

PUBLIC MEETING**TUESDAY THE 20TH DAY OF MAY 2003**

The meeting was called to order by Chairman John Vincent at 9:03 A.M., at the Ruby Theatre in Three Forks. 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:

MAY 12, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent, Murdock and Mitchell; Grant Administrator Larry Watson, Mariah Easement Drug Treatment Court Coordinator, and Shelley Johnson Director of Alcohol and Drug Services, Four Corners Advisory Members Lonnie Walker and Jimmy Lohmeier, Planning Director Jennifer Madgic, County Planner, Victoria Drummond, and Commission Assistant Christina Thompson

Lonnie Walker and Jimmy Lohmeier discussed the Four Corners Advisory Committee Survey Results to incorporate that totaled 133 (For), 78(Against), and 47(Undecided).

Mr. Lohmeier stated that the board feels divorced with little support from the commission and that they would like to form a local government committee. Commissioner Murdock stated that if the Four Corners Board wants to create a sewer, zoning, and incorporate Four Corners, then they need a direct relationship with the County Commission. Commissioner Vincent would like to have Mona Jameson initially assist the board.

The Commissioners considered approval of a Grant Application for Drug Treatment Court. Commissioner Mitchell moved to support said application noting that the CJCC started this and doesn't want it to go away. Commissioner Vincent seconded said motion. All voted aye. Motion carried 2-0.

Victoria Drummond discussed establishing a fee schedule (see attached) for the creation of new districts that would allow the Planning Board to charge a cost recovery fee for staff assistance to a select group of citizens for the purpose of establishing comprehensive development plans or growth policies that implement goals as a new zoning district.

Commissioner Mitchell suggested presenting this concept at an upcoming MACo meeting.

MAY 13, 2003

- The Commissioners conducted regular County business.

MAY 14, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent, Murdock, Mitchell, and Commission Assistants Christina Thompson and Glenda Howze. The Commissioners considered approval of appointment of an appraiser for Open Lands Board matters. Commissioner Mitchell made a motion to approve Wheeler Appraisers as the appraiser for Open Lands Board matters, as approved by the landowners involved. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a budget transfer request from Environmental Health. Commissioner Mitchell made a motion to approve said transfer. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a Memorandum of Understanding with the Montana Supreme Court, Office of Court Administrator, 18th Judicial District Court and Gallatin County Commission for District Court video conferencing project. Payment for the system would not be required until May 2004 and there is no obligation for payment or continued use after one year. Commissioner Murdock made a motion to approve said Memorandum of Understanding. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

- The Commissioners attended a special meeting for the purpose of discussing pending litigation regarding the Detention Center and the ACLU. Chairman Vincent closed the meeting per state statute. Present were Commissioners Vincent, Murdock and Mitchell, Facilities Manager Bob Isdahl, District Court Administrator Dorothy Bradley, Joan Latin, Dick Prugh, and David Bennett. The meeting was called to order at 4:12 pm and adjourned at 4:21 pm.

MAY 15-16, 2003

- The Commission conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated May 15, 2003, in the amount of \$173,569.29.
2. Approval of Application for Cancellation of Taxes for Parcel Number(s): PPP1892; totaling \$19.53.
3. Approval of Contract(s): Denning, Downey & Associates, P.C.-External Auditors FY 2003-2004-Finance; Dan Marx, Lawn Ranger Spray Service for RID Vegetation Control FY 2003-2004-Finance; and R & R Taylor Construction for CTEP Project STPE 16(37) Old Manhattan Bank Building Restoration in the amount of \$97,800.

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.**

Gallatin County Attorney Marty Lambert explained regular agenda Items #1 and 4, pertaining to the Gallatin Solid Waste Management District Board appointments were continued due to a legal situation. The statute for resolutions to create a governing board provides that notice be given for one month with regard to applications. The notice went out April 24, 2003, so a few more days were needed. Mr. Lambert also noted that they needed to indicate in the notice that it had to be done by resolution. Gallatin County Grants Administrator Larry Watson requested that the appointments be continued until June 3, 2003, due to Monday being a holiday and the Commission would not have time to meet and discuss the applications. The Commission agreed to a continuance until June 3, 2003. **No action taken.**

Commissioner Murdock on behalf of Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution to amend Sourdough Rural Fire District FY 2003 budget by appropriating \$25,792 in revenues received from Fire Impact Fees for the purchase of a pumper tank apparatus. There was no public comment. **Commissioner Murdock moved to approve Resolution #2003-053. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Grants Administrator Larry Watson reported on the public hearing and consideration of a resolution to create the Gallatin Solid Waste Management District. The Commission initiated this process on October 16, 2001, and adopted a resolution of intention to form the Gallatin Solid Waste Management District. As a result of the adoption of that resolution the Commission requested that the communities of Manhattan, Three Forks, Belgrade, and Bozeman concur with the formation of the district. The communities of Manhattan and Three Forks did so and issued resolutions of concurrence. The communities of Belgrade and Bozeman did not choose to join the district. The Commission established a citizen's task force that met from September 2002 through December 2002, and the conclusion was that the cities of Belgrade and Bozeman had not yet decided to join the district. The result of that lack of concurrence from the cities of Bozeman and Belgrade lead to a revised resolution adopted January 14, 2003, to form the district with the boundaries of all Gallatin County, excluding West Yellowstone Hebgen Basin District because they have their own refuse district and the communities of Bozeman and Belgrade. Following adoption of the revised resolution a mailing of approximately 26,000 notices went out to the parcel holders in the defined boundaries of the district informing them that a hearing would be held at this time and place to pass upon protests made against the operation of the proposed district. Mr. Watson stated an important component in the adoption of the resolution is an official determination that insufficient protests have been made to create the district. It was his understanding that that sufficient protests would be a 50 percent protest of the parcel holders, or some 16,000 notices of protest. Mr. Watson stated that no protests were received however he had several phone calls requesting clarification of the notice. He added that most of the inquiries were very supportive. Public comment: Dave Pruitt, a member of the citizens committee stated that he too had received a number of calls requesting clarification and they were supportive as well. He believed this would

be a very positive thing and should put some stability in the waste stream. Phil Olson spoke in favor of the formation of the Solid Waste District and concurred that it would put stability in the waste stream of Gallatin County and be governed by people that would have the best interest of the citizens of the county. Three Forks Mayor Gene Townsend stated that most of the questions he received pertained to hauling the garbage. He stated that the majority of people in Three Forks have their garbage hauled by BFI and they are very satisfied with that service. He asked if it was the intention of the county to go into the garbage hauling business. Commissioner Murdock knew that was an option however he did not think that is where this was headed. Monica Fella, on behalf the Sierra Club read written comments submitted as Exhibit "A". Ms. Fella expressed concerns regarding bear proof containers that are currently being used in Gallatin County. It was suggested if the newly formed Gallatin County Solid Waste District was considering beginning hauling waste within the county, it should be made aware that the bear proof standards must be continued and progress must go forward in these efforts. It was also noted that Gallatin County has a bear proof container ordinance that must be followed. Dean Ulrich on behalf of BFI Waste Services commented in response to statements regarding stabilizing the waste flow by stating that you could stabilize waste flow through a long-term contract with the largest hauler in the area, which they have offered. He quoted MCA 75-10-102(c), which states private industry is to be utilized to the maximum extent possible in planning, designing, managing, constructing, operating, manufacturing and marketing functions relating to solid waste management systems. Bozeman Chamber of Commerce President David Smith spoke regarding free enterprise, adding that the current hauler has done well for years and he had not heard a compelling need for another layer of bureaucracy. He questioned what need is not being met? Alicia Bradshaw, on behalf of the Gallatin Development Corporation spoke in support of retaining BFI. Paul Mainwaring stated that he was suspicious and did not trust corporations. Mr. Pruitt stated that this hearing was not about hauling; it was about creation of a refuse district. Mr. Olson stated that he was also in favor of private enterprise operating as much of it as can be done. He felt the district would be the catalysis to make sure private enterprise is doing the best job that can be done. He stated that individuals would be able to contact the board should they have a problem. Mr. Ulrich disagreed with Mr. Pruitt, stating that the notice also included possible hauling. He believed they had the right to discuss this in its entirety. Public comment was closed. Commissioner Murdock stated both sides are correct and that there is a possibility if this district is formed that potentially the government could be running the landfill, recycling, composting, and hauling however that was that never his intention. He pointed out that the County Commission has been running this landfill for many years. It is not a new layer of government; it is changing it from the Commission to a district, which has a lot of powers and specifics on how to run a district, and responsibilities that are in the public interest. He did not believe that BFI would lose what they are doing now, although there would be a check and balance there if for some reason, there was a problem then the district is there to protect the public and assure another option. He did not want to see the hauling done by the government. He added that even after the district is formed the Commission would still sign off on the budget and appoint the board. Commissioner Mitchell concurred. She stated that the intent is to not put anyone out of business; the intent is to always give the public the best service possible for their tax dollars. She added that the board is an opportunity for the public to run this district. Commissioner Vincent agreed with both Commissioners adding that this should be put together to provide the public with the best service possible. He was sure that any changes would be incremental and stated that this should be taken in a positive fashion. Gallatin County Attorney Marty Lambert stated that the emphasis should be on who the board is comprised of and he believed the Commission made a wise choice in terms of the composition of the board. Mr. Watson commented on the possible future expansion of the district and its ability to haul. He stated by Montana law once the board is formed they are given considerable authority as a board to conduct the business of solid waste management and they want to fully disclose to the people receiving this mailing that the board has the capability to haul. **Commissioner Mitchell moved to make the finding they received insufficient protests on the creation of the district pursuant to MCA 7-13-209, 210, 211, noting that they sent out a mailing and have also held a hearing to receive potential protests. Seconded by Commissioner Murdock. None voting nay. Motion carried. Commissioner Murdock moved to approve Resolution #2003-054, to create a solid waste management district in the areas described. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

The Commission reported on consideration of a resolution of the Gallatin County Commission approving the requested front yard setback variance from the RC-SF-1 District within the Gallatin County/Big Sky Zoning Regulation. (Joint public hearing held May 8, 2003). There was no public comment. **Commissioner Murdock moved to approve Resolution #2003-055. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planner Victoria Drummond reported on continuation of a public hearing and consideration of a resolution to adopt a fee schedule for creating new zoning districts. Ms. Drummond explained that Gallatin County like other counties in Montana continues to undergo rapid development making it a

challenge for land use planners to efficiently manage growth while maintaining stewardship of the land. A tool Gallatin County and its citizens have is, citizen initiated zoning. In considering adoption of the fee schedule for creation of new zoning districts the County Planning Board reviewed this on April 8 and 22, 2003, and came up with a fee and process. The fee would be \$500, which is less than a major subdivision. It is suggested that the representatives of the proposed district submit an application. As the applicant, the representatives of the proposed citizen-initiated district would be required to prepare a presentation to demonstrate compliance with the Growth Policy and overall county goals. The application would specify the criteria that would be necessary for the presentation that would include land inventory, purpose and intent, boundary, and grant request. The understanding at that level would be that there is a \$500 fee and that the Planning Board may award a grant in that amount. If the Planning Board recommends approval of that application, they may also approve a grant award to pay the \$500 application fee. The applicant would proceed with the formal preparation of the regulation document and present the request to form a district before the County Commission in a public hearing. If the Planning Board recommends denial of the application, the applicant may choose to pay the \$500 application-filing fee, proceed in the process and make the request to form a district before the County Commission in a public hearing. The process and the fee benefits the County by: Enabling early and committed involvement by the stakeholders, planning staff, and Board; Providing the Board with an opportunity to review the proposed district for compliance with the Growth Policy and adjoining areas; Improving the review that attempts to reduce the ability of sprawling development; Allowing the Board to influence the evolution of districts and to base findings on a countywide perspective; Preventing taxpayers from paying the full cost of these services that are for selected areas; Preventing citizens from expending their time, expense, and county resources for district designs that cannot pass the initial criteria; Providing greater uniformity in administration and maintenance of district regulations; Formulating a process that increases the viability of future countywide zoning. It will allow for a complete understanding of HB 512 for the Planning Department, which was passed by the 2003 legislature amending Title 76 providing the addition of territory adjacent to an existing planning and zoning district. Commissioner Mitchell preferred that the Planning Board review whether or not the people had explored that option and found it unsatisfactory. Ms. Drummond stated that they would consider including it as part of the application so they would understand that they have those options. Commissioner Mitchell noted some confusion because some of Ms. Drummond's presentation was not in the memorandum. Ms. Drummond questioned if it should be included in the resolution. Commissioner Murdock did not believe that it needed to be added however he had other concerns. He did not want to put any impediment in the way of a group of citizens that want to create a grass roots zoning district. Further discussion took place pertaining to how the application is worded with regard to the grant and the process. Ms. Drummond explained by having time limits and certain targets at different stages would make it more formal and easier to obtain certain criteria. She believed the \$500 fee raises the bar as far as the seriousness for commitment by the individuals. There was no public comment. Commissioner Murdock preferred to continue action until they could have some discussion with the Planning Board and staff. Although he understood the concerns of staff and the Planning Board, he stated that he had to also think of the public's desires. He stated if they were to vote today he would abstain. Commissioner Mitchell concurred, adding that she did not want to send a message that they were putting another level of criteria in grass roots zoning. Commissioner Vincent was in agreement with the proposal however he did not object to getting together with the Planning Board. Continued indefinitely. **No action taken.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on consideration of final plat approval for the Buck's T-4 Mobile Home Park Subdivision. Preliminary plat approval was granted on October 5, 1993, for a five-unit mobile home park to provide housing for Buck's T-4 employees. The Commission granted a time extension of the preliminary approval period for the Buck's T-4 Mobile Home Park Subdivision. As required by the Commission, final approval for the subdivision must be considered no later than May 20, 2003. Mr. Johnson reviewed the conditions for final approval and based on the information it appeared that all the requirements have been met. The applicant Mike Scholz explained the circumstances of the time delay. **Finding that the conditions for final plat approval have been met for Buck's T-4 Mobile Home Park Subdivision, Commissioner Murdock moved to grant final plat approval. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Amsterdam RID Attorney Susan Swimley reported on the public hearing and consideration of the resolution of intent to create Amsterdam RID #386. The Commission saw this matter two weeks ago with consideration of a resolution to expend \$800,000 of Impact Fees collected towards improvements on Amsterdam Road. PC Development is going to prepay an additional \$661,000 in fees and material contributions, and the balance will be through this RID. There are four assessable properties, and three of the parcels are undeveloped Potter Clinton land with preliminary plat approval. Ms. Swimley briefly summarized the process, procedure and findings to be made for creating Rural Improvement Districts. In her preliminary evaluation of this, there was concern with the fact that four parcels are going to be assessed and

PC Development owns three of them which does not give diversity of ownership and in addition these are not newly platted subdivisions, they are all single ownership tracts of land. They will become subdivisions at some point and the assessment will be passed on to the residents in the newly platted lots. In evaluation of the criteria, statute allows the Commission to take a Special Reserve Fund, and that is an additional amount of money that goes into the revolving fund to secure this \$300,000 RID, which can go up to 5 percent. She projected one percent in conjunction with Bond Council. In addition they asked the Commission to consider the fact that the total market value of the 4 parcels of land is \$10,000,000 and this is a \$300,000 district. The reason they can have \$10,000,000 worth of property in a district and only have an RID for \$300,000 is because the county is giving \$800,000 of Impact Fees and the developer is prepaying and contributing materials up to \$661,000. The risk to the county has been minimized by the fact that there are these other contributions to the improvements. If the Commission adopts the resolution of intention, notice would be published May 23 and 30, 2003, in the High Country Independent Press. The protest period begins the day after the first publication and ends on June 6, 2003. The resolution to create will be considered on June 10, 2003. Commissioner Mitchell questioned why Rick Kerin of Kerin & Associates was the engineer because the Commission has gone out with an RFP and currently have an engineer taking care of the RID's. Ms. Swimley replied that it was different in the fact that two years ago the Commission waived the requirement to have a petition to create the RID. She summarized the events that took place from when this proposal was first before the Commission, noting since that time Kerin & Associates has been the engineer. Further discussion took place regarding the RFP process. Gallatin County Attorney Marty Lambert explained the reasons for doing the RFP. He stated that the RID policy needed to be amended to indicate Morrison-Maierle as the engineer for RID's. He reiterated that Mr. Kerin has already done all the work with regard to the specifications of this RID, and for those reasons in this case it would be appropriate for the Commission to allow this RID to proceed with Mr. Kerin as the engineer. Discussion took place with regard to whether or not there was a resolution amending the RID policy. Commissioner Mitchell was not comfortable because the County is already paying an engineer. Mr. Lambert reaffirmed that the process has been in motion for some time and Mr. Kerin was the engineer before the revision adding there are time constraints. Jason Leep, on behalf of the Potter Clinton Development stated that the estimated market value of the property in the district is increased by more than the special assessment. The market value of the property is in excess of \$10,000,000. The assessments as shown on Exhibit C vary from \$12,000 to \$192,000 based upon the size of the parcel. The district assessments will not exceed \$300,000; There is no diversity of ownership of the property in 1 instance 3 lots, parcels, or tracts are held by one owner which is PC Development and in 1 instance 1 lot, parcels, or tracts are held by a separate owner the Belgrade School District; There are 0 special assessments due in this district; There are 0 mortgage backed bonds or levies of record against property in this district; There are no delinquencies existing in the district; The public will receive benefit of improved road surface, better access, improved storm drainage turn lanes and signalization; This is undeveloped land not a newly platted subdivision. Three of the parcels have received conditional preliminary plat approval. Ms. Swimley read into the record the proposed improvements. Commissioner Vincent questioned if approval was needed from MDOT regarding the specifications. Ms. Swimley stated from a legal aspect the jurisdictional question about MDOT's approval is still unresolved. She noted that once the resolution creating the RID is adopted, PC Development is going to contact MDOT regarding the proposed improvement plans. Commissioner Mitchell requested a recess so she could check with Gallatin County Fiscal Officer Ed Blackman about the engineer question. Commissioner Mitchell stated that Mr. Blackman concurred with Mr. Lambert, stating that they had advertised and have a contract with Morrison-Maierle for Section 6 however this particular RID was already started and this engineer had already done all the work. There was no public comment. **Based upon the findings that this Rural Improvement District is in the public interest and best serves the interest of the County and the District, Commissioner Mitchell moved to pledge the Revolving Fund to secure this Rural Improvement District. Seconded by Commissioner Murdock. None voting nay. Motion carried. Based on the lack of diversity of ownership and the undeveloped land, the Commission finds it to be in the public interest to require a reserve fund in the amount of 1% of the total assessment of the District. Commissioner Mitchell moved to require the District to assess a reserve fund in the amount of 1% of the total assessment of the District. Seconded by Commissioner Murdock, adding that the total value of the property exceeds \$10,000,000 and they are using \$800,000 in Impact Fees therefore the \$300,000 would not be encumbering the public with a debt. None voting nay. Motion carried. Finding that this Rural Improvement District serves the public interest and convenience, Commissioner Murdock moved to adopt Resolution of Intention #RID-03-386A, to create Rural Improvement District #386, located on Amsterdam Road in Gallatin County, with the improvements as described in Section 5 of the resolution. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Ms. Swimley explained that the Commission would be seeing a pending resolution at their May 27, 2003, public meeting declining to create the original Amsterdam Road RID #381.

Gallatin County Attorney Marty Lambert reported on behalf of the Criminal Justice Coordinating Council on the public hearing and consideration of the Inter-local Agreement and budget for a Public Defender's Office. A copy of the Inter-local Agreement between Gallatin County, the City of Bozeman, and the City of Belgrade for a Public Defenders Office was provided for the Commission along with a proposed budget. Mr. Lambert briefly outlined the budget, noting the total cost for FY 2004 would be \$545,740, less the \$50,000 contribution to the physical structure itself that the county is responsible for, bringing the total to \$495,740. He believed this would result in much better management of the jail, adding for that reason alone it justifies going to a full-time public defender's office. He pointed out that they included the cities of Bozeman and Belgrade and the monies they would spend on their municipal and city courts towards public defense which he believed would result in efficiency and better service at less cost to the taxpayers of Gallatin County. Commissioner Mitchell noted that because the county owns the Law and Justice Center, they also contribute to the maintenance of the building. District Court Administrator Dorothy Bradley speaking on behalf of the Criminal Justice Coordinating Council Chairman Judge Salvagni confirmed that the cities both adopted the agreement with unanimous votes along with a unanimous recommendation of the Criminal Justice Coordinating Council. Ms. Bradley outlined the processes that took place to bring this agreement together. She spoke of the major reasons it was promoted and the benefits it will bring to the system by making it more efficient and effective. Further discussion took place with regard to concerns about the management of the public defenders office and the hiring and firing. Ms. Bradley explained why she believed the three member administrative panel made up of a Gallatin County Commissioner who is a member of the Criminal Justice Coordinating Council, the Bozeman City Manager, and the Belgrade City Manger was the best way, adding that she had absolute confidence it will work. The panel will have the authority to hire and fire the Chief Public Defender and review the budget. Commissioner Mitchell was in favor of the concept although she expressed concern with the fact that the Administrative Panel was made up of one-elected official and hired two city managers. She was also concerned because the agreement did not address supervision or evaluation of the Chief Public Defender on a regular basis. Further discussion took place with regard to differences in the percentage figures in the agreement for Belgrade and the breakdown for costs. Commissioner Mitchell commented on the fact that the City of Bozeman will fund 8.43 and Belgrade will fund 2.10, and yet they have an equal one third say in the hire/fire and supervision/evaluation of the Chief Public Defender. Ms. Bradley explained that it was discussed on a number of occasions who would be on the Administrative Panel and this is the way it went through the CJCC. She did not believe this would be something they would want to modify. Commissioner Mitchell suggested the Commission do the hiring/firing and supervision because they would be covering the majority of the costs. She believed they needed to have elected officials that are accountable to the public in charge. She was not in support of the agreement, as it was laid out, stating that it was fraught with failure from this standpoint. Ms. Bradley reiterated that this is how it came through the CJCC and this is how it was trusted it would be and with some there was not willingness to modify it. It was also a matter of timing with the idea that they need to start advertising immediately and remodel the office by September. Mr. Lambert suggested that any particulars with regard to how the Chief Public Defender would be hired could be put in the job description. **Commissioner Murdock moved to approve the Inter-local Agreement as presented by Dorothy Bradley for the Gallatin County/City of Bozeman/City of Belgrade Public Defender's Office. Seconded by Commissioner Vincent.** Commissioner Murdock commented that it was important that they not lose site of what they are trying to do although he agreed with Commissioner Mitchell's concerns. To him the overriding point is they have an opportunity to put together a Public Defender Office with some partnership with Belgrade and the City of Bozeman. He added that there will be economies of scale and there will be efficiencies having the defenders all in one office and location. He believed it would be beneficial for the entire criminal justice system. Commissioner Mitchell was not in support of the motion because of this section although it was with regret because no body wants to consider adjusting this to be a better organization. Commissioner Vincent was in support of the motion, believing there was more than adequate protection for the taxpayers in his estimation with the County Commission having authority over the budget and the termination provision. **Commissioners Murdock and Vincent voting aye. Commissioner Mitchell voting nay. Motion carried.**

The Commission announced the public hearing and consideration of the second reading of an ordinance reducing the speed limit on Sourdough Road. There was no public comment. **Commissioner Murdock moved to approve the second reading of Ordinance #2003-007. Seconded by Commissioner Mitchell,** noting that the Commission received a letter from Mary Ackermann in support of the ordinance. **None voting nay. Motion carried.**

The Commission announced the public hearing and consideration of the second reading of an ordinance reducing the speed limit in Horse Butte Subdivision. There was no public comment. **Commissioner Mitchell moved to approve the second reading of Ordinance #2003-008. Seconded by Commissioner, finding there has been no public comment written or verbal. None voting nay. Motion carried.**

The Commission announced the public hearing and consideration of the second reading of an ordinance reducing the speed limit in Wylie Creek Estates Subdivision. There was no public comment. **Commissioner Murdock moved to approve the second reading of Ordinance #2003-009, finding there was no further comment written or oral. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

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

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 27TH DAY OF MAY 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 Acting Clerk to the Board Mary Miller.

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:

MAY 19, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent and Murdock, Deputy County Attorney Kate Dinwiddie, Planning Director Jennifer Madgic, Planner Sean O'Callaghan, and guests Bruce Gerlach and Ted Huber – Bozeman Shelter Care. The Commissioners considered approval of the final payment for Bozeman Shelter Care. Commissioner Murdock stated that this last installment needs to be paid and the contract matter can be worked out in the next budget cycle. This has been suggested and recommended by Ms. Dinwiddie. Commissioner Murdock made a motion to pay the final installment for FY 03 to Bozeman Shelter Care, absent the contract, per direction from Deputy County Attorney Kate Dinwiddie. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

Ms. Madgic presented a request for action on an interpretation of use for the Catchpole CUP. Commissioner Murdock made a motion to send a letter stating that the Catchpole CUP application, per Section 5.8 of the Gallatin Canyon/Big Sky Planning and Zoning District regulations, should be reviewed through the conditional use permit process. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

Mr. O'Callaghan discussed a letter sent to the Commissioners from the Gallatin Conservation District regarding floodplain applications and the crossing of jurisdictions between the County and the district. The Commissioners instructed Mr. O'Callaghan to draft a letter to Ms. Teddi Everett, District Administrator, and decline attendance at the next board meeting, but suggesting a meeting of the Planning Department and her to discuss this matter.

Commissioner Mitchell joined the meeting for the remainder of the discussion. The Commissioners considered approval of a contract with WWC Holding Co., Inc. After discussion regarding said contract, it was determined that Commissioner Murdock would visit with Mr. Hess about the particulars on this contract before approval.

The Commissioners considered approval of a budget transfer request from the Road and Bridge Department. Commissioner Mitchell made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

MAY 20, 2003

- The Commissioners conducted regular County business.

MAY 21, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent and Murdock, Commission Assistants Christina Thompson and Glenda Howze, Bill Oldroyd & his attorney, Road Superintendent Lee Provance, Tracy Blain, Jason Shrauger, County Attorney Marty Lambert, Attorney Susan Swimley, Grants Administrator Larry Watson, Fiscal Officer Ed Blackman, Dorothy Bradley, Facilities Director Bob Isdahl. Mr. Oldroyd discussed the Fat Bottom Rally in West Yellowstone on July 16th and asked for Commission support. Commissioner Murdock made a motion to approve a 911 contract with WWC Holding Co, for a cell tower. Commissioner Vincent seconded the motion. All voted aye. Motion carried two to zero. Commissioner Murdock made a motion to approve taking the Search and Rescue Building to bid. Commissioner Vincent seconded the motion. All voted aye. Motion carried two to zero. Commissioner Murdock made a motion to approve a contract by Prugh and Lennon Architects for Detention Center Renovations and Improvements on services and agreements pending fiscal approval. Commissioner Vincent seconded said motion. All voted aye. Motion carried two to zero. The Commissioners discussed the MDT speed study on Amsterdam Road. Commissioner Murdock requested that Lee Provance draft a letter from the commissioners requesting that the speed limit be reduced from 55mph to 45mph. The Commissioners discussed RFP for the refuse district. Mr. Watson and Mr. Blackman will contact Greg Underhill with HKM and ask to compare costs if county ran everything vs. contracting out. Commissioner Murdock made a motion to approve expending from the general fund contingency for the purchase of a computer for the FTR system with no amount specified. Commissioner Vincent seconded the motion. All voted aye. Motion carried two to zero.

MAY 22-23, 2003

- The Commission conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated May 21, 2003, in the amount of \$215,782.16.
2. Request for Common Boundary Exemption for Carl and Nancy Petersen, located in Blocks 1, 2, 3, and 4, less COS 1532 of vacated Riverside Addition to the City of Three Forks, situated in the NW ¼ of Section 35, T2N, R1E, PMM, Gallatin County, Montana. Gallatin County Planner Victoria C. Drummond reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
3. Approval of Contract(s): HIV/STD Title II-Health-Human Services; WIC-Amendment Task Order 03-07-5-21-0120-Health-Human Services; and USFS 2003 Financial-Sheriff.

Commissioner Mitchell read the consent agenda and requested that the USFS 2003 Financial contract be continued until someone was available to answer her questions. There was no public comment. **Commissioner Mitchell moved to approve the consent agenda, as amended. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Planner Jennifer Madgic requested that regular agenda Item #13, request for preliminary plat approval for the River Run Meadows Major Subdivision be continued until June 3, 2003, for notification purposes. **No action taken.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County. (Un-named road off of Denny Creek Road to Blue Prairie Smoke Road). This was a county initiated petition. There was no public comment. **Commissioner Murdock moved to approve Resolution #2003-056. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County. (Un-named road off of Denny Creek Road to Isolation Way). This was a county initiated petition. There was no public comment. **Commissioner**

Mitchell moved to approve Resolution #2003-057. Seconded by Commissioner Murdock. None voting nay. Motion carried.

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County. (Un-named road off Denny Creek Road to Firehole Ranch Road and Bunkhouse Loop). This was a county initiated petition. There was no public comment. **Commissioner Murdock moved to approve Resolution #2003-058. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Commissioner Vincent reported on the public hearing and consideration of the second reading of an ordinance reducing the speed limit in the Bear Creek Properties, Phases 2 and 3. There was no public comment. **Commissioner Mitchell moved to approve the second reading of Ordinance #2003-010. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Commissioner Vincent reported on the public hearing and consideration of the second reading of an ordinance reducing the speed limit on Story Mill Road. There was no public comment. **Commissioner Murdock moved to approve the second reading of Ordinance #2003-011. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planner Victoria C. Drummond reported on the public hearing and consideration of a request for a family transfer exemption for Molly McKinnon Baxter, described as Tract 1A (25.4749 acres with a single-family dwelling) of COS 1208A, located in the SE ¼ of Section 35, T2N, R5E, PMM, Gallatin County, Montana. Ms. Drummond briefly summarized the requested exemption. The staff report indicated concerns expressed by Bryan Connelley, Assistant Fire Chief of the Belgrade Rural Fire District due to the lack of fire-protection water supply in the Reese Creek area, and ascertained that this safety issue will only be alleviated through the subdivision review process. There were also concerns expressed by neighbors. Ms. Drummond noted that Ms. Baxter is a realtor, and had experience with the family transfer in that her primary residence was purchased from a family transfer. Molly McKinnon Baxter was sworn in by County Attorney Marty Lambert 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. Ms. Baxter confirmed she was a sales associate and indicated that the only other property she owned was her primary residence on Springhill Road. She had no problem installing a water tank(s) for fire suppression, adding that she would be willing to do whatever it took to do it properly and comply with the Belgrade Fire Department, as well as sign a statement. When questioned by the Commission, Ms. Baxter replied that at some point there was a possibility she would sell the remainder tract however it was not definite. Public comment: Joanne Pieper; Gene Brodeur; Ann Butterfield; Dennis Treut; Stuart Weber; Jim Loessberg; and Sandra Maher. Several testified there was reason to believe this was an attempt to evade subdivision review based on prior history of family transfer exemptions approved in this area. It was mentioned that there were inconsistencies on the application with regard to conversations they had with Ms. Baxter about her intent to possibly sell the remainder tract. It was also noted that Ms. Baxter owns more properties in Gallatin County than what she stated during testimony. The following concerns were expressed: maintenance and safety of roads; agricultural aspect of the neighborhood; water issues; adjacent conservation easements; fire safety; traffic problems; open space; wildlife habitat; and loss of their way of life. The applicant's representative Mark Chandler with C & H Engineering commented that this is a review of the proper use of the family transfer exemption and not a subdivision review process. He believed that most of the comments and concerns expressed were subdivision review topics. Further discussion took place with regard to what extent the factors presented during testimony could be taken into consideration. Gallatin County Attorney Marty Lambert commented that the Commission had sufficient evidence to go either way, noting the issue was whether or not this is an attempt to evade review. He added that some of the things Mr. Chandler stated are the subject of subdivision review and could be factored in the decision that this exemption is an attempt to evade review however in fairness that will have to be done with all applicants. He commented on the need to rewrite the exemptions because there is no guidance from the statute. He stated that the Attorney General's Opinion was that the main authority in the area is to look at all of the facts and circumstance surrounding the exemption request. He believed it was broad enough to include some of the concerns testified to today. Ms. Baxter reiterated her intent, noting that she had forgotten that she does co-own property with her children. She concluded that she would comply with any requests. Commissioner Vincent asked Mr. Lambert if the Commission would be responsible for bringing

up these concerns with each and every exemption if the public had not testified or if they would only respond if the public presented that information. Mr. Lambert believed in the record made during the hearing, noting the issue has been raised. He pointed out a few of the issues testified to that would justify that the Commission had sufficient evidence to go either way. The first was the fact that this parcel was already part of a prior abuse and the Attorney General's Opinion states the Commission can take into account the history of this parcel. Another strike against Ms. Baxter is that she is not living on the parcel adding for the most part the applicant resides on the property. There were also no definite plans made by her sons, adding with the passage of time the parcels could be potentially marketable to others. Based on all the information, Commissioner Murdock stated he could not support the family transfer exemption particularly because of the fact that the applicant does not live on the property and she is creating three tracts. Although she stated she was giving two tracts to her sons, she testified that at some point she would probably sell the remainder tract. He added the fact that she also purchased a family transfer tract in a very short period of time after it was created and that she is a sales associate. He suggested Ms. Baxter go through subdivision review. **Commissioner Mitchell moved to deny this family transfer exemption request, finding that having evaluated the relevant circumstances and assessing the intent of the person claiming the exemption, including the nature of the claimant's business, the prior history of the tract in question, and the proposed configuration of the tract. Seconded by Commissioner Murdock.** Commissioner Mitchell stated that a family transfer exemption is a privilege, not a right, adding that the history of the tract is proof. Commissioner Vincent concurred, adding that they could not assume Ms. Baxter would sell however based on her testimony they could not assume she would not and he believed there was reasonable doubt. **None voting nay. Motion carried.**

Gallatin County Planner Victoria C. Drummond reported on the public hearing and consideration of a request for a family transfer exemption for Len Blanchette, described as Tract 3 (24.171 acres) of COS 1202, located in the NW ¼ of the NE ¼ of Section 3, T3S, R5E, PMM, Gallatin County, Montana. Ms. Drummond briefly summarized the proposed exemption request. The claimant's intent is to create three additional lots for his three sons. The application included the affidavit signed by the claimant that all three children were of legal age. It was pointed out that Drew Blanchette was not of legal age therefore, a warranty deed was supplied that indicated Len Blanchette would be custodian of the transfer until his son turned 18. Len Dean Blanchette was sworn in by County Attorney Marty Lambert 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. It was noted that the claimant's representative Mark Chandler with C & H Engineering submitted the affidavit on Mr. Blanchette's behalf that stated all the children were of legal age. Mr. Chandler stated that he thought it would be all right because by the time they got DEQ approval the son would be of legal age. It was clarified that Drew Blanchette would turn 18 on June 27, 2003. Commissioner Vincent questioned the probability that all three sons are likely to stay in this area and build. Mr. Blanchette was confident that his sons would stay in the area although it would be awhile before making any plans. He also confirmed that he had no plans of selling his tract. There was no public comment. **Based on the facts and testimony received Commissioner Murdock moved to approve, finding this was a proper use of the exemption. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planner Sean O'Callaghan reported on the public hearing and consideration of an Improvements Agreement for Phases 3B and 4 of Ramshorn View Estates Major Subdivision. Preliminary plat approval was granted on May 5, 1998. Subsequently, the developer was granted two one-year extensions of preliminary plat approval. The preliminary plat expired on May 5, 2003. Phases 1 and 2 were platted on July 13, 1999. Phases 3A and 3C were platted on August 1, 2001. Phase 3D was platted on January 9, 2003. Phases 3B and 4 are the last two phases. C & H Engineering and Surveying Inc., on behalf of Homelands Development Co., made application for final plat approval for Phases 3B and 4 of the subdivision. The applicant requested that the conditions for the installation of required infrastructure improvements (roads, striping, stop signs and road name signs, sewer improvements), be completed under an improvements agreement. The Gallatin County Attorney's Office reviewed and approved the improvements agreement. Mr. O'Callaghan confirmed that this subdivision was phased in such a way that the improvements that are not completed will not impact the other phases. There was no public comment. **Commissioner Mitchell moved to approve the Improvements Agreement for Phases 3B and 4 of the Ramshorn View Estates Major Subdivision, finding they not going to impact the rest of the development negatively and that the County Attorney reviewed the Improvements Agreement for compliance. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Planner Sean O'Callaghan reported on the public hearing and consideration of final plat approval for Phases 3B and 4 of Ramshorn View Estates Major Subdivision. Phases 3 and 4 include the creation of 40 residential lots in the Gallatin Canyon/Big Sky Zoning District. Mr. O'Callaghan noted with the exception of the conditions included in the Improvements Agreement, it appears that the conditions have been satisfied. There was no public comment. **Commissioner Murdock moved to grant final plat approval to the Ramshorn View Estates Major Subdivision, Phase 3B and 4, finding it conforms to the conditions of approval set forth on the preliminary plat and the terms of the MCA and the regulations adopted pursuant to that law. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planner Jennifer Madgic reported on the public hearing and consideration of a variance on behalf of Gallatin Peaks Land and Development LLC for Gallatin Peaks' Cluster A Subdivision to extend preliminary plat approval for two additional years and to extend the length of time for the Improvements Agreement. The nine-lot project is part of the Gallatin Peaks' Master Planned Unit Development, and is located in Section 1, T7S, R3E, PMM, Gallatin County, Montana. The Commission approved the preliminary plat of the Cluster A Subdivision on August 10, 1999, with an expiration of preliminary plat approval scheduled for August 10, 2003. The Commission further approved a one-year extension on July 23, 2002. The current request would extend preliminary plat approval another two years for a total of six years. Section 3(I) of the Gallatin County Subdivision Regulations gives the Commission the authority to extend preliminary plat approval for an additional calendar year at the request of the applicant. The Commission can extend the approval for "more than one year if that approval is included as a specific condition of a written improvements agreement between the Commission and subdivider". The applicant further requests a variance from Section 8.B.1.g(1) of the Subdivision Regulations which limits an improvements agreement to four years from the date of preliminary plat approval, (The length of time of the improvements agreement shall not exceed four years from the date of preliminary plat approval). If the Commission approves the applicant's variance requests, the following conditions of approval would apply to the Gallatin Peak's Cluster A Subdivision: 1. Applicant shall have six (6) years beyond the date of preliminary plat approval (preliminary plat approval: August 10, 1999, to August 10, 2005) to complete the above conditions and apply for final plat approval. (76-3-610, MCA) 2. Applicant shall complete an improvements agreement to be reviewed and approved by the Gallatin County Attorney's Office in accordance with the Gallatin County Subdivision Regulations for all improvements pertaining to Gallatin Peaks' Cluster A Subdivision that have not been satisfied by August 10, 2003. Such improvements agreement shall be in force until August 10, 2005. Attorney Brian Gallik on behalf of the applicant submitted a statement of reasons for the request and outlined those for the Commission. The basis for the request were due to complications in constructing Aspen Drive, the short building season in the area, and the complexity of the entire project. He explained that all the conditions of approval have been met with the exception of the completion of Royal Wolf Road. **Finding that the applicant demonstrated adequate hardship for this variance, Commissioner Mitchell moved to grant the extension request for Cluster A. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Planner Jennifer Madgic reported on the public hearing and consideration of a partial waiver of Road Impact Fees on behalf of Bonnie and Dick Milligan for the Milligan Minor Subdivision. The Gallatin County Road Impact Fee Regulation allows for waivers in certain cases to be reviewed by the County Planning Director, after consultation with the County Road Department, subject to final approval by the County Commission. According to Section 9.3 of the Regulations, the Milligan's request has been approved by the County Planning Director for a partial waiver (90%) of Road Impact Fees. This determination is based on a contribution from the Milligan's towards the costs of nearby road construction. The policy allows for waivers under certain conditions: A partial waiver may be received if the subdivider has provided a contribution towards the costs of acquiring or constructing the capital facilities. According to the applicant's representative Terry Threlkeld, the Milligan's spent \$101,188 on road construction for the project and constructed a looped roadway as requested by the County Commission and the County Road Superintendent. The five-lot Milligan Minor Subdivision received final plat approval on September 14, 2002, posting a bond to cover road impact fees. Based on the 90 percent reduction, the Milligan's would be responsible for paying a total of \$879.50 in road impact fees. Under the current per-lot road impact fee assessment, the Milligan's were responsible for paying \$8,795 in road impact fees. If approved, the Milligan's would be refunded (or letter of credit reduced) \$7,915.50. Mr. Threlkeld summarized the reasons for the waiver request. Attorney Susan Swimley explained the prior rationale for recommending a 90 percent waiver was the fact that every traffic report contains a 10 percent variable. **Commissioner Mitchell moved to grant the Milligan Minor Subdivision the Road Impact Fee waiver, as recommended by staff. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Amsterdam RID Attorney Susan Swimley reported on the public hearing and consideration of a resolution declining to create Amsterdam RID #381. There was no public comment. **Finding that they are moving ahead with a much more palatable improvement schedule for Amsterdam Road, Commissioner Murdock moved to approve Resolution #RID-02-381B. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

There were no pending resolutions. There being no further business the meeting was adjourned at 11:16 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 3RD DAY OF JUNE 2003

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

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:

MAY 26, 2003

- The Commission Office was closed in observance of Memorial Day.

