten-foot tall masonry wall shall be built around the north and east side of the proposed substation expansion. 12. One of the existing transformers shall be phased out and removed within six months of completing the installation of the new transformers. The other "old" transformer and other "old equipment" no longer required for the substation shall be phased out and removed within seven years of CUP approval. 13. Within one year of removing the "old equipment", or within seven years of CUP approval, whichever comes first, a ten-foot tall masonry wall shall be built on the south side of the substation, and in compliance with the side yard setback standards. 14. Prior to land use permit approval, the applicant shall provide proof that they have obtained all necessary permit(s) for the relocation of the septic system for the house at 1507 South Church, or a letter from the Gallatin City-County Health Department verifying that the current treatment system is valid and does not require modification due to the substation expansion. 15. Applicant shall record a waiver of right to protest annexation into the City of Bozeman. 16. Applicant shall comply with Section 46.070.B of the Regulation which addresses general maintenance of landscaping: a. *Required landscaping must be maintained in a healthy, growing condition at all times. The property owner is responsible for regular weeding, mowing of grass, irrigating, fertilizing, pruning, and other maintenance of all plantings as needed. Any plant that dies must be replaced with another living plant that complies with the approved landscape plan. Failure to maintain required landscaping in a healthy growing condition at all times may result in revocation of an occupancy permit. When enforcing this provision of this title, external factors such as seasonality and availability of landscape stock shall be considered before any action to revoke an occupancy permit is taken. B. Any damage to utility lines resulting from the negligence of the property owner or his agents or employees in the installation and maintenance of required landscaping in a utility easement is the responsibility of the property owner. If a public utility disturbs a landscaped area in a utility easement, it shall make every reasonable effort to preserve the landscaping materials and return them to their prior locations after the utility work. If, nonetheless, some plat materials die, it is the obligation of the property owner to replace the plant.* Mr. O'Callaghan pointed out the following exhibits submitted with the staff report: Exhibit "A", NorthWestern Energy's application and supplemental information; Exhibit "B", Correspondence from the City of Bozeman; Exhibit "C", Petition from adjoining property owners; Exhibit "D", Petition from neighborhood; Exhibit "E", List of concerns etc. handed in with petitions; Exhibit "F", Written comments received from the public; and Exhibit "G", NorthWestern Energy's site plan. Rona Brockman, Northwestern Energy explained the application request. She submitted a letter of support from Doug Hardy, General Manager of Park Electric Cooperative labeled Exhibit "K", and the NorthWestern Energy pamphlet labeled Exhibit "L". Ms. Brockman acknowledged that they were in agreement with the conditions. Jennifer Madgic, County Planning Director received two letters of opposition from Michael Dunn and Bill Phillips. Public testimony: G. K Reiser, submitted Exhibit "M", drawing and footprint of development. Bart Manion spoke regarding his concerns with the preservation of Bozeman Creek, cottonwood trees in the area, and property values. Mr. Manion submitted Exhibit "N", mitigation costs for design vs. costs for burying lines. Mr. Manion read a letters written by real estate agent Dick Stavanti, and broker Vern Bitz commenting on issues that could be detrimental to property values. Attorney Christopher Williams retained by adjacent property owners stated needs for experts to complete studies and requested that the Commission postpone their decision on this matter. Jim Pepper was concerned that this was a city issue more than a county issue and urged the Commission to defer their decision and consult with the city. Mr. Pepper also commented that he wants this site to be away from the floodplain. Ms. Brockman responded to public comment issues that included annexation, floodplain, underground lines, storm drainage and landscaping plan. Appraiser Dennis Hoeger spoke regarding his experience relative to the affect of transmission lines on private property. Based on his studies in the Kalispell/Flathead area, he could not support a loss in value for property that abuts a power line. NorthWestern Energy engineer Jim Cole addressed comments regarding various issues raised relative to the substation. Mr. Cole pointed out alternative substation sites. Discussion took place with regards to annexation into the city. Ms. Brockman stated that NorthWestern Energy agreed to sign a waiver of their right to protest annexation. Randy Sullivan, Director of Operations for NorthWestern Energy explained that they went to the city to see if any permitting was required and they were told they could annex however it was not necessary. Mr. Sullivan reiterated that they were in agreement with the conditions. Commissioner Murdock stated that he would like to see a requirement that NorthWestern Energy post a landscape bond. Mr. Sullivan stated they would be willing to accept that as a condition. Further discussion