MAY 27, 2003

- The Commissioners attended a special meeting of the Salary Compensation Committee. In attendance were Commissioners Vincent and Murdock, Clerk and Recorder Shelley Vance, Clerk of District Court Lorraine Van Ausdol, County Attorney Lambert, Judge Scott Wyckman, and committee members Tom Simkins and Steve Schnee. County Attorney Lambert made a motion to appoint Steve Schnee and re-appoint Tom Simkins as citizen members of the salary compensation committee. Clerk of District Court Van Ausdol seconded the motion. All voted aye. Motion carried unanimously. Discussion took place regarding the salaries of elected officials for FY 04, particularly regarding longevity with a two-year ceiling. Commissioner Murdock made a motion pending preparation of a resolution by County Attorney Lambert, to give a longevity increase of 7% to FY 03 salary to all elected officials with a minimum of two-years of elected service. There will be no further longevity increase for additional years' of service unless otherwise specifically authorized by statute. All voted aye. Motion carried unanimously.

MAY 28, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent, Murdock, and Mitchell, Commission Assistants, Glenda Howze and Christina Thompson, Planning Director Jennifer Madgic, County Auditor Jennifer Blossom. Commissioner Vincent made a motion to approve Commissioner Murdock claims in the amount of \$264.38, claim number 802443. Commissioner Murdock seconded the motion. All voted aye. Motion carried two to zero. Minutes for Agenda Items # 3 & 4 regarding Planning and Zoning Interpretation in River Rock Zoning District and Status of Draft of Intergovernmental Agreement and Draft Bozeman Urban Area Annexation Policy can be found in the Planning and Zoning Commission records.

The Commissioners discussed MACo FY2004 Membership dues. Commissioner Murdock made a motion to approve membership pending receipt of invoice. Commissioner Mitchell seconded the motion. All voted aye. Motion carried two to zero.

Discussion regarding Motor Pool was continued indefinitely.

Commissioner Murdock discussed the A&E Ethanol Plant regarding their title clearance on tax deed property. Commissioner Murdock requested that Ms. Howze follow up on the status with Anna Rosenberry.

Commissioner Murdock made a motion to approve the Gallatin County Fire Management Plan with the DNRC. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

Commissioner Murdock made a motion to approve budget transfer requests for Elections and Accounting. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners discussed a letter from Lux Transfer and Storage regarding tax cuts. Commissioner Murdock requested that Ms. Howze draft a letter explaining how taxes are levied and the distribution of taxes received.

MAY 29-30, 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 May 29, 2003, in the amount of \$351,404.76.
2. Approval of Contract(s): CBO Collections-Justice Court; Justice Court Public Defender Contract w/Schraudner & Hillier, L.L.P.; and USFS 2003 Financial-Sheriff.
3. Approval of Application of Taxes for Parcel Number(s): RKE18832, PPP14123, PPP9305, MMM752, MMM1551, MMM2639, MMM5483; totaling \$2,093.27.
4. Request for Common Boundary Relocation Exemption for Marshall Ashcroft and Kail and Renee Wantle, located in the SE ¼ NE ¼, SE ¼, E ½ SW ¼, and NE ¼ SW ¼ of Section 26, and Tract 1 of COS 2295 situated in the E ½ and E ½ W ½ of Section 35, T3N, R2E, PMM, Gallatin County, Montana. Gallatin County Planner Victoria C. Drummond reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Mortgage Survey Exemption for William Lansing, described as a parcel of land located in the W ½ of Section 19, T3N, R4E, PMM, Gallatin County, Montana. Gallatin County Planner Victoria C. Drummond reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Vincent noted a correction on consent agenda Item #4, that the name Ashcroft should read Ashcraft. The following items on the regular agenda were continued until June 10, 2003: Item #1-Board Appointments to the Gallatin Solid Waste Management District; Item #2-Receipt of the Auditor's Quarterly Report for January-March 2003; and Item #3-Continuation on public hearing and consideration for appointment to the governing board of the Gallatin Solid Waste Management District. **No action taken.**

Commissioner Murdock read the consent agenda, noting that Item #3, should read: Approval of application for cancellation of taxes. There was no public comment. **Commissioner Murdock moved to approve the consent agenda, as amended. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

One vacancy exists on the Gallatin Airport Authority board due to the term expiration of John J. McKenna, Jr. This position is for a five-year term and will expire on June 1, 2008. Mr. McKenna was notified and indicated a desire to be re-appointed. There was no public comment. **Commissioner Murdock moved to reappoint Mr. McKenna. Seconded by Commissioner Vincent.** Commissioner Mitchell questioned if there were any other applicants and how long the position was advertised. Because these are long terms, Commissioner Mitchell suggested they advertise longer to assure that the public was adequately notified. Commissioner Murdock was satisfied that they met the notice requirements more than adequately. Commissioner Vincent concurred. **Commissioners Murdock and Vincent voting aye. Commissioner Mitchell voting nay. Motion carried.** Two vacancies exist on the Rae Fire Service Area board due to the term expirations of Jesse G. Armitage and Tom Kingma. Both are three-year terms and will expire on April 1, 2006. Both members were notified, and indicated a desire to be re-appointed. (Mr. Kingma served a one-month term and indicated a desire to be re-appointed for a three-year term). There was no public comment. **Commissioner Murdock moved to re-appoint both Mr. Armitage and Mr. Kingma. Seconded by Commissioner Mitchell. None voting nay. Motion carried.** One vacancy exists on the Fort Ellis Service Area board due to the term expiration of Pete Fay. This is a three-year term and will expire on April 1, 2006. Mr. Fay was notified, and indicated a desire to be re-appointed. There was no public comment. **Commissioner Mitchell moved to re-appoint Mr. Fay. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Planner Victoria C. Drummond reported on the public hearing and consideration of a request for a family transfer exemption for Peter Lee and Connie Jo Anderson, located in the SW ¼ of Section 4, T2S, R4E, PMM, Gallatin County, Montana. Ms. Drummond briefly summarized the exemption, noting that until the claimants' testify under oath, it is not clear if the proposed exemption is an attempt to evade the Montana Subdivision and Platting Act or the Gallatin County Subdivision Regulations. Peter Lee and Connie Jo Anderson were sworn in by Deputy County Attorney Kate Dinwiddie 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. **Satisfied with the information received and the answers to the questions, Commissioner Murdock believed that this was a proper use of the exemption and moved approval. Seconded by Commissioner Mitchell, finding that it meets the law under 76-3-207(1)(b). None voting nay. Motion carried.**

Gallatin County Planner Victoria C. Drummond reported the public hearing and consideration of a request for a family transfer for Charles and Helen Steele, noting that claimant's counsel Susan Swimley requested a continuance until June 10, 2003, because the claimants were unable to attend this meeting for questioning. **No action taken.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the continuation of a request for preliminary plat approval for C & H Engineering and Surveying, Inc. on behalf of Phil and Wanda Smith for the River Run Meadows Major Subdivision, described as the SW ¼ of Section 36, T6S, R3E, and the SW ¼ of Section 31, T6S, R4E, and the NE ¼ of Section 1, T7S, R3E, PMM, Gallatin County, Montana. The property is generally located on the south side of Highway 64 (Big Sky Spur Road), just past the entrance to the Big Sky Meadow Village. The proposed subdivision would divide approximately 40 acres into eleven (11) residential lots, with an average lot size of 2.2 acres. The development also includes 16.5 acres of common open space. The subdivision is proposed to utilize individual, on-site water supply and wastewater treatment facilities. Mr. Johnson made note that contrary to the article in the newspaper the Commission has not denied this subdivision as this was the first opportunity for review. This proposal is located in the Gallatin County/Big Sky Zoning District. The zoning designation of the property is Residential Cluster Single Family 2.5 (RC-SF-2.5). The subdivision proposal is in compliance with the requirements of the RC-SF-2.5 District and the Residential Cluster Development standards. Mr. Johnson briefly summarized the following staff findings: zoning; existing land use; open space; access; interior roads; water supply; and sewage disposal. It was pointed out that Skywood Road provides "legal" access to Lot 4, as required by the Subdivision Regulations (Section 7.B.). Physical access to Lot 4 is proposed to be provided by two 30 foot driveway easements through Lot 2. The proposed driveway access to Lot 4 does not meet county standards (less than 60 foot public right-of-way and less than 22 foot gravel width). Staff suggests that the Fire Chief approve the physical access to Lot 4 as a condition of final plat approval. Concerns of staff and the Road Department (letter attached to staff report as Exhibit "A") is that the driveway is wide enough to facilitate a fire truck. Mr. Johnson reviewed the following primary criteria; agriculture; agricultural water user facilities; local services-law enforcement (letter attached to staff report as Exhibit "B")-emergency medical-schools; natural environment; wildlife and wildlife habitat; and public health and safety. The County Commission needs to make the following determinations: A determination as to whether or not the application meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act; and a determination as to whether or not the application complies with the provisions of the Gallatin County Subdivision Regulations (specifically Section 6.A.3, Land Unsuitable for Subdivision). If the County Commission approves the subdivision, the following conditions are suggested: 1. The final plat shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates. 2. The 100-year floodplain boundary for the South Fork of the West Fork of the West Gallatin River shall be delineated on the final plat. 3. A minimum of 16.54 acres of common open space shall provided within the subdivision, and delineated on the final plat. 4. The Montana Department of Transportation shall provide written verification that that the existing encroachment/access onto Highway 64 can accommodate the additional traffic generated by the new subdivision. 5. Secondary access shall be provided to the subdivision. The secondary access road (Oevermann Road to Misty Road) shall lie within a public right-of-way easement, and shall be improved to a gravel standard acceptable to the Gallatin Canyon Fire District and the County Road & Bridge Department. 6. The subdivider shall enter into an agreement with all affected parties for the shared maintenance of the secondary access road. The maintenance agreement(s) shall be submitted to the County Road & Bridge Department. 7. The interior subdivision road names shall be reviewed and

approved by the Gallatin County GIS Department prior to final plat approval. 8. Interior subdivision road and bridge plans, road maintenance plans, lot access plans, drainage plans, and detailed signage plan shall be submitted to the Gallatin County Road & Bridge Department for approval prior to the start of any construction. The sign plan shall specifically address the requirement for road name signs to be installed at all intersections. STOP signs and other regulatory or warning signs may also be needed on some internal roads, which should also be addressed in the plan. All signage must conform to the Manual on Uniform Traffic Control Devices (MUTCD), Millennium Edition. 9. All interior subdivision roads shall be within a minimum 60-foot public right-of-way easement, and shall be constructed to county standards for paved roads prior to final plat approval. **10. The Gallatin Canyon Rural Fire District shall review and approve the physical access to Lot 4 prior to final plat approval. Any access improvements to Lot 4 as required by the Fire District shall be completed prior to final plat approval.** 11. **A cul-de-sac, constructed to county standards, is required at the property line between Lots 10 and 11. The Gallatin Canyon Rural Fire District shall review and approve the cul-de-sac prior to final plat approval. Any access improvements to Lots 10 and 11 as required by the Fire District shall be completed prior to final plat approval.** 12. A pre-construction meeting shall be conducted with the Gallatin County Road and Bridge Department prior to the start of any road construction. 13. All roadwork shall be built to Montana Public Works Standard Specification (Fourth Edition, January 1996), inspected and certified by a licensed engineer. Such inspection and certifications must be provided to the Gallatin County Road and Bridge Department in writing. Final approval will not be given until this documentation is received. 14. All areas within public right-of-ways disturbed by construction shall be sodded and seeded and controlled for noxious weeds. 15.

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. 16. A copy of the Homeowners' Association covenants shall be supplied to the County Road & Bridge Department prior to final plat approval. 17.

State Department of Environmental Quality approval shall be obtained for the subdivision. The subdivider shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The subdivider shall obtain the Gallatin County Health Officer's approval. 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 subdivider shall provide a water supply for fire protection in accordance with the Gallatin County Subdivision Regulations. The subdivider shall have the Gallatin Canyon Rural Fire District review and approve the water supply prior to final plat approval. The subdivider shall obtain written verification from the fire district that the required water supply and other required fire protection measures have been provided. 20. The subdivider shall record on the final plat a waiver of right to protest creation of rural improvement districts and local improvement districts. 21. The subdivider shall make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. 22. The Subdivider shall make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. 23. A Homeowners' Association for the subdivision shall be created. 24. Covenants for the subdivision shall include the following provisions: a. All structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for Seismic Zones, and the National Fire Protection Association (NFPA) codes. b. The homeowners' association shall be responsible for the control of noxious weeds within the common open space parcels, and all road right-of-ways. Lot owners shall be responsible for the control of noxious weeds within their property. c. Place title to common open space property with the Homeowners' Association. d. Common open space shall be preserved and maintained for passive and active recreation, wildlife habitat, and protection of scenic, unique or important natural features. e. Membership shall be mandatory for each owner, who must be required to pay fees to the Association for taxes, insurance, and maintenance of common open space. f. As concerns common open space, the Homeowners' Association shall be responsible for liability insurance, local taxes, and the maintenance of recreational facilities. g. As concerns common open space, assessments levied by the Association must be able to become a lien on the property. h. As concerns common open space, the Association shall be responsible to adjust the assessment to meet changed needs. i. Ownership shall be structured in such a manner that real property taxing authorities may satisfy property tax claims against the open space lands by proceeding against individual owners in the Association and the dwelling units they each own. j. The Homeowners' Association shall be responsible for the operation and maintenance of all interior subdivision roads. k. All dwellings shall be constructed with an automatic fire sprinkler system meeting the requirements of NFPA 13D/Uniform Fire Code. The fire district shall

receive a stamped set of engineered sprinkler system plans for review and approval prior to construction. Inspections shall be scheduled, with 48 hours notice, during construction and after completion. l. All structures shall use only Class A or B fire-rated roofing materials. m. Spark arrestor screens shall be placed on all fireplace and woodstove chimneys. n. Smoke detectors shall be installed on each level of dwelling units. o. The vegetation reduction and clearance guidelines of the Fire Protection Guidelines for Wildland Residential Interface Development shall be used. p. Open fires shall be prohibited, except for outdoor barbecues. q. The artificial feeding of all big game wildlife shall be prohibited. r. All garbage shall be stored in animal-proof containers or be made unavailable to animals. s. Owners acknowledge that wildlife damage to landscaping will occur. Owners shall accept that risk and shall not file claims against the Owners Association or any other governing body for such damages. t.

Fencing along the exterior boundaries of lots shall be prohibited. u. The taking of any wildlife species within the property is prohibited, except for the removal of problem animals which endanger human health and safety. v. Pets shall be controlled by each homeowner, and not allowed to roam within the subdivision. w. 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.

25. Two copies of the following documents shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval.

a. Articles of Organization or Incorporation for the property owners' association approved by the Secretary of State of the State of Montana. b. Bylaws controlling the operation of the Homeowners' Association. c. Restrictive and Protective Covenants encumbering the real property contained within the subdivision. d. Documentation granting public road access to the subdivision and all roads within the subdivision. e. Improvements agreements. f. Certificate of a Licensed Title Abstractor. The Gallatin County Attorney's Office shall review and approve the above documents prior to final plat approval.

26. The subdivider shall have three (3) years to complete all conditions, and apply for final plat approval for the subdivision. Discussion took place with regards to whether or not a traffic analysis was required and it was noted that the MDOT shall provide written verification that the existing encroachment/access onto Highway 64 can accommodate the additional traffic generated by the new subdivision. Commissioner Mitchell questioned if the bridge could handle additional traffic. It was pointed out by Mr. Johnson that there is a requirement that all roads including bridges must be built to county standards and it is included in the conditions. The applicant's representative Mark Chandler, with C & H Engineering briefly outlined the proposal, noting that they looked into connecting to the Big Sky Water and Sewer District and found that it would not be feasible due to the distance and topography involved. Mr. Chandler stated that the Smith's were in agreement to the conditions. There was no public comment. Public comment was closed. Discussion took place with regards to connecting to the Big Sky Water and Sewer District. Commissioner Murdock commented that although he wished they would have central sewer he recalled that it would be difficult because of the canyon and the river and that is why the sewer district chose not to extend its boundaries.

Finding that the application meets the requirements of Montana law 76-3-608 of the Montana Subdivision and Platting Act; that it meets the County Subdivision Regulation requirements; and that it meets the spirit, intent and letter of the law with the Gallatin Canyon/Big Sky Zoning District, Commissioner Murdock moved to approve with the conditions as presented by staff. Seconded by Commissioner Mitchell, questioning if they needed to remove the Sheriff mitigation conditions. Mr. Johnson confirmed that he did not include that condition because currently there was no policy. The record shows there were no changes to the conditions with this application. Stating that he was going to vote in favor of the motion, Commissioner Vincent noted that one of the criteria he refers to with subdivision applications is public health and safety relative to law enforcement however in reality Big Sky is a different situation. They have a cooperative agreement with Madison County, noting that Big Sky might have more coverage of law enforcement than any other area in the county. Because of the concentration of deputies assigned there he did not find there was a public safety problem relative to the availability of law enforcement in this particular area. **None voting nay. Motion carried.**

Manhattan Planning Consultant Ralph Johnson reported on the public hearing and consideration of preliminary plat approval on behalf of Raymond and Rita Reichman for the Six Lazy Nine Minor Subdivision, described as a tract of land being located in the E ½ of Section 33, and the W ½ of Section 34, and the SW ¼ of the SE ¼ of Section 28, T2N, R3E, PMM, Gallatin County, Montana. The property is generally located on the west side of Nixon Gulch Road approximately 2 miles north of the Town of Manhattan. The first minor subdivision is on approximately 17 acres and the remaining property is approximately 280 acres. The proposal is located within the Manhattan City-County Planning Board's jurisdiction and at their May 14, 2003 meeting the Board reviewed the applicants' submittal. The Board reviewed the application with regard to the primary criteria and voted to recommend approval of the proposed subdivision. Mr. Johnson briefly summarized the following staff findings: topography; land uses; vegetation; and access. The applicant requested a waiver of Fire Impact Fees since there is an existing

house and no new impacts will be created with this subdivision. An existing home on a lot automatically qualifies an applicant for a waiver from County impact fees. The County Commission has to make a determination as to whether the proposed subdivision should be approved. The basis for the County Commission's decision shall be whether the preliminary plat, and the additional information demonstrate that development of the subdivision meets the requirements of the Montana Subdivision and Platting Act and the Gallatin County Subdivision Regulations. Staff recommends approval of the subdivision with the following conditions for final plat approval suggested: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2. The applicants shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, or the creation of a sewer and/or water district. 3. All utility easements shall be shown on the final plat. Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat: *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* 4. A Memorandum of Understanding shall be signed between the Weed Control District and the applicants prior to final plat approval. 5. The applicants shall record the following covenants on or with the final plat: *a) The property owner shall be responsible for the control of County declared noxious weeds. b) Individual lot accesses from public roads shall be built to the standards of Section 7.G.2 of the Subdivision Regulations. (Note: The applicant has requested a waiver of this requirement.) c) Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. d) All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law. e) Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.* 6. Two copies of the covenants, a copy of the conditions of preliminary approval, documents establishing the property owners' association, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants, documents establishing the property owners' association, and certificate prior to final plat approval. 7. The applicant shall provide an appropriate fire protection method in accordance with the Subdivision Regulations. The sub-divider shall have the Manhattan Rural Fire District review and approve the fire protection method prior to final plat approval. The sub-divider shall obtain written verification from the fire district that the requirement has been met. (Note: The applicant has requested a waiver of this requirement.) 8. The applicants shall have three (3) years to complete the above conditions and apply for final plat approval. Mr. Johnson noted that the applicant requested a variance from condition #5(b), and that it was reviewed by the Gallatin County Road Department and found to be acceptable. Commissioner Murdock questioned if it was noticed that a variance would also be requested. Mr. Johnson replied that it was not noticed that a variance would be requested. Deputy County Attorney Kate Dinwiddie confirmed that it would have to be noticed properly that a variance was being requested. It was determined that the application could still be considered separately and the variance could be heard at a later date. Ms. Dinwiddie concurred. Condition #7 would also require a variance. Commissioner Murdock pointed out that it was standard to have a condition stating fire and road impact fees shall be paid in accordance with the County Impact Fee Policy, which can then be waived. The following conditions were added: #9: Fire and Road Impact Fees shall be paid in accordance with the County Impact Fee Policy. Condition #10: The applicant shall provide a 30 foot wide county road dedication the entire length of the property west of the center line of Nixon Gulch Road. Raymond Reichman questioned the need for condition #10. Mr. Johnson explained that the County Road Department, as policy looks to determine whether or not existing dedications are on primary roads throughout the county. One does not exist in this case therefore in an attempt to create that dedication the entire length of this road would be included. George Durkin, on behalf of the Gallatin County Road Department explained that this is a standard condition. There was no public comment. **Satisfied with this application and knowing there will be (2) variances requested, Commissioner Mitchell moved to approve the request for preliminary plat approval with all the conditions, as amended, and finding it meets the requirements of the State Law, County Subdivision Regulations, and whatever the Growth Policy might add. Seconded by Commissioner Murdock, finding that the Manhattan Planning Board reviewed it and found it consistent with their planning. None voting nay. Motion carried.**

Belgrade City-County Planner Jason Karp reported on the public hearing and consideration of a request for preliminary plat approval on behalf of Nadia Beiser of M,M&I, LLC for the Riverfront Park

Subdivision, (2nd submittal). The proposal is for a 135-lot subdivision on 111.61 acres and is being planned in 3 phases. The subdivision is located east of Belgrade off Spain Bridge Road, near its intersection with Airport Road. The property is described as parcels 3, 5, 6, & 7, COS 1909 and Parcel 8-A, COS 1909A, located in the NW ¼ and SW ¼ of Section 4, T1S, R5E, PMM, Gallatin County, Montana. Mr. Karp provided for the Commission a letter in opposition from Jerry and Marlene Abercrombie, two suggested changes/additions to the conditions, and a letter dated May 30, 2003 from the applicant Nadia Beiser to Mr. Karp regarding a proposed third access to the Riverfront Park Subdivision. The first submittal was reviewed by the County Commission at their April 22, 2003 public hearing, which the Commission voted 2 to 1 to deny the preliminary plat. The developer made some modifications to the preliminary plat and submitted an entirely new preliminary plat application for review. The Belgrade City-County Planning Board reviewed the second preliminary plat and voted 3 to 2 at their May 27, 2003, public hearing to recommend conditional preliminary plat approval of the subdivision. Mr. Karp attached specific Planning Board member comments to the staff report with recommended conditions. The applicant submitted an Environmental Assessment (attached to staff report) and adjoining property owners were notified and notice was published in the High Country Independent Press. The second submittal preliminary plat shows 135 lots in 3 phase with 134 lots being single family; 1 lot for up to 16 condominium units; and the entire subdivision served by central water and sewer systems. The original application had 144 lots including 1 condominium lot, which did not specify the number of units. That proposal was in 4 phases and the subdivision was going to be served by individual wells and central sewer system with the exception of the first three lots, which were to be served, by individual wells and septic. In the first submittal there was a variance request from road paving for Phase 1. No variances were requested for the 2nd submittal. Primary access and secondary access will be Spain Bridge Road an existing county maintained public road. Mr. Karp briefly summarized the staff findings as follows: vegetation; fire protection; and parkland. The preliminary plat indicates that 21.9621 acres is being set aside for parks and open space, thus exceeding the minimum parkland requirement by 14 acres. During the first submittal concerns were expressed relative to the subdivision being located just outside the Gallatin Field Airport's influence area so a covenant is being recommended informing lot owners of the airport and private airstrip and affirming their right to operate. Mr. Karp outlined the primary criteria and comments that the governing body must weigh. He addressed comments made regarding some of concerns with the first submittal and mitigation's offered by the developer for the 2nd submittal. Patrick Byorth, Fisheries Biologist with the Montana Department of Fish, Wildlife, and Parks submitted a letter stating his concerns over issues related to water quality and quantity, wildlife habitat, floodplains, and potential bank stabilization. Mr. Byorth deferred to other experts regarding water quality and quantity issues and noted that the Department of Environmental Quality has jurisdiction. He recommended that a buffer be provided between all but one lot and riparian vegetation. He noted that the developer had agreed that no shrubs or trees would be removed and no building would occur in the floodplain and that a vegetative buffer would be provided between the development and the East Gallatin River as a condition of approval. At the Planning Board hearing the developer agreed to show a 400-foot building setback from the river on the final plat. There was significant concern about the effect the subdivision will have on groundwater. The applicant submitted a ground water supply/water quality, report, prepared by Niklin Earth and Water, Inc., dated May 2003, discussing the groundwater impacts and impacts to the East Gallatin River. The report concluded that there was adequate domestic water for the development, that the development's utilization of groundwater will not negatively impact down gradient groundwater users and/or flows in the East Gallatin River, and that the treated wastewater will not negatively impact down gradient groundwater users or the East Gallatin River. Alan English, Manager of the Gallatin Local Water Quality District, stated that based on his knowledge of the hydrology of the area, the conclusion is that the Niklin report appears reasonable. The developer submitted a traffic study by Robert Peccia and Associates. The traffic study essentially concluded that this subdivision would not have a significant impact on area roads. Current County impact fee policy would require a fire impact fee of \$547 per lot and a road impact of \$1,759 per lot be submitted to Gallatin County. The subdivision would generate \$237,465 in road impact fees when all phases get final plat approval. The subdivision will also generate \$73,845 in fire impact fees that the Belgrade Fire Department can use for facilities and equipment to keep up current levels of service. At the Planning Board hearing for the first submittal, area property owners voiced their opinion that the road impact fees for this subdivision should be spent in the immediate area. The Planning Board stated in their motion that the road impact fees generated by this subdivision should be earmarked by the County to improve Airport Road. Road issues for this submittal have not significantly changed from the first submittal however there a few less lots. An addendum was attached to the staff report from Peccia and Associates stating that the slight decrease in traffic volume does not change most findings contained within their study. George Durkin, on behalf of the Gallatin County Road and Bridge Department reviewed the second submittal and indicated there were no additional comments to add to his recommendation for the first submittal. In response to the Commission and Mr. Durkin's concerns regarding the accesses, Ms. Beiser agreed to provide a third access to the subdivision directly from Airport Road to be completed as part of the third phase, and to be made a requirement of

final plat for the third phase. This would be the new recommended condition #30 as follows: "A third access to the subdivision from Airport Road shall be constructed to Gallatin County Standards as approved by the Road Department prior to final plat approval of Phase 3". The impact to Belgrade Schools was a concern at the first submittal. Superintendent Herbert Benz stated that the possible increase in students created by this development would not materially effect the operation of either the high school or elementary school districts. A copy of Mr. Benz's comments are attached to the staff report. The County Sheriff submitted his standard letter that his department does not have enough deputies to provide adequate police protection. At this time Gallatin County does not have a law enforcement mitigation plan for subdivisions such as a law enforcement impact fee policy. The subdivider proposed to cooperate in any future countywide law enforcement impact mitigation measures, including a disclaimer-verifying acceptance of impact mitigation measures to incorporate into the subdivision's covenants as a condition of purchase for every homeowner. The Planning Board did not recommend the proposed mitigation by the Sheriff. At the first submittal there was concern expressed that Northwestern Energy would not be able to supply adequate power for both the subdivision and the adjacent Montana Perennial Farms. According to the Environmental Assessment the developer committed to pay to install new and upgraded power transmission lines and facilities to serve the subdivision. Northwestern Energy will design and install the new lines assuring that the new equipment is sized and installed to supply adequate power to both the greenhouses and the subdivision. A condition is recommended requiring power to the area to be upgraded as required by Northwestern Energy to insure no drop off of service to the greenhouses prior to final plat approval of each phase. Floodplain issues were of concern and the developer based preliminary plat floodplain data on Gallatin County's Floodplain Management Study for the Lower Gallatin and East Gallatin Rivers prepared for Gallatin County by the Natural Resources Conservation Service, published in 2001. The EA states that no building sites or roads are located within the 100-year or the 500-year flood zone. The EA states that the river does not pose a threat of flooding to the proposed subdivision. At the request of Fish, Wildlife and Parks, a riparian buffer zone is proposed along the river. The developer proposed a 400-foot building setback from the river. The Planning Board recommended a covenant-restricting exterior lighting downward to reduce the impact of light pollution on this area. The greatest concern expressed for agriculture is the potential effect the subdivision will have on adjacent ag lands, including grazing land. The covenants contain provisions for dealing with nuisance animals and the developer is proposing open space and a fence between the greenhouses. A recommended covenant requires the developer to maintain all existing fences adjacent to the subdivision, and install no-trespassing signs. The Belgrade Area Plan-1999 Future Land Use Map designates the area where this subdivision is located as "Medium Density". Medium Density areas are defined as follows: Areas that are generally oriented to major roads and within a reasonable distance to schools and area businesses. New subdivisions should be adjacent to existing development, with consideration given to the existing characteristics of the area. Central water and sewer systems are recommended. Commercial uses (i.e. retail or light manufacturing) should be adequately buffered from residential areas. Existing agricultural land, especially land removed from existing development, should be preserved whenever practical. Most of the comments of the Planning Board members were that it was a nice well planned subdivision although several were concerned with the location especially with the river. Gregg Heath initially proposed to deny the subdivision due to the provision for the condominium lot. That motion was defeated 3 to 2. Gary France made a motion to approve the subdivision without the condo lot, a 400-foot building setback from the river, a stipulation that the impact fees generated by the subdivision be earmarked for Airport Road, downward lighting be required, and further subdivision prohibited. The motion passed 3 to 2. The County Commission needs to make the following determination: A determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Commission finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision, including approval for a central water and central sewer system. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat. 5. The developer shall record covenants with the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b.

A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and tenants of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c. All fences bordering agricultural lands shall be maintained by the Homeowners in accordance with State Law. The Homeowner's Association will maintain all existing boundary fences around the subdivision, including no trespassing signs. d. All structures must meet the fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief. e. Site plans of all lots must be submitted for review and approval by the Belgrade Rural Fire District. f. A homeowners association shall be established and be required to maintain all interior subdivision roads. g. The homeowners association shall be responsible for the maintenance of all parks and open space within the subdivision. h. No lot owner may remove water or cause to be removed water from irrigation ditches without deeded water rights, and before any maintenance or improvements are performed on any of the ditches, the owner of the waterway must give written permission for the work to be done. i. A statement on the final plat addressing possible problems associated with the nearby Gallatin Field Airport's and other existing private airstrip's operations and affirming the airport's and airstrip's right to operate. The language shall state as follows: Lot owners are informed that an airport and private airstrip exists in the proximity of the subdivision. Lot owners and users of the subdivision are aware of this proximity and that the area is subject to frequent low level aircraft overflight and noise associated with aircraft operations and shall waive all rights to protest about aircraft and airspace use and shall affirm the aviation industry, both public and private, the right to fly. j. The homeowners association is responsible for the maintenance of the fire protection water supply. k. Provisions for dealing with nuisance animals. l. Provisions for spark arrestors on chimneys with wood stoves. m. The fence adjacent to the greenhouse operation shall be maintained by the homeowners association. n. Exterior lighting shall be directed downward to minimize its impact on surrounding properties. o. Further subdivision of lots within Riverfront Park is prohibited. p. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 6. A copy of the covenants shall be submitted to the Belgrade Planning Office. A copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office. Both submittals shall be 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall approve the covenants and certificate prior to final plat approval. 7. Fire and Road Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact fee regulations. 8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval. 9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department. 10. The road names must be approved by the Gallatin County GIS Department. Interior subdivision roads shall be 60-foot right-of-ways, dedicated to the public, and be paved to County Standards. Roads ending at future phase boundaries or unsubdivided land shall terminate with a temporary cul-de-sac or "T" type turnaround constructed to Gallatin County Standards. 11. Road name signs and Stop signs shall be installed as required by the County Road Superintendent or a bond must be posted with the Gallatin County Road Office to cover the cost of the signs. 12. All roadwork will need to be inspected and certified by a licensed engineer. The inspection and certification and a copy of the homeowners association by laws and covenants must be provided to the County Road Office in writing prior to final plat approval. A two-year written warranty must be provided to the County for required paving of County maintained public roads. 13. A detailed signage and drainage plan shall be submitted to the County Road Office for approval prior to the start of any construction. This plan should specifically address the requirement for road name signs to be installed at all intersections, as well as STOP signs and other regulatory or warning signs may also be needed on some internal roads, and this should be addressed in the plan. All signage must conform to the Manual on Uniform Traffic Control Devices (MUTCD), Millennium Edition. 14. Encroachment permits must be obtained from the Road Department for the accesses to Spain Bridge Road. Lots 1 and 3 of Phase 1 access will be provided in the location of the proposed Blue Ribbon Road and Riffle Road as approved by the Road Department. 15. An NFPA compliant hydrant system/fill-site approved by the Belgrade Fire Department shall be installed and operational prior to final plat approval of Phase 1. The fire protection water supply shall be tested and approved by the Belgrade Fire Department prior to final plat approval of each phase. 16. 45- feet of Spain Bridge Road west of the centerline shall be dedicated to the public along the entire width of the subdivision. 17. The final plat shall contain statements that include the following language: Lots abutting irrigation ditches may have water rights as described in deeds. No owner may remove water or cause to be removed water without deeded water rights. Irrigation ditches are hazardous to small children. 18. The final plat(s) shall show a maintenance easement of a minimum of 15 feet on one side, and 5 feet on the other side of the irrigation ditches or as required by the ditch owner consistent with subdivision regulations, and before any maintenance or improvements are performed on any

the ditches, the owner of the waterway must give written permission for the work to be done. 19. The final plat shall indicate that the parkland is dedicated to the homeowner's association. 20. The open space along the south boundary of the subdivision shall be deeded to the Homeowner's Association as part of Phase 2, and access easements to the open space shall be provided from Midge Road. 21. The riparian area with natural vegetation as proposed in the preliminary plat submittal shall be maintained in the park along the river as requested by the Montana Department of Fish, Wildlife, and Parks. 22. An access road, built to County Standards with a temporary cul-de-sac or other approved turnaround, shall be provided to Lots 4 and 5 of C.O.S. No. 1762 and shown on the final plat. 23. Spain Bridge Road is required to be upgraded and paved to Gallatin County Standards from Airport Road to the bridge at the East Gallatin River prior to final plat approval of Phase 1. 24. A temporary cul-de-sac or other approved turnaround as approved by the Fire Department is required at the end of Wooley B Road. 25. A pre-construction meeting must be completed with the Road Department prior to the start of any road construction. 26. The existing approach at the south end of the project (Parcel 4B of C.O.S. No. 1909B) is required to be consolidated with Riffle Road as approved by the Road Department prior to final plat approval. 27. The developer shall coordinate with Northwestern Energy to upgrade necessary power lines and equipment to insure that the subdivision will not cause interruption or degradation of the power supply to the adjacent greenhouse operation or other adjacent properties. 28. The developer shall install a tall, solid fence with buried wire fencing along the boundary with the commercial greenhouse operation (Montana Perennial Farms) prior to final plat approval of Phase 1. 29. The Condo Lot as shown on the preliminary plat shall be redesignated for single-family purposes. All lots in the subdivision shall be single family. If the applicant elects to submit a final plat for each phase, on the conditions which apply to that phase must be completed before final plat approval. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. A suggested change for condition #26 as follows: The developer shall negotiate with the owner of Parcel 4B of COS 1909B so that the existing approach at the south end of the project can be consolidated with Riffle Road as approved by the Road Department prior to final plat approval; and new additional condition #30 as follows: A third access to the subdivision from Airport Road shall be constructed to Gallatin County Standards as approved by the Road Department prior to final plat approval of Phase 3. Commissioner Murdock questioned if MDOT was contacted about the traffic study and had given their thoughts on Highway 10. Mr. Karp confirmed that he provided them a copy of the traffic study. The Commission noted additional correspondence was received and wanted to make sure that copies were given to the applicant. The applicant Nadia Beiser spoke regarding significant changes made for this proposal to mitigate the concerns of the Commission during the first submittal. She commented that there was no other subdivision in Belgrade that was studied in this detail and believed that it exceeds all the standards of the Subdivision Regulations. Ms. Beiser summarized and briefly highlighted those changes as follows: 400-foot setback from the river resulting in very large green space; the significant decrease in traffic due to the density being reduced by 20 percent; elimination of the condo lot; park and open space increased by 43 percent to 22 acres; the new design clusters the lots more closely; density reduced to .82 acres per lot; 3 phases; no variances requested; central water and central sewer designed to eventually connect with the Belgrade systems; proposed reduced speed limit; and a third access road. She commented on the significant benefit the fire hydrant and fire pond will be for the surrounding subdivisions. Mitigation of potential impacts to adjacent agricultural uses is included with the new submittal such as buffering and fencing. She explained that the new access road is completely independent and does not depend on Spain Bridge Road. She stated that various county professionals reviewed the submittal and confirmed the subdivision as revised will result in no significant impacts on public health and safety, local services, natural environment, agriculture and agricultural water users. Ms. Beiser talked in depth about all aspects of the subdivision including potential impacts and mitigation with regard to traffic; road improvements; water; local services; school system; electrical service; floodplain; and wildlife. In conclusion, Ms. Beiser stated that this revised submittal includes significant changes, studies, testing and documentation with regard to groundwater, water supply, and traffic as well as extensive mitigation measures in response to this Commission's previous review. She added that the design and conditions of approval now satisfy State Statutes and complies the Subdivision Regulations and the Belgrade Area Master Plan. Commissioner Vincent questioned why a prior letter from Ms. Beiser stated that the density was reduced 10 percent and today she testified that it was 20 percent. Ms. Beiser replied that it was because the Planning Board convinced her to make two very significant changes and the Road Engineer convinced her to make a third change. Elimination of the condo lot and the 400-foot setback resulted in the reduction of a total 20 percent from the original proposal. It was determined that the changes were made after Ms. Beiser wrote and dated the letter, which stated a 10 percent reduction. Commissioner Vincent questioned if the traffic study was conducted prior to the potential establishment of the third access. Ms. Beiser replied that the traffic study does not include any consideration of the third access. Further discussion took place regarding the delineation of the 400-foot setback shown on the exhibit of the proposal. It was clarified that the current proposal includes 135 single-family lots, which is 16 less than submitted and 33 less than originally submitted. Noting that this property has a definite weed problem, Commissioner Mitchell commented that the Weed District Supervisor had not signed off on the Weed Management

Plan. Ms. Beiser believed that was to be signed at final plat adding that she had every interest and intent in implementing a Weed Management Plan. On behalf of Robert Peccia and Associates Jeff Key, a licensed professional engineer and Manager of the Traffic and Transportation Division reported that he incorporated the new lot configuration of the revised development into their numbers bringing the total average daily traffic to 1,292 vehicles per day. Previously with the first proposal they were at 1,510 vehicles per day. They performed a travel time study on Nelson Road to determine if it would attract traffic volumes and how it might accept or generate traffic loading. He did not believe that Nelson Road would attract traffic loading from this development. It was their contention that the split on the subdivision will be 70 percent going to the east and 30 percent to the west. He explained how they made that determination. A travel time study was also performed on the Interstate and the Frontage Road, finding that the Interstate was a much faster facility. Based on comparison of free flow speeds it was their contention that people would be using the Interstate and not the Frontage Road. Mr. Key noted that next summer there are two safety improvement projects planned by the MDOT for the Frontage Road. Turn lanes are to be added to Nelson Road and further improvements at the underpass to Valley Center Road. In addition there is also a feasibility study for an interchange. They do not feel the Frontage Road will be generating a loading from this subdivision. In conclusion, he stated that they still feel the findings of their traffic study are valid and reasonable. Further discussion took place regarding what is actually factored in when calculating improvements into the long-term efficiency, reliability or safety of the Frontage. Mr. Key explained the combination of factors and methodology they use to determine the level of service of the roadway and the direction of traffic movement. Steve Anderson, with Anderson Precast and Supply provided slides of the advanced septic systems and the re-circulating sand filter drain fields that are proposed for the development and explained how the new advanced wastewater treatment systems work. He commented on the reliability and efficiency of the proposed advanced wastewater system. Further discussion took place with regard to this type of drain field that failed and froze up in another area. Mr. Anderson replied that it was a construction mistake that was site specific. Michael Niklin, of Niklin Earth and Water spoke regarding his study of surface and groundwater interaction in the vicinity of this development. He evaluated some of the pumping test information, put together a water resource evaluation report, and collected additional data. The analysis of the data and performance of other wells in the area indicated they had a very transmissive aquifer meaning that wells will produce water at a relatively high rate. For the kind of discharges in this development it means that there is not going to be any significant impacts to the neighbors although there will be some nominal drawdowns particularly in the development itself. Mr. Niklin was asked a question from a member of the audience. The applicant's representative Susan Swimley objected and requested that the Chairman not allow this type of questioning. Commissioner Vincent noted that the interjection from the audience and the response was stricken. Mr. Niklin stated the higher the hydraulic conductivity the more likely it is for the wastewater to be a non-significant factor therefore it was his conclusion that there is an adequate supply of water and there will be no issues regarding the East Gallatin River in this area and treated sanitary wastewater will not negatively impact down gradient users for the East Gallatin River. The applicant's representative Attorney Susan Swimley submitted Exhibit "A", publication on The Richardson Ground Squirrel its Biology and Control and Exhibit "B", publication on Management of Ground Squirrels with bait stations. Ms. Swimley made note that the correct name for gophers is Richardson Ground Squirrels. Because of concerns expressed with the current control method of shooting Richardson Ground Squirrels (gophers) Ms. Swimley explained alternatives recommended by the Montana Department of Agriculture. The Commission questioned Ms. Swimley's point. Ms. Swimley replied that at the prior hearing the Commission raised the issue of not being able to shoot the ground squirrels would negatively affect adjacent agriculture production. She did not want the record to go absent evidence to the fact that shooting ground squirrels is one way to attempt management however it is not the most effective way. Further discussion took place with regard to ground squirrel elimination control methods.

The Commission recessed for lunch.

Public comment: Sandy Lee, Chairman of the Belgrade Planning Board commented relative to the hearing that was held with regards to this subdivision before the Planning Board. She explained why they voted the way they did. Although she did not vote, she stated that she would have voted for it because she felt it met all the perimeters of State law and regulations they go by. She added that there were many valid concerns expressed and they tried to address and mitigate them. She stated that the developer really stepped up to the plate in her opinion. Ms. Lee summarized some of the other member's comments. They based their opinions regarding the traffic studies on the information presented because they are professionals. Commissioner Murdock questioned if there was anything about this proposal that gave the Planning Board pause to rethink their Master Plan. Ms. Lee replied, no because they decided they need to look at 20 to 50 years now because the growth in Belgrade is at 7,500, so they are looking to the future to see what is going to happen. Commissioner Vincent asked those speaking to keep their comments directly relevant to those criteria that the County Commission can actually consider in making a decision, which was the decision of

the Belgrade Planning Board, the Gallatin County Subdivision Regulations, the Gallatin County Growth Policy Plan, and State Statute. The following spoke in opposition: Mary Beth Adams; Joe Sabatini; John McKenna; Douglas and Betsy Miller, owners of Montana Perennial Farms; Troy Dorrell; Bob Heidecker; Attorney Dave Wagner, on behalf of Randy and Mickey Moret; Kurt Alt, on behalf of Fish, Wildlife & Parks; David Richards; Kevin Olmstead; Beth Merrik; Mike Thompson; Doug Fletcher; Eloise Kendy; and Wendy Williams. The following were signed up to speak but were unavailable: Mark Haggerty; Dean Ulrich; Laura Gier; and Frederick Richards. Many of those who commented stated that this was an inappropriate land use and spoke of the problems with mixing ag and residential uses. It was also pointed out that the Springvale Subdivision should not be used as a precedent. Several had a problem with the Belgrade Planning Board stating that they were out of touch with the County Commission and residents in the area, adding that they did not adhere to their goals. Some individuals stated that they were actively working on the formation of a zoning district in an effort to get out from underneath the jurisdiction of the Belgrade Planning Board. It was noted by Mr. Miller, as owner of Montana Perennial Farms that although they had concerns he and his wife were neither for nor against the proposal however since then that position has changed due to some events that took place and they are against the development of this property. Mr. Wagner did think anything had been changed between the last proposal and the current submittal. Pointing out that the setback according to the Gallatin County Subdivision Regulations is based on the high-water mark, he questioned the representations and basis of the 253-foot setback on the preliminary plat. Because there was no preliminary plat of the current configuration he questioned how they could determine how the rest of the plat fits in with the plan and evaluate it. He pointed out in this application that it was checked off as if the location of the septic, sewer, water, sewage treatment and fire hydrants were shown on the preliminary plat and it is not shown. There is also no grading and drainage plan. Mr. Alt commented on the 2 previous letters written along with Patrick Byorth and explained their site-specific approach for looking at this development. He stated that the areas of concern such as water and riparian floodplain issues that had the woody vegetation appear at this onset to be addressed by developer. He spoke of the processes they undertook to evaluate the natural resources they are responsible for such as the East Gallatin River, noting that the East Gallatin River way is a very important waterway and fishery that has a tremendous habitat value for wildlife. He commented that putting a 135-house subdivision on 111 acres in the middle of that area seemed out of context. He stated it was like putting a small city in the middle of something that really has a pattern that is quite different unless of course this community needs this and it is acceptable. If that occurs they are concerned that the integrity of the corridor could be compromised, noting if the 135 homes were the end of it there would be no accumulative impacts but the reality and lessons from the past here suggests that is never the end, it is only a way to begin a new development pattern in the area. He stated if that is what people want then this subdivision should be approved. If that is what people don't want in terms of their growth area then they need to speak up and hopefully the Commission will act appropriately. Mr. McKenna requested Ms. Kendy, a hydro geologist to review the hydrologic aspects of this application and the recent report on the groundwater supply and water quality. She explained in detail her concerns and findings regarding water quality degradation. She provided the Commission with some handouts of a hydro graph showing water levels that were not made exhibits. She also spoke regarding potential nitrate and phosphorus impacts. She noted that there was no phosphorus analysis in the reports and suggested that one be done. She agreed with the Niklin conclusion that the river does not gain water from the aquifer system in the vicinity of the development, as long as the words "at this time" are added. Another concern was that lawns and gardens in subdivisions contribute significant nitrates to the groundwater. In terms of water quality degradation, she stated that the application had not mentioned any monitoring and noted that it was very important to have significant groundwater and surface water monitoring because of the uncertainty of the gradient and the groundwater flow direction. Ms. Kendy also noted that she had not seen an accumulative impacts assessment which would be needed when you have several different plumes of effluent that are going to potentially overlap each other. She noted that the drain fields were going to be in the vicinity of a drinking water well and she was not clear how deep the well would be therefore in her opinion the location of the proposed wells needed to be known. Flooding was also a concern because the floodplain configuration changes due to channelization, filling and nature. She believed the actual water use might considerably exceed the quantity calculated in the report. It was estimated that domestic water use would be .39 acre feet per year per house and that is different from DNRC guidelines of 1 acre foot per year per family of 1 to 5 people. The irrigation use was estimated at 12 inches per year and her calculation for lawn and irrigation requirements would be about 16 inches per year during a normal year and more than that during a dry year. Instead of 92.6 gallons per minute she estimated they would need 169 gallons per minute based on the previous application including the condominium unit. She concurred that there is no physical initiations to the change of the water supply. In order to assess the regional impacts in the change in water use they have to look at not only the diversions but also the actual amount of water consumed. She stated if it were possible to reserve the water rights associated with the previous land use for in stream flow that it would alleviate some concerns. Ms. Williams, a resource conservationist with the Natural Resources Conservation Service explained that they have been doing resource assessments and inventory for the past four years on 5.4 miles of the East Gallatin starting in this area involving nine landowners. Her information referred to Guy Coates the previous landowner. She provided the Commission with some handouts that

were not labeled as exhibits. They conducted studies to find out how sustainable the East Gallatin River was and they found that only 3 percent was sustainable, 47 percent was not sustainable, and 50 percent was at risk. Sustainable is the ability of a stream and associated riparian areas to perform physical and biological processes such as tracking sediment, dissipating energy, stream bank building, water storage, groundwater recharge and producing a variety and diverse kinds of plants and animals. The first section they studied went from Spain Bridge Road to about a half-mile downstream through Guy Coates property and this proposed subdivision. The ranking on this was a risk and those issues that made it at risk were water quality, land use, and weeds. She explained that it was normal for a river to experience 30 percent erosion from natural occurrences however; the East Gallatin has experienced 67 percent erosion, mostly due to inadequate vegetation along its banks. She noted that infrastructure also causes erosion, pointing out that the East Gallatin River is moving west in this location. She spoke briefly regarding groundwater levels in this area and soils. The following concerns were expressed: safety of roadways due to speed and condition; overloading of Belgrade school system; rodent control methods; traffic on Frontage and Airport Road; water quantity and quality; accumulative impacts; tax base increases; wildlife and river corridor; impacts on power usage; newly proposed third access; density not consistent; dogs at large; safety issues with Sheriff response; proximity to floodplain and floodplain issues; setting precedent for growth along the East Gallatin River corridor; and incomplete application. In rebuttal, Ms. Beiser was asked to address specific comments, concerns and objections. Ms. Beiser shared the legitimate concerns especially about water and traffic, adding that is precisely why so much time, professional study and testing has been devoted to assure the proposed subdivision will not have significant impacts on water and traffic and assuring that all the identified impacts are mitigated. She stated that concerns about the dynamic nature of floodplains only support the important benefits of the proposed plan, reiterating that the lots and home locations are outside both the 100-year and 500-year floodplain and in addition they are also set back 400-feet from the river. She pointed out that the floodplain study they utilized was the one that Gallatin County recently commissioned which is very extensive and accurate in this area. She made note that the current 400-foot setback is from the river to the buildings and not lot lines. She added that the expanded riparian setback is consistent with what was suggested by Mr. Byorth. Ms. Beiser commented that the majority of Belgrade not only accepts growth but also depends on it for jobs and a healthy economy. A survey of Belgrade taken during the preparation of the Master Plan showed Belgrade residents do not oppose development or new subdivisions, they want them located in areas such as this, near existing subdivisions, near Belgrade and Bozeman, not in the outlying areas. She concluded that county staff has confirmed the mitigation measures proposed have addressed all potential and negative impacts on schools, fire protection, roads, power supply, the river, agricultural water user, and agriculture with the significant design changes and additional requirements of preliminary plat on the revised submittal. Mr. Karp was asked to comment on the adequacy of the completeness of the application. Mr. Karp did not deny that any subdivision application was not complete, noting that in all cases there was the possibility of a technicality. Based on what was submitted it was his determination that the application was complete, adding that he would stand by his determination knowing there are always going to be technicalities. He suggested if the Commission believed there was any information lacking that they needed to base their decision on that it should be continued until that information was obtained. He pointed out that exact locations of water and sewer mains are never shown on preliminary plats. Further discussion took place with regard to whether or not a drainage plan needed to be included in the preliminary plat. Commissioner Vincent questioned if the Subdivision Regulations required that the applicant estimate the number of school children that will be generated in the proposed subdivision. Mr. Karp replied that he had no specific data. Mr. Key responded to a comment that Airport Road is a minor road, noting that it is not; it is a minor arterial road. He discussed the differences in road classifications and their functions. He explained when and how they collect traffic counts, noting that the counts for this traffic study were conducted in October 2002 and April 2003. Mr. Key reiterated that they were calculating a rate of traffic at 1,292 vehicles per day, based on 9.57 vehicles trips per lot. He concluded that they look at a project from a traffic engineering perspective and they feel these roadways can handle the proposed traffic and not affect the level of service. He went into further details regarding the level of service and safety. In response to comments and questions, Mr. Niklin spoke regarding water resources noting the following categories: interaction between the Gallatin River and the water system; water supply; and water quality. He went into further details regarding water resources and groundwater levels. It was Mr. Niklin's opinion given the fact of historic information that has been mapped by the Local Water Quality District that this is loosing reach and very likely will remain that way. He pointed out because of prior comments they did seek the opinion of Allan English, of the LWQD, and he concurred with Mr. Niklin's findings. Ms. Swimley briefly pointed out for the Commission the primary criteria they are to analyze under the Subdivision Regulations and the Montana Subdivision and Platting Act. She focused on the setback from the river, noting that the proposed setback is a site-specific mitigation to protect the habitat and exceeds what is required. Ms. Swimley commented on the central water and sewer system and pointed out that while it also protects the habitat, it is better for public health, safety, and welfare because it requires a higher level of engineering. She emphasized that a community system requires a qualified person to be hired that will be in charge of maintenance and testing and making sure the system is working properly. She reiterated the proposed improvements planned for Spain Bridge Road and spoke regarding the impact fee policy and how

those fees are applied. In response to questions that were raised about the distance between accesses, Ms. Swimley noted that although it is beyond the rules and regulations a third access was offered. If the Commission wants the third access they will need to put in a condition that there be a third access and that the approach be designed by an engineer and approved by the County Road Department, prior to any construction. In discussion about the level of service, she noted that this subdivision does not reduce the level of safety however it will add cars. Due to the lack of a Sheriff impact fee policy for mitigation, she made an offer on behalf of the developer to the Sheriff to contribute \$5,000 specifically to the sheriff's office to be held and go toward a study that would set some standard and criteria needed to get a legitimate fee in place. The Sheriff verbally accepted the offer. She pointed out the trail system provided the relief for the safety of pedestrians. Ms. Swimley recapped mitigations and comments made regarding school, utilities, natural environment and groundwater, floodplain, lighting, effects on agriculture; Richardson ground squirrels; fencing around the greenhouse; effects on agriculture and soils; and water rights. She commented that this area is not actively in agricultural production although they are growing alfalfa until the property sells for development. She made note the Commission adopted the Gallatin County Growth Policy April 15, 2003, which encourages development around the municipal centers and pointed out the Belgrade Area Plan adopted by the Commission in October 2002, encourages development to be denser and closer to existing municipalities. Noting the plan was the ultimate product of four years of community input, Ms. Swimley reminded the Commission of Mr. Alt's statement, "if that is what the community wants", adding that is what the community wants and set forth to the Commission for adoption and is exactly what is before them today. She stated the purpose of a plan is to direct property owners and purchasers where future development is anticipated. She added that the plan states that Belgrade wants to place development next to existing development, it does not say next to existing subdivisions. She spoke of the compatibility this development has with the surrounding area, noting the benefits of the park and the fire fill site. Further discussion took place with regard to how the number of children is determined for projecting impacts to the school system. Commissioner Vincent commented that the application did not include an estimated number of children that would attend the Belgrade School system. Ms. Swimley offered to provide that number. Commissioner Vincent pointed out the letter dated May 27, 2003 from Superintendent of Belgrade Schools Herbert Benz stating that he reviewed the information for the Riverfront Park Subdivision and it was their judgment that the possible increase of students from this proposal will not materially affect the operation of either the high school or elementary school districts. There were no negative comments regarding the proposal. Commissioner Vincent stated the letter was contrary to statements made earlier by Mr. Benz in the October 21, 2002, publication of the Bozeman Daily Chronicle which stated the problems with crowding in the Belgrade Schools. Commissioner Vincent commented on the tremendous discrepancy of Mr. Benz's analysis of this proposal and what was written in the article about the overall over crowding situation in Belgrade. The article was read into the record. Commissioner Vincent commented that this was not an accurate reflection of the truth. Ms. Swimley could not justify the inconsistencies, noting that all they were required to do was contact the school and ask for their input. Commissioner Vincent announced that because they had received a tremendous amount of new information today and needed to analyze and assess the evidence and testimony he suggested they close the public hearing and take this matter under advisement and make decision on June 17, 2003. Mr. Karp confirmed they were within the 60-day review period. It was noted if the Commission was agreeable to this approach and the public hearing was closed there would be no additional information, phone calls, or correspondence from the public or the applicant. Mr. Beiser requested that the continuance be for one week due to prior commitments. The Commission called a brief recess to discuss a date that would be agreeable with everyone. It was determined that the Commission would make a decision and issue findings at a public meeting on June 24, 2003, at the City Commission Meeting Room. Notice for the public meeting would be published in the High Country Independent Press. The public hearing was closed. **No action taken.**

There were no pending resolutions. There being no further business the meeting was adjourned at 5:25 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 10TH DAY OF JUNE 2003

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

Acting Chairman Murdock 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:

JUNE 2, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent and Murdock, Sheriff Jim Cashell, Commission Assistants Christina Thompson and Glenda Howze. Commissioner Mitchell joined the meeting at 10:00 am. The Commissioners discussed consideration of a formal medical coverage recommendation from the Sheriff. The Sheriff is recommending that Mr. Joseph Lemire be interviewed and hopefully offered the position. He is a Nurse Practitioner and will provide two hours a day in facility service, and 24-hour coverage for emergencies. The County will provide medical mal practice insurance. Commissioner Murdock made a motion to approve said recommendation. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a trade-in of a motor pool vehicle. Commissioner Murdock made a motion to approve said trade-in request. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a budget transfer request for the Clerk and Recorder Accounting/Recording Department. Commissioner Murdock made a motion to approve said budget transfer request. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a budget transfer request for the Clerk and Recorder's Office. Commissioner Murdock made a motion to approve said budget transfer request. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a budget transfer request for the Road and Bridge Department. Commissioner Murdock made a motion to approve said budget transfer request. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a budget transfer request for the Road Department. Commissioner Murdock made a motion to approve said budget transfer request. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

Finance Officer Ed Blackman presented a resolution establishing the TSEP (Treasure State Endowment Program) Fund No. 2892. This establishes a fund by which monies can later be budgeted into for the Road and Bridge Department's bridge fund. Commissioner Murdock made a motion to approve Resolution #2003-059. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a Phase III, IV Construction change order for the refinishing of the Community Room doors. Commissioner Murdock made a motion to approve said change order, taking the \$1,045.00 from general fund contingency. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero, Commissioner Vincent was absent.

JUNE 3, 2003

- The Commissioners conducted regular County business.

JUNE 4, 2003

- The Commissioners attended a special meeting for the purpose of approving an amendment to a contract between Gallatin County and Yellowstone National Park for acceptance of MSW at the transfer station/compost facility. The modification offers compost material to YNP in return for utilization of a front-end loader through September 30, 2003. In attendance were Commissioners Vincent, Murdock and Mitchell, Grants Administrator Larry Watson, and Commission assistants Christina Thompson and Glenda Howze. Commissioner Mitchell made a motion to approve said amendment to contract #. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

- The Commissioners attended a special meeting for the purpose of conducting a settlement conference in Williams v. Gallatin County. In attendance were: Gail Williams, Ken Williams, Shelley Williams, Planning Director Jennifer Madgic, Settlement master Myra Shultz, Planner Sean O'Callaghan, Commissioners Vincent, Murdock, and Mitchell. Myra introduced herself and instructed parties on purpose of settlement conference. The parties presented their positions. The Commission closed the meeting to discuss litigation strategy. Ms. Shultz met with County Commission and County Staff, then Plaintiffs and Williams. Each side offered settlement proposals.

The parties reconvened and opened the meeting. Ms. Shultz presented the final offers. Commissioner Murdock moved to accept the Settlement Agreement dated June 4, 2003 consisting of three pages and Exhibit A. Commissioner Vincent seconded the motion. All vote aye. Motion carried with a vote of two to zero. All parties signed the agreement.

JUNE 5-6, 2003

- The Commissioners conducted regular County business.

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- Landfill Revenue for May 2003: \$72,584.52
- Payroll for May 2003: \$1,197,719.31
- Clerk & Recorder's Fees Collected for May 2003: \$96,596.76
- A-101's for May 2003: \$606.67
- Applications for Cancellation of Taxes for May 2003: \$1,271.23
- New Hire Report for May 2003: Shawn Briggs, John Burns, Amy Dileo, Travis Hedstrom, Lisa Lanski, James Olson, Bryce Pewonka, Brenden Robinson, Ryan Stratman, Apryl Sweeney, Maxwell Thompson, Kyla Tucker

Terminated Employees' Report for May 2003: Rachel Alkire, Jennifer Anderson, Diana Borum, Julie Defrancesco, Amy Dileo, Nicole Harbin, Caron Harrison, Susan Hegyi, Marcia Kimm, Mindie Moore, Richard West

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated June 5, 2003, in the amount of \$186,271.61.
2. Approval of Contract(s): Walking Cross Consulting-Rest Home; Eden Systems-Crystal Training AFPS #11347-ITS; Xerox 8825 DDS Service Agreement; and J & H Maintenance Agreement for Savin 2522.
3. Consideration of a Request for Common Boundary Relocation Exemption for Belgrade Investors, Rudy Suta, located in the NE ¼ of Section 35, T1N, and R4E. (north of the City of Belgrade limits). Belgrade City-County Planner Jason Karp stated that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Approval of Application for Cancellation of Taxes for Parcel Number PPP17396; totaling \$270.98.
5. Request for Mortgage Survey Exemption for Ditton- WITHDRAWN
6. Request for Mortgage Survey Exemption for Peter and Paul Rugheimer and Mary Rugheimer Wictor, located in a portion of the NW ¼ of Section 32, T1S, R6E. (1404 Story Mill Road) Gallatin County Planner Karin Caroline stated that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
7. Request for Common Boundary Relocation Exemption for Michael G. and Mary Ellerd, located in the SW ¼ of Section 32, T1S, R6E, PMM, Gallatin County, Montana. Gallatin County Planner Victoria C. Drummond stated that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
8. Request for Mortgage Survey Exemption for Roger Kruckenberg and Penny Knoll, located in the E ½ of Section 21, T2S, R7E. (770 Mountain Moose Road) Gallatin County Planner Karin Caroline stated that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Murdock noted that consent agenda Item #5 was withdrawn, and regular agenda Item #1, the public hearing and consideration of a resolution of the Gallatin County Commissioners supporting creation of the "Big Sky Affordable Housing Task Force" was continued indefinitely.

Commissioner Mitchell read the consent agenda, and requested that the contract for Walking Cross Consulting be continued until June 17, 2003, for further review by the County Attorney, given the recent determination by the State Supreme Court. **Commissioner Mitchell moved to approve the consent agenda, as modified. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

28 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 48

Gallatin County Auditor Jennifer Blossom reported on the continuation of receipt of the Auditor's quarterly report January – March 2003. Ms. Blossom provided details of collections and disbursements for individual county accounts, required by MCA 76-6-2409. There were no significant findings with any of the accounts with the exception of the Inmate Trust Account. Ms. Blossom noted the old Trust Account was closed and a new one was opened. She stated within the next couple of weeks she plans to have that account reconciled. There was no public comment. **No action taken.**

Gallatin County Treasurer Anna Rosenberry presented the Treasurer's quarterly reports – 2nd and 3rd quarter FY 2003. Ms. Rosenberry briefly summarized the report of cash on hand at the close of business December 31, 2002. She asked that the Commission accept the report. There was no public comment. **Commissioner Mitchell moved to accept the report of the County Treasurer for cash on hand at the close of business December 31, 2002. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

I, Anna Rosenberry, County Treasurer of Gallatin County, State of Montana, upon oath depose and say: That, at the close of business on December 31, 2002 there was on deposit to my credit in the following banks, balances as shown by the statements of cashiers of such banks herewith: that, from such balances, there should be deducted for checks outstanding, and added for deposits made, amounts as follows:

<u>BANKS</u>	<u>ACCOUNT NUMBER</u>	<u>BANK BALANCES</u>	<u>OUTSTANDING CHECKS</u>	<u>DEPOSITS IN TRANSIT</u>	<u>OTHER REC ITEMS</u>	<u>TREASURER'S BALANCES</u>
Wells Fargo, Bozeman Branch	400712386	\$5,692,534.62	(\$144,723.68)	\$85,494.49	\$313,568.06	\$5,946,873.49
	752756254	\$800,000.00	\$0.00	\$0.00	\$0.00	\$800,000.00
AMERICAN BANK	280102436	\$60,240.77	\$0.00	(\$8,380.29)	\$1,079.60	\$52,940.08
VALLEY BANK OF BELGRADE	108103	\$30,132.70	\$0.00	(\$139,224.08)	(\$1,052.37)	(\$110,143.75)
MANHATTAN STATE BANK	4100013	\$28,209.74	\$0.00	(\$18,345.70)	\$30.10	\$9,894.14
SECURITY BANK, THREE FORKS	5200116	\$15,862.04	\$0.00	\$983.45	\$832.50	\$17,677.99
FIRST SECURITY BANK, WY	700351	\$3,099.76	\$0.00	(\$1,499.40)	\$15.00	\$1,615.36
BIG SKY WESTERN BANK	101710	\$49,920.66	\$0.00	\$0.00	\$0.00	\$49,920.66
FISCAL AGENT	N/A	\$100.00	\$0.00	\$0.00	\$0.00	\$100.00
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		\$6,680,100.29	(\$144,723.68)	(\$80,971.53)	\$314,472.89	\$6,768,877.97
				Cash		\$370,922.30
				School Investments		\$7,582,385.71
				Airport Authority		\$10,086,928.97
				County and Pooled Investments		\$38,804,593.40
				--		-----
				TOTAL Cash on Hand		\$63,613,708.35

Ms. Rosenberry briefly summarized the report of cash on hand at the close of business March 31, 2003. She asked that the Commission accept the report. Discussion took place with regards to the Airport Authority's account, relative to the recent action by the Commission transferring control of the money back to the Airport Authority, which will take effect July 1, 2003. Ms. Rosenberry explained the differences between the Treasurer's report and the Auditor's report and how they correspond with the external auditor's reports. There was no public comment. **Commissioner Mitchell moved to accept the March 31, 2003 report from the County Treasurer. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

I, Anna Rosenberry, County Treasurer of Gallatin County, State of Montana, upon oath depose and say: That, at the close of business on March 31, 2003 there was on deposit to my credit in the following banks, balances

as shown by the statements of cashiers of such banks herewith: that, from such balances, there should be deducted for checks outstanding, and added for deposits made, amounts as follows:

<u>BANKS</u>	<u>ACCOUNT NUMBER</u>	<u>BANK BALANCES</u>	<u>OUTSTANDING CHECKS</u>	<u>DEPOSITS IN TRANSIT</u>	<u>OTHER REC ITEMS</u>	<u>TREASURER'S BALANCES</u>
Wells Fargo, Bozeman Branch	400712386	\$5,209,805.89	(\$13,990.05)	\$198,371.41	\$396,077.32	\$5,790,264.57
	752756254	\$800,000.00	\$0.00	\$0.00	\$0.00	\$800,000.00
AMERICAN BANK	280102436	\$101,941.50	\$0.00	\$0.00	\$0.00	\$101,941.50
VALLEY BANK OF BELGRADE	108103	\$47,401.96	\$0.00	(\$60,907.19)	(\$15.00)	(\$13,520.23)
MANHATTAN STATE BANK	4100013	\$33,170.44	\$0.00	(\$10,020.15)	(\$2.00)	\$23,148.29
FIRST SECURITY BANK	5200116	\$20,272.80	\$0.00	\$0.50	\$0.00	\$20,273.30
BIG SKY WESTERN BANK	101710	\$9,562.22	\$0.00	(\$3,459.82)	\$0.00	\$6,102.40
FISCAL AGENT	N/A	\$100.00	\$0.00	\$0.00	\$0.00	\$100.00
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		\$6,222,254.81	(\$13,990.05)	\$123,984.75	\$396,060.32	\$6,728,309.83

						Cash
						\$236,798.30
						School Investments
						\$7,796,885.71
						Airport Authority
						\$9,804,156.35
						County and Pooled
						estments
						\$32,748,737.20

						TOTAL Cash on Hand
						\$57,314,887.39

The Commission agreed to take action and accept the Auditor's report. **Commissioner Mitchell moved to accept the County Auditor's quarterly report for 2003. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Grants Administrator Larry Watson reported on the public hearing and consideration of a resolution creating the Gallatin Solid Waste Management Board. This is a continuation of the Commission's action pursuant to the formation of this District, to create the Board of Directors for the District. The resolution is specific regarding the terms of service of the members appointed to the Board and the powers being given to the Board once it is created. The Board of Directors shall consist of 5 members: a County Commissioner, selected by the Commission; a member representing the City of Three Forks, appointed by the Three Forks City Council; a member representing the Town of Manhattan, appointed by the Manhattan Town Council; and two at-large members, to be appointed by the Commission, who must reside in Gallatin County but not in any of the incorporated Cities of Gallatin County. Except for the County Commissioner, the members shall serve staggered 3 year terms as follows: the two at-large citizen members shall serve 3 year terms; the first two members recommended and appointed from Three Forks and Manhattan shall each serve 2 year terms, with the members appointed thereafter from Manhattan and Three Forks serving 3 year terms. The County Commissioner's term is for one year and shall be reviewed for appointment on a yearly basis by the Board of County Commissioners. It was noted that the powers given to the Board are extensive and allowable under MCA. The District includes everything in the county except the city limits of Belgrade, Bozeman and the West Yellowstone Solid Waste District. Gallatin County Attorney Marty Lambert summarized the powers and authority given to the Board. He noted that the Commission would have authority of the collection of the levy or charge and appoint the board members. Public comment: Dave Pruitt. **Commissioner Mitchell moved to approve Resolution #2003-060. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Commissioner Mitchell reported on the appointments to the Gallatin Solid Waste Management District. Creation of the Gallatin Solid Waste Management District was approved within the district on May 20, 2003, the territory confirmed by the Board of County Commissioners in Resolution #2003-053. This

District was created to provide structured management of the Logan Landfill and any future solid waste management system in the District; to provide a distinct entity under Montana law with the financial resources to fairly and properly carry out waste management duties and responsibilities, and to provide an opportunity to perform non-traditional methods of collection and disposal of solid waste, such as recycling and composting. The County Commission sought representation from Manhattan and Three Forks. Five individuals applied to serve in these positions, Raymond Noble, David Pruitt, Bruce Hanson, Dean Ulrich, and Phil Olson. Raymond Noble is representing Three Forks, Bruce Hanson is representing Manhattan, David Pruitt, Phil Olson and Dean Ulrich, all representing the county at-large, and Commissioner Bill Murdock, representing Gallatin County. There was no public comment. **Commissioner Mitchell moved to appoint Raymond Noble to represent the Town of Three Forks for a 2 year-term. Seconded by Commissioner Murdock. None voting nay. Motion carried. Commissioner Mitchell moved to appoint Bruce Hanson to represent Manhattan for a 2 year-term. Seconded by Commissioner Murdock. None voting nay. Motion carried. Commissioner Mitchell moved to appoint David Pruitt to an at-large county position for a 3 year-term. Seconded by Commissioner Murdock. None voting nay. Motion carried. Commissioner Mitchell moved to appoint Phil Olson to an at-large county position for a 3 year-term. Seconded by Commissioner Murdock. None voting nay. Motion carried. Commissioner Mitchell moved to appoint Commissioner Murdock to represent the County for a 1 year-term. Seconded by Commissioner Murdock. None voting nay. Motion carried.** Mr. Lambert commented on the ambitious timeline with regard to putting out invitation for bids and the contract process, which needs to be in place by August 1, 2003, for operation of the Logan Landfill. He recommended working to facilitate an organizational meeting to adopt By-Laws and review and approve the RFP invitation for bids and the prospective contracts. The Commission agreed to meet with the Board on June 16, 2003, at 1:30 P.M., in the Third Floor Conference Room.