took place with regard to the urgency of this project. Kate Dinwiddie, Deputy County Attorney advised the Commission to look at each and every one of the CUP findings and establish a thorough and complete record on why they think the applicant has or has not met each one of those conditions. **Commissioner Murdock moved to approve, subject to the conditions as presented by staff #1, 2, 3, 4, 5, 6, strike 7, add new conditions as presented by staff 11, 12, 13, 14, 15, 16, and add condition 17, which requires the posting of a landscape bond accepted by the County Attorney's office and the Planning office and condition 18, that the applicant enter into a non-interference with the transmission lines with their communications apparatus on the water tower agreement acceptable to the City of Bozeman. Seconded by Commissioner Mitchell.** In reference to the criteria in Section 53.030A, Commissioner Murdock made the findings that there would be a decrease in decibels, an improved landscaping plan, and improved reliability of service. He believed with the landscape bond, improved landscaping, the wall and other designs would be better than what currently exists. He added that there was no data based on the professional appraisers opinion showing adverse effects to the adjoining property values. He added that it met the criteria terms of A and B, and complies with the landscaping and parking and general development standards especially if they need a building permit and flood plain permit. He noted that all the requirements of the landscape plan would address E, in Section 53.030A. **It was noted that Commissioner Murdock intended to include conditions #8, 9, and 10 in the motion.** Commissioner Mitchell commented that the mitigations were adequate and going to improve the values overall. Commissioner Vincent did not dispute the need for expansion however he was not in support of the motion because it was the wrong facility in the wrong place at the wrong time. **Commissioners Mitchell and Murdock voting aye. Commissioner Vincent voting nay. Motion carried.**

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There were no pending resolutions. There being no further business the meeting w as adjourned at 12:21 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

Wa Roberts
162 Pheasant Lane
Belgrade, Mt.
59714

Gallatin Co. Commissioners
Jennifer Smith Mitchell
311 W. Main Rm. 306
Bozeman, Mt. 59715

To Clerk + Recorder!

WEST Roberts
162 Pheasant LN.
Belgrade, Mt. 59714
July 29 2002

Gallatin Co. Commissioners
Jennifer Smith Mitchell
311 W. Main Rm # 306
Bozeman, Mt. 59715

Commissioner;

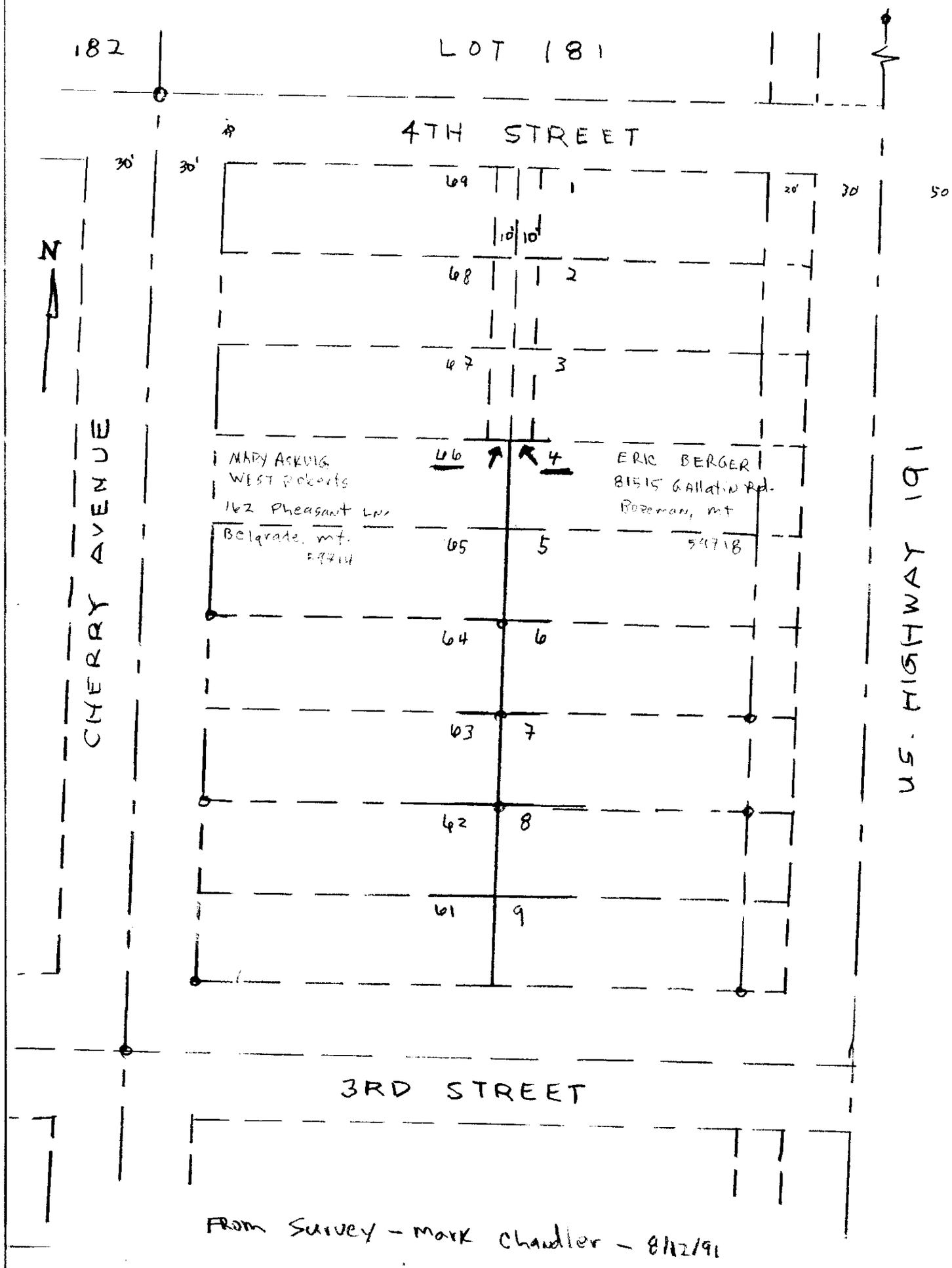
I am writing in requards to a petition submited to you by Mr. Lonny Walker. (dated 6-17-02) please find copy enclosed.

On appendix A page (one) Mr. Walker failed to state two additional land oweners adjacent to the alley he wishes closed. Lot no. 66 and lot no. 4 also have access to this road. This information was also misstated, Appendix B, page one and page three.

As this is access to my property I would like to voice my opposition to the closure of this road at this time.

Please find enclosed a map showing where lots no. 4 and no. 66 adjacent.

Thank you,
West Roberts



From Survey - Mark Chandler - 8/12/91

State of Montana

County of Gallatin

Bozeman

CERTIFICATE OF THE COUNTY CLERK AND RECORDER
RELATING TO
QUALIFICATIONS OF THE SIGNERS

Statement of Purpose: Petition to abandon an alley.

Legal Description: An alley running south from 4th Street, 120' between lots 1, 2, and 3 and 67, 68, 69 in the Rainbow Subdivision of Bozeman Hot Springs in the N ½ and SE ¼ of Section 14, T2S, R4E, on file with the Gallatin County Clerk and Recorder.

STATE OF MONTANA)
)ss
COUNTY OF GALLATIN)

I, Shelley Vance, do hereby certify that I am the qualified and acting County Clerk and Recorder for Gallatin County, State of Montana; that I have examined the petition to which this certificate is attached, and that pursuant to Section 7-14-2601 M.C.A. 2001, it contains the signatures of at least 10 qualified freeholders in Gallatin County.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of my office at Bozeman, the County Seat of Gallatin County, State of Montana, this 28th day of June 2002, A.D.

Shelley Vance

Shelley Vance
Clerk and Recorder
Gallatin County, Montana

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 Lenny Walker PHONE 580-7556

✓ 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._____

_____ 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 Association

Type 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.

RECEIVED
Date 6-17-02
Clerk & Recorder
Gallatin County, Mont.

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: Alley running south from 4th St 120 Feet between lots 1,23 and 67,68,69 rainbow Sub.

(Attach additional page if required).