Belgrade City-County Planner Jason Karp reported on the public hearing and consideration of a request by PC Development for approval of an Improvements Agreement and final plat approval for Landmark Subdivision Phase 2. The subdivision is located west of Belgrade off Thorpe Road, between Thorpe Road and I-90. The property is described as COS 999, located in the NE ¼ of Section 33, T1N, R4E, PMM, Gallatin County, Montana. The Commission voted at their April 24, 2001 public hearing to grant preliminary plat approval subject to the conditions. The applicant submitted an Improvements Agreement in lieu of completion of certain public improvements as per 76-3-507 MCA and the Gallatin County Subdivision Regulations, which allow provision to defer improvements if the subdivider submits an Improvements Agreement and a suitable financial guarantee to insure conditions will be met. The Improvements Agreement is for the construction of the roads in the subdivision. The estimated cost of improvements is \$176,475. As per County Policy, the subdivider is required to submit a financial guaranty with the improvements agreement in the amount of 150% of the estimated cost of the improvements. The applicant submitted an irrevocable standby letter of credit in the amount of \$265,000, to cover the costs of the improvements. The cost estimates were reviewed and approved by the Gallatin County Road Department and the Improvements Agreement was reviewed and approved by Deputy County Attorney Kate Dinwiddie. If the Improvements Agreement is approved as requested, the developer will have demonstrated compliance with the conditions of preliminary plat approval as of today, and it was the recommendation of Mr. Karp to grant final plat approval for Phase 2. There was no public comment on granting approval for the Improvements Agreement. **Finding that the County Attorney's office reviewed the Improvements Agreement, Commissioner Mitchell moved approval of Phase 2. Seconded by Commissioner Murdock. None voting nay. Motion carried.** There was no public comment on granting final plat approval. **Commissioner Mitchell moved to approve final plat for Landmark Subdivision Phase 2. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Planner Christopher Scott reported on the public hearing and consideration for final plat approval for Gaston Engineering & Surveying, P.C., on behalf of the State of Montana DNRC for the Mandeville Minor Subdivision. The County Commission granted preliminary plat approval on January 28, 2003. Conditions of final plat approval were reviewed by staff and determined by staff's opinion to be complete. There was no public comment. **Commissioner Mitchell moved to approve the Mandeville Minor Subdivision final plat, finding that according to staff it meets all statutes and Subdivision Regulations as deemed appropriate. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Planner Sean O'Callaghan reported on the public hearing and consideration of preliminary plat approval for Gaston Engineering & Surveying, P.C., for Life Link International, Inc., for the Life Link Minor Subdivision, located in the NE ¼ of Section 17, T2S, R5E, PMM, Gallatin County, Montana, and is generally located west of the intersection of Huffine Lane and Gooch Hill Road at 8454 Huffine Lane. The

request is for preliminary plat approval of a three-lot commercial subdivision within the Light Manufacturing (M-1) District of the Gallatin County/Bozeman Area Zoning District. Water supply and sewage disposal will be provided by a public water well and community wastewater treatment system. The proposed subdivision is within the jurisdiction of the 1990 Bozeman Area Master Plan Update Neighborhood Plan Revision to the Gallatin County Plan land use classification for the property is Business Park/Industrial. Mr. O'Callaghan briefly reviewed the staff findings including: zoning regulations; surrounding land uses; topography/natural resources; sanitary review; park dedication; roads/access; and utilities. At their meeting on May 27, 2003 the Gallatin County Planning Board considered the proposed subdivision and voted unanimously (7:0) to recommend approval of the subdivision. The Planning Department received comments from the Rae Fire Department, Sheriff, Road Department, and MDOT attached to the staff report. Mr. O'Callaghan summarized the proposed criteria as follows: agriculture; agricultural water user facilities; local services; natural environment; wildlife and wildlife habitat; and public health and safety. The County 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 County Plan. 2. A determination as to whether or not the application complies with the Gallatin County/Bozeman Area Zoning Regulation. 3. 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. 4. A determination as to whether or not the application complies with the provisions of the Gallatin County Subdivision Regulations. If the Commission approves this application, the following conditions are suggested: 1. The final plat shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates. 2. State Department of Environmental Quality approval shall be obtained for the subdivision. The applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The subdivider shall obtain the Gallatin County Health Officer's approval. 3. A memorandum of understanding shall be signed between the Weed Control District and applicant prior to final plat approval. 4. All structure addresses shall be verified and/or issued by the Gallatin County GIS Department. 5. A joint access off of Rowland Road is required for Lots 1 & 3, with adequate radius to accommodate commercial vehicle ingress and egress. 6. All parties that utilize Rowland Road shall enter into a joint maintenance agreement for the roadway. 7. Applicant shall set up a pre-construction meeting with the County Road Department prior to the start of any road construction. 8. Grading and drainage plans, lot access plans, and sign plans shall be submitted to the County Road & Bridge Department prior to construction. 9. Applicant shall abandon the existing encroachment onto Huffine Lane that is located in the northwest corner of Lot 1. Applicant shall obtain an encroachment permit from Montana Department of Transportation for Lot 2. 10. A STOP sign shall be installed at the intersection of Huffine Lane and the approach from Lot 2 prior to final plat approval. 11. 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. 12.

All areas of public right of way disturbed during construction activities shall be sodded or reseeded with vegetation types approved by the Weed Control Supervisor. 13. 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"*. 14. The applicant shall comply with all fire protection conditions of approval and covenants as specified by the Rae Fire Department as provided in the Rae Fire Department letter regarding the Life Link Minor Subdivision of April 18, 2003, pages 1-5 (or as revised and approved by the Rae Fire Department). Applicant shall obtain a letter of compliance with such conditions and covenants from the Rae Fire Department prior to final plat approval. 15. The applicant shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, or the creation of a sewer and/or water district. 16. The applicant shall make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. 17. The applicant shall make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. 18. A property owners' association for the subdivision shall be created. 19. Covenants for the subdivision shall include the following provisions: a. All structures shall be constructed in compliance with the current applicable building code. b. Prior to the construction, property owners shall obtain all required permits from the state and county. c. Prior to erecting any sign, property owners shall obtain a sign permit from the Gallatin County Planning Department. d. All lighting shall be designed in accordance with the illumination standards of the Gallatin County/Bozeman Area zoning regulation. e. Any lighting, including that for security purposes, used to illuminate an off-street parking area, sign or other structure, shall be arranged so as to deflect light down and/or away from any adjoining properties and shall not detract from driver visibility on adjacent streets. Luminaires and lenses shall not protrude below the edge of the

light fixture. Final Site Plan shall show the location for, and a detail of, any proposed wall mounted and/or signage lighting. f. Lighting structures used to illuminate off-street parking areas shall not exceed twenty feet or the height of the tallest building on the lot, whichever is lower. g. The property owners' association shall be responsible for the control of noxious weeds within all road right-of-ways. Lot owners shall be responsible for the control of noxious weeds within their property. h. 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. i. All fire protection covenants as required by the Rae Fire Department. (Please see exhibit B.) j. The artificial feeding of all wildlife and big game shall be prohibited, including providing any food, garbage or other attractant. k. All garbage shall be stored in animal-proof containers or be made unavailable to animals. l. Pets shall be controlled by each property owner, and not allowed to roam at large. m. 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. n. 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. 20. The following documents shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval: documents establishing the property owners' association, and the certificate of a licensed title abstractor. The County Attorney's Office shall review and approve documents establishing the property owners' association, and certificate prior to final plat approval. Covenants shall be submitted to the Planning Department for review and approval at least 30 days prior to final plat approval. 21. The applicant shall have three (3) years to complete the above conditions and apply for final plat approval. On behalf of Gaston Engineering & Surveying, P.C., Mark Fasting noted that all three lots within this subdivision either directly access a state highway or directly access a subdivision road maintained, built and paved by that subdivision which accesses a state highway. Therefore it was their request that condition #17, be waived regarding Road Impact Fees. The Gallatin County Road Department asked if the developer could guarantee that anyone using this subdivision does not use a county maintained road. Mr. Fasting replied there was no guarantee. Public comment: Frank Culver was opposed to any waiver of County Road Impact Fees, due to this county's major transportation problems. On behalf of the Gallatin County Road and Bridge Department, George Durkin confirmed that the Road Department does not support waiver of the Road Impact Fees. Further discussion took place with regard to the Road Impact Fee waiver process. Commissioner Murdock agreed with Mr. Culver and the Road Department because the Road Impact Fee policy is written in such a way to have a reasonable relationship from the impacts of the development to the traffic flow. He did not believe they could make the argument that those people will not use county roads. He was not in favor of a waiver and suggested they look into the process procedure for requesting the waiver. **Commissioner Mitchell moved to approve preliminary plat for the Life Link Minor Subdivision with all the conditions as recommended by staff, finding with the conditions it would comply with the 1990 Bozeman Area Master Plan Update Neighborhood Plan revision to the Gallatin County Plan; comply with the Gallatin County Bozeman Area Zoning Regulations, Section 76-3-608, MCA, the Montana Subdivision and Platting Act, and all the provisions of the Gallatin County Subdivision Regulations. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Amsterdam RID Attorney Susan Swimley reported on the public hearing regarding protests filed for Amsterdam RID #386. The Commission passed a Resolution of Intention stating the intention to create RID #386 and sell approximately \$300,000 in bonds. Gallatin County Clerk and Recorder Shelley Vance stated that notice of the hearing on the creation of this RID was published in the High Country Independent Press May 22 and 29, 2003; in addition notice was mailed on May 22, 2003 to all landowners proposed in the district. One protest was received however Ms. Vance stated that the individuals were not in the proposed district. Therefore officially Ms. Vance stated there were no protests received from individuals liable to be assessed for the work according to State Statute. Public comment: Bob Chapman stated that he submitted a letter of protest and spoke in detail his reasons for protesting the proposed RID. Discussion took place with regard to the requirements for public notification due to Mr. Chapman's claim that he was not notified. Ms. Vance confirmed for Mr. Chapman that the proposed district did not include his property, as the boundaries had been changed. It was noted that the letter of protest received was from Robert and Deloris Chapman. Ms. Swimley explained that a different approach was taken in order to make improvements to Amsterdam Road and increase the safety without spreading the assessment on anyone who was not already there. The boundaries were changed after meeting with the people in the neighborhood who did not want to be involved in the RID. She summarized the projected improvements and the funding details. **Finding the protest received was reviewed by the Clerk and Recorder and the Attorney representing the county, Commissioner Mitchell moved to accept that no protests were received by those in the proposed district. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Amsterdam RID Attorney Susan Swimley reported on the public hearing and consideration of a resolution to create RID #386. There was no public comment. **Commissioner Mitchell moved to approve #RID-03-386B, finding 0 protests were received in creation of this district. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Amsterdam RID Attorney Susan Swimley reported on the public hearing and consideration of a resolution calling for the sale of bonds for Amsterdam #386. Ms. Swimley stated that they were not able to consider a resolution passing the bonds at this time therefore she asked the Commission to continue action until July 8, 2003. She explained that the engineer for the district submitted his contract to Gallatin County and it is being routed and scheduled for the June 17, 2003 agenda. Having the contract unsigned precludes the engineer from going forward with the publication of the invitations to bid, so without having a signed contract they cannot bid as originally intended. If the contract is approved on June 17, 2003, the first invitation to bid for construction will be published on June 26 and July 3, 2003. The original schedule will be setback about 4 weeks. The Commission agreed to a continuance until July 8, 2003. **No action taken.**

Gallatin County Fiscal Officer Ed Blackman gave a summary presentation of budget requests received by the county elected officials, department heads, agencies and boards. He provided for the Commission updated information on the requests that include projects, staffing, operations and possible debt allowances. The budget process changed from previous years whereby the Commission set up a baseline budget and this year each department was to present their needs on an Executive Summary. Mr. Blackman outlined what was to be included in the Executive Summary. Incorporated into budget requests for FY 2004 were significant amounts associated with capital projects. They include – Detention Center \$2,000,000; Office Building \$3,000,000; Road relocation \$1,093,000; Fairgrounds improvements \$500,000; DES/SAR Building \$322,000; Weed Building \$175,000; Records Storage \$340,000; Law & Justice office remodel \$100,000 and L & J HVAC/Boiler \$165,000. The total of all requests compared to the current years budget and revenues show \$40,512,724 available and expenses if the requests are funded of \$41,641,071. Not all requests are incorporated. The Commission will conduct a public meeting for three days and discuss methods to reduce a \$1,128,347 shortfall in requests from the proposed amount available. The Commission will also have to consider the costs of any wage increases to employees, employer contribution increases, and look at programs such as the Park Committee request for \$10,000 and Bozeman Youth Shelter request for \$69,000 in new dollars. Further discussion took place with regards to the use of the floating mill levy. Mr. Blackman stated if all the requests were funded there would be a shortfall of approximately \$2.1 million. There was no public comment. **No action taken.**

Gallatin County Planner Sean O'Callaghan reported on the continuation of a public hearing and consideration of a one-year extension of preliminary plat approval for Crowley, Haughey, Hanson, Toole & Dietrich, Attorneys at Law on behalf of Concinnity LLC for Phases III and IV of the Elk Grove Planned Unit Development. Preliminary plat was approved by the County Commission on June 27, 2000, with an expiration date of June 27, 2003. In total, the Elk Grove PUD consists of a 312-lot major subdivision on a 300-acre parcel located in portions of Sections 23, 24, 25, and 26, T2S, R4E, PMM, Gallatin County, Montana. The property is generally located east of Highway 191, north of Blackwood Road, south of Violet Road, approximately one and a half miles south of Four Corners. Section 3(I) of the Gallatin County Subdivision Regulations gives the Commission the authority to grant a one-year extension of preliminary plat approval. If approved by the Commission, the preliminary plat of Phase III & IV of the Elk Grove PUD would expire June 27, 2004. The County Commission heard this at their May 13, 2003, meeting and asked for additional information regarding completion of required improvements and the expected timeline for the outstanding improvements. A list of improvements that included both completed and uncompleted improvements along with a proposed timeline of when the improvements will be completed was submitted to the Planning Department on May 27, 2003, (attached to the staff report). In addition, another document was submitted to the Commission providing justification in order of the conditions as listed in the Findings of Fact for approval of the PUD. Mr. O'Callaghan was asked if he was aware of anything the Commission should know with regards to why or why not in the interest of public health, safety and welfare the extension should not be granted. Mr. O'Callaghan had nothing outstanding to point out to the Commission. Commissioner Mitchell questioned if this was going to create a hardship by not having some of the roads completed. Mr. O'Callaghan replied that the internal roads in Phase I were all completed and Phase II has not received final plat approval. He deferred any questions with regards to improvements to the applicant.

The applicant's representative Attorney Susan Swimley commented specifically with regard to the completions of Phase I, noting Phase 1 has final plat and done under an improvements agreement that also required additional securities because litigation was involved. That litigation stemmed from the Commission's condition that said they had to place the entrance not on Violet Road but 2.5 miles south of a mile marker. MDOT told them they could not put it there and this caused a couple months delay in resolving that issue. That caused delay for all of the phases because they could not go immediately to work once it was resolved. They had to redesign some parts of the road with the relocation of the entrance on Violet Road, which required moving utility easements. Construction of the trails remains to be done on Phase I, which is bonded and to be completed before July 2003. Ms. Swimley stated they were not going to ask for an extension for Phase II. She outlined the outstanding improvements in Phases III and IV. She reiterated the reasons for the extension were due to delays for modifications and litigation. Public comment: Frank Culver provided the Commission with a statement on behalf of his wife and himself that was not submitted as an exhibit. Mr. Culver summarized his statement regarding safety improvements along Blackwood Road and the intersection of Blackwood Road and Highway 191. He pointed out issues with regards to the Improvements Agreement and because he believed the Improvements Agreement deadline date had expired and the subject improvements had not been completed he thought the County should immediately execute the financial guarantee to insure this work gets done for the public. Frank Silva briefly outlined his prior testimonies on this subject. He provided the Commission with a copy of the Improvements Agreement outlining the conditions and improvements not completed. Mr. Silva recommended that any extension for final plat be denied until all the incomplete bond agreements are collected and then completed. He commented on the violations of the Improvements Agreement and provided the Commission with a copy of violations. Ms. Swimley responded in detail to public comment regarding conditions #19, #20, and #41. She pointed out if there were problems with the Improvements Agreement it was not an issue for the extension of preliminary plat. Gallatin County Road and Bridge Superintendent Lee Provance stated that prior violations of the Improvements Agreement had been rectified. He commented on unprecedented conflict with timelines and plans, adding that he believed the project was set for paving in August. He stated if the County were to take their money, it could not be done any sooner. Commissioner Murdock requested that any comments be limited to the extension of Phases III and IV. Mr. Provance stated that an extension for Phases III and IV was undoubtedly beneficial to the public and the County Road Department. He stated once those homes sell they can get accurate traffic numbers for the impacts of Blackwood Road. If the impacts exceed what the developer and traffic engineer initially said further improvements will be necessary on Blackwood Road. Gallatin County Attorney Marty Lambert reaffirmed that the only issue before the Commission today is the extension of preliminary plat for one year on Phases III and IV. He cautioned the Commission should they deny this extension request being that it would be the first one ever turned down and could cause a domino effect with those living there. In focusing on the one-year extension for Phases III and IV, he concurred with Mr. Provance. Further discussion took place with regards to the Improvements Agreement and it was agreed that Mr. Lambert would meet with those involved and follow up on it. Commissioner Murdock was in favor of granting the extension for Phases III and IV for the reasons stated therefore based on the testimony received, **Commissioner Murdock moved approval, finding that it would be in the public's interest to grant a one-year extension for Phases III and IV for the Elk Grove PUD Subdivision. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planner Karin Caroline reported on the public hearing and consideration of a resolution of the Gallatin County Commission amending the Gallatin County/Bozeman Area Zone Map. The subject 9.35 acres are located at 621 Bozeman Trail Road and described as being situated in the SW ¼ of Section 16, T2S, R5E, PMM, Gallatin County, Montana. The property is located within the jurisdictional area of the Gallatin County/Bozeman Area Zoning Regulations and is presently zoned AS (Agricultural Suburban). The Zone Map Amendment would reclassify 9.35 acres to RS (Residential Suburban) District. The RS district allows for single household development on lots of one acre. Staff reviewed the zone map amendment application against the criteria established by state law. Ms. Caroline briefly summarized the staff findings. The Planning Board held a public hearing on the proposed zone map amendment on May 27, 2003 at which time a favorable recommendation (8-0) of conditional approval was forwarded to the County Commission. Two public comments were received related to subdivision questions, no concerns. The Commission has one determination to make with this application. A determination whether or not to approve the proposed zone map amendment. The basis for the Commission's decision shall be whether the zone map amendment application and applicant and staff's response to review criteria meet the requirements of Section 76-2-304, MCA and intent and purpose of the RS Zoning District within the Gallatin County/Bozeman Area Zoning Regulations. If the Commission approves the zone map amendment application, the following conditions of approval are suggested: 1. Applicant shall verify with the County Road Department that the current access onto Bozeman Trail Road was permitted through an approved Encroachment Permit. If not, applicant shall obtain the necessary encroachment permit from the Road Department for any access points coming off of County maintained roads. 2. A waiver of Right to Protest

the Creation of Future RIDs will be required and shall be noted on the final zone map amendment recorded with the Clerk and Recorder's Office. 3. The applicant shall provide a metes and bounds legal description and an 8-1/2" x 11" or 8-1/2" x 14" map of the area to be zoned, acceptable to the County Road Department, which will be utilized in the preparation of the Ordinance to officially amend the Gallatin County/Bozeman Area Zoning Map. In addition, two digital copies on 3 1/2" DS/DD disk and one Mylar, 24" x 36", must be provided to the Planning Department. The applicant's representative Terry Threlkeld briefly summarized the highlights of the proposed request. There was no public comment. Commissioner Murdock pointed out that the Planning Board will be redoing the Bozeman Donut Zoning Regulations and this might be revised again in the next 6 months as far as a more appropriate zoning designation. **Commissioner Mitchell moved to approve Resolution #2003-061. Seconded by Commissioner Murdock, with the findings as entered into record by the Planning Board and included in the staff report and that the criteria for the zone change has been met. None voting nay. Motion carried.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for road name change in Gallatin County (An un-named road(s) on plat commonly referred to as Loop Spur Road, and Loop Lane, and an un-named road off of Hebgen Lake Road to Loop Spur Road, Loop Lane, and Spady Lane). This was a county initiated petition. Mr. Armstrong noted a late request by one of the resident that Spady Lane be changed to Spady Road. Public comment: Dr. Edward King was in favor of the road being named Spady Road or Spady Lane in recognition of the Spady's who have been active participants in the affairs of Gallatin County for the last 50 years. Jim Spady stated his reason for the request to use "road" rather than "lane". The Commission changed the resolution to read Shady Road. **Commissioner Mitchell moved to approve Resolution #2003-062. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for road name change in Gallatin County (An un-named road(s) on plat common referred to as Lakeview Road, Lakeview Loop Road, and an un-named road off of Hebgen Lake Road to Lakeview Road, Lakeview Loop Road, and Hebgen View Road). This was a county initiated petition. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2003-063. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for road name change in Gallatin County. (An Un-named Road off of Hebgen Lake Road to Hebgen Lodge Road). This is a county initiated petition. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2003-064. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

There were no pending resolutions. There being no further business the meeting was adjourned at 11:47 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 17TH DAY OF JUNE 2003

The meeting was called to order by Chairman John Vincent at 9:05 A.M., at the Manhattan High School Activity Room. Also present were County Commissioner Bill Murdock, and Acting Clerk to the Board Mary Miller. Commissioner Mitchell was excused.

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:

JUNE 9, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Mitchell, District Court Administrator Dorothy Bradley, Grants Administrator Larry Watson, Adult Probation Officer Bernie Driscoll, guest Tracy Blaine, and Commission Assistants Christina Thompson and Glenda Howze. The Commissioners discussed the Public Defender's Office and space at Law & Justice Center. Ms. Bradley stated that those working on getting the Public Defender's Office up and running request a project coordinator be appointed as Mr. Isdahl is busy with the Detention Center. Discussion took place about sole sourcing and it was suggested that Taylor, Hanson and Kane would be a good architectural firm to design and coordinate the space needs for this new department. The group also discussed use of the law library space. Commissioner Mitchell stated that space should be used for storage for the Clerk of District Court as recommended by the CIP Committee. Commissioner Murdock stated that he wants the space used for the Public Defender's Office. It was agreed that Taylor Hanson and Kane would be hired to prepare a proposal regarding space for the Commission to consider.

The Commissioners discussed the re-entry facility and program budget. Ms. Bradley reported that she has received assurance from Mr. Bill Slaughter, Department of Corrections, that the State will use the facility. The facility would be one modular building located on the Law & Justice grounds. It would be a 24-hour minimum-security facility. The state would have half of the beds, the County would have four and Treatment Court would have six. The CJCC has unanimously agreed to pursue this project. Ms. Bradley will pursue the project and keep the Commission informed.

The Commissioners considered approval of letters of support for HRDC Housing Development Grant proposal for senior citizens and developmentally disabled individuals. The group is requesting a letter of support for 2 projects, one for 41 units for elderly housing and one for 15-18 housing units for low-income, physically disabled individuals. There is no match and no commitment required on the part of the County. Commissioner Mitchell made a motion to approve a letter of support for the HRDC Housing Development Grant proposal. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a budget transfer request from Justice Court. Commissioner Murdock made a motion to approve said transfer. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a trade-in request from the Road and Bridge Department for a loader. Commissioner Mitchell made a motion to approve said trade-in request. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners had a discussion regarding creating a county zoning district in the Belgrade City-County jurisdiction. It was agreed that a letter would be send to the Belgrade Planning Board assuring them that the County Commission supports their efforts and advising them to seek legal advise in amending the interlocal agreement on the jurisdictional boundaries.

JUNE 10-11, 2003

- The Commissioners conducted regular County business.

JUNE 12, 2003

- The Commissioners attended a special meeting for the purpose of approving a grant proposal to the U.S. Office of Justice COPS in Schools Program for a School Resource Officer Program for FY 04. In attendance were Commissioners Vincent and Murdock, Lt. Carolyn Robinson, and Assistant Glenda Howze. This item was continued from the office meeting on June 9, 2003. If the grant is awarded but the match not funded in the budget, the County has the option of turning down the grant at that time. Commissioner Murdock made a motion to approve said grant application. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

JUNE 13, 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 June 12, 2003, in the amount of \$467,417.41.
2. Request for Common Boundary Relocation Exemption for William and Gary Metcalf, described as Tract 1 of COS 1155 located in the E ½, SE ¼ of Section 4, T2S, R5E. (3833 Durston Road,

Bozeman, MT). Gallatin County Planner Karin Caroline reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

3. Approval of Contract(s): Continuation on Walking Cross Consulting-Rest Home; Agreement for Services-Prugh & Lenon-(Commission/Grants/Facilities); Release of Interest-Gallatin County to the Gallatin County Bar Association/Law Library Books; Professional Engineering Services Agreement-Amsterdam RID; Gallatin County Public Defender Contract with Bowen/Parker; Lease Agreement with John Ham for Rest Home Annexation Land; Mountain Land Rehabilitation-Amendment to #2000-04; WEL Home Health of Bozeman/Mountain View Care Center; and Health-e-Web Business Associate Agreement.

Commissioner Vincent noted that the Walking Cross Consulting contract for the Rest Home would be continued until June 24, 2003, and the Health-e-Web Business Associate Agreement was continued pending signatures.

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

One vacancy exists on the Historic Preservation Board of Gallatin County due to the resignation of Anita DeClue. This position is for two years and will expire on July 30, 2006. To date, the following applications were received from Dean Williamson, Emily Glassberg Sands, Victoria Drummond, Ann Butterfield, and Helen McCarthy. There was no public comment. **Commissioner Murdock nominated Dean Williamson who was recommended by the Chairman of the Historic Preservation Board. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

James F. Smith reported on award of the Liability Insurance Program. Mr. Smith was hired as a consultant on behalf of the county for the renewal of property and casualty contracts, effective July 1, 2003. They went to bid on May 30, 2003, and the following two bids were received: St Paul Companies through First West Insurance and the Montana Association of Counties. In his analysis, he determined that neither one had quite complied with all the specifications. In discussions with MACo he was told he would have full latitude to adjust the policies to insure compliance. The MACo program is a true self-insurance program, which is substantially lower in cost compared to St. Paul, which is a traditional insurance program. The MACo program is an assessable program and Mr. Smith discussed in detail how the self-insurance pool operates. Mr. Smith's recommendation to the Commission was to take the MACo program and let him work with the County Attorney's office in negotiating endorsements and correcting some of the deficiencies he found in their program. He explained in further detail how the MACo program would work for the county with regards to property and catastrophic losses. It was noted that Gallatin County would be the largest county in the pool therefore the largest provider of premiums. He pointed out that Gallatin County would only have to guarantee they would stay in the pool for one year. His only hesitation with the MACo program was that it was assessable and the Missoula County Airport Authority was in this pool and he could see a catastrophic loss at an airport. Gallatin County Attorney Marty Lambert recommended that the Commission take Mr. Smith's advise, noting this would save the county approximately \$50,000. Mr. Lambert spoke of the importance of having coverage for land use decisions, having some flexibility with regard to the self-insured reserve, and flexibility in picking counsel. Mr. Smith stated that he never received a viable commitment from St. Paul with regards to the jail overcrowding, noting they were going to leave that coverage out. Mr. Lambert added that MACo was willing to write the policy for law enforcement without any provisions. Further discussion took place with regards to the plan requested by St. Paul on the overcrowding of the jail. Gallatin County Fiscal Officer Ed Blackman pointed out that it was not in the current budget to finance \$450,000; they would have had to increase the expenses to each department. He recommended any accrued savings stay in the liability insurance fund to cover deductibles. **Commissioner Murdock moved to accept Mr. Smith's recommendation that he proceed negotiating coverage with MACo. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution of intent to amend the Amsterdam Rural Fire District FY 2003 budget by appropriating \$3,400 in revenues received from fire impact fees towards the purchase of a fire truck. It was noted that the Amsterdam RFD was aware if in the event Fire Impact fees were found to be illegal or unconstitutional the district would

repay the amount of Fire Protection Impact Fees spent. There was no public comment. **Commissioner Murdock moved to approve Resolution of Intent #2003-065. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Grants Administrator Larry Watson reported on receipt and opening of bids, CTEP Manhattan Sidewalk Project STPE 346-1(4) 1. Two bids were received as follows: William R. Lane Co Inc., Toston, Montana, included a bid bond in the amount of 10 percent, total bid \$149,752.71; and JTL Group, Belgrade, included a bid bond in the amount of 10 percent, total bid \$153,144.00. The engineer's estimate was approximately \$136,000. Discussion took place with regard to whether or not there would be enough money to fund the project. Mr. Watson requested a continuation to review both bids with the project engineer. He will return June 24, 2003, with a recommendation. **No action taken.**

Gallatin County Planner Karin Caroline reported on the consideration of a request for opening and continuation of preliminary plat approval for the Montana Ranch Subdivision until September 30, 2003. The applicant and the applicant's representative requested to open and continue review of the subdivision until September 30, 2003, pending decisions from the NRCS regarding their water issues. Planning Board reviewed this subdivision on May 27, 2003, and at that time could not recommend a favorable recommendation based on water issues being so outstanding, with over 50 objectors. At that time the applicants did not want to postpone the Planning Board but in lieu of that decision they decided to postpone the County Commission review until the public hearing is held in Helena July 8, 9, and 10 before the NRCS. At that time any evidence and testimony is brought forth in that public hearing and after that there is a 60-day review period. Further discussion took place with regards to whether or not the Commission had any discretion in granting the continuation. Commissioner Vincent requested a list of the objectors. **Commissioner Murdock moved to consider the request and agree to opening and continuing preliminary plat approval for the Montana Ranch Subdivision until September 30, 2003, a request from the developer. Seconded by Commissioner Vincent. Commissioner Murdock reiterated that September 30, 2003, would be the drop-dead date and no further extension. None voting nay. Motion carried.**

The Commission asked for public comment. There was no public comment. The Commission discussed HB 94, which allows public comment to be heard at all meetings. The Commission noted that public comment would be added to as an agenda item on future agendas.

There were no pending resolutions. There being no further business the meeting was adjourned at 9:51 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 24TH DAY OF JUNE 2003

The meeting was called to order by Chairman John Vincent at 9:05 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.

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:

JUNE 16, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent and Murdock, Road and Bridge Superintendent Lee Provance, DES Coordinator Jason Shrauger, and Commission Assistants Christina Thompson and Glenda Howze. The Commissioners considered approval of a Domestic Preparedness Equipment Grant for 2003. No match is required and the amount received (\$336,000 requested) may not equal that which is requested. Commissioner Murdock made a motion to approve the Domestic Preparedness

Equipment Grant proposal. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval and signing of a buy-sell agreement for new Road Department property (West Baxter Lane off of Jackrabbit Lane). The agreement has the adjustments as requested by Finance Officer Ed Blackman and Deputy County Attorney Kate Dinwiddie. The buy-sell is written with a total price of \$337,000 and if the appraisal comes in to reflect that amount or more then the County can proceed with the purchase. Commissioner Murdock made a motion to approve the signing of the buy-sell agreement for purchase of new Road Department property. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners had a discussion regarding dust control with Mr. Provance. He noted that the Road Department has processed enough applications to be up to \$75,000. He requested the Commissions' opinion as to whether to proceed with the program and pull an additional \$25,000 from other projects in order to fund more dust control projects. The Commissioners recommended that he check with Mr. Blackman regarding cash carryover and if there is extra money than budgeted the additional \$25,000 should come from there first. Mr. Provance assured the Commission that he wouldn't dump any projects but would stay within budget perimeters.

The Commission discussed a reclamation agreement on Baxter Lane, under the heading of "Road Matters, with Mr. Provance. Ms. Dinwiddie has reviewed the agreement and it is fine. The developer is required to reclaim the area after the holes are dug and if the gravel is not any good the deal is off. Commissioner Murdock made a motion to approve said reclamation agreement. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered a request for denial of a second request for Open Space Bond funds for the Alderman River Ranch from the Open Lands Board. The Board does not wish to give further funds to Mr. Alderman as he has already received some under a prior application. Commissioner Murdock made a motion to deny the request for additional conservation funds from the Open Space Bond for the Alderman River Ranch, per the recommendation of the Open Lands Board. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

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

The Commissioners considered approval of a budget transfer request from the Junk Vehicle Department. Commissioner Murdock made a motion to approve said request. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a request from the Parks and Trails Task Force for legal services in the amount of \$125.00 an hour to discuss an SID/RID for the Regional Park. Commissioner Murdock made a motion to approve said request up to one hour. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a request from A-Core of Idaho, Inc. for the privilege of charging tipping fees at the Logan Landfill. Commissioner Murdock made a motion to approve said request, finding that Finance Officer Ed Blackman has recommended approval. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a purchase request for the Motor Pool. Commissioner Murdock made a motion to approve said purchase. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a trade-in request for the Motor Pool. Commissioner Murdock made a motion to approve said purchase. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of an amendment to the Western Wireless Corporation contracts for 911 cellular sites. Commissioner Murdock made a motion to approve said contract amendment. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

JUNE 17-20, 2003

- The Commissioners conducted regular County business.

Continuation on Consideration of a Request for Preliminary Plat Approval for the Riverfront Park Subdivision (2nd Submittal).

The following items were on the consent agenda:

1. Minutes for Public Meetings February 21; April 9, 16, 23, 30; May 7, 14, 21; June 4, 11, 18, 20, 25; July 2, 9, 16, 23, 30; August 6, 13, 20, 27; September 3, 10, 17; and October 1, 2002.

40 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 48

2. Claims were presented for approval by the Auditor dated June 19, 2003, in the amount of \$749,760.24.
3. Approval of Cancellation of Taxes for Parcel Number(s): REE797 and PPP17396; totaling \$1,183.47.
4. Request for Common Boundary Relocation Exemption for Doug Alberda, Jon Alberda, D. George Alberda, Peter L. Anderson, and Milo J. Todd, described as two tracts of land being described in Film 90 Page 1028 and Document #2026725, and located in the NE ¼ and SE ¼ of Section 10, T2S, R4E. Gallatin County Planner Karin Caroline reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Approval of Contract(s): Time Extension on Modification to County Contract with Montana Department of Commerce for the SBIR Program; Continuation on Walking Cross Consulting-Rest Home; Community Mediation Center; and Continuation of Health-e-Web Business Associate Agreement.