2. The road is commonly known as: An Alley.

3. The general route of the road is described as follows: Running south from 4th St. 120 Ft.

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

LANDOWNER(S)	MAILING ADDRESS
✓1. Lonny WAlker	2104 N. Rouse Bozeman MT 59715
lots 1,2,3 and 67,68,69 Rainbow Sub	
PROPERTY DESCRIPTION	
2.	
PROPERTY DESCRIPTION	
3.	
PROPERTY DESCRIPTION	

	LOT OWNER(S)	LOT DESCRIPTION
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		
20.		
21.		
22.		
23.		

(Use additional pages if required)

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**

(Use additional pages if required)

8. The necessity for and advantage of the abandonment of the road are as follows: To be consistant with previous abandonment of this same alley to the south, the property adjacent to the Alley to the west and to the east are all owned by the petitioner.

PETITION TO DISCONTINUE STREET OR ALLEY IN UNINCORPORATED TOWN
(APPENDIX B)

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

COME NOW the undersigned owners of the lots on the street or alley in an unincorporated town or townsite sought to be discontinued and petition this board pursuant to Section 7-14-2616, MCA, to discontinue the street or alley and represent as follows:

1. The street or alley to be discontinued is particularly described as follows: Alley running South from 4th St. 120 Ft. West of lots 1,2,3, and East of lots 67,68,69 rainbow Sub.

(Attach additional page if required).

2. The general route of the street or alley is described as follows: South of 4th St 120 Feet

3. All of the owners on the street or alley are identified as follows:

	LOT OWNER(S)	LOT DESCRIPTION
1.	Lonny WAlKer ~~2/104~~	lots 1,2,3 and 67,68,69 rainbow Sub.
2.		
3.		
4.		
5.		
6.		
7.		

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

The undersigned state that they are owners of lots on the street or alley in the unincorporated town or townsite. **Note: ALL OWNERS OF THE LOTS ON THE STREET OR ALLEY ARE REQUIRED TO SIGN THIS PETITION. IF THE STREET OR ALLEY IS TO BE CLOSED FOR SCHOOL PURPOSES, 75% OF THE LOT OWNERS ON THE WHOLE STREET OR ALLEY ARE REQUIRED TO SIGN THIS PETITION.**

1. Signature: [signature] Address: 81555 Gallatin Rd

Printed Name: Lonny WALKER City, State & Zip: Bozeman MT 59718

Date: 6-1-02

Description of Property: lots 1, 2, 3 and lots 67, 68, 69 Rainbow.

2. Signature _____ Address _____

Printed Name _____ City, State & Zip _____

Date _____

Description of Property _____

3. Signature _____ Address _____

Printed Name _____ City, State & Zip _____

Date _____

Description of Property _____

4.

Signature | Address

Printed Name | City, State & Zip

Date

Description of Property

5.

Signature | Address

Printed Name | City, State & Zip

Date

Description of Property

6.

Signature | Address

Printed Name | City, State & Zip

Date

Description of Property

7.

Signature | Address

Printed Name | City, State & Zip

Date

Description of Property

8.

Signature

Address

Printed Name

City, State & Zip

Date

Description of Property

9.

Signature

Address

Printed Name

City, State & Zip

Date

Description of Property

10.

Signature

Address

Printed Name

City, State & Zip

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. _____ Signature

111 SOURDOUGH RIDGE RD Address

MICHAEL E. VINCENT Printed Name

BOZEMAN MT. 59715 City, State & Zip

4/30/02 Date

_____ Description of Property

✓ 2. _____ Signature

342 Vigilante Trail Address

Carrie L. Harvey Printed Name

Bozeman MT 59718 City, State & Zip

4/30/02 Date

_____ Description of Property

✓ 3. _____ Signature

9270 Trooper Trail Address

Daniel R. Jochem Printed Name

Bozeman, MT 59715 City, State & Zip

5-22-02 Date

_____ Description of Property

4. Signature: [signature]
Address: 2520 Bench Road
Printed Name: LARRY WALKER
City, State & Zip: Three Forks, MT 59752
Date: 5/24/02

Description of Property

5. Signature: [signature]
Address: 106 Winchester Rd
Printed Name: Robert Kaufmann
City, State & Zip: Bozeman MT 59715
Date: 6/3/02

Description of Property

6. Signature: [signature]
Address: 15144 Kelly Can. Rd.
Printed Name: Steven Jones
City, State & Zip: Bozeman, MT 59715
Date: 6-3-02

Description of Property

7. Signature: [signature]
Address: 14757 Kelly Can.
Printed Name: HAROLD SCHUTZHAUER
City, State & Zip: BOZEMAN MT 59718
Date: 6-3-02

Description of Property

8. Signature: Ed Sendra
Address: 6750 Campbell Rd
Printed Name: ED SENDRA
City, State & Zip: Manhattan MT
Date: June 8-02

Description of Property

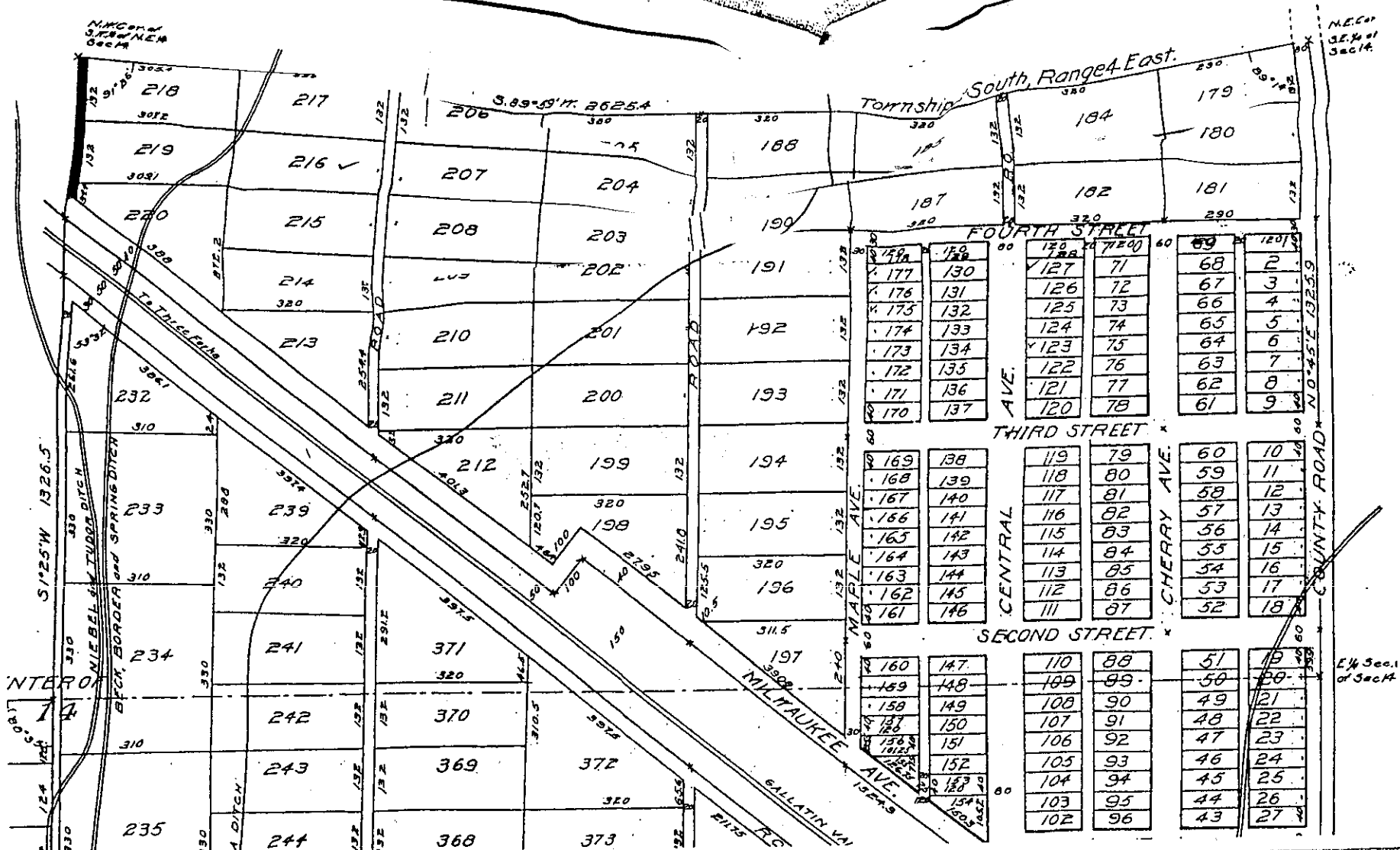
9. Signature: Robert Venema
Address: 8220 Churchill Rd
Printed Name: Robert Venema
City, State & Zip: Manhattan MT
Date: June 8-02