Commissioner Vincent announced that Commissioner Murdock would be excused right after the Commission's discussion and decision on the Riverfront Park Subdivision to attend a 911 retreat. He made note that no correspondence or new information was received. Commissioner Murdock commented that this was one of the more difficult subdivision proposals, because of the public outpour in opposition which he noted was not in and of itself all that unusual. He pointed out that individuals in the area are making a real and constructive effort to form a zoning district. He stated that the Belgrade Planning Board was upset with the Commission's action on the first submittal although after discussion they too were in support of the creation of a zoning district. He quoted the primary goal of the Belgrade Area Plan, which states, "The primary goal of this plan is to improve the efficiency of land use in the Belgrade City-County Planning jurisdiction by concentrating development within and adjacent to Belgrade. As the distance increases from the city the plan encourages the preservation of farmland, open space, and protection of the East and West Gallatin Rivers". He noted quite a bit of testimony with this particular project was contrary to that plan. He added that the issues discussed such as roads, water, tax structure, and the inequity of funding for Highway 10 could not be solved with one subdivision. Belgrade was encouraged to update their Master Plan and they had a lot of public input and for some reason, Commissioner Murdock stated those in opposition to this development did not state their case as strongly as they did with this subdivision. Therefore he was going to follow the plan and go with the Planning Board recommendation. Although the developer reduced the number of units, Commissioner Mitchell stated that it was not significant and did not mitigate the impacts from the first submittal, such as the conflict of uses between urban and rural and the inconsistencies in lots sizes with the surrounding properties. She added that there were numerous public health and safety issues involved with traffic and the ability of the roads and infrastructure to handle that traffic. She stated that this was a nice subdivision however growth has to happen in a logical manner adding that this location is too far from existing services and needs to be closer to Belgrade for public and health reasons therefore she was not going to support the proposal. Commissioner Vincent stated it was his position ultimately that this location is suitable for development however this specific proposal is the wrong subdivision, in the wrong location, at the wrong time. He explained the primary purpose of the Subdivision Regulations is to promote public health, safety and general welfare by regulating subdivision of land. He did not believe this particular proposal accomplishes that purpose. Subsequently the regulations call for the orderly development of Gallatin County and he did not believe that establishing a subdivision with this density so far from the core of Belgrade and Bozeman was orderly under the regulations. The Subdivision Regulations refer to the avoidance or minimization of congestion and he did not think this subdivision given its overall density and the ultimate population of the subdivision would avoid congestion. Commissioner Vincent did not think this subdivision was in harmony with the natural environment as stated in the purpose of encouragement of subdivision development in harmony with the natural environment. He did not say a development of a different design would not be. He quoted from the regulations stating land which the Commission has found to be unsuitable for subdivision because of unreasonable burdens on the general public such as requirements for the excessive expenditure of public funds and congestion of roads shall not be subdivided for building or residential purposes unless the hazards or excessive public burdens are eliminated or will be overcome by appropriate design and construction plans. It was his contention that this could not be done in this particular case. He did not believe this proposal comes close to meeting the intent, purpose and definition of cluster as stated in the Gallatin County Growth Policy Plan. He added that they have approved subdivisions meeting the criteria that place the structures on the smaller portion of land while leaving the larger portion of land available for other uses. This proposal also does not meet the definition of compact development, which calls for a combination of clustering of housing; concentration of employment opportunities; good accessibility to basic activities; and planned outward expansion based on fiscal costs of government service. Environmental costs, costs related to the character of the community and external effects of development on agricultural production. This subdivision does not meet that standard stipulation in the Growth Policy. This is a medium density development at 1.2 units per acre and represents one of the higher density rural projects. While a medium density classification might be an appropriate future build out for the area, Commissioner

Vincent stated at the present time it seems to be too much, to soon. According to the Belgrade Area Plan, areas for subdivision are to be oriented to major roads within a reasonable distance to schools and area businesses however just what is reasonable is open to interpretation but he did not interpret this as reasonably located. New subdivisions should be adjacent to existing development with consideration given to existing characteristics to the area and he did not believe this subdivision met that criteria. He pointed out that urban amenities are lacking which would make this a vehicular intensive subdivision. He stated that it does not fit with existing characteristics and seems incompatible with immediate adjacent land uses, which are primarily agricultural. It seemed reasonable to him given reference to the Belgrade Plan not to rely solely on a generalized future land use map in an area that is experiencing a 75% growth rate. He stated generalities in a plan are one thing but specific projects and specific locations are another, noting that neighbors deserve more predictability. Commissioner Vincent found that this subdivision does not meet the standard criteria in 76-3-608; in regard to impacts on public service. He commented that developments in rural areas cost far more to service than developments adjacent to urban areas. Although there is a short-term benefit in jobs, in the long-term taxes for all the citizens in the Belgrade School district will have to go up because this subdivision will not provide the tax revenue necessary to provide the services necessary. He stated that this could only be mitigated by locating a development of this kind closer to existing services and infrastructure. He pointed out that even though there was a letter from the Superintendent stating that this development will not have a negative impact on Belgrade Schools, it was a direct contradiction of what he said earlier, in that they are out of classrooms now and that it is bound to get worse. He stated this is mitigatable when and if the taxpayers in the Belgrade School District agree to a bond issue that will mitigate the impacts of growth and overcrowding. This is a riparian corridor and although the developer moved structures out of the flood plain it still has in his estimation a negative impact on wildlife because it is not just the structures in a subdivision that have an impact on wildlife, it is adjacent and attendant human activity that has the same kind of effect. It may well be mitigatable but only by reducing but not eliminating of the impacts of density. The traffic study addresses intersection safety only and it does not address the safety on the Frontage Road in its totality and does not factor in the 150 to 175 daily trips from heavy gravel trucks that are very likely given the fact that a permit has already been issued. That can only be mitigated by future improvements to this road. In his opinion, the study does not reflect the real world utilization of the Frontage Road given jobs in Bozeman and school in Belgrade. He believed there would be much more utilization of the Frontage Road than the study indicates and it does not factor in the third proposed access to Airport Road. Major improvements or expansion of the Frontage Road and/or the construction of a new interchange can only mitigate all of these issues. He commented relative to the lack of police protection in Gallatin County, adding that this could be mitigated by increasing the number of deputies or by locating this kind of development much closer to mutual aid. He studied the water issue and found that to be a draw because both experts made very good points therefore he did not include that in his findings except to mention 85-2-343 relative to possibly a legal connection in regard to the withdrawal and use of water in the Missouri River Basin. He stated in regards to the Richardson ground squirrel that the county could not mitigate something it has no authority to mitigate. He said the information produced showed much more preferable ways to handle populations of Richardson ground squirrels than shooting but they have no control. He commented on the negative effect on agriculture because the agriculture to the west and north is not buffered although there has been effort to buffer the south end. The viable agricultural business immediately to the south states that it is not. In regards to public services, he quoted a section of a comprehensive study out the University of Wyoming, noting that it was unreasonable to think that a particular subdivision in a particular location affects only that place, it has ramifications across the board and throughout the county. **Commissioner Murdock moved to approve the subdivision with the conditions as written by staff. Seconded by Commissioner Mitchell. Commissioner Murdock voting aye. Commissioners Vincent and Mitchell voting nay. Motion denied. Commissioner Mitchell moved to deny preliminary plat for the Riverfront Park Subdivision with all the findings as stated in the record, and according to the Statute, County Plan, Belgrade Area Plan, and the Subdivision Regulations. Seconded by Commissioner Vincent, included 76-3-608 (5)(a), a governing body may not unreasonably restrict a landowner's ability to develop but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval of the plat. Commissioners Vincent and Mitchell voting aye. Commissioner Murdock voting nay. Motion carried.**

Commissioner Murdock was excused to attend the 911 retreat. Commissioner Vincent announced that regular agenda Item #9, public hearing and request for preliminary plat approval for the Longhorn Estates Subdivision (2nd submittal) would be continued indefinitely until all three Commissioners were in attendance.

Commissioner Mitchell read the consent agenda and requested that the Walking Cross Consulting contract be continued indefinitely until further notice. There was no public comment. **Commissioner Mitchell**

moved to approve the consent agenda, as revised. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Gallatin County Road and Bridge Superintendent Lee Provance reported on receipt and opening of bids for two graders-2003. Western Plains Machinery Co., Billings submitted a letter stating that they had no bid however they wanted to be kept on the bidder list. The following two bids were received: RDO Equipment Co., Billings included 2 proposals - #1 \$324,310.55 - #2 \$289,225.25; and Tractor and Equipment Co., Billings #1 \$213,883.70. Mr. Provance will take the bids under advisement and make a recommendation next Monday at the Commission's office meeting. **No action taken.**

Gallatin County Grants Administrator Larry Watson reported on the continuation of receipt and opening of bids, CTEP Manhattan Sidewalk Project STPE 346-1(4) 1. Two bids were received and opened last week from JTL Group, Belgrade and William R. Lane Construction, Toston. Mr. Watson reviewed the bids with the project engineer. Their bid recommendation is contingent upon additional financial consideration by the Commission because the base bid price for the lowest bidder is an increase over the engineering estimate, which the project budget is based upon. The project budget estimate was \$113, 156, and the apparent low bidder came in at \$149,753. The reason for the increase in costs was due to the significant increase in the cost of concrete and the removal and salvage of lawns necessary to place the sidewalks. The Town of Manhattan will contribute 13.42 percent in matching funds. The remaining 86.58 percent is funds allocated from the CTEP allocation received from MDOT. The current balance of CTEP funds based on all available estimates is \$40,322. To date, notification of this years funding allocation has not been received. Mr. Watson used \$140,000 as a base estimate, stating he was confident they would receive approximately \$168,000. This request would be to allocate an additional \$35,427 dollars in CTEP funds to this project, which includes 10 percent in contingency. This would leave \$4,895 in reserve. Further discussion took place regarding the budget figures. Commissioner Mitchell was concerned they were getting close to working into the contingency and with no notification of the CTEP funding that they would be spending money that was already committed to other projects. After discussion it was determined that action would be continued until July 1, 2003. **No action taken.**

Gallatin County Planner Karin Caroline reported on the public hearing and consideration of a request for preliminary plat approval for Rick Gustine, SurvoCo Surveying on behalf of landowner Lawrence LaSalle for the Country Side Minor Subdivision, located in the SE ¼ of Section 7, excepting there from COS 1572, T1S, R4E, Gallatin County, Montana. The property consists of approximately 139+ acres and more generally located on the west side of Highline Road, northeast of the community of Churchill. The five lot minor subdivision will be serviced by individual on-site water wells and septic systems. Ms. Caroline briefly outlined the staff findings, primary review criteria, and the goals of the Gallatin County Growth Policy as it relates to this proposal for the Commission to evaluate for considering the subdivision along with the suggested conditions. It was noted that there are two watercourses that traverse the property and convey water to downstream users: Moreland Canal and Lewis Ditch. There are 70-foot wide ditch maintenance easements for both ditches. Two neighboring property owners raised concerns about future ditch access, effect on downstream water users, and availability of water from ditches to the proposed 5 lots. Since the writing of the staff report there have been five additional letters received from adjoining property owners, noted in the staff report as Exhibit "B". The County Commission has one determination to make with this application: A determination whether or not to approve, conditionally approve, or deny the proposed subdivision. The basis for the Commission's decision shall be whether the preliminary plat, Planning Board's recommendation, staff report, public comments, and additional information, demonstrate that development of the subdivision meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act and provisions of the Gallatin County Subdivision Regulations. If the County Commission approves the subdivision, the following conditions are suggested: Subdivision Specific Conditions: 1. Due to the potential conflict to downstream water users, the applicant shall place language within the covenants, subject to review and approval by the County Attorney's office, noting that all ditch crossings shall receive written approval from that particular ditch/waterway company prior to commencement of any construction. Information to be included for approval by the ditch/waterway company shall include, but not limited to, the following: a) size of proposed canal crossing and method of installation; b) any crossing shall a minimum of two feet of clearance above the canal bank in order to prevent the lodging of debris that may flow down the canal. In addition, additional language within the covenants shall state that no landowner shall dump or dispose of trash or debris that would affect the waterway; that no landowner shall allow the waterway to be used to "water" any animals or livestock; and that no landowner shall

install individual pumps to extract ditch water for private use (i.e. private ponds). 2. The Final Plat shall contain a note containing the following: "No lot owner may remove or cause to be removed water from irrigation ditches without deeded water rights, and before any maintenance or improvements are performed on any of the ditches, the owner of the waterway shall give written permission for the work to be done". 3. There shall be language contained within the covenants making future landowners aware that, by right, there may be the need to maintain existing ditches and resulting from that, crossing private property and gaining access through any future fences. Future landowners shall contact the appropriate ditch company for their input as to where fences or gates shall be installed. 4. In addition to language within the covenants, the Final Plat shall contain the following note: Further subdivision of the lots is prohibited. 5. Because Highline Road has in excess of 100 ADT's (Average Daily Trips) per day, it shall be required that the following location along said road be paved to County standards: Amsterdam Road to the south property line of the subdivision. 6. Thirty (30) feet of Highline Road west of centerline shall be dedicated to the public for the entire length of the development. Standard Subdivision Conditions: 1. A property owners' association for the subdivision shall be created. 2. Covenants for the subdivision shall include the following provisions: a. All buildings shall be built in compliance with the International Building Code Seismic Design Category D, which includes standards for structures in earthquake susceptible areas, and the National Fire Protection Association Codes. b. The control of noxious weeds by the Property Owners' Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (7-22-2101 through 7-22-2153 MCA) and the rules and regulations of the Gallatin County Weed Control District. The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. In the event a landowner does not control the noxious weeds, after 10 days notice from the Homeowners' Association, the Association may cause the noxious weed to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment. c. Any future structure(s) (residential or agricultural) shall be set back 35 feet from the high water mark of any existing watercourse (i.e. ditches) or related easements, which travels through the property. 9. All areas of the public right-of-way disturbed during construction shall be sodded or reseeded with vegetation types approved by the Weed Control Supervisor. 10. Prior to application for Final Plat approval, the applicant shall enter into a Memorandum of Understanding (MOU) with the Weed District. The MOU shall be signed between the Weed District and the applicant prior to Final Plat approval. The applicant shall submit the signed MOU at the time of application for Final Plat approval. 11. A copy of the preliminary plat approval document and the certificate of licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for Final Plat approval. The Attorney's Office shall review and approve the certificate of title abstractor prior to Final Plat approval. 12. Encroachment permit(s) shall be obtained from the County GIS or Road and Bridge Department for any access points coming off of County maintained roads. Additionally, all internal lots shall be limited to one driveway access. Each access shall be at least seventy-five (75) feet from the nearest intersecting County road. Stop and street identification signs shall be placed at any interior subdivision roads accessing Highline Road. 13. All road names for interior roads shall be approved by the County GIS office. 14. A Waiver of Right to Protest the Creation of Future RIDs will be required. 15. A "no access" strip is required along all lot boundaries that border county maintained roads. Exception to this will only be made for lots that do not border an internal subdivision road. Access to lots falling under this exception will require further review and the obtaining of an encroachment permit from the County Road Department. 16. All interior roads shall be built to County gravel standards, and have a sixty (60) foot right-of-way, dedicated to the public, unless other County road standards apply. 17. A cul-de-sac, built to County standards and acceptable to the local Fire District, shall be required at the end of proposed Moreland Canal Court and Lewis Ditch Court. 18. A pre-construction meeting will need to be set with the County Road Department prior to the start of any construction. 19. All roads shall be built to Montana Public Works Standard Specifications (current edition), inspected and certified by a licensed engineer. Such inspection and certification shall be provided to the County Road Department in writing. Final approval will not be given until this documentation is received. 20. With respect to paving of County maintained roads, a two (2) year written warranty, from the contractor, shall be required. This warranty shall be submitted to the County Road Department prior to Final Plat approval. Striping shall be included after the paving of any County maintained roadway. 21. A "Property Owner's Association" shall be formed for the maintenance of all interior roads. A copy of the Property Owner's Association by-laws shall be submitted to the Planning Department prior to Final Plat approval, subject to review and approval by the County Attorney's Office. 22. 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". 23. The subdivider shall make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. 24. The applicant shall obtain approval of lot size for individual water supply system and septic tank and disposal field from MDEQ and the Health Department. The applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicant shall obtain the Gallatin County Health Officer's approval. 25. Per Section 6.E (Fire Protection Requirements) of the Gallatin County Subdivision Regulations, the applicant shall provide an adequate water supply for fire protection. The applicant shall have the fire district review and approve the water supply prior to Final Plat approval. The applicant shall obtain written verification from the fire district that the required water supply has been provided. Applicant must comply with the requirements of the Amsterdam Rural Fire District and the subdivision regulations. 26. The subdivider shall make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. 27. The Final Plat shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates (Section 5.E). 28. The applicant shall have three (3) years to complete the above conditions and apply for Final Plat approval. Gallatin County Sheriff's Department Suggested Condition: 27. The applicant shall pay a mitigation fee to the Gallatin County Sheriff's Department for the proposed subdivision's impact on law enforcement. The formula used shall be the following (see attachment): RESIDENTIAL CALCULATIONS: _____ # of units x 2.5 persons per residential unit = _____ persons (times) \$89.82 (\$89,815/1,000) - _____ residential mitigation for subdivision. Based on the above formula, the mitigation fee for the proposed Country Side 5-lot minor subdivision over a five-year period would be \$4,846.88. Developer Ron Burgess pointed out that the staff report incorrectly indicates that the application is on behalf of Lawrence LaSalle, when in fact Mr. LaSalle is not involved with this subdivision. Mr. Burgess has an option to purchase the property with Bob Steinmann contingent upon getting subdivision approval. He noted several other references in the staff report that incorrectly state that this proposal would require approval from the Montana Department of Environmental Quality, noting that would not be a requirement because all the tracts are over 20 acres in size. He also pointed out what he believed were inconsistencies with staff's responses relative to the Gallatin County Growth Policy. He stated that they never thought of this property as being northeast of Churchill, they have always thought of it as southeast of Belgrade. He pointed out that they are adjacent to sections of land that have been transformed from agricultural fields into 10 and 20 acre tracts. Mr. Burgess commented on the conditions and requested that condition #27, regarding the sheriff mitigation fee be stricken until it has been adopted as part of the county regulations. Commissioner Mitchell assured him that the sheriff mitigation condition would not be required until it has been established as a policy. Mr. Burgess confirmed that he had reviewed the letters submitted expressing concerns about this proposal. He commented that the concerns were more appropriate if they were creating one-acre lots. Developer Bob Steinmann commented briefly on the proposal and the covenants. Public comment in opposition: Carol Weidenaar, (submitted a letter from Hilco and Nell Van Dyken, labeled Exhibit "A"); Stan Droge; and Kyle Weidenaar. The following concerns were expressed: contamination of certified seed potatoes; trespassing; noise; dust; odors; dangerous equipment; flooding; personal gardens causing disease to certified seed potatoes; dogs; and liability with the ditches and private lanes. Ms. Caroline responded to Mr. Burgess's comments noting that according to State Statute 76-3-608 there is the requirement of any subdivision to address the primary review criteria. Mr. Steinmann responded to concerns with flooding and ditches. Public comment was closed. Commissioner Mitchell stated that on the surface and isolated this subdivision looks like it is highly controlled and contained, but put into the big picture it creates a different situation. After reading and listening to the testimony of the surrounding agricultural community the impacts were brought out. She added that this subdivision is not near existing services and noted weed control problems with larger tracts. She stated in this case this proposed development is surrounded by viable agricultural property and it is incumbent upon the Commission to make sure that they have continuity and land uses in order to maintain viable agricultural uses. She commented that this type of development could lead to leap frog. Commissioner Vincent concurred with Commissioner Mitchell under applicable Gallatin County Subdivision Regulations and State Statute. His main concern was relative to the water issue overall such as flooding and the safety of the residents with regard to the ditches. He added that there is a negative effect on agriculture relative to at least the possibility of contamination. He agreed that this proposal is better than what could be proposed however there is a difference between agriculture as a business and what many people perceive to be an agricultural way of life. **Commissioner Mitchell moved to deny the Country Side Minor Subdivision application sighting that it is incompatible with neighboring lot sizes, land uses and the impacts on water usage and ditches because of the fact that they are a primary source for the existing land uses. Finding that the health and safety of the agriculture operations is incompatible with a minor subdivision, leapfrog and maintaining the distinction between town and country as spelled out in the Growth Policy.**

Commissioner Vincent added to the motion that flooding is a non-mitigatable situation. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Gallatin County Planning Director Jennifer Madgic reported on the public hearing and consideration of a resolution to extend the Bozeman Pass Interim Zoning Regulation and Zoning Map established for the purpose of prohibiting oil and gas exploration and development. The one-year extension will expire on July 30, 2004. The Bozeman Pass Citizens Group has been meeting diligently for the past year to organize a permanent zoning district in the Bozeman Pass region. Notice was published as required in the Bozeman Daily Chronicle and the High Country Independent Press. The Planning Department received letters from the following: Jennifer Read; Bozeman Pass Citizens Group; Jennifer Read/Gray Davidson; and Mark Cunnane. One additional letter was received at the meeting from Martha Beall. Commissioner Mitchell received a letter from Jeanne and Norman Eggert. Further discussion took place regarding annexation into existing zoning districts. Public comment: Tom Skeelee; and Martha Beall. Public comment was closed. **Commissioner Mitchell moved to approve Resolution #2003-066. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Planning Director Jennifer Madgic reported on the public hearing and consideration of a resolution to extend the Bozeman Pass Interim Zoning Regulation and Zoning Map established for the purpose of regulating oil and gas exploration and development. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2003-067. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the public hearing and consideration of a request for a reduction of Road Impact Fees for Morrison-Maierle on behalf of the Spanish Peaks Estates Major Subdivision, Phases 1A, 3 and 4. Preliminary plat approval was granted on August 24, 1999. Phase 1A includes 4 single-family lots, Phase 3 includes 15 lots, and Phase 4 includes 7 lots. Section 5.3 of the Gallatin County Road Impact Fee Regulation (Appendix E, Gallatin County Subdivision Regulation) allows the subdivider to prepare and submit to the County an independent fee calculation study for the proposed development prepared by a qualified traffic engineer or economist. Based on previous independent fee calculation studies for residential subdivisions in the Big Sky area, the Gallatin County Road & Bridge Department established a standard road impact fee of \$81.00 per lot for Big Sky area subdivisions. If the County Commission determines that the independent road impact fee calculation for the Spanish Peaks Estates Major Subdivision, Phases 1A, 3 and 4, meets the requirements of the Gallatin County Road Impact Fee Regulation, a road impact fee of \$81.00 per lot shall be submitted with the final plat application. Further discussion took place with regard to the use of Cottonwood Road from Big Sky to Bozeman and the use of road impact fees for improvements to that road. There was no public comment. **Commissioner Mitchell moved to approve the request for a reduction in road impact fees for the Spanish Peaks Estates Major Subdivision, Phases 1A, 3 and 4 to reduce it to \$81.00 per lot for an independent study performed. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the public hearing and consideration of an improvements agreement for C & H Engineering and Surveying, Inc., on behalf of Homelands Development Company, LLC for the Green Hills Ranch Major Subdivision. Preliminary plat approval was granted on March 26, 2002. The subdivision includes 71 residential lots located approximately eight miles south of the Bozeman City limits. Subsequent to this request the applicants also requested final plat approval. The subdivider is requesting that the conditions for the completion of required infrastructure improvements (conditions #9, 10, 12, 13, 21, 22, 26, 29 and 34) for the subdivision be completed under an Improvements Agreement with Gallatin County. Mr. Johnson outlined the conditions. The Gallatin County Attorney's Office reviewed and approved the Improvements Agreement. Further discussion took place regarding the Road Department's approval and the gated emergency access on the east side. George Durkin on behalf of the Gallatin County Road and Bridge Department responded to questions regarding the improvements to Cottonwood Road, noting if it meets density and has width he did not think they could reject it because of poor quality. The applicant's representative Attorney Susan Swimley explained that they posted the bond for the monitoring well pending a letter from DEQ saying they did not need the monitoring well. She stated that the gates are not installed because the roads are not done yet for the connectors. In response to discussion regarding the process and requirements to complete improvements under an improvements agreement, Deputy County Attorney Kate Dinwiddie stated that the county attorney included a liquidated damages clause into the improvements

agreement to try and make sure improvements are done in a timely manner. It was noted that the subdivider had 6 months from the date of filing final plat to complete the improvements. **Commissioner Mitchell moved to approve the Improvements Agreement for Green Hills given the fact that there is a 6-month time limit. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the public hearing and consideration of final plat approval for C & H Engineering and Surveying, Inc., on behalf of Homelands Development Company, LLC for the Green Hills Ranch Major Subdivision. Mr. Johnson pointed out in response to condition #38, that the subdivider, under protest provided a check in the amount of \$35,000 for sheriff protection mitigation. The subdivider requests that the Gallatin County Commission review the protest during final plat consideration as the subdivider believes no other development has been required to pay such fee. Given the fact that the Improvements Agreement was approved, Mr. Johnson stated that it appears the conditions for final plat have been satisfied. The applicant's representative Attorney Susan Swimley reiterated the issue with condition #38. The Commission agreed that it would be inconsistent if they asked this developer to pay the sheriff mitigation fee. **Motion by Commissioner Mitchell to remove the \$35,000 sheriff mitigation fee, noting the subdivider voluntarily paid the school a contribution of \$124,000. Seconded by Commissioner Vincent. None voting nay. Motion carried. Finding that all of the conditions have been met via the Improvements Agreement and the removal of one condition, Commissioner Mitchell moved to approve final plat approval for the Green Hills Ranch Major Subdivision with all the conditions verified by county staff. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

There was no public comment.

There were no pending resolutions. There being no further business the meeting was adjourned at 11:57 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 1ST DAY OF JULY 2003

The meeting was called to order by Chairman Vincent 9:00 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.

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:

JUNE 23, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent and Murdock, County Attorney Marty Lambert, Deputy County Attorney Ashley Herrington, Finance Officer Ed Blackman, Facilities Manager Bob Isdahl, District Court Administrator Dorothy Bradley, guests Jerry Taylor, Tim Coleman, and Bill Hanson and Commission Assistants Christina Thompson and Glenda Howze. The Commission considered approval of a budget transfer request from Belgrade Rural Fire District. Commissioner Murdock made a motion to approve said request. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.
- The Commission considered approval of a budget transfer request from Human Resources. Commissioner Murdock made a motion to approve said request. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.
- The Commission considered approval of an amendment to contract #2003-098 with New Horizon Technologies, Inc. Commissioner Murdock made a motion to approve said amendment to contract #2003-098. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.
- The Commission entered into discussion regarding an overview of the Law & Justice Center. Mr. Hanson, working with Taylor Hanson & Kane on the space issues at the L&J, reported that they were first hired to do a small renovation to the law library for Public Defender space. In working towards this goal they found many elements of the building do not meet code or are no longer useful.

One of the issues is the heating and air system, which is at the end of its useful life. A single boiler serves the entire building, which is also at the end of its useful life. The concerns of the architects are related to investing a lot of money into an existing, outdated structure. There are also security concerns with workmen going through secure sally ports for construction purposes. It was noted that there are options for fixing the cooling issues that would not require that all of the money invested could be lost when and if these offices are relocated or a new facility is constructed. Discussion took place regarding a central plant that would provide a heating and cooling system to the Law & Justice Center, Detention Center, and a new office building. Ms. Herrington reported that she has been researching options for the Public Defender's Office. Criminal Justice Assessment Consultant David Bennett stated that there is great concern having a Public Defender's Office in an area that does not have the privacy of structure offices. He also stated that it is important to remove this department from the Law & Justice Center away from the County Attorney and Law Enforcement Offices. The Farm Bureau Building has office space available. There are a few options and Mr. Bennett suggests that this space would be a good short-term solution. Commissioner Murdock made a motion to authorize Dorothy Bradley, Ashley Herrington, and Ed Blackman to negotiate a lease agreement with the Farm Bureau building and also to produce a budget proposal on the same, contingent on Mr. Blackman finding the lease agreement to be satisfactory. Commissioner Vincent seconded the motion. All voted aye. Motion carried two to zero. Commissioner Murdock made a motion to authorize the purchase of portable, roving cooling units at a cost of up to \$4,200 each, finding that the cost is run by Mr. Blackman and he is able to identify an appropriate venue from which to take the money. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero. Commissioner Murdock made a motion to authorize the commencement of work on a master plan to include 30,000 square foot office building, pre-release, detention center and law and justice needs with the criminal justice consultants recommendations for the Law & Justice site. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero. The Commission also agreed to direct the County Attorney to draft an RFP for the Public Defender's Office with language that will include individual space and determination of future court needs.

JUNE 24, 2003

- The Commissioners conducted regular County business.

JUNE 25, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent and Murdock, Health Officer Stephanie Nelson, Human Resources Director Randy Kuyath, Commission Assistants Glenda Howze and Christina Thompson, and Guest Nick Gevock, Bozeman Daily Chronicle. The Commissioners discussed a letter from Michelle Colvin, Social Worker with the Health and Human Services Department regarding an appeal to 610.34 of the Gallatin County Personnel Manual. The policy states that an employee whose vehicle is damaged during the course of business, they will be reimbursed their deductible up to \$500.00. Ms. Colvin is appealing this policy, stating that her vehicle was totaled during the course of business and due to depreciation on her vehicle she has a remaining \$4,100 to pay on her loan following the insurance coverage of the totaled vehicle. Ms. Nelson has spoken to motor pool, Environmental Health Services, and the Health and Human Services Office and there is no barrier to Ms. Colvin using an alternate vehicle. Mr. Kuyath recommends that policy be followed, as it was Ms. Colvin's choice to use her own vehicle rather than a motor pool vehicle. Commissioner Murdock stated that he acknowledges the motor pool concerns regarding location, but they do have good vehicles available for use. Commissioner Murdock made a motion to deny Ms. Colvin's request for reimbursement of \$4,100 for the depreciation on her vehicle totaled during the course of business, and approved payment of \$500.00 towards her loss. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commission considered approval of a request from the Fair Board for reimbursement of the loss suffered by the Fairgrounds in putting on the Wild West Winterfest. (Commissioner Mitchell joined the meeting at this point.) The Commission previously agreed to cover any loss incurred as this event was added post budget and to make up for the loss of the Montana Winter Fair. Commissioner Murdock made a motion to fund the Wild West Winterfest loss finding that there is no guarantee that this is setting a precedent in the future. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a budget transfer request from the County Fire Marshall. Commissioner Mitchell made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

48 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 48

The Commissioners discussed approval of a new purchase order/claims policy for the end of the fiscal year. This policy will allow the County to abide by state law, allowing departments 30 days with which to pay their bills, and assures that expenses are paid from the appropriate year. This also allows the Accounting Department to close out the year-end books. Commissioner Mitchell made a motion to approve the FY 04 purchase order/claim policy for year-end purchases. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered an amendment to Resolution 2001-51A, extending the closure of Bear Canyon Road to June 30, in conjunction with the Forest Service closure dates. Commissioner Murdock made a motion to approve Resolution 2001-51B, amending 2001-51A, extending the closure date of Bear Canyon Road to June 30. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

JUNE 26-27, 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 June 26, 2003, in the amount of \$470,974.59.
2. Request for Mortgage Survey Exemption for Rob and Judy and Clara Brownell, described as a tract of land located in the E ½ of the SW ¼ of Section 26, T2N, R4E. Gallatin County Planner Karin Caroline stated that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
3. Request for Common Boundary Relocation Exemption for Bank of the Rockies (formerly First National Bank of White Sulphur Springs, described as two tracts of land being Tract A of the Plat shown on Film 21-520, and the remainder of Tract 2 of COS 392, located in the NW ¼ of Section 25, T2N, R1E. (approximately One Front Street, Three Forks, MT adjacent to city limits). Gallatin County Planner Karin Caroline stated that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Common Boundary Relocation Exemption for John (Jack) and Patricia Nash, described as a tract of land located in the E ½ of the SW ¼ of Section 26, T2N, R4E. Gallatin County Planner Karin Caroline stated that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Approval of Contract(s): Declaration of Independence, Inc.

Commissioner Mitchell read the consent agenda. It was pointed out that the hours of display in the agreement for the Declaration of Independence, Inc., were incorrect. The Commission agreed to place this on the regular agenda and amend the hours to read 9 am to 6 pm. **Commissioner Murdock moved to approve the consent agenda, as amended. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Commissioner Mitchell further explained the reason for the time change of 9 am to 4 pm to 9 am to 6 pm in the Declaration of Independence agreement. There was no public comment. **Commissioner Mitchell moved to approve the agreement with DOI, changing the closing time in the agreement from 4pm to 6pm. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Fiscal Officer Ed Blackman on behalf of Gallatin County Grants Administrator Larry Watson reported on the continuation of receipt and opening of bids, CTEP Manhattan Sidewalk Project STPE 346-1(4) 1. The bids received for this project were in excess of what was originally estimated. The bids were discussed with the City of Manhattan to determine if their match would be able to cover the overage. Commissioner Mitchell pointed out a difference in the figures given by Mr. Watson relative to the engineer's estimate and the lowest bid as well as a question of whether or not the county wants to use up the contingency. She also noted the bid was quite a bit higher than a previous sidewalk project. Mr. Watson's recommendation was that the remaining balance in the CTEP summary be used to fund the \$35,427 increase, leaving an estimated \$4,895 reserve over what is currently obligated. There was no public comment. **Commissioner Murdock moved to award the bid to Lane Construction, finding they have sufficient contingency funds over the engineer's estimate and that Larry Watson has recommended it. Seconded by Commissioner Vincent.** Commissioner Mitchell pointed out that they do not really have

sufficient contingency funds and that they will be using funds promised to other projects. Although they have money coming in from the state, they have nothing in writing to confirm the amount. Because of the fact this bid is higher than previous bids and the way the figures were calculated, she was not comfortable with approving this project at this time. She suggested delaying action until there was confirmation from the state. Mr. Blackman confirmed that the money to be used was from the contingency only and not the allocations to the projects. Further discussion took place regarding how a delay might affect the project. Greg Benjamin on behalf of Staley Engineering explained how the project estimates and budgets are set up. He presented a picture to the Commission showing the existing elevation of the curves on the right-of way, which was a lot lower than the existing grade, causing more soil to be removed and driving up the cost. He concurred that the construction estimate was in line. **Commissioners Vincent and Murdock voting aye. Commissioner Mitchell voting nay. Motion carried.**

Mark Fasting on behalf of Gaston Engineering reported on receipt of construction bids-Lake RID #384. Three bids were received as follows: TMC Inc., Belgrade – Total bid \$149,910.00; JTL Group Inc., Belgrade –Total bid \$135,616.00; Gallatin Asphalt Inc., Bozeman – Total bid \$120,040.00; and Big Sky Asphalt Inc., - Total bid \$150,942.80. Mr. Fasting took the bids under advisement and will return July 8, 2003, with a recommendation. **No action taken.**

Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution to amend Amsterdam Rural Fire District FY 2003 budget by appropriating \$3,400 in revenues received from Fire Impact Fees for the purchase of a fire truck. It was noted that the Amsterdam RFD was aware if in the event Fire Impact fees were found to be illegal or unconstitutional the district would repay the amount of Fire Protection Impact Fees spent. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2003-068. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution announcing August 8, 2003 as the date of the rededication of the Gallatin County Courthouse and presentation of the Declaration of Independence. Mr. Blackman read the resolution. Public comment: Bozeman Postmaster Jim Squires spoke as one of the co-sponsors of the Declaration of Independence road trip. He explained what the post office planned to do in order to encourage participation. The Declaration of Independence will be displayed in the following Montana locations: Bozeman; Billings; and the Rocky Boy Reservation. **Commissioner Mitchell moved to approve Resolution #2003-069. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for road name change in Gallatin County (Big Wig Loop to Northwestern Loop). This was a landowner and county initiated petition. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2003-070. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for road name change in Gallatin County (South Landmark Drive to Landmark Drive). This was a county initiated petition. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2003-071. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for road name change in Gallatin County (An un-named road off of Sypes Canyon Road to El Camino Way). This was a landowner-initiated petition. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2003-072. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Clerk and Recorder Shelley Vance reported on receipt of a petition to annex property into the Gallatin Canyon Consolidated Rural Fire District, described as Tracts 1 – 28 of COS 1786A, located in

Section 12, T7S, R3E, P.M.M, commonly referred to as the Elk Ridge Ranch Subdivision. The petition was reviewed and pursuant to 7-33-2125 MCA, the petitions contains signatures of 50% or more of the area of privately owned lands; who constitute a majority of the taxpaying freeholders; and whose names appear on the last completed assessment roll. The tract of land for which annexation is being requested is adjacent to the Gallatin Canyon Consolidated Rural Fire District. Ms. Vance recommended the Commission accept the petition and conduct a public hearing on July 29, 2003 to consider annexation of the property. There was no public comment. **Commissioner Murdock moved to accept the petition to annex property into the Gallatin Canyon Consolidated RFD, and set the hearing date to consider the annexation on July 29, 2003. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing and consideration of a petition to abandon a portion of Pollywog Lane. Notice of this public hearing was published in the High Country Independent Press on June 19, 2003, and notice was mailed to all those who signed the petition and those required in the County abandonment procedure policy. The petition was submitted to abandon the northern and southern portions of the cul-de-sac of Pollywog Lane lying outside of the 60' right-of-way dedicated on the plat of Minor #307 located in the NW ¼ of Section 13, T1S, R4E, P.M.M., Gallatin County, Montana. The cul-de-sac is located within Lot 5 of Minor #307. Lot 5 is planned for further development and because the cul-de-sac is developed the request is to abandon the northern and southern portions of the cul-de-sac and have it revert back to the property owners, so Pollywog Lane can be a 60' dedicated road. In an effort to find a better way to handle this type of abandonment, Ms. Vance spoke with Deputy County Attorney Kate Dinwiddie. It was her opinion that they should not be using this method of abandonment and that they should be amending plats. Commissioner Vincent and Ms. Vance reviewed this abandonment and determined that no one would be land-locked or 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 Belgrade Meadows Commercial Park. Should the Commission grant the abandonment, Ms. Vance will prepare the resolution and forward it to the County Attorney's office for review and the Commission will then take formal action. Bryan Connelley on behalf of the Belgrade Rural Fire District explained the history of this cul-de-sac and concurred with the abandonment. **Commissioner Mitchell moved to abandon the northern and southern portions of the cul-de-sac of Pollywog Lane and revert the land back to the owners. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution adopting Gallatin County preliminary operating and capital projects budget. Mr. Blackman gave an overview of the changes in the budget process. He briefly summarized the preliminary budget decision highlights for FY 2004: additional staff added; operation changes of significant amounts; and capital projects. The Commission approved two major projects. The first is the remodel for an estimated \$2,000,000 of the existing Detention Center. The second is the building of a new office building for \$3,000,000. The budget includes increases in mill levy that the Commission voted on of \$112,309, approximately 8.4 mills. This will be a slight increase to taxpayers. He pointed out that the budget will change significantly between now and the final. The final taxable valuations will be received the first week of August. Each elected official department head that has a change to their budget will present any requests for amendments today or at the July 29 or August 5, 2003, public hearing. It was noted that the Commission reinstated millage for the Fairgrounds, which was an increase from 1.19 to 1.65 mills. The Commission also budgeted \$379,000 for improvements to the Fairgrounds. Commissioner Murdock pointed out in order to fund those capital projects they are going to move the Road Department and sell that 10-acre existing site. Further discussion took place regarding temporary funding of the Shelter Care. Mr. Blackman explained the Commission's decision on major factors such as the funding of health care, and health insurance and wage adjustments for county employees. Public comment: Jim Monger, Chairman of the Capital Improvement Program Committee spoke on behalf of the committee and their concerns regarding budget matters. There was concern for better control and leadership within several areas of the county which points to the need for a County Administrative Officer or Manager. It was not their recommendation to sell the 10 acres where the Road Department is currently located. He pointed out if the Fairgrounds is to ever become self supporting that 10 acres is vital to its future. It was their recommendation to construct a county office building on the Law and Justice site on South 16th Street in order to allow certain county departments to have more space. They further recommended that the county sell the Oak Street 20 acre property and earmark that revenue for the new building. Mr. Monger explained another critical need was to establish a County Records Storage and Retrieval Center for all legal and historic documents that need to be protected and recorded. It was their contention that currently records are scattered in several locations and are not properly protected. Mr. Monger submitted his presentation labeled Exhibit "A". Sheriff Jim Cashell gave an overview of the Sheriff Department's budget requests and Draft #2 of the Gallatin County Sheriff's Office Strategic Plan. Mr.