Description of Property

10. Signature: Marvin Greene
Address: #6 Cloninger Ln.
Printed Name: MARVIN GREENE
City, State & Zip: Boz. MT. 59715
Date: 6-15-02

Description of Property

(Use additional pages if required)


Township South, Range 4 East.
S.89°59'W. 2625.4
N.E. Cor. S.E. ¼ of Sec. 14.
N.W. Cor. of S.E. ¼ of N.E. ¼ Sec. 14
S1°25'W 1326.5
N0°45'E 1325.9
FOURTH STREET
THIRD STREET
SECOND STREET
CENTRAL AVE.
MAPLE AVE.
CHERRY AVE.
MILWAUKEE AVE.
COUNTY ROAD
ROAD
To Three Forks
NIEBEL & TUDOR DITCH
BECK, BORDER and SPRING DITCH
A DITCH
GALLATIN VAL
R.C.
E ½ Sec. 1 of Sec. 14
INTERO
14

Gallatin County Commissioners
Jennifer Smith Mitchell
311 West Main, RM #306
Bozeman, MT 59715
PH. # 582-3000
Secretary (Rose) or Glenda

Gallatin County Road Department
Lee Provance or George Durkin
201 West Tamarack
Bozeman, MT 59715
PH# 582-3250
FAX # 582-3255

Fax copy
582-7245

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

Bozeman Postmaster
5711 Baxter Lane East
Bozeman, MT 59719

West Roberts
162 Pheasant Lane
Belgrade, MT 59714

Eric Berger
81515 Gallatin Road
Bozeman, MT 59718

Lonny Walker
2104 N. Rouse
Bozeman, MT 59715

(Domestic Mail Only; No Insurance Coverage Provided)

7000 0520 0014 2179 8154

Postage $
Certified Fee
Return Receipt Fee (Endorsement Required)
Restricted Delivery Fee (Endorsement Required)
Total Postage & Fees $

Postmark Here

Recipient's Name (Please Print Clearly) (To be completed by mailer)
Lonny Walker
Street, Apt. No.; or PO Box No.
2104 N. Rouse
City, State, ZIP+4
Bozeman, MT 59715

PS Form 3800, February 2000 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
Lonny Walker
2104 N. Rouse
Bozeman, MT 59715

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X ☐ Agent ☐ Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7000 0520 0014 2179 8154

PS Form 3811, August 2001 Domestic Return Receipt 102595-01-M-2509

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7000 0520 0014 2179 8147

Postage $
Certified Fee
Return Receipt Fee (Endorsement Required)
Restricted Delivery Fee (Endorsement Required)
Total Postage & Fees $

Postmark Here

Recipient's Name (Please Print Clearly) (To be completed by mailer)
Eric Berger
Street, Apt. No.; or PO Box No.
81515 Gallatin Road
City, State, ZIP+4
Bozeman, MT 59718

PS Form 3800, February 2000 See Reverse for Instructions

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF RETURN ADDRESS. FOLD AT DOTTED LINE
CERTIFIED MAIL

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
Eric Berger
81515 Gallatin Road
Bozeman, MT 59718

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X ☐ Agent ☐ Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7000 0520 0014 2179 8147

PS Form 3811, August 2001 Domestic Return Receipt 102595-01-M-2509

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7000 0520 0014 2179 8130

Postage $
Certified Fee
Return Receipt Fee (Endorsement Required)
Restricted Delivery Fee (Endorsement Required)
Total Postage & Fees $

Postmark Here

Recipient's Name (Please Print Clearly) (To be completed by mailer)
West Roberts
Street, Apt. No.; or PO Box No.
162 Pheasant Lane
City, State, ZIP+4
Belgrade, MT 59714

PS Form 3800, February 2000 See Reverse for Instructions

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF RETURN ADDRESS. FOLD AT DOTTED LINE
CERTIFIED MAIL

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
West Roberts
162 Phesant Lane
Belgrade, MT 59714

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X ☐ Agent ☐ Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7000 0520 0014 2179 8130