Cashell outlined the identified goals for the Sheriff's Department. Further discussions took place with regards to the Strategic Plan. Commissioner Vincent suggested the following three amendments to the budget: reconsideration of the Sheriff's budget, in regard to adding two additional sheriff deputies; reconsideration of the Chief Administrative Officer for the County; and reconsideration of the salary compensation committee recommendation. Commissioner Murdock did not agree on reconsidering the Sheriff's budget or the salary compensation however he did agree on reconsideration of the CAO based on Mr. Monger's comments. Commissioner Mitchell was not ready for the CAO discussion at this point and time however she agreed they needed to better manage the department heads. She stated the following suggestions: confirm the need to sell the Oak Street site and use the revenue to pay for the law enforcement and detention capital projects and subdivide the other 10 acres the county owns on Oak Street. She did not agree with renegeing on the MOU with Fair Board to give them the Road Department land. She did not believe they needed to use the floating mill levy. She believed they could reduce costs by allowing the county employees to pay something towards their health insurance. Commissioner Mitchell noted she was not present for the capital projects and health insurance discussions and decisions although she gave 3 weeks advance notice that she was not going to be available for the scheduled dates. She added that she did not like the new process because it reduces the ability for the Commission to have candid discussion. Tentatively the final budget is scheduled to be adopted August 12, 2003. **Commissioner Murdock moved to approve Resolution #2003-073. Seconded by Commissioner Vincent. Commissioners Murdock and Vincent voting aye. Commissioner Mitchell voting nay. Motion carried.**

There was no public comment.

There were no pending resolutions. There being no further business the meeting was adjourned at 10:33 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 8TH DAY OF JULY 2003

The meeting was called to order by Chairman Vincent 9:00 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.

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:

JUNE 30, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent and Mitchell, Clerk and Recorder Shelley Vance, Auditor Jennifer Blossom, Road Superintendent Lee Provance, Bridge Superintendent Dave Fowler, Fiscal Officer Ed Blackman, Steve Gonzalez, representing the Manhattan School District, and Commission Assistant Christina Thompson.

Mr. Gonzalez discussed support for a grant application for Land and Water Conservation Fund Assistance to improve Milo Grue Tennis Courts in Manhattan. Commissioner Mitchell made a motion to approve Land & Water Conservation Fund Interlocal Agreement between Manhattan Public Schools Board of Trustees of Gallatin County and Gallatin County to provide cooperation between the parties in securing funds from the Land and Water Conservation Fund to improve Milo Grue tennis courts and Commissioner Vincent seconded said motion. All voted aye. Motion carried two to zero.

Commissioner Mitchell made a motion to approve claims for Western Mental Health and US Bank for the Compost Facility in West Yellowstone. Commissioner Vincent seconded said motion. All voted aye. Motion carried two to zero.

Commissioner Mitchell made a motion to accept bid from Tractor and Equipment on Road and Bridge Superintendents recommendation for \$213,883.70. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

Jennifer Blossom and Shelley Vance discussed revising the 1998 asset policy letter to reflect asset amount from 500 to 1000 dollars and to enforce completion of inventory form to approve claims.

Commissioner Mitchell made a motion to approve revised 1998 asset policy letter enforcing policy and to follow the process as laid out that correlates with the policy presented by Shelley Vance and

52 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 48

Jennifer Blossom. Commissioner Vincent seconded the motion. All voted aye. Motion carried two to zero.

Commissioner Vincent discussed the Bozeman Shelter Care and stated that the board will meet today and he will follow up then. Bruce Gerlock told Commissioner Vincent that he has let some employees go and would like to retain them if they are guaranteed to be there at least another year. Ms. Blossom stated that she has offered assistance to write grants to the shelter care, but was turned down by Ted Huber.

JULY 1, 2003

- The Commissioners conducted regular County business.

JULY 2, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent and Mitchell, and Commission assistant Christina Thompson. Commissioner Mitchell discussed adding lettering on all the office glass doors in the Courthouse. Commissioner Mitchell made a motion to approve "Goudy Old Style" font with metal gray and black shadow lettering for glass windows for all departments. Commissioner Mitchell noted that all elected officials have seen the lettering with the exception of Commissioner Murdock. Commissioner Vincent seconded. All voted aye. Motion carried two to zero.

JULY 3-4, 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 July 2, 2003, in the amount of \$221,533.20.
2. Approval of Contract(s): Early Enrollment Pregnancy Grant/WIC Program; and TB Contract-Task Order 03-07-4-44-041-0.

Commissioner Murdock read the consent agenda, noting a memo from Gallatin County Auditor Jennifer Blossom withholding voucher #8021585, for further investigation. There was no public comment. **Commissioner Murdock moved to approve the two contracts and requested that the claims be moved to the regular agenda in order to amend the total. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Auditor Jennifer Blossom clarified that voucher #8021585 in the amount of \$2,515.35 was being withheld, and the revised total for approval was \$219,017.85. There was no public comment. **Commissioner Murdock moved to approve the claims with the revised total of \$219,017.85. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Two vacancies exist on the West Yellowstone/Hebgen Basin Refuse District due to the term expirations of Ms. Vernetta Steele and Mr. Clyde Seely. These positions are for two years and will expire on June 30, 2006. Both members were notified, and both indicated a desire to be reappointed. There was no public comment. **Commissioner Mitchell moved to reappoint Vernetta Steel and Clyde Seeley for two-year terms. Seconded by Commissioner Murdock. None voting nay. Motion carried.** Four vacancies exist on the Search and Rescue Board due to term expirations of Captain Richard Pease representing the Salvation Army, John Costello representing West Yellowstone, Patrik Callis representing the Alpine Rescue. Martin Readon, representing Gallatin Valley Snowmobile, retired from the board and recommended Laura Lubner to be appointed to this position. These positions are for three years and will expire on June 30, 2006. All members were notified and indicated a desire to be reappointed excluding Mr. Callis who indicated that he does not have a desire to be reappointed and stated that the Alpine Rescue recommended Mr. Chuck Swenson. Mr. Swenson and Ms. Lubner both submitted applications for consideration. There was no public comment. **Commissioner Murdock moved to appoint Captain Richard Pease, John Costello, Laura Lubner and Chuck Swenson. Seconded by Commissioner Mitchell. None voting nay. Motion carried.** One vacancy exists on the Pedestrian and Traffic Safety Committee due to the term

expiration of Mr. Frank Manseau. This position is for two years and will expire on June 30, 2005. Mr. Manseau was notified and indicated a desire to be reappointed. There was no public comment. **Commissioner Mitchell moved to reappoint Frank Manseau. Seconded by Commissioner Murdock. None voting nay. Motion carried.** One vacancy exists on the Community Corrections Board due to the term expiration of Katherine Donath. Ms. Donath served a one-year interim and is willing to serve for a new term of four years. Ms. Donath was notified and indicated a desire to be reappointed. There was no public comment. **Commissioner Murdock moved to appoint Katherine Donath. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Brent Miller, on behalf of Gaston Engineering reported on the award of construction bids for Lake RID #384. Four bids were received last week from the following: TMC, Inc.; JTL Group, Inc.; Gallatin Asphalt, Inc.; and Big Sky Asphalt. Mr. Miller reported that all of the bids were in good order and recommended that the award go to Gallatin Asphalt, the low bidder of \$120,040. There was no public comment. **Based on the engineer's recommendation, Commissioner Murdock moved to award the bid to Gallatin Asphalt in the amount of \$120,040, for the RID #384 Lake Subdivision project, to be contingent on the sale of the bonds. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

RID Attorney Susan Swimley reported on the public hearing and consideration of a resolution of intent calling for the sale of bonds for Lake RID #384. Ms. Swimley submitted a revised Exhibit "A". The resolution is calling for sale of bonds in the amount of \$160,000, which is \$10,000 less than originally anticipated. The reason for the reduction is because Bob Remer who was the developer of the minor subdivision lot made an additional up front contribution of \$6,000 for that lot, which is not included because it did not exist. In addition, the homeowner's association presented a check in the amount of \$6,800. Notification will be published on July 10 and 17, and the Clerk and Recorder will receive bond bids by July 25, 2003. On July 29, 2003, the bonds bids will be opened, and they will be referred back to staff for recommendation. The Commission will consider the resolution awarding the bond sale on August 5, 2003. There was no public comment. **Commissioner Mitchell moved to approve Resolution #RID-03-384-D, calling for sale of RID #384 bonds in the principal amount of \$160,000. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Jon Olsen on behalf of Morrison-Maierle reported on the bid opening for the Riverside elevated reservoir-painting project, RID #308 and 346. Bids were received as follows: DeLoughery Painting Company, addendum attached, signed bid, bid bond included, Total bid \$93,385; Maguire Iron, Inc., addendum attached, signed bid, bid bond included, Total bid \$84,700; Pittsburg Tank and Tower Company Inc., addendum attached, signed bid, bid bond included, Total bid \$95,270; Abhe & Svoboda Inc., addendum attached, signed bid, bid bond included, Total bid \$152,230; and. TMI Coatings Inc, addendum acknowledged but not attached, bid bond included, Total bid \$86,600. Mr. Olsen took the bids under advisement and will return on July 15, 2003, with a recommendation. **No action taken.**

Belgrade City-County Planner Jason Karp reported on the public hearing and consideration of a request for a family transfer exemption for Helen Olsen formerly Helen E. Lemon, located in the NE ¼ of Section 28, T1N, R4E, P.M.M., Gallatin County, Montana. (1265 Collins Road). Correction to the staff report was noted that it was not Collins Nelson Road. Mr. Karp briefly outlined the proposed family transfer exemption. Helen Olsen was sworn in by County Attorney Marty Lambert 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 question as to whether or not a prior division of land was an exemption, and it was confirmed that it was an occasional sale. There was no public comment. **Commissioner Murdock moved to approve the family transfer exemption as proposed by Ms. Olsen, as a proper use. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Attorney Marty Lambert reported on the public hearing and resolution of intention to rescind a portion of County Commission resolution #1990-36. Mr. Lambert provided legal background relative to the standing of this provision under state law. The concerns involved paragraphs 3 and 4 of resolution #1990-36, making it difficult and prohibiting the imposition of 201 zoning to be created in Gallatin County. Paragraph 3, states the intent of the Commission which was embodied at that time and stated that 201 zoning districts be created only through the citizen petition process along with several

requirements. Paragraph 4, restricts the Commission's ability to amend resolution #1990-36 by a very strict process. Mr. Lambert pointed out that resolution #1990-36 was not followed when the Commission established the "Donut" 201 zoning District, adopted July 27, 1999 (Resolution #1999-47), and amended January 23, 2001 (Resolution #2001-09). He noted that Gallatin County does not have self-governing powers and the county through its Commission may act only where the Legislature gives it the authority to act, or where the power to act may be implied from such express authority. He stated that resolution #1990-36 does not comport with state law because 201 zoning is a perfectly valid way to create a zoning district, provided the process and statute is followed. Mr. Lambert went on to say that back in 1990 the Commission as it was composed was perfectly free to having nothing but citizen initiated zoning and could refuse to adopt any top down or 201 zoning districts. However state law in 1990 did not permit the Commission to bind future Commissions to this extraordinary process of having to amend this resolution. He believed this Commission was entitled to change the resolution without regard to the process, which the Commission required in 1990. He added that the Commission adopted emergency zoning last year in the Bozeman Pass area and did not follow these processes required by #1990-36. Another instance he noted was that paragraph 3, also included restrictive language regarding the (Master Plan) Growth Policy demanding the language in paragraph 3 be included in the Growth Policy of which it is not included. In 1994, the Commission set forth to amend these paragraphs with a resolution of intent (#1999-40A) and for some reason it was not followed through. Commissioner Murdock agreed, although he added that it was still the Commissions preference to receive some level of grass roots indication of support from people that wish to zone themselves. He questioned if there was any way they could add a WHEREAS showing their preference and keeping it a policy but not a legal requirement. Mr. Lambert responded that he was interested in the legality of the document and not the policy of the document. He suggested the Commission pass another resolution to that effect. Gallatin County Planning Director Jennifer Madgic pointed out that there is a policy statement in the Growth Policy that refers to the Commission's desire to encourage the citizen initiated 201 zoning districts. The Planning Department has been operating under that premises and encouraging citizen support and to go with the 201 processes in order to comport with the Growth Policy. Notice was published in the High Country Independent Press, Bozeman Daily Chronicle, Lone Peak Lookout, West Yellowstone News and the Three Forks Herald. It was noted that a letter dated July 7, 2003, was received from former County Commissioner Jane Jelinski supporting the rescission. Public comment: Steve White spoke in opposition to the rescission. Mr. White submitted and read into the record a letter from Kerry White, labeled Exhibit "A". Attorney Susan Swimley informed the Commission that in 1999, prior to adopting the Bozeman "Donut" they amended resolution #1990-36. The amendment stated they would do 201 zoning in any extraterritorial area that already had zoning. Steve Kelly spoke in support of the rescission. Mr. Lambert suggested a one-week continuance in order to research the facts testified to by Ms. Swimley. Gallatin County Clerk and Recorder Shelley Vance commented on discussions regarding the confusion of resolution numbers and explained the process used to keep better track of amendments to resolutions. Ms. Swimley clarified that the amendment in 1999 was to except out extraterritorial zoning that already existed. It did not cover the issues being covered today. Mr. Lambert believed a continuance was still appropriate. Public comment was closed. Mr. Lambert noted that the agenda provides that this is a hearing of a resolution of intention of which it is not. He stated that the agenda needed to correctly describe what they are trying to do. Commissioner Murdock remembered the reasoning behind the Commission putting that language in the resolution and agreed with it however he also agreed with Ms. Jelinski in that times have changed. He also agreed that it probably was illegal to bind the Commission to it. He was satisfied that as a matter of policy the Growth Policy includes that they do want grass roots indications of zoning. Commissioner Mitchell supported the postponement and requested that it be continued until at least July 29, 2003, so she could be available. She pointed out a statement in Ms. Jelinski's letter that indicated Commission initiated zoning, which is top down zoning. She was not in support of top down zoning and suggested if they went to countywide zoning that it be put to a vote of the whole county. Commissioner Vincent concurred that the Commission's preference is for citizens initiated zoning districts. He pointed out that the resolution currently assumes the County Commission would in fact impose top down zoning as a political act contrary to the wishes of the majority of Gallatin County residents. It also assumes that the public would never come up with a compelling and urgent need to do top down zoning. He also made comments regarding Ms. Jelinski's letter. It was agreed to continue action until July 29, 2003. **No action taken.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the public hearing and consideration of a request for preliminary plat approval for Morrison-Maierle Inc., on behalf of Lone Moose Meadows L.L.C. for the Lone Moose Meadows Phase 1A Subdivision (Amended plat of Minor Subdivision #257), allowing for the development of 28 residential condominium units and over 6 acres of open space. Water supply will be provided by an on-site community water system, while sewage disposal will be provided by the Big Sky Water & Sewer District No. 363. The subject property consists of 10.59 acres, and is located in the West 1/2 of Section 28, T6S, R3E, PMM, Gallatin County, Montana. The property is situated south of Highway 64 (Spur Road), midway between the Meadow Village

and Mountain Village at Big Sky Montana. On May 11, 2000, the Gallatin Canyon/Big Sky Planning and Zoning Commission approved a conditional use permit for a Master Planned Unit Development (MPUD) for the Lone Moose Meadows property. In summary, the approved MPUD incorporates 360.53 acres, consisting of 500 dwelling units, a resort village area, and 270.79 acres of dedicated open space. Subsequent to the MPUD, on January 9, 2003, the applicant received Planned Unit Development (PUD) approval from the Planning and Zoning Commission for Phase 1 (up to 64 residential condominium units). The proposed subdivision is being submitted as an amended plat of the Lone Moose Minor Subdivision No. 257. Minor Subdivision No. 257 was approved for 16 residential condominium units within 10 acres. The subdivision application proposes to expand the boundaries of Minor Subdivision No. 257 to allow room for 12 additional residential condominium units. The condominium units within the subdivision are distributed as follows: Building No. 1- 4 units (existing, as approved per Minor Subdivision No. 257) Building No. 2- 12 units (existing, as approved per Minor Subdivision No. 257) Building No. 3- 12 units (existing foundation and outer structure). Access to the proposed subdivision will be provided by two approaches onto State Highway 64 (Big Sky Spur Road). He noted that the applicants are pursuing a better location for a secondary access to the west. The applicant requested two (2) variances from the Road Design Standards of the Gallatin County Subdivision Regulations. Variance No. 1 Section 7, Table 1., Street Design Standards, requires the centerline radius on curves to be 150 feet. The applicant has requested a variance to construct the interior subdivision roads with a centerline curve radius of less than 150 feet. According to the applicant, the variance is being requested to make road construction more feasible on the site's steep terrain, resulting in a reduction in the amount of land disturbed by the internal road system. Variance No. 2 Section 7, Table 1., Street Design Standards, requires a maximum road grade of 3 percent for a minimum distance of 75 feet from intersecting road centerlines. The applicant has requested a variance to construct the interior subdivision roads with grades exceeding 3 percent from intersecting road centerlines. According to the applicant, the variance is being requested to make road construction more feasible on the site's steep terrain, resulting in a reduction in the amount of land disturbed by the internal road system. George Durkin, Staff Engineer for the County Road & Bridge Department, reviewed the road construction plans for the subdivision and supports the variance requests. Improvements Agreement proposed to complete interior roads. Mr. Johnson briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision along with the suggested conditions. The County Commission needs to make the following determinations: • A determination as to whether or not the requested variances should be granted (see Finding No. 6). According to Section 13 of the Gallatin County Subdivision Regulations, the County Commission may grant reasonable variances from the design and improvement standards of the regulations where it is found that strict compliance would result in undue hardship and is not essential to the public health, safety, and general welfare. • A determination as to whether or not the application meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act; and, • A determination as to whether or not the application complies with the provisions of the Gallatin County Subdivision Regulations. If the County Commission approves the subdivision, the following conditions are suggested: 1. The final plat shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates. 2. A 404-wetland permit shall be obtained from the U.S. Army Corps of Engineers. A copy of the approved permit shall be submitted with the final plat application. 3. Encroachment permits for the two subdivision road approaches onto U.S. Highway 64 shall be obtained from the Montana Department of Transportation prior to final plat approval. 4. Interior subdivision road and bridge plans, road maintenance plans, drainage plans, lot access plans, and STREET and STOP sign plans shall be submitted to the Gallatin County Road & Bridge Department prior to the construction of the interior subdivision roads. 5. All road names for interior subdivision roads shall be approved by the Gallatin County GIS Department. 6. Road name signs shall be installed at all intersections. 7. STOP sign(s) shall be installed at all intersections with State maintained roads. 8. Lone Moose Drive, Upper Lone Moose Drive, Silver Knife Lane, and Flat Iron Drive shall have, or be within a minimum 60-foot public right-of-way easement, and shall be constructed to county standards for paved roads prior to final plat approval. 9. The Gallatin Canyon Rural Fire District shall approve the design of the emergency vehicle turn-a-round prior to final plat approval. 10. A pre-construction meeting shall be conducted with the Gallatin County Road and Bridge Department prior to the start of any road construction. 11. All roadwork shall be inspected and certified by a licensed engineer. Such inspection and certifications must be provided to the Gallatin County Road and Bridge Department in writing. Final approval will not be given until this documentation is received. 12. With respect to paving of county maintained roads, a two-year written warranty, from the contractor, is required. This warranty must be submitted to the Gallatin County Road and Bridge Department prior to final plat approval. 13. A written cost breakdown on all paving done on county roads shall be submitted for future payback reimbursements and road impact fee credit to the Gallatin County Road and Bridge Department prior to final plat approval. 14. A copy of the property owners' association covenants shall be supplied to the County Road & Bridge Department prior to final plat approval. 15. State Department of Environmental Quality approval shall be obtained for the subdivision. The subdivider shall make a concurrent submittal to the

Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The subdivider shall obtain the Gallatin County Health Officer's approval. 16. The subdivider shall obtain written confirmation from the Big Sky Water and Sewer District regarding the District's ability to provide sewage disposal services to the subdivision. 17. 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"*. 18. The condominium development shall comply with all provision of the Unit Ownership Act, Section 70-23-102 through 70-23-703, MCA and all regulations adopted pursuant thereto. 19. The subdivider shall provide a water supply for fire protection in accordance with the Gallatin County Subdivision Regulations. The subdivider shall have the fire district review and approve the water supply prior to final plat approval. The subdivider shall obtain written verification from the fire district that the required water supply and other required fire protection measures have been provided. 20. The subdivider shall record on the final plat a waiver of right to protest creation of rural improvement districts and local improvement districts. 21. The subdivider shall make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. 22. The subdivider shall make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. 23. A property owners' association for the subdivision shall be created. 24. Covenants for the subdivision shall include the following provisions: a. Place responsibility for operation and maintenance of all subdivision access roads and subdivision interior roads, parking areas, and common open space property in the property owners' association. b. The control of noxious weeds by the property owners' association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (7-22-2101 through 7-22-2153 MCA) and the rules and regulations of the Gallatin County Weed Control District. c. All structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for Seismic Zones, and the National Fire Protection Association (NFPA) codes. d. Class A or B fire-rated roofing materials shall be used. e. Spark arrestor screens shall be placed on all fireplace and woodstove chimneys. f. Smoke detectors shall be installed on each level of dwelling units. g. The vegetation reduction and clearance guidelines of the Fire Protection Guidelines for Wildland Residential Interface Development shall be used. h. Open fires shall be prohibited. i. The artificial feeding of all big game wildlife shall be prohibited. j. All garbage shall be stored in animal-proof containers or otherwise be made unavailable to animals. k. Owners acknowledge that wildlife damage to landscaping will occur, and shall accept that risk and shall not file claims against the owners association or any other governing body for such damages. l. Pets shall be controlled by each owner, and not allowed to roam within the subdivision. m. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 25. Two copies of the following documents shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. a. Articles of Organization or Incorporation for the property owners' association approved by the Secretary of State of the State of Montana. b. Bylaws controlling the operation of the Homeowners' Association. c. Restrictive and Protective Covenants encumbering the real property contained within the subdivision. d. Documentation granting public road access to the subdivision and all roads within the subdivision. e. Improvements agreements. f. Certificate of a Licensed Title Abstractor. The Gallatin County Attorney's Office shall review and approve the above documents prior to final plat approval. 26. The subdivider shall have three (3) years to complete the above conditions and apply for final plat approval. The applicant's representative Peter Forsch provided an overview of the proposal, noting this was the same as before with the exception of a new geo technical report that deals specifically with Building 3, regarding slope stability and the county slide area. The assessment for Building 3 concludes that the risk of runout/debris from the County Line Slides reaching Building 3 is very limited, and that the Central Landslide is far enough to the east of Building 3 to be of no consequence. He commented on the rockslide and the foundation considerations. He noted a slight correction in the staff report with regard to water and sewer, in that the facilities in the buildings are hooked up to the Big Sky Water and Sewer District with all the approvals in place. Mr. Forsch recommended and submitted the following deletions, changes and additions to the conditions, labeled Exhibit "A". It was suggested that condition #2, be eliminated. The rationale is that this Phase I-A portion has no wetlands or impacts to adjacent wetlands associated with this plat. They are in the process of conducting a delineation in preparation of

submitting for a 404 permit for the entire site, however this process will take 6-8 months to complete. Thus for preliminary and final plat phases, obtaining a 404 permit is not necessary nor practical in this time frame and thus would be an unreasonable burden. Suggested modification to condition #3: "Approach permit application for 2 subdivision road approaches onto US Hwy 64 shall be approved by MDOT prior to final plat approval." The rationale is to change language to call for an "approach permit" instead of an "encroachment permit". An encroachment permit is subsequently issued after the approach permit is issued and the improvements are made. Suggested modification for condition #8: "Lone Moose Drive and Flat Iron Drive shall have, or be within a minimum 60 foot public right-of-way easement, and shall be constructed to county standards for paved roads prior to final plat approval. If within one year no alternate secondary access has been approved by the county and MDOT, Upper Lone Moose Drive shall be constructed to county standards for paved roads." The rationale being the LMM is evaluating and considering abandoning "Upper Lone Moose Drive" in favor of an alternate secondary access road on property acquired to the west of the LMM property which would provide better, easier access and fewer road variances. Thus, it doesn't make sense at this point in time to pave an improve Upper Lone Moose Drive and Silver Knife Lane is not a part of this plat. In response to a question regarding the steepness of the slope in the second variance, Mike Hickman, on behalf of Morrison-Maierle confirmed the intended plan for making construction more feasible on the site's steep terrain, resulting in a reduction in the amount of land disturbed by the internal road system. Mr. Johnson did not agree with the modifications to conditions #3 and 8. He also questioned the elimination of condition #2, regarding the 404 permit because the Environmental Assessment and preliminary plat identifies existing wetlands. He pointed out that it has been a standard requirement of the Commission to require those permits to be obtained prior to final plat. Public comment: Steve Kelly questioned the requirement for the variance based on hardship. Mr. Forsch stated in order to need a 404 permit you have to have some anticipated impact. He went on to say in this case there are no wetlands or anticipated impacts anywhere in this Phase I-A section, although there are some throughout the site. Commissioner Mitchell pointed out at least three places noted in lot I-A, showing existing wetlands and "Corp of Engineer delineation is pending". Wade Pannell, representing the applicant commented on the processes for handling 404 permitting issues. He reiterated that all areas within lot I-A, there were no impacts and will not be any impacts to those wetlands therefore a 404 permit would not be required. Commissioner Murdock suggested leaving the condition and adding the words "if required". Mr. Forsch agreed. Further discussion took place regarding whether or not to remove condition #16, since the applicant stated the property has been annexed into the water and sewer district. They agreed to leave it, as written. George Durkin, on behalf of the Gallatin County Road and Bridge Department commented on his reasons for supporting both variance requests. Mr. Durkin questioned condition #8, because the radius variance was specifically for Upper Lone Moose Drive. He also added since they want to change condition #8 that his prior comments were withdrawn. Mr. Forsch clarified that the radius variance was requested on the secondary drive, noting he wanted to continue with the variance even though they may abandon the road. Mr. Hickman stated the variance request was on the roads within the subdivision as a whole, noting radius variances and 3 percent variances on Flat Iron Drive also. **Finding that cutting the steep hillside to meet county standards would definitely not be in the interest of the public for public safety, Commissioner Murdock moved to approve the variance request to reduce the road radius curve standards of the county for Upper Lone Moose Drive and Flat Iron Drive. Seconded by Commissioner Mitchell, noting her support of the variance because it was the original application reviewed by the County Road Department, adding that it did not mean she would support the rest of the application. None voting nay. Motion carried. Commissioner Murdock moved to grant the variance, which would allow grades to exceed 3 percent from the county standards from intersecting road centerlines, finding that the County Road Department supports it. Seconded by Commissioner Mitchell, noting that she was not in support of the motion. Although this application is getting better, she stated that it still was not complete because the access may change. Commissioners Vincent and Murdock voting aye. Commissioner Mitchell voting nay. Motion carried. Commissioner Murdock moved to approve the subdivision, finding it comports with the Gallatin County Subdivision Regulations and the Big Sky/Gallatin Canyon Zoning requirement, subject to the conditions as presented and amended, noting the following amendments to read: condition # 2- A 404-wetland permit shall be obtained, if required, from the U.S. Army Corps of Engineers. A copy of the approved permit shall be submitted with the final plat application. Condition #3- Approach permit application for 2 subdivision road approaches onto US Hwy 64 shall be approved by MDOT prior to final plat approval. Condition #8- Lone Moose Drive and Flat Iron Drive shall have, or be within a minimum 60 foot public right-of-way easement, and shall be constructed to county standards for paved roads prior to final plat approval. If within one year no alternate secondary access has been approved by the county and MDOT, Upper Lone Moose Drive shall be constructed to county standards for paved roads. Seconded by Commissioner Mitchell, noting she was not in support of this location for this development. Although she believed development was appropriate in Big Sky and next to the ski area, she pointed out because of where the roads were and if an incident occurred with the two geological**

hazards that there would be no way out. Also because of the wetland flood potential being at the bottom of the hill it gave a sense that this is an area where the water goes should a flood event happen. Due to the steep slopes and the highway access as presented, she could not support this development, adding they had buildings built where they should not be. **Commissioners Vincent and Murdock voting aye. Commissioner Mitchell voting nay. Motion carried.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the public hearing and consideration for final plat approval for the Kirkwood Ranch Minor Subdivision. Preliminary plat approval was granted on October 16, 2001. The minor subdivision includes three residential lots and two commercial lots located in the Hebgen Lake area. Based on Mr. Johnson's review it appeared all the requirements have been met. Lewis Burton was available for questions. There was no public comment. **Commissioner Mitchell moved to grant final plat approval to the Kirkwood Ranch Minor Subdivision, finding they have met all the conditions and requirements as set forth in state law and the Gallatin County Subdivision Regulations. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Planning Director Jennifer Madgic reported on the public hearing and consideration of a resolution of intention to create the Bridger Bench Interim Zoning Regulation and Zoning Map for the purpose of regulating development. Ms. Madgic provided the Commission with a copy of statute 76-2-206, Interim zoning map or regulation, labeled Exhibit. "A". The Planning Department received a request from property owners in the Sypes Canyon/Springhill Road region to consider formation of an interim zoning regulation and map. Gallatin County has utilized this statute on two occasions: the Bozeman Pass Interim Zoning District created last summer, and the Middle Cottonwood Zoning District created as a permanent district in 1996. Montana statute allows the County Commissioners to adopt an interim zoning map or regulation "as an emergency measure in order to promote the public health safety, morals, and general welfare" for a one-year period (with possible one-year extension). Residents in the area contend that the purposes of the proposed Bridger Bench Interim Zoning Regulation are to promote the public health, safety, morals and general welfare and to implement the goals and policies of the Gallatin County Growth Policy and that the emergency has to do with ground water in the area. It was noted that DNRC recently denied the beneficial water use permit for the Autumn Ridge Subdivision within this proposed district boundary. Residents also contend this area is a target area because it is wholly surrounded by zoning districts. The third reason is that the county adopted a new Growth Policy and is working on but has not completed, zoning regulations for the designated area. The Gallatin County Planning Board met on April 22, 2003, and voted 6:2 to recommend approval of the district. Notice of the Planning Board and County Commission hearings was published in the High Country Independent Press on April 10 and 17, 2003; and in the Bozeman Daily Chronicle on April 9 and 16, 2003. In addition, it was published on May 4 and 11, 2003 in the Bozeman Daily Chronicle; and on May 1 and 8, 2003, in the High Country Independent Press. Attached to the staff report is a letter from Annie Bertagnolli explaining why the Sypes Canyon Homeowners' Coalition wants this district created and a copy of the proposed interim regulation, which was prepared by individuals in the area including exhibits of the legal description and map of the boundaries. Discussion took place with regards to how the individuals proposing this district initiated the zoning process. There was no formal petition submitted for this proposal. A typographical error was noted in the resolution with regards to the date of the hearing for adoption and was changed to reflect the correct date. Further discussion took place with regards to a letter dated July 6, 2003, from Kathy Gallagher that addressed DNRC's monitor of controlled groundwater area and the resources to establish data that is needed to assess the impacts to the aquifer in order to determine the sustainability of water supply. Public comment: Annie Bertagnolli, as representative of the Sypes Canyon Homeowners' Coalition pointed out that they were told they did not have to have a petition to bring forward this interim zoning regulation however they contacted all those in the coalition, that includes 5 subdivisions and others members that are not in technical subdivisions throughout the area. It was their understanding that they would now go out to get the formal petitions. Ms. Bertagnolli summarized a chronological order of events leading to the need for this proposed zoning district and the establishment of the Zoning District Committee. She pointed out a number of adverse impacts regarding public health, safety and general welfare in this area that included the following: groundwater supply; wildlife; roads and traffic. She went into detail with regard to some of the issues that made this area vulnerable to unplanned over development as reasons for emergency interim zoning. Discussion took place with regard to how many active members were in the coalition and how many were landholders and if there was any commercial support. Commissioner Mitchell believed they laid out good reasons for a zoning district however she had concern about the process. Ms. Bertagnolli confirmed if they proceed with interim zoning they would follow the Growth Policy requirements of 4.4 and get a petition. Steve Kelly, John Johaneck, Robert McMahan, and Jim Loessberg all spoke in support of the proposed emergency interim-zoning district. Ms. Madgic did not recommend using the interim process in all cases

however she noted there are certain circumstances that potentially warrant it. Commissioner Murdock spoke in support of this request however he questioned how they could differentiate one emergency situation versus another. Ms. Madgic replied that it was being taken on a case-by-case basis. Commissioner Vincent believed that it was the Commission's call to make a determination of what constitutes an emergency and to make that determination on enough data so it could be argued in court. Gallatin County Attorney Marty Lambert had great sympathy for the concerns expressed by the residents in the area and apologized for any mixed messages regarding zoning. However he pointed out that both the Commission and Zoning Commission have been sued because they took a stand that emergency interim zoning was appropriate in the Bozeman Pass area. He stated that Statute 76-2-206 might be entitled interim although it is based on an emergency. He stressed that there has to be a valid legally defensible emergency and they have to be consistent. He stated in the case of Bozeman Pass the Commission took action because there was an emergency and he advised them that there was an emergency that was defensible because they had no control over the situation that was taking place. However in this case through subdivision regulations the Commission has complete control over any major or minor subdivision that would be located within these properties. He stated that it should be of some comfort to all citizens that this Commission has shown its willingness to stand up to big development. He believed that every argument made on behalf of the property owners would be made at a subdivision hearing where the Commission is in complete control. Mr. Lambert did not believe the Commission had an emergency in this case and reiterated they had to be consistent on how they look at emergency. While Commissioner Murdock respected Mr. Lambert's opinion he pointed out there was a previous County Attorney that gave an opinion that growth pressures constituted an emergency. He stated the water issue was clearly a compelling reason for them to turn down subdivisions however he questioned doing so on a reactive basis when they could be proactive and grant interim status to this zoning district. He reiterated if he did not see the ground level of support for a formal petition process that he would not grant an extension. For him the most compelling reason for defending the emergency status of this request was that Gallatin County is the fastest growing county in the state of Montana, and he believed that the high level of growth pressure is a form of an emergency. He added that they would have to look at it as a case-by-case basis. Commissioner Mitchell did not disagree that this area needs zoning or that there were not good valid reasons however her concern was how they define emergency zoning and how they defend that in court in future issues. She believes in the grass roots process as laid out by the Legislature, and preferred to see a petition first and stated that it was a method they needed to stay true to as much as possible. She pointed out the tools for controlling some of the issues invading this area such as the Growth Policy, Subdivision Regulations, and the statutes. She was also concerned that there was no ag or business support at this point and time. She did not believe a petition that met the requirements would take that long if they had the support as mentioned. Commissioner Mitchell was not in support of this as an emergency interim-zoning district. Further discussion took place with regards to the process including dates of publication, protest period and date of adoption. With assurance from Mr. Lambert that the Commission would not be precluded from hearing additional public comment, Commissioner Vincent supported adoption of the resolution of intent for the interim zoning regulation with one caveat. He requested that those supporting the interim zoning regulation take to heart the County Attorney's legal perspective and come back in a month and give their best legal take on this situation. He believed Mr. Lambert's argument has merit however he felt it was up to the Commission to determine what constitutes an emergency situation and on the basis of the questions involving water he concurred with Commissioner Murdock that it does constitute an emergency. He stated at this time he was going to consider his vote as an interim vote with the final vote to be determined on the basis of further testimony, protests, support and legal analysis. **Commissioner Murdock moved to approve Resolution of Intention #2003-074. Seconded by Commissioner Vincent. Commissioners Vincent and Murdock voting aye. Commissioner Mitchell voting nay. Motion carried.** Notice will be published in the paper of record on July 17 and 24, 2003 and the adoption hearing will be held on August 26, 2003, to give time to gather additional support.