PS Form 3811, August 2001 Domestic Return Receipt 102595-01-M-2509

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL

7000 0520 0014 2179 8123

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$

Postmark Here

Recipient's Name (Please Print Clearly) (To be completed by mailer)
Bozeman Postmaster
Street, Apt. No.; or PO Box No.
5711 Baxter Lane East
City, State, ZIP+4
Bozeman, MT 59719

PS Form 3800, February 2000 — See Reverse for Instructions

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Bozeman Postmaster
5711 Baxter Lane East
Bozeman, MT 59719

COMPLETE THIS SECTION ON DEL

A. Signature
X

B. Received by *(Printed Name)*

D. Is delivery address different from ite
If YES, enter delivery address belo

3. Service Type
☐ Certified Mail ☐ Express M
☐ Registered ☐ Return Re
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)*

2. Article Number *(Transfer from service label)* 7000 0520 0014 2179 8123

PS Form 3811, August 2001 Domestic Return Receipt

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL

7000 0520 0014 2179 8116

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$

Postmark Here

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

PS Form 3800, February 2000 — See Reverse for Instructions

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

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

COMPLETE THIS SECTION ON DI

A. Signature
X

B. Received by *(Printed Name)*

D. Is delivery address different from i
If YES, enter delivery address be

3. Service Type
☐ Certified Mail ☐ Express M
☐ Registered ☐ Return Re
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)*

2. Article Number *(Transfer from service label)* 7000 0520 0014 2179 811

PS Form 3811, August 2001 Domestic Return Receipt

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

TEMP-RETURN
SERVICE REQUESTED

PRESORTED FIRST CLASS

JAN 15 03 MT

PB PO METER 7125339 U.S. POSTAGE 00.352

Lonny Walker
81555 Gallatin Rd
Bozeman, MT 59718

RETURNED TO SENDER
☐ TEMPORARILY AWAY
☐ REFUSED
☐ NO RECEPTACLE
☒ VACANT
DATE: 1/16
Route # R-4
Initial

LOAFAMP 59718

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

TEMP-RETURN
SERVICE REQUESTED

PRESORTED FIRST CLASS

JAN 15 03 MT

PB PO METER 7125339 U.S. POSTAGE 00.352

Larry Walker
2520 Bench Road
Three Forks, MT 59752

WALK520 59752 2030 1102 05 01/17/03
FORWARD TIME EXP RTN TO SEND
WALKER
PO BOX 874
THREE FORKS MT 59752-0874
RETURN TO SENDER

LOAFAMP 59752

State of Montana

County of Gallatin

Bozeman

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Board of Gallatin County Commissioners will conduct a public hearing on January 21, 2003, at 9:00 A.M., in the Bozeman City Commission Meeting Room, 411 E. Main, Bozeman, Montana. Public opinion shall be heard regarding a petition to abandon an alley located between Lots 1 – 3 and Lots 67 – 69 within Rainbow Subdivision of Bozeman Hot Springs. All interested parties are encouraged to attend.

Further information may be obtained from Gallatin County Commissioners Bill Murdock, Jennifer Smith Mitchell, or John Vincent at 311 W. Main, Room 306, Bozeman, Montana 59715, telephone 582-3000.

Dated this 6th day of January 2003.

Shelley Vance

Shelley Vance
Clerk and Recorder
Gallatin County, Montana

Please publish: January 16, 2003
Please Bill: Clerk & Recorder

State of Montana

County of Gallatin

Bozeman

November 19, 2002

Board of County Commissioners
Gallatin County Courthouse
Bozeman, MT 59715

RE: abandonment of a portion of alley located between Lots 1-3 and 67-69 in Rainbow Subdivision of Bozeman Hot Springs.

Dear Board,

The undersigned viewed the area described in Road Petition No. 808 on November 15, 2002. Gallatin County Road Superintendent Lee Provance accompanied the viewing committee as a consultant.

According to 7-14-2603 M.C.A., the Board of County Commissioners shall cause an investigation to be made of the feasibility, desirability, and cost of granting the prayer of the petition. The investigation shall be sufficient to properly determine the merits or demerits of the petition.

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 Lots 67-69. Eric and Christine Berger currently own Lots 4-6. Mary Askvig and West Roberts currently own Lots 65 and 66. The Commission has 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.

Respectfully submitted,

John Vincent, County Commissioner

Shelley Vance, Clerk and Recorder/Surveyor