 There was no public comment.

There were no pending resolutions. There being no further business the meeting was adjourned at 12:48 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING **TUESDAY THE 15TH DAY OF JULY 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 Commissioner Bill Murdock and, Acting Clerk to the Board Mary Miller. Commissioner Mitchell was excused.

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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:

JULY 7, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent and Murdock, Deputy County Attorney Kate Dinwiddie, and Commission Assistants Christina Thompson and Glenda Howze. The Commissioners considered approval of a contract for County Attorney Case Management Software. 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 discussed the rescission of Resolution 1990-36 with Planning Director Jennifer Madgic. It was agreed that Ms. Madgic would continue working towards amending said resolution in order to meet the current needs of constituents and bring the County into conformance with current state law.

The Commissioners considered the hiring of an Operations Officer/CEO. Commissioner Mitchell joined the meeting at this agenda item. Considerable discussion took place regarding the duties of such person. The Commission agreed to pursue a mutually acceptable job description and will post the job opening when and if the whole commission agrees to this position.

The Commissioners considered approval of a contract modification to the solid waste disposal agreement. This is only a change in effective date for BFI Waste Systems of North American, Inc. and the West Yellowstone Solid Waste District. Commissioner Murdock made a motion to approve said contract. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

JULY 8, 2003

- The Commissioners conducted regular County business.

JULY 9, 2003

- The Commissioners held a special Claims Meeting. In attendance were Commissioners Murdock and Vincent, Accountant Renee Huyser, and Commission Assistant Christina Thompson. Commissioner Murdock moved to approve a claim for Palandrome Partnership for Planalp J in the amount of \$5,833. Commissioner Vincent seconded said motion on approval of the County Auditor and County Fiscal Officer. All voted aye. Motion carried two to zero.

JULY 10-11, 2003

- The Commissioners conducted regular County business.

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- Landfill Revenue for June 2003: \$47,173.38
- Payroll for June 2003: \$1,294,623.75
- Clerk & Recorder's Fees Collected for June 2003: \$101,264.06
- A-101's for June 2003: \$44.79.
- Applications for Cancellation of Taxes for June 2003: \$3,947.72
- New Hire Report for June 2003: Theresa Bauer, Samuel Cox, Michael Dicello, Tracy Frieling, Shane Grube, Paul Johnson, Laurel Scriver

Terminated Employees' Report for June 2003: Theresa Bauer, Shawn Briggs, Tracy Short, Kristina Vezane

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated July 10, 2003, for FY 2003 in the amount of \$255,566.91; and claims dated July 10, 2003, for FY 2004 in the amount of \$141,321.53.
2. Request for Mortgage Survey Exemption for Brandon Smith, described as lot 1 of COS 839, located in the NW ¼ of Section 35, T1S, R3E. (6130 Camp Creek Road, Manhattan, MT) Gallatin County Planner Karin Caroline reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
3. Request for Common Boundary Relocation Exemption for Pam and Karl Westphal, described as Tracts 3 and 4 of COS 1738, located in the SW ¼ of the NW ¼ of Section 4, T2N, R5E. (193 Brown Pony Trail, Bozeman, MT) Gallatin County Planner Karin Caroline reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Aggregation of Lots Outside a Platted Subdivision for Northwestern Energy – Utility Company-Rona Brockman, described as Tract 2-A of COS 668A and metes and bounds in WD Book 140, Page 8 (.258 acres), located in the SE ¼ of Section 18, T2S, R6E. (1501 South Church Avenue, Bozeman, MT) Gallatin County Planner Karin Caroline reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Approval of Contract(s): Montana Board of Crime Control for FY 2004 Southwest Juvenile; Montana Board of Crime Control for FY 2004 Victim Witness; Montana Board of Crime Control for FY 2004 Operation Freedom; Montana Board of Crime Control for FY 2004 Community Corrections; MSU Extension Services.

Gallatin County Planner Christopher Scott announced that regular agenda Item #5, public hearing and consideration of a request for a variance to the Fire Protection Requirements of the Gallatin County Subdivision Regulations for the Pass Creek Community Center Minor Subdivision would be continued until July 22, 2003, at the request of the applicant's representative. The Commission agreed to the continuance. **No action taken.**

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

Jon Olsen, on behalf of Morrison-Maierle, Inc. reported on the recommendation of award for the Riverside Elevated Reservoir Painting Project, for RID #308 and 346. On July 8, 2003, five bids were received and opened. Morrison-Maierle reviewed the bids and related documentation and the apparent low bidder was Maguire Iron, Inc. with a total bid of \$84,700, therefore it was their recommendation to award the bid to Maguire Iron. The bids appeared competitive, with the low bid being a little above the engineer's estimate, mostly due to the specialized nature of the project and the fact that all five bidders are located outside the state of Montana. Riverside Water and Sewer Manager David King clarified that because the cost of painting the storage tank was over the engineer's estimate they would be transferring money from one RID fund to another, noting both funds are funded from the same property owner tax base. Gallatin County Attorney Marty Lambert confirmed there was no legal impediment in transferring the funds, adding that the original RID was established for sewer and water with a separate maintenance fund. **Based on the recommendation by the engineer, Commissioner Murdock moved to award the bid to paint the Riverside water tank to Maguire Iron. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Planner Victoria Drummond reported on the family transfer exemption for Charles and Helen Steele, described as Tract 1 (52.869 acres with a single family dwelling, and guest house) located in the NW ¼ of Section 23, T1N, R5E, PMM, Gallatin County, Montana. Ms. Drummond summarized the exemption request. Charles Steele was sworn in by County Attorney Marty Lambert 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. The applicant's representative Mark Chandler, C & H Engineering confirmed the original creation of the tract was done in 1992, prior to the law change. There was no public comment. **Based on the information received and the testimony, Commissioner Murdock was satisfied that this was a proper use of the exemption and moved to approve. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Planner Victoria Drummond reported on consideration of a resolution for a variance for Johnson in the Gallatin Canyon/Big Sky Zoning District (Public Zoning and Commission hearing date July 10, 2003). The Planning and Zoning Commission recommended unanimous approval. There was no public comment. **Commissioner Murdock moved to approve Resolution #2003-075. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Planner Karin Caroline reported on the public hearing and consideration of a request for preliminary plat approval for the Amended River Rock Major Subdivision, Block 6, Lots 2 – 9, located in the SE ¼ of Section 3, T1S, R4E, PMM, Gallatin County, Montana. The subject property is approximately 2.21 acres and is located in the River Rock Subdivision; and generally located along East Magnolia Drive, west of North River Rock Drive. The property is located in the River Rock Zoning District and zoned R-TH (Residential Medium Density Townhouse). Within the R-TH zoning, multi-family dwellings constructed on site shall not exceed 4 dwellings units per building (fourplex). The existing 8 lots (#2 – 9) allow for up to 32 residential units. The applicant is requesting the further subdivision of the 8 lots to 32 lots, resulting in the ability to transfer fee title with each unit (townhouse). The following variances from the Gallatin County Subdivision Regulations have been requested: 1) Section 6.B.6 (Lot Depth): to allow the average lot depth to exceed three times the average lot width; 2) Section 6.B.8 (Frontage on Public Roads): to allow lots to have less than the required minimum 30 feet of frontage on a public road. Ms. Caroline gave a brief overview of the criteria review for granting a variance; staff findings; and the primary review criteria. It was noted that the applicant is requesting a full or partial waiver of fire and road impact fees, which will be addressed at a future date by the Planning Director. The Gallatin County Commission needs to make the following determinations: A determination as to whether the requested variances can be supported based on the applicant's submittal information, staff report, and applicant's testimony; A determination as to whether or not the application meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act; and a determination as to whether or not the application complies with the provisions of the Gallatin County Subdivision Regulations. Based on the Commission's determinations of the criteria, if the County Commission approves the proposed subdivision, the following conditions are suggested: Standard Subdivision Conditions: 1. The subdivider shall make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. 2. The subdivider shall make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. 3. The Amended Final Plat shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates (Section 5.E). 4. A Waiver of Right to Protest the Creation of Future RIDs shall be required and noted as such on the final plat. 5. Conditional approval of the Amended Preliminary Plat shall be in force for not more than three calendar years, as provided by State statute. Prior to that expiration date, the developer may submit a letter of request for the extension of the period to the Planning Director for the County Commission's consideration. Fire Conditions: 6. Before final plat approval, a final subdivision plat shall be provided to the Rural Fire District for review. 7. Fire Protection Water Supply shall be in place and tested by the Belgrade Rural Fire District prior to final plat. Prior to final plat, the applicant shall submit to the Planning Department a written letter of approval from the Belgrade Rural Fire District noting that the Water Supply is in place and has been tested. 8. All structures shall meet the fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief. Attorney Joby Sabol appearing on behalf of the applicant assisted the applicant with adjusting lot configuration and ownership. As the applicant's got into the project they discovered that it would be much more difficult for entry-level buyers to buy a condominium unit. With this proposal, he pointed out that the same structures would be created and that the only change if this request is approved would be that individual owners would own the units. Mr. Sabol spoke regarding the applicant's request for the waiver of impact fees, noting that impact fees were paid with the initial subdivision of land for the original 8 lots in question. The applicant's propose a further subdivision of land increasing the number of lots by 24, of which 8 have already paid and would be exempt. He stated there would be additional impact fees where there would be no additional impact because there would be the same number of structures whether or not this approval is granted. As it was noted, the waiver request could not be considered at this time therefore Mr. Sabol requested that it be placed on the agenda as soon as possible. Assistant Fire Chief Byran Connelley, on behalf of the Belgrade Rural Fire District reviewed the building plans and confirmed that the buildings are well within the fire flow that is available, adding that the language used in the fire protection condition is standard language. Mr. Connelley also commented on a similar request in the River Rock area that he believed set precedence with regard to the fire impact fee waiver. Public comment: Sonja Berg was not opposed to the proposal however she encouraged the Commission to work on mitigating problems created by development such as garbage and weeds prior to approval. She requested that the Commission support the Road and Fire Departments with regard to the variances.

Other concerns mentioned were water supply and road problems. Mr. Sabol commented on the variance requests and urged the Commission's approval. Commissioner Murdock had no problem with the variance requests, based on the testimony, noting that it has been a long-standing problem. **Commissioner Murdock moved to approve the variances finding they met the variance criteria. Seconded by Commissioner Vincent. None voting nay. Motion carried. Finding this request complies with the zoning and Subdivision Regulation, Commissioner Murdock moved approval to amend the preliminary plat subject to the conditions, as read by staff. Seconded by Commissioner Vincent,** adding that the concerns testified to would fall in the realm of enforcement, noting there was nothing the Commission could do up front, given the parameters they have to consider. **None voting nay. Motion carried.**

The Commission announced a pending resolution changing the location of the regular public meetings during the year of 2003. There was no public comment. **Commissioner Murdock moved to approve Resolution #2003-076. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Public comment: Betty Biggs spoke regarding the resolution outlining procedure to implement zoning within Gallatin County that was considered during last week's public hearing. She read her testimony, which was presented to the Commission prior to the meeting. Jimmie Lohmeier commented on zoning and suggested the Commission let the people make their own decisions on the area they live in. Gallatin County Attorney Marty Lambert commented on the legal perspective of the proposed resolution, noting that the Commission has not made a decision with regard to his suggestion that the resolution be amended. He added that the public would have an opportunity for further input. He pointed out that Resolution #1990-36 does not comport to Montana law and in addition it spells out a procedure for changing the resolution, which also does not comport with the law. Further discussion and clarification took place with regard to the public comment portion of the agenda. Commissioner Murdock questioned how one might reconcile a county wide zoning ordinance on sexually oriented businesses and still be consistent with the requests of Ms. Biggs and Mr. Lohmeier. Mr. Lambert reaffirmed for Mr. Lohmeier that the Commission took no action with regard to resolution #1990-36, so he believed it would be a noticed agenda item when it is to be considered again. Commissioner Vincent suggested an alternative to countywide zoning, specifically targeted to sexually oriented businesses would be to put that issue on the ballot and let everyone in the county vote on it. He believed this would accomplish the same purpose as trying to gather 60 percent signatures. Bruce Taylor commented on the growth in the area. Sonja Berg reiterated her concerns with spotted knapweed spreading across Gallatin County. Ms. Biggs concurred with Ms. Berg and pointed out the seriousness of the spotted knapweed problems throughout the county. Kerry White presented the Commission with a report by Gary Winer on the condition of Bear Canyon. Mr. White commented regarding resolution #1990-36, stating that it may send a bad signal to the ag community if they rescind paragraph 3 & 4. **No action taken.**

There being no further business the meeting was adjourned at 10:49 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 22ND DAY OF JULY 2003

The meeting was called to order by Chairman Vincent 9:00 A.M., at the City Commission Meeting Room. Also present were County Commissioner Bill Murdock, and Acting Clerk to the Board Mary Miller. Commissioner Jennifer Smith Mitchell participated via phone conference.

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:

JULY 14, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent and Murdock, and Commission Assistants Christina Thompson and Glenda Howze. The Commission discussed placing a “Sexually Oriented Business” item on the public meeting agenda. Commissioner Murdock stated that he does not want it on an agenda as it has already been on there and there is no point in doing it again. Commissioner Vincent stated that he would like to see a county-wide ordinance, ballot measure or advisory referendum offered for those citizens opposed to this type of business. A petition with 284 signatures has been submitted to the Commission Office asking for some type of restrictive action. The Commission agreed to wait for input from County Attorney Lambert.

The Commissioners considered approval of a budget transfer request from the County Attorney’s office. Commissioner Murdock made a motion to approve said request. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a budget transfer request from the Missouri River Drug Task Force/Sheriff’s Office. Commissioner Murdock made a motion to approve said request. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a budget transfer request from the Road Department. Commissioner Murdock made a motion to approve said request. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

JULY 15, 2003

- The Commissioners conducted regular County business.

JULY 16, 2003

- The Commissioners conducted an emergency meeting for the purpose of approving a resolution-closing Gallatin County to open burning and open fires. In attendance were Commissioners Murdock and Vincent (via conference call) and Commission Assistant Glenda Howze. Commissioner Murdock made a motion to approve resolution 2003-077, closing Gallatin County to open burning and open fires, per the recommendation of Rural Fire Chief Brett Waters. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

JULY 17, 2003

- The Commissioners conducted a meeting regarding the signing of a buy-sell agreement for the Bozeman Shelter Care home, at 2025 Westridge Drive, Bozeman. The Commission signed an initial agreement on Tuesday, July 15. A counteroffer was submitted by Bozeman Shelter Care, Inc. on July 17. Commissioners Vincent and Murdock agreed to the counteroffer of a contingency date of September 4, 2003, and Commissioner Murdock signed the agreement to be forwarded to ERA Real Estate.

JULY 18, 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 July 17, 2003, for FY 2003, in the amount of \$115,540.65; and claims dated July 17, 2003, for FY 2004, in the amount of \$105,348.42.
2. Request for Mortgage Survey Exemption for Butler. (Continued)
3. Request for Common Boundary Relocation Exemption for Bernard and Pearl Cole, described as an aliquot part of Section 36, T1N, R3E. (4165 Stagecoach Trail Road, Manhattan, MT). Gallatin County Planner Karin Caroline reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Approval of Contract(s): Change Order G-8, to Contract #2002-097, Ingram, Clevenger, Phase III, IV; and Allegiance Benefit Plan Management, Inc.

Commissioner Vincent announced the following continuations: consent agenda Item 2, request for Mortgage Survey Exemption for Butler and regular agenda Item 1, consideration of a resolution awarding bond sale-Lake RID #384, both continued until July 29, 2003. Regular agenda Item 11, public hearing and consideration of a request for preliminary plat approval for Hawthorn Ridge Minor Subdivision was continued until August 12, 2003, at the request of the applicant.

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.**

Gallatin County Finance Officer Ed Blackman reported on the public hearing and consideration of a resolution establishing the Permissive Medical Fund No. 2372. There was no public comment. **Commissioner Murdock moved to approve Resolution #2003-078. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing and consideration of adoption of the Gallatin County Claims Policy. The proposed claim policy was designed to be user friendly and give predictability to all departments, elected officials, staff, and the public as to how Gallatin County will be paying their claims. The purpose is to provide timely payment to vendors; accurately account for expenditures; provide complete documentation supporting expenditures; and avoid duplicate payment of goods and services. The policy will improve efficiencies throughout the claims process. Further discussion took place with regards to online claims and how that will work with the Eden System. Gallatin County Auditor Jennifer Blossom explained how duplicate payments would be flagged. There was no public comment. **Commissioner Murdock moved to approve the Gallatin County Claims Policy, as presented. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planner Christopher Scott reported on the consideration of a resolution of the Gallatin County Commission amending the Gallatin Canyon/Big Sky Zoning Map and Land Use Map (Joint public hearing was held July 10, 2003). There was no public comment. **Commissioner Murdock moved to approve Resolution #2003-079. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planner Christopher Scott reported on the continuation of a public hearing and consideration of a request for Douglas E. Daniels, Daniels & Associates on behalf of Bluejacket Ford LLC for a variance to the Fire Protection Requirements of the Gallatin County Subdivision Regulations for the Pass Creek Community Center Minor Subdivision. The property is generally located at the intersection of Rocky Mountain Road and Pass Creek Road. The property is not located within any zoning district. Mr. Scott pointed out that the applicant has not submitted a fee for this variance. It was said that the County Commission would waive this fee. He requested the Commission take action on the fee waiver. Gallatin County Planning Director Jennifer Madgic pointed out that there was no formal procedure for waiving the application fee, and concurred that the Commission take action to formalize the waiver. **Commissioner Murdock moved to waive the variance application fee. Seconded by Commissioner Mitchell.** Commissioner Vincent asked for an explanation as to the rationale for the waiver. Commissioner Murdock initiated the waiver and explained the history of the Pass Creek Community Center. Because they were doing something in the spirit of the community and the fact that they could have gone through an exemption rather than subdivision review that triggers these sorts of requirements he believed the application fee waiver was justified. He added that this could be done for all community centers in this situation. Further discussion took place with regard to this waiver request relative to setting precedent for similar situations. Gallatin County Attorney Marty Lambert explained as a matter of policy he would leave it up to the Commission to determine if they had objective criteria by which to judge future requests for waiver of fees, adding that most likely they would be receiving more requests. The applicant's representative Doug Daniels explained that the Community Center association had relatively limited funds, noting the entire process has been a voluntary no fee process to get this accomplished. He felt that the Community Center has already paid a substantial amount of review fees to get a variance that should not have applied to them in the first place. Commissioner Mitchell stated that this was a straightforward project and that it was not an exceptional workload on staff. Commissioner Vincent supported the motion on the fact that this is a community center in a remote location and there is no substitute for having a community center, and it is also a county voting precinct. **None voting nay. Motion carried.** On March 25, 2003 the Commission approved preliminary plat for the Pass Creek Community Center subject to the conditions. The applicant provided a letter of justification for the variance request from the Fire Protection Requirements. Section

6.E.5 of the Subdivision Regulations describes fire protection requirements for minor subdivisions. Condition #5 of the Findings of Fact and Order of preliminary plat approval for the Pass Creek Community Center Minor Subdivision states: "The subdivider shall provide adequate fire protection in accordance with the Gallatin County Subdivision Regulations." Notice was published on July 3, 2003, and notice was also sent to all adjoining property owners. No comment was received. The Gallatin County Commission needs to make the following determination: A determination whether to recommend approval of the requested variance. Section 13.A of the Subdivision Regulations authorizes the Commission to grant "reasonable variances ... where it is found that strict compliance is not essential to the public health, safety and general welfare." When any such variance is granted, the motion of approval of the proposed subdivision shall contain a statement describing the variance and the facts and conditions upon which the issuance of the variance is based. If the Commission approves the subdivision, the following conditions for final plat approval are suggested: 1. The applicant shall install a hydrant at the end of the pipeline from the Callantine spring. The hydrant shall be located no more than 250 feet from the proposed community center. The community center shall have and maintain an adequate length of fire hose on site to provide immediate use of the hydrant. 2. The community center shall have no overnight occupancy. 3. Smoke alarms shall be installed and maintained within the community center. The applicant was in agreement with the conditions as part of final plat approval. Mr. Daniels confirmed that several efforts were made to meet with the Belgrade Fire Department to arrange something compatible with their rules and regulations. The Pass Creek Community Center proposed to contract with the Fire District however there were some problems because of the fact they were not contiguous. If that were to become a viable option the Pass Creek Community Center would not object to being a part of the Belgrade Fire District. Tests were run on site to determine the availability of water from an existing spring that runs year around, which measured a capacity in excess of 250 gallons per minute. They felt this would provide adequate fire protection particularly from the standpoint that response time for the fire department to reach the location would be substantial. Mr. Daniels stated that strict adherence with the regulations would constitute a hardship on the developer and the Pass Creek Community Center. It was noted that the response time of the closest fire district was approximately 30 minutes. It was noted that Jake Callantine lived within less than a quarter of a mile. Further discussion took place with regard to the Fire District's position on this issue. Mr. Scott stated that Assistant Belgrade Rural Fire Chief Bryan Connelley did not provide comments with regard to this variance. However in discussions with Mr. Connelley his feelings had not changed with regard to the preliminary plat discussion of which annexation was recommended. **Commissioner Murdock moved to grant the variance to the requirements, with the conditions as proposed, finding that the record shows this would be a hardship that would be unreasonable and that the fire protection would be adequate, as proposed. Seconded by Commissioner Mitchell, adding all the testimony as part of the findings.** Commissioner Vincent has serious reservations with matters such as this, noting if a standard reasonableness was applied that granting the variance is appropriate in this case with the conditions. He was concerned with setting precedent, adding if this were an occupied dwelling he could never come close to approving a variance in this manner. He agreed there is a viable alternative for adequate fire protection that include smoke alarms, no overnight occupancy, a spring with a hydrant and hose, and residents live within a relatively short distance from the structure. **None voting nay. Motion carried.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County. (Un-named road off Norris Road to Horned Owl Trail). This was a county initiated petition. There was no public comment. **Commissioner Murdock moved to approve Resolution #2003-080. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County. (Un-named road off Highline Road to Morning Mist Road). This was a county initiated petition. There was no public comment. **Commissioner Murdock moved to approve Resolution #2003-081. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County. (Un-named road off Stucky Road to Slingsby Drive). This was a county initiated petition. Public comment: Ira Slingsby commented on the reasons for requesting that the road be named in memory of his family name. Casey Caruso spoke in opposition to the road name change, noting there was no mutual agreement on the name Slingsby Drive. Ms. Caruso was in favor of a name more suitable for all those living in the area. She and a neighbor made the suggestion of Luna Lane to the GIS Department. She submitted two pictures of the area labeled Exhibits "A" and "B".

The Commission discussed and agreed that it would be best to continue consideration of this request until they could further review it. Commissioner Vincent requested that written response be submitted to the Commission office by 5 pm on August 1, 2003, as well as a copy to the GIS Department. It was pointed out that this process was an effort to initiate quicker response for 911 emergency personnel and provide health and safety services to Gallatin County. The Commission did not want to lose site of what they are trying to do. All were in agreement to a continuance until August 19, 2003. Ms. Caruso asked if the Commission received a fax from her parents on Wednesday. The Commission had no knowledge of receiving it and requested that it be faxed again. **No action taken.**

Gallatin County Planning Director Jennifer Madgic reported on the public hearing and consideration of a resolution to adopt amendments to the Hebgen Lake Zoning Regulation, Hebgen Lake Development Plan, and Hebgen Lake Zoning Map. Ms. Madgic requested a continuance due to a procedural matter relative to the plan adopted in June before the Planning and Zoning Commission. There was also an issue regarding decisions made with the density bonus selection in the residential district. Therefore she felt it would be best to take this before the Planning and Zoning Commission at their next hearing on August 21, 2003. It will then come before the County Commission on August 26, 2003, for final adoption. Gallatin County Attorney Marty Lambert clarified the reasoning for this continuation was due to a letter from Attorney Susan Swimley in regards to a procedural defect with the notice and the action taken by the Zoning Commission. **No action taken.**

Gallatin County Planner Christopher Scott reported on the public hearing and consideration of a resolution for a variance for Karson/Mast in the Trail Creek Zoning District. There was no public comment. **Commissioner Murdock moved to approve Resolution #2003-082. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Public comment. Deb Ladue, Four Corners Advisory Council secretary requested to meet with the Commission to redefine the secretarial position for the Advisory Council in the near future. She also noted that their petition has been sent out and she wanted to know what else she could do in a formal request to get it into a final legal document. The Commission was aware and mentioned that Gallatin County Clerk and Recorder Shelley Vance was going to review the petition and consult with Gallatin County Attorney Marty Lambert to determine if it was in the proper form. Mr. Lambert noted there were many things to take into account with this process. Further discussion took place with regards to the secretarial position and duties. It was determined the Commission would schedule a time to met with Ms. Ladue at a future date in an office meeting to set the perimeters. Mr. Lambert requested that both he and Ms. Vance be present at the meeting. **No action taken.**

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

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 29TH DAY OF JULY 2003

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

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:

JULY 21, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent, Murdock, and Mitchell (via phone), County Attorney Marty Lambert,

Clerk and Recorder Shelley Vance, County Auditor Jennifer Blossom, District Court Administrator Dorothy Bradley, Road Superintendent Lee Provance, Weed Supervisor Dennis Hengel, Larry Watson Grants Administrator, Ed Blackman Fiscal Officer, Lonnie Walker 4 Corners Advisory Committee member, Kristen Hamburg and Jeff Rupp of HRDC, and Commission Assistant Christina Thompson. Dennis Hengel discussed the GYCC grant in the amount of \$7000.00 to be applied toward implementing a noxious weed-mapping program from July through October of this year. The grant is in the form of a 50% cost share. This grant would increase the Mapping Technician wages to \$10.50 an hour. Mr. Hengel noted that this is not a permanent addition to the Weed District's personnel requirements and is a one-time cost share grant for the current field season. Commissioner Murdock made a motion to approve the Mapping Technician wages at \$10.50 an hour finding that it does not require additional budgeted monies. Commissioner Vincent seconded the motion. All voted aye. Motion carried two to zero. Mr. Hengel requested that the Weed District Preliminary personnel requests be implemented starting July 1, 2003. These changes include an increase in the Administrative Clerk position from ½ time to full time, an increase in the Enforcement Officer's hourly rate from \$8.50 to \$9.50 an hour, and an increase in the Spray Technician's hourly rate from \$8.50 to \$9.00 an hour. Commissioner Murdock made a motion to approve said staffing changes. Commissioner Vincent seconded the motion. All voted aye. Motion carried two to zero.

Jeff Rupp and Kristen Hamburg from the Human Resource Development Council Inc. (HRDC) discussed the Community Service Block Grant (CSBG) Work Plan for 2004 and 2005 that includes housing, health and dental, employment, transportation, and childcare. The Emergency Shelter Block Grant is a \$30,000 grant for services in Gallatin and Park County to be spent on housing of persons who are homeless or to prevent homelessness. Commissioner Murdock made a motion to approve both CSBG and Emergency Shelter Work Plans. Commissioner Vincent seconded the motion. All voted aye. Motion carried two to zero.

Commissioner Murdock made a motion to approve a contract with Hall Construction Services for repair and maintenance services for the Big Sky bicycle and pedestrian path using Big Sky Resort Tax money and not CTEP monies. Commissioner Vincent seconded the motion. All voted aye. Motion carried two to zero.

The Commission discussed the Law and Justice Campus Master Plan and how to proceed as to whether to formulate a request for proposals for persons to determine the space/facilities of all City/County criminal justice agencies and/or a similar process for all non-criminal County offices and departments. The CIP's role in the process was discussed as well. Commissioner Murdock made a motion to direct the task force to proceed on the Criminal Justice system agencies for physical space planning to come up with an RFP and to coordinate with David Bennett. Commissioner Vincent seconded the motion. Commissioner Mitchell stated that she would like to review the CIP policies and statutes before she supports this. Commissioner Murdock made a motion to direct the task force to move forward with the non-criminal RFP per the CIP committees' recommendations. Commissioner Vincent seconded the motion. Commissioner Mitchell asked that the task force meet with the CIP before going forward with the RFP. Motion carried two to one. Commissioner Mitchell opposed.

Commissioner Murdock made a motion to approve GIS amended budget proposal pending fiscal approval. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

Commissioner made a motion to approve a request for common boundary relocation for Neth, Thompson, and Rasmussen. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

Lee Provance stated that he would start paving Love Lane effective immediately but does not have a resolution drafted from Kate DinWiddie, Deputy County Attorney. Commissioner Vincent directed Mr. Provance to draft a letter stating that the commission supports the proceeding with the construction of Love Lane. Mr. Provance gave an update on the State Secondary Roads Meeting and stated that Valley Center Road will be completed in both directions by 2007.

Commissioner Murdock made a motion to approve Asset Disposal Requests for the Commission Office (18), County Attorneys office (2), and the ITS department (2).

Commissioner Vincent seconded said motion. All voted aye. Motion carried unanimously.

Commissioner Murdock made a motion to approve budget transfer requests from the Human Resources Department and the Fairgrounds. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

JULY 22-24, 2003

- The Commissioners conducted regular County business.

JULY 25, 2003

- The Commission held a Special Claims Meeting. In attendance were Commissioner Murdock, Commissioner Vincent (via telephone), Renee Huyser and Commission Assistant Christina Thompson. Commissioner Murdock moved to approve claim # 8022070 for 25,000.00 to ERA Landmark for earnest money. Commissioner Vincent seconded said motion. All voted aye. Motion carried 2-0.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated July 24, 2003, for FY 2003 in the amount of \$137,312.61; and claims dated July 24, 2003, for FY 2004 in the amount of \$128,528.14.
2. Continuation on Request for Mortgage Survey Exemption for Mack O. Butler, described as an aliquot part, located in the SE ¼ of Section 8, T3S, R5E. (3443 Kent Spur Road, Bozeman, MT) Gallatin County Planner Karin Caroline reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
3. Request for Mortgage Survey Exemption for Daniel and Katherine G. Ballestero, described as a tract of land being a portion of Tract 37 of Ross Creek Subdivision, located in the NE ¼ of Section 34 and NW ¼ of Section 35, T1N, R5E. (5260 Clear View Road, Belgrade, MT) Gallatin County Planner Karin Caroline reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Mortgage Survey Exemption for Clyde G. and Linda F. Seely, described as a tract of land located in the SW ¼ of Section 8, T12S, R5E. (vacant land, north side of Highway 287, 2 miles west of Highway 191) Gallatin County Planner Karin Caroline reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Common Boundary Relocation Exemption for Christopher Bakwin, described as Lot 1 of COS 299A and Tract 2A of COS 1731, situated in the NW ¼ of Section 12, T3S, R7E. Gallatin County Planner Karin Caroline reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
6. Request for Release of Improvements Agreement and Financial Guaranty for Landmark Subdivision Phase 2, described as COS 999, located in the NE ¼ of Section 33 and NW ¼ and SW ¼ of Section 34, T1N, R4E. The County Commission granted final plat approval at their June 10, 2003 public meeting. Belgrade City-County Planner Jason Karp reported the applicant's request is in accordance with Section 8-D-2 of the Gallatin County Subdivision Regulations.
7. Approval of Contract(s): Montana Board of Crime Control for FY 2004 MRDTF; Lease/Purchase of Two New 2003 Motor Graders; and Receipt of Resort Tax Funds 2003-2004

County Auditor Jennifer Blossom requested that the Commission not approve the payment of claim #8022084 to the City of Helena in the amount of \$13,476.82 and #8022094 to Lewis and Clark County in the amount of \$12,088.04 in order for her to review the claim further prior to paying. **Motion by Commissioner Murdock to approve the consent agenda with the amendment as requested by Auditor Blossom. Seconded by Commissioner Mitchell. None voting nay.**

Five vacancies exist on the Gallatin County Planning Board due to the term expirations of Joe Skinner, Patricia Craig, Michael Milmine, Steve Forrest, and Kerry White. Joe Skinner, Michael Milmine, and Kerry White have indicated a desire to be reappointed and applications have also been received from Kathleen Williams, Richard E. Smith, and Gail M. Richardson. Appointments will be for two years and will expire on July 31, 2005. There was no public comment. **Motion by Commissioner Mitchell to reappoint Joe Skinner, Michael Milmine, and Kerry White to the Gallatin County Planning Board. Seconded by Commissioner Murdock. None voting nay. Motion by Commissioner Mitchell to appoint Richard E. Smith to the Gallatin County Planning Board. Seconded by Commissioner Murdock. None voting nay. Motion by Commissioner Murdock to appoint Gail Richardson to the Gallatin County Planning Board. Seconded by Commissioner Vincent. Commissioners Vincent and Murdock voting aye. Commissioner Mitchell voting nay. Motion carried.**

One vacancy exists on the Sedan Rural Fire District due to the term expiration of Lyle Woosley. The position is for three years and will expire on May 2, 2006. An application has been received from Mr. Gordon C. Baver. **Motion by Commissioner Mitchell to appoint Gordon Baver. Seconded by Commissioner Murdock. None voting nay.**

Chairman Vincent announced that appointments to the Mental Health Local Advisory Council and the Capital Improvement Programs Committee have been continued.

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Fiscal Officer Ed Blackman opened the following bond bids for RID 384. Bids were received in the Clerk and Recorder's Office prior to 5:00 p.m. on July 25, 2003 in accordance with the notice of bond sale: Montana Municipal Cooperative in the amount of \$160,000 with a good faith check in the amount of \$3,200 and a net rate average of 4.05%. D.A.Davidson in the amount of \$160,000 with a good faith check in the amount of \$3,200 and a net rate average of 5.2658%. Mr. Blackman will review the bids and make a recommendation at the public hearing next week.

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Gallatin County Planning Director Jennifer Madgic states that the Commission continued the hearing to consideration rescinding Resolution 1990-36 in order for County Attorney Lambert and Ms Madgic to work on the process. Letters have been received in support from Martha Biel, Jim Madden, and Jennifer Read, and in opposition from Fred Tubb. Ms Madgic stated that in 1990 the Commission made a policy decision to mandate any zoning created by using the strict petition process. County Attorney Marty Lambert states that the action under consideration today is to strike paragraph 3 and 4 from Resolution 1990-36, and he has prepared a resolution for the Commission to consider. Commissioners Murdock and Mitchell state support of continuing this item for a number of weeks to work on the policy, and work on sending the message to the public that they are not supporting top-down zoning. Commissioner Vincent stated that this subject will be placed on the August 26th agenda and requested the planning director to re-notice the public hearing.

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Tom Henesh, from Morrison-Maierle who is representing the applicant requests that covenant j be amended to add language to the covenant to include ditch holders along with water right holders. There was no public comment. The County Commission needs to make the following determinations: 1. 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, 2. A determination as to whether or not the application complies with the provisions of the Gallatin County Subdivision Regulations. If the County Commission approves this application, the following conditions are suggested: 1. The final plat shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates. 2. Montana Department of Environmental Quality approval shall be obtained for the subdivision. The applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicant shall obtain the Gallatin County Health Officer's approval. 3. A memorandum of understanding shall be signed between the Weed Control District and applicant prior to final plat approval. 4. Encroachment permit(s) shall be obtained from the County GIS or Road and Bridge Department for any access points coming off of County-maintained roads. Each access shall be at least seventy-five feet (75') from the nearest intersecting County road. 5. Applicant shall provide evidence of an approved Montana Department of Transportation encroachment permit for access to State Highway 84 for the existing residence on Lot 24B. 6. A "no access" strip is required along all lot boundaries that border County or State maintained roads, with the exception of approved drive approaches. 7. Thirty feet (30') of Camp Creek Road east of the centerline shall be dedicated to the public for the entire length of the development. 8. The applicant shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, or the creation of a sewer and/or water district. 9. All areas of public right-of-way disturbed during construction activities shall be sodded or reseeded with vegetation types approved by the Weed Control Supervisor. 10. Prior to final plat approval, an access shall be constructed to provide legal and physical access to Lot 24A in accordance with the Gallatin County Subdivision Regulations. Applicant shall consult Amsterdam Rural Fire District regarding the design and weight load of the access. 11. Prior to constructing the access, the applicant shall obtain all required streambed, streambank, or wetlands permits, or written notification from the appropriate agency that a permit is not required. 12. All utility easements shall be shown on the final plat. Utility easements shall be centered along side and rear lot lines wherever possible, and shall be twenty (20) feet wide. Underground utilities, if placed in the road right-of-way, shall be located between the roadway and the right-of-way line. Such underground facilities shall be installed or utility culverts provided before the road is surfaced. In addition, the following statement must appear on the final plat: *"The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as 'Utility Easement' to have and to hold forever"*. 13. The applicant shall comply with all fire protection conditions of approval and covenants as specified by the Amsterdam Rural Fire Department as provided

in the Amsterdam Rural Fire Department letter regarding the Bates Minor Subdivision of May 21, 2003. Applicant shall obtain a letter of compliance with such conditions and covenants from the Amsterdam Rural Fire Department prior to final plat approval. 14. The applicant shall make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. 15. The applicant shall make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. 16. Covenants for the subdivision shall include the following provisions: a. All structures shall be constructed in compliance with the current applicable building code. b. Prior to construction, property owners shall obtain all required permits from the state and county. c. The property owners shall be responsible for the control of noxious weeds within all road right-of-ways. Lot owners shall be responsible for the control of noxious weeds within their property. 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 Amsterdam Rural Fire Department. (Please see exhibit B.) 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 property owner, 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 any governing body for such damages. j.

No lot owner may remove or cause to be removed water from irrigation ditches or a watercourse without deeded water rights. Written permission shall be obtained from the water rights holder prior to performing any maintenance or improvements on Camp Creek. k. No structure shall be constructed within 35 feet of the ordinary high water mark of any active ditch, creek, or watercourse. l. Covenants, which are 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. 17. The applicant shall submit the certificate of a licensed title abstractor to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The County Attorney's Office shall review and approve the certificate of title and covenants prior to final plat approval. Covenants shall be submitted to the Planning Department for review and approval at least 30 days prior to final plat approval. 18. The applicant shall have three (3) years to complete the above conditions and apply for final plat approval. **Motion by Commissioner Murdock to approve the Bates Minor Subdivision finding the application meets the Gallatin County Growth Policy and the Gallatin County Subdivision Regulations with conditions as recommended by staff and amending condition 16j to include ditch holders to the condition. Seconded by Commissioner Mitchell. None voting nay.**

Wallace Butcher was sworn in and testified under oath, answering questions from the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. Location of the property is the SE ¼ of Section 33, T1N, R4E, PMM, Gallatin County, Montana. There was no public comment. **Motion by Commissioner Murdock to approve the family sale exemption claimed by Wallace Butcher finding, based on the testimony received, the application meets the requirements of the law. Seconded by Commissioner Mitchell. None voting nay.**

Mike Halverson, representing Montana Reclaimed Lumber, states that this application is a temporary operation on this property for approximately 1 year. The County Commission has one determination to make with this application. A determination whether or not to approve, conditionally approve, or deny the proposed conditional use permit application. The basis for the Commission's decision shall be whether the conditional use permit application and additional information, demonstrate that development meets the findings of Section 53.030 of the Gallatin County/Bozeman Area Zoning Regulations. If the County Commission approves the proposed conditional use permit application, the following conditions are suggested: Site Specific Conditions: 1. Applicant shall obtain the necessary encroachment permit for access onto Baxter Lane from the City of Bozeman. Standard Code Provisions: 8. The applicant shall submit an adequately dimensioned Final Site Plan within 6 months of preliminary CUP approval, as well as a written narrative indicating how all conditions of approval have been met. 3. The right to a use and occupancy permit shall be contingent upon the fulfillment of all general and special conditions imposed by the conditional use permit procedure. 4. All of the special conditions shall constitute restrictions running with the land use, shall apply and be adhered to by the

owner of the land, successors or assigns, shall be binding upon the owner of the land, his successors or assigns, shall be consented to in writing, and shall be recorded as such with the Gallatin County Clerk and Recorder's Office by the property owner prior to the issuance of any building permits, final site plan approval, or commencement of the conditional use. 5. 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. There was no public comment. **Motion by Commissioner Murdock to approve the conditional use permit with conditions as recommended by staff, based on the staff report, staff review of Section 53.030 and testimony received. Seconded by Commissioner Mitchell. None voting nay.**

Clerk and Recorder Shelley Vance reported that notice of the public hearing to annex property into the Gallatin Canyon Consolidated Rural Fire District was published in the High Country Independent Press on July 17 and 24, 2003. If the commission receives protest petitions at the hearing, which are signed by a majority of the landowners of the area proposed for annexation, the annexation shall be disapproved pursuant to 7-33-2125(2) MCA. There was no public comment. **Motion by Commissioner Mitchell to annex property into the Gallatin Canyon Consolidated Rural Fire District and direct the County Attorney and Clerk and Recorder to prepare a resolution for a future public meeting.**

Fiscal Officer Ed Blackman explains that some departments have additional requests over and above their proposed budget and asks that the Commission consider their requests, but not take action today so that Mr. Blackman can complete totals of year-end cash, taxable valuation, union negotiations and other information. Dennis Hengel, coordinator of Gallatin County Weed District, states that they have received a grant on the amount of \$7,000 and would request the budget be amended. This request will be for an employee currently employed and will be a job share. Health Director Stephanie Nelson requests minor adjustments to Health Department budgets due to grants received. These increases have been approved by the Board of Health. Significant changes include a FT position to help with setting up an emergency system to create a medical reserve corp. Planning Director Jennifer Madgic requests that cash carryover from FY03 Planning Board fund be reallocated to the FY 04 Planning Board budget. County Auditor Jennifer Blossom requests an additional \$6,000 for the purchase of auditing software. She does not anticipate an increase in staff, and states that the software will allow her office to complete additional audits such as tax distribution and motor vehicle distribution. The state is currently purchasing the software and Jennifer is exploring a possible cost-share of training. The request includes software license, annual support, and training for Auditor staff. Mr. Blackman states that one more public hearing will be held next week in West Yellowstone, prior to the final adoption of the budget currently scheduled for August 12th. GIS Director Allen Armstrong and Sheriff Jim Cashell will make presentations for addition budget requests at the August 5th meeting.

Fiscal Officer Ed Blackman explained the resolution establishing salaries for elected officials. Resolution 2003-083. The resolution includes a 2% cost of living increase for all elected officials and sheriff deputies. In addition, all elected officials who have served more than one year, will received a 5% longevity increase. The County Attorney and Sheriff will also receive longevity pursuant to state statute. There was no public comment. **Motion by Commissioner Murdock to approve Resolution 2003-083. Seconded by Commissioner Mitchell.** Commissioner Vincent stated that he will not support the resolution. The Commission discussed the resolution. **Commissioner Murdock and Mitchell voting aye. Commissioner Vincent voting nay. Motion carried.**

Dale Beland, representing the applicant, introduces the design team including Mr. Mike Pollard, Terry and Wendy O'Neill, Sid Arthur, and Gateway Engineering. Mr. Beland explains the Belgrade Planning Board has unanimously supported the new plan as it relates to the Belgrade Area Master Plan. Lots 1 & 2 have been redesigned to provide a transition from Outlaw Country to this subdivision and thus reducing the number of lots. The initial plat designed the park on the southwest lot and a linear design along the southern portion of the subdivision along Cottonwood Creek. The planning board recommended that the park be centrally located within the subdivision so the applicant has moved the park to the center of the subdivision. Dale explains that the new preliminary plat has been carefully designed to mitigate the Commission's concerns as defined by previous findings in the initial hearing and addresses specific issues in detail which included location of fire protection water supply (fill site),

incomplete covenants, responses from Montana Fish, Wildlife & Parks, and Belgrade Schools, mitigation of impacts to wildlife and wildlife habitat, dedication of park and cash-in lieu improvements to park, submittal of information related to traffic impacts to Airport Road, stipulations on irrigation ditches, impacts to groundwater from individual wells and septic systems, compatibility of lots related to density and size to adjacent developments. Mr. Beland submitted letters of support from Jerome Anders and Jeff Carter. The County Commission needs to make the following determination: A determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Commission finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval:

1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates.
2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever."
3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval.
4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat.
5. The developer shall record covenants with the final plat including the following provisions.
 - a. Requiring control of county declared noxious weeds.
 - b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and tenants of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.
 - c. All fences bordering agricultural lands and adjacent subdivisions shall be maintained by the Homeowners in accordance with State Law.
 - d. All structures must meet the fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief.
 - e. Site plans of all lots must be submitted for review and approval by the Belgrade Rural Fire District.
 - f. A homeowners association shall be established and be required to maintain all interior subdivision roads, and participate with Minor Subdivision No. 161 for the shared maintenance of Dana Lane within that subdivision.
 - g. No lot owner may remove water or cause to be removed water from irrigation ditches without deeded water rights, and before any maintenance or improvements are performed on any of the ditches, the owner of the waterway must give written permission for the work to be done.
 - h. Irrigation ditches are hazardous to small children.
 - i. The homeowners association is responsible for the maintenance of the fire protection water supply.
 - j. The homeowners association is responsible for the maintenance of the park.
 - k. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County.
6. A copy of the covenants shall be submitted to the Belgrade Planning Office. A copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office. Both submittals shall be 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall approve the covenants and certificate prior to final plat approval.
7. Fire and Road Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact fee regulations.
8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval.
9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department.
10. The road names must be approved by the Gallatin County GIS Department. The entire length of Dana Lane shall be 60-foot right-of-way, dedicated to the public, and be paved to County Standards.
11. Road name signs and Stop signs shall be installed as required by the County Road Superintendent or a bond must be posted with the Gallatin County Road Office to cover the cost of the signs.
12. All roadwork will need to be inspected and certified by a licensed engineer. The inspection and certification and a copy of the homeowners association by laws and covenants must be provided to the County Road Office in writing prior to final plat approval. A two year written warranty must be provided to the County for required paving of County maintained public roads.
13. A detailed signage and drainage plan shall be submitted to the County Road Office for approval prior to the start of any construction. This plan should specifically address the requirement for road name signs to be installed at all intersections, as well as STOP signs and other regulatory or warning signs may also be needed on some internal roads, and this should be addressed in the plan. All signage must conform to the Manual on Uniform Traffic Control Devices (MUTCD), Millennium Edition.
14. Encroachment permits must be

obtained from the Road Department for the new access to Airport Road. 15. An NFPA compliant fill-site approved by the Belgrade Fire Department shall be installed and operational prior to final plat approval. If the fill site is a pond, either a chain link (or other suitable type) fence shall be constructed around the fill site, or the fill site shall be constructed with gradual, shallow banks like a natural pond to protect children from drowning. 16. 45 feet of Airport Road south of the centerline shall be dedicated to the public along the entire width of the subdivision. 17. The final plat shall contain statements that include the following language: Lots abutting irrigation ditches may have water rights as described in deeds. No owner may remove water or cause to be removed water without deeded water rights. Irrigation ditches are hazardous to small children. 18. The final plat(s) shall show a maintenance easement of a minimum of 15 feet on one side, and 5 feet on the other side of the irrigation ditches or as required by the ditch owner consistent with subdivision regulations, and before any maintenance or improvements are performed on any the ditches, the owner of the waterway must give written permission for the work to be done. 19. The final plat shall contain a warning that irrigation ditches are hazardous to small children. 20. During construction of the extension of Dana Lane the fence between Minor Subdivision No. 161 and Longhorn Estates be properly ended as approved by the Road Department. 21. The final plat shall show a 50 foot building setback from the high-water mark of Middle Cottonwood Creek. 22. The developer shall coordinate with the GIS Department and regarding road names and whether the east half of Dana Lane as shown on the preliminary plat should be renamed to eliminate confusion particularly for emergency service providers. 23. *The developer shall pay a cash-in-lieu of parkland dedication to Gallatin County in the amount of the appraised value of .37 acres of un-subdivided, unimproved land in the area in accordance with Section 6-G of the Gallatin County Subdivision Regulations.* If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval.

People speaking in opposition to the subdivision included Joe Sabatini, Bob Heidecker, and Pat Leiggi stating concerns of high density, traffic impacts, impacts to wildlife, schools, and police protection. Joel Shouse submitted a letter explaining that a group called the East Gallatin Property Owners are in the process of creating a zoning district in the area. He states that approximately 56% of 160 freeholders that represent approximately 71% of the total acreage of the proposed zoning district are in support of creating a zoning district. Mr. Shouse requests that the Commission defer action on this subdivision to insure that it is compatible with the development plan proposed by the new zoning district.

Owner Wendy O'Neill explains her vision of the development. Louis Burton, Gateway Engineering, states that the proposed subdivision is compatible with current densities in the area and soils will be able to handle individual septic systems. DEQ approval must be met prior to receiving septic system permits. Mike Pollard addresses issues raised with impacts to Belgrade Schools, compatibility of lot sizes, and septic systems. Mr. Beland states that the Belgrade Planning Board has determined the application is compatible and consistent with the Belgrade Area plan, the applicants have mitigated the issues previously brought up by the County Commission and states concern of the suggestion that the Commission should stop all action, or deny this application because of a pending proposal to create a zoning district. The application should be based on current plans and regulations in place. A letter from Fish, Wildlife, and Parks in the application addresses wildlife issues, and urges the Commission to approve the application.

Commissioner Murdock states that based on testimony received on a proposed zoning district, concerns with wildlife and fill sites, and testimony from citizens that have a different vision than that of the Belgrade Plan, he will not support the subdivision.

Commissioner Mitchell states that there is not much difference between this plan and the first plan, and the applicant has not mitigated impacts to her satisfaction. County Attorney Marty Lambert advises the Commission to judge the application on the rules and regulations that are currently in effect today, and not to consider proposed zoning districts or proposed changes to the Belgrade plan. **Motion by Commissioner Murdock to deny the subdivision as proposed. Seconded by Commissioner Mitchell.** Commissioner Vincent states that development could occur with much larger lots, greater planning for parkland, clustering densities, and a community water and sewer system. He concluded by stating his concerns with impacts on traffic and distances to hospitals, police protection, grocery stores, which raise public health and safety issues. Commissioner Murdock adds that the Belgrade plan states central water and sewer systems are recommended. **None voting nay.**

There were no pending resolutions. There being no further business the meeting was adjourned at 2:20 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING**TUESDAY THE 5TH DAY OF AUGUST 2003**

The meeting was called to order by Chairman Vincent 9:11 A.M., at the West Yellowstone School. Also present were County Commissioner Bill Murdock, and Acting Clerk to the Board Mary Miller. Commissioner Jennifer Smith Mitchell was excused.

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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:

JULY 28, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent, Murdock and Mitchell (via conference phone), Finance Officer Ed Blackman, HR Director Randy Kuyath, Health Officer Stephanie Nelson, Planning Director Jennifer Madgic and Commission Assistants Christina Thompson and Glenda Howze. Ms. Lori Guiyer addressed the Commission as the Assistant Principal at the Bozeman High School. She asked for Commission support to reduce the speed limit on Huffine Lane given the recent deaths of pedestrians crossing said road. The Commissioners agreed to support their cause, but noted that this is a state secondary road within city limits and the County has very little say in the matter other than requesting the City and State to consider a reduction in speed limit. The Commissioners discussed the County Attorney's salary. The state did not pay their portion of Mr. Lambert's salary for FY 03 as set by the salary compensation committee. The state only pays half of an amount determined by them, regardless of the salary set by the County. Commissioner Murdock made a motion for the County to cover the additional salary not paid by the state to County Attorney Lambert, based on the salary compensation committee decisions. Commissioner Mitchell seconded the motion. Commissioners Vincent and Murdock voted aye. Commissioner Mitchell voted nay. Motion carried with a vote of two to one. The Commissioners discussed the Walking Cross contract and the options as set forth by Auditor Blossom and HR Director Randy Kuyath. Commissioner Mitchell made a motion to follow option III as outlined, as soon as possible, instructing Rest Home Administrator Connie Wagner to pursue other employees to fulfill those responsibilities outside of the original scope of work, as described in option IV. Commissioner Vincent seconded the motion. In discussion Commissioner Murdock stated that he is opposed as he is happy with option II. Commissioners Vincent and Mitchell voted aye. Commissioner Murdock voted nay. Motion carried with a vote of two to one. The Commissioners discussed the County CEO position. Concerns were expressed by a majority of the Commission regarding organization, structure and relationship with the Commission. It was agreed that the job description would be written such that all three Commissioners are in support and if potential candidates are not pleased with the description, the Commissioners may opt to not pursue this type of position. The Commissioners considered a request from 911 Director Ben Hess to hire someone at .40cents an hour more than was advertised as they are a previous county employee and would be able to step in more efficiently than a new hire. Commissioner Murdock made a motion to approve said request. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously. The Commissioners heard from Russel Rooney, Field Maintenance Supervisor with MDOT, working on the highway outside of Elk Grove Subdivision. The Commissioners agreed that the speed limit should be lessened in this area now that construction is underway in Elk Grove and the road has been modified accordingly. Commissioner Mitchell made a motion to approve sending a letter to MDOT request a reduction of speed limit on Highway 191 for a quarter mile south of Blackwood Road. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously. The Commissioners discussed creation of a Building Permit Task Force. Commissioner Murdock made a motion to appoint Don Stuek, Mark Evans (or other SWMBIA representative), Joe Skinner, Steve White, and Tom Millison as members of said task force, and request Commission staff to advertise for additional citizen and builder members. This task force will research whether there is a need for a countywide building inspection program, and make their recommendation to the Commission within a year. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a contract for the RID Paving and Road Maintenance Program. Commissioner Murdock made a motion to approve said contract. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a budget transfer request from the Coroner. Commissioner Vincent made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners discussed the Four-Corners Advisory Council and future financial support. Commissioner Mitchell made a motion to approve payment up to \$500.00 (50 hours) to be completed over the next three months and begin phasing out Deb Ledo's assistance to the Council now that they are primarily focused on incorporation issues. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously. The Commission directed staff to write a letter to Mr. Walker explaining to him that incorporation must be a grass roots effort and the Commission cannot continue to finance the effort.

The Commissioners considered approval of a contract for a Junk Vehicle Lot Caretaker. Commissioner Murdock made a motion to approve said contract. Commissioner Mitchell seconded the motion. In discussion it was noted that Mr. Mathis, Airport manager, has offered a parcel and home for use by the County, free of charge for five years. The property is located north of the airport and has a small home on it. This idea will be pursued more at a later date. All voted aye. Motion carried unanimously.

The Commissioners considered approval of changing of position for Christina Thompson. Currently she is a band 5, but her position analysis and the work that she is currently works on merits a change to band 6. This would put her at the same level as Commission Executive Assistant Glenda Howze, but without the 3% add-on for lead worker. Commissioner Mitchell made a motion to approve such change in position for Christina Thompson. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

Mr. Lee Provance, Road and Bridge Superintendent joined the meeting and requested approval to place available millings on Cottonwood Road. Commissioner Murdock made a motion to approve the Road Department to place millings on Cottonwood Road, finding that the millings will hold up better to truck traffic and Mr. Provance recommends this method. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

JULY 29, 2003

- The Commissioners conducted regular County business.

JULY 30, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent, Murdock and Mitchell, County Attorney Marty Lambert, Road and Bridge Superintendent Lee Provance, Open Lands Board Coordinator Mike Harris, and Commission Assistants Christina Thompson and Glenda Howze. The Commissioners considered approval of Declaration of Independence security costs for the Sheriff's Office. Commissioner Mitchell made a motion to approve a vault (Mountain Locksmithing) for the safe keeping of the DOI. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously. The Sheriff's Office is also requiring \$2,400.00 to provide security for the document. Commissioner Mitchell made a motion to approve \$2,400.00 for security provided by the Sheriff's Office. Commissioner Murdock seconded the motion. All voted aye. Motion carried two to zero.

The Commissioners considered approval of a third extension to the VanDyken contract for operation of the Logan Landfill. Commissioner Vincent joined the meeting at this point. County Attorney Lambert recommended approval of said contract from August 1, 2003 to July 1, 2004. Commissioner Murdock made a motion to approve said contract. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners, under Road Matters, discussed an offer from the Montana Golf Ranch to pave Cottontail Road with no future obligation on the part of the County. The Commission agreed to pursue this proposal, and ask that MT Golf Ranch notify residents of their suggestion and to comment at a future public meeting. Commissioner Mitchell made a motion to approve said proposal, involving the crushing of \$49,500 of gravel in the Sedan and Madison areas by Bates Crushing. Commissioner Murdock seconded the motion. Commissioners Murdock and Mitchell voted aye. Commissioner Vincent voted nay. Motion carried with a vote of two to one.

The Commissioners discussed public comment rules and procedures for future Public Hearings (Tuesdays). The Commission agreed that each individual from the public will have the opportunity to speak for 3 minutes and will only be allowed to speak once and on relevant topics.

The Commissioners considered approval of taking \$10,000 from the County Attorney's budget and placing it in the ITS Department budget for the purpose of purchasing a server for the County Attorney's Office. Commissioner Murdock made a motion to approve said transfer, pending Finance Officer Ed Blackman filling out the appropriate forms to do so. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commission discussed a Space Needs Assessment RFP/Q for the non-criminal justice component of our County system. Commissioner Murdock made a motion to direct County Attorney Lambert to negotiate a contract to hire Mr. Liebert (recommended by Criminal Justice Systems Assessment Consultant) at a cost not to exceed \$14,100.00. Commissioner Vincent seconded the motion. Commissioner Mitchell stated in discussion that she couldn't support this motion as it is not going through the RFP process and that the County needs the data collection and recommendations from David Bennett first before looking at other facilities and how they are being used. Mr. Lambert stated that Mr. Bennett was hired for data collection and this has nothing to do with operation of the jail. The question was called. Commissioners Vincent and Murdock voted aye. Commissioner Mitchell voted nay. Motion carried with a vote of two to one. The money to pay for Mr. Liebert will come from contingency unless it can be placed into the budget.

JULY 31-AUGUST 1, 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 July 31, 2003, for FY 2003, in the amount of \$287,674.14; and claims dated July 31, 2003, for FY 2004, in the amount of \$135,117.75.
2. Approval of Contract(s); MCH-Maternal Child Health; Immunization Program (IAP) Immu. Action Plan; and Amsterdam Road Agreement Contract between PC Development and Gallatin County

In order to accommodate members of the public, Commissioner Vincent announced that the regular agenda would be adjusted as follows: Item 1, 2, 3 as written, move 4 to the end of the agenda, 5, 16, 15, and 22. They would then return to Item 6 and proceed with the agenda, as written. It was noted that Ben Hess, Director of 911 Communication Services, GIS Coordinator Allen Armstrong, and Sheriff Jim Cashell would be speaking with regard to the purpose and importance of the road name changes in Gallatin County.

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

Gallatin County Road and Bridge Superintendent Lee Provance reported on receipt and opening of bids for chip sealing 2003. One bid was received from JTL Group, Inc-Belgrade in the total amount of \$273, 542.60, bid bond included. Mr. Provance took the bid under advisement and will return with a recommendation on August 6, 2003, at the Commission office meeting. **No action taken.**

Gallatin County Attorney Marty Lambert on behalf of Attorney Susan Swimley reported on the consideration of award of bond bids for Lake RID #384. Bids were opened at the July 29, 2003 public hearing. Gallatin County Finance Officer Ed Blackman recommended awarding the bid to Montana Municipal Cooperative in the amount of \$160,000, based on the bids submitted. There was no public comment. **Commissioner Murdock moved to award the bid to Montana Municipal Cooperative in the amount of \$160,000 for the special improvement district #384 bonds. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Attorney Marty Lambert on behalf of Attorney Susan Swimley reported on the resolution awarding the bond bid for Lake RID #384. There was no public comment. **Commissioner Murdock**

moved to approve Resolution #RID-03-384-E. Seconded by Commissioner Vincent. None voting nay. Motion carried.

West Yellowstone resident, Pat Povah reported on the public hearing and discussion for noxious weeds in Gallatin County. He commented on the increasing problems with knapweed and other weeds along the highway and the Town of West Yellowstone, noting that prior to chip sealing projects in the area there were no problems. It was suggested that the county require sterilized gravel for those jobs. Public comment: Susan Lamont, on behalf of the Forest Service stated that they would like to work with the county on proposals that might be more effective in treating weed problems. She proposed having a committee to increase funding and get more control implemented along the right-of-ways. Fred Rice suggested the county incorporate specifications in the bid specs for chip sealing to prevent spreading of noxious weeds. Peggy Moore commented on the increase of noxious weeds in the Lazy Acres Subdivision. She suggested the county place a brochure in tax notices that would identify noxious weeds for private landowners. Weed Department Supervisor Dennis Hengel recapped action on the Weed District for the past several years. The emphasis with the Weed District has been controlling weeds on the right-of-way, however to be effective they shifted to more education and enforcement efforts. Other efforts included are the requirement of new subdivisions to have Weed Management Plans, as well as getting the word out through education. Mr. Hengel commented on the lack of funding allocated by MDOT to control weeds on the right-of-ways. They are discussing the idea of dropping the contract entirely and letting MDOT take care of it by hiring at a commercial rate. He pointed out other methods used to control the spread of noxious weeds that include: herbicide application; and biological control. Further discussion took place with regards to joining together with adjacent counties for weed control. **No action taken.**

GIS Coordinator Allen Armstrong provided an overview of the services provided by the Geographical Information Systems office. They are currently mapping the West Yellowstone area to include the enhanced 911 level of service. Mr. Armstrong pointed out the purpose for naming and renaming roads with duplicate names as well as numbering standards was to avoid confusion for emergency services. Mr. Armstrong went into detail with regard to the process and procedures required by the Montana addressing guidebook for setting state standards. He explained how they came up with the names, noting they were agreeable to changing them should residents choose to do so. If there were opposition to the names, they would request that the residents come to an agreement on a name and the hearing would be continued for 3 weeks. New road signs will be provided by the county and installed by the residents. Further discussion took place between the members of the audience and Mr. Armstrong. Communication Services Director Ben Hess addressed the 911 level of enhancement, noting the importance of avoiding confusion in order to improve response time. Sheriff Jim Cashell spoke regarding the aspect of law enforcement. If there are any changes as a result of today's hearing, the Commission made the commitment to hold the continuance hearing in West Yellowstone. Commissioner Vincent stated they would try to arrange the hearing for 9:30 on August 21, 2003 at the Holiday Inn, contingent upon the County Attorney looking at the statutes to make sure it was within the legal time frame. If the meeting cannot be arranged for that date, they will choose a date in early September for road name changes only. Bryan Connelley, assistant Fire Chief of Belgrade Rural Fire stated that fire service for Gallatin County is in support of addressing.

GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution of a road name change in Gallatin County (Bear Avenue, Moose Street, Deer Street, Elk Street to Bear Road, Black Moose Road, North Red Deer Road, South Red Deer Road, White Elk Road). The petition was county initiated. Mr. Armstrong stated that North Red Deer Road would be eliminated after speaking with Barry Kraemer as there are only two structures and no potential for others at this point. Those addresses will remain on Bear Road. He stated that by eliminating north and south it would be Red Deer Road and that there was a recommendation to change that to Mule Deer. Public comment: William Moore noted there was no opposition to Black Moose Road. Barry Kraemer was in agreement with Mule Deer and requested that White Elk be changed to possibly Bull or Cow Elk. He also requested a cost of the three signs to be provided by the county and suggested that they could use that money towards wooden signs, as they currently have in order to maintain the aesthetically wooden environment. Shirley Smith was signed up to speak however declined. Bob Pierpoint agreed with Mule Deer. Les Nagler suggested that Bull Elk would be agreeable. Action was tentatively continued until August 21, 2003. **No action taken.**

GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution of a road name change in Gallatin County (Lake Avenue North, Lake Avenue South, Central Avenue North, Central

Avenue South, Birch Avenue, Cedar Avenue to North Kingfisher Lane, South Kingfisher Lane, North Moose Run Road, South Moose Run Road, North Crane Lane, South Crane Lane). The petition was county initiated. Public comment: Clifford Morrin requested clarification on the name changes. Pat Povah addressed the name changes. It was brought to attention that the resolution exhibit was incorrect. Gallatin County Attorney Marty Lambert recommended that no action be taken until the exhibit is redrafted. Sandy Moulton preferred Madison Fork Road rather than Moose Run Road, adding that they were also not notified. Bob Klemann was signed up to speak and declined. Action was tentatively continued until August 21, 2003. **No action taken.** Because regular agenda item #20 was discussed, it too was continued

GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution of a road name change in Gallatin County (Un-named roads(s) off of Targhee Pass to Buttermilk Creek Road, Povah Lane, Deepwell Ranch Loop, West Sandy Lane, East Sandy Lane, North Cream Creek Road) Public comment: Pat Povah explained the reasoning behind the suggested road name changes. **Commissioner Murdock moved to approve Resolution #2003-084. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution of a road name change in Gallatin County (Un-named road off of Denny Creek Road to North Hoss Lane, South Hoss Lane, Cartwright Lane). Mr. Armstrong requested a continuance in response to opposition of the proposed names. It was suggested changing it to Hebgen Ranch Road. None of the members signed up to speak were available. Action was tentatively continued until August 21, 2003. **No action taken.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County (Un-named road off Denny Creek Road commonly referred to as Cozy Corner Area to Cozy Corner Lane). There was no public comment. **Commissioner Murdock moved to approve Resolution #2003-085. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County (Gibbon Lane to Village Court). Public comment: Jim Callinson spoke in support of the proposed road name however he wished that each road in Fisherman's Village could have (Fisherman's Village) included in the road name. Action was tentatively continued until August 21, 2003. Because regular agenda item #27 is within Fisherman's Village, it too was continued. **No action taken.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County (Madison Avenue and a portion of Gibbon Lane to Fisherman's Village Loop). There was no public comment. **Commissioner Murdock moved to approve Resolution #2003-086. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County (Aspen Loop to Aspen Loop Road). There was no public comment. **Commissioner Murdock moved to approve Resolution #2003-087. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County (Pine Avenue to Pine Needle Road). There was no public comment. **Commissioner Murdock moved to approve Resolution #2003-088. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County (Mountain View Drive to Mountain Vista Drive). Public comment: Joanne Mayo requested to continue action for further input. She suggested changing the

road name to Hill Guard View. Margaret Rukavina preferred to keep the name Mountain View Drive if possible. Action was tentatively continued until August 21, 2003. **No action taken.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County (Leisure Way to Sunshine Way). Mr. Armstrong noted that currently this affects one resident however there is potential of more lots to be developed. There was no public comment. Although there was no response from the one resident the Commission preferred a continuance and requested that Mr. Armstrong re-contact the resident. Action was tentatively continued until August 21, 2003. **No action taken.**

Further discussion took place with regards to the notification process and how residents were notified. Commissioner Murdock reiterated that he was uneasy voting on these road name changes even with public comment or opposition. He was agreeable to allowing public comment however he preferred to not vote on anymore road name changes at this time.

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County (Leisure Drive to East Leisure Drive, West and East). There was no public comment. Action was tentatively continued until August 21, 2003. **No action taken.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County (Un-named road off of Targhee Pass Highway to Circle Right Road). Public comment: Gibson Bailey questioned changing names to private drives, entrances to businesses, and ones with appropriate addresses already. Action was tentatively continued until August 21, 2003. **No action taken.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County (Un-named road off of Valentine Lane to Bondi Road). There was no public comment. Action was tentatively continued until August 21, 2003. **No action taken.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County (Park View Trail to Butte View Trail). Public comment: Lee Rothschilder suggested the name Great Gray Trail. Action was tentatively continued until August 21, 2003. **No action taken.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County (Un-named road off of Highway 191 commonly referred to as Airport Loop to Concourse Loop). Public comment: Gibson Bailey. Action was tentatively continued until August 21, 2003. **No action taken.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County (Un-named road off of Grayling Road to Grayling Canyon Road). There was no public comment. Action was tentatively continued until August 21, 2003. **No action taken.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County (Grayling Road to Grayling Creek Road). Public comment: Gibson Bailey and Mary Phillips. Action was tentatively continued until August 21, 2003. **No action taken.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County (Un-named road off of Highway 287 to Whitman Road). There was no public comment. Action was tentatively continued until August 21, 2003. **No action taken.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County (Un-named road off of Gallatin Road to Einos Loop). Public comment: Gibson Bailey questioned if it was appropriate to number apartments. Action was tentatively continued until August 21, 2003. **No action taken.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County (Isolation Way to Prairie Meadows Way). Mr. Armstrong urged the Commission to vote on this name change as this road name was previously changed and this change was a name the residents preferred. Public comment: Gibson Bailey proposed changing the name to Watkins Creek Meadows Road which he believed was more appropriate. John Mullenet preferred Prairie Meadows Way because he built the road and maintained it. Commissioner Murdock encouraged the residents to come to an agreement before taking action. Action was tentatively continued until August 21, 2003. **No action taken.**

Gallatin County Grants Administrator Larry Watson reported on the public hearing and consideration of approval of a grant application to Montana Board of Crime Control for FY 04 Juvenile Accountability Incentive Block Grant (JAIB). Gallatin County is scheduled to receive a total allocation in the amount of \$43,996.18 for use within the 18th Judicial District. There are 2 proposals for the use of the funding. First is a request from the Youth Justice Council in West Yellowstone for a portion of the funding for support of the video conferencing process between Bozeman and West Yellowstone. Staff recommends consideration of the remainder of the funds to be used for support of the Secured Attention budget, which is used in both the Billings facility and the facility in Galen. Esther Berg, on behalf of Youth Justice Council provided a statistics handout for the Commission, labeled Exhibit "A". Ms. Berg outlined the funding request and services provided by the program. Public comment: Caroline Coleman. West Yellowstone Youth Justice Council is requesting \$36,195, leaving a balance of \$7,801.18. This requires a 10 percent match on behalf of the county of \$780.18, giving a total budget of \$8,581.30, used to offset the counties cost of Secured Attention. Further discussion took place with regards to future funding. Gallatin County Fiscal Officer Ed Blackman commented on the funding match, adding that the match for this comes from the local area. **Commissioner Murdock moved to allocate \$36,195 to the Youth Community Justice Council request. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Fiscal Officer Ed Blackman reported on the public hearing on Gallatin County FY 2004 preliminary budget-individual presentations by elected officials and departments requesting changes: GIS Department \$3,695.00; Sheriff (new positions and computer software); Belgrade Fire 204,000.00; and other departments. The current preliminary budget is balanced and shows \$112,000 in new taxes. The county has received the taxable valuations. County taxes as a whole went up 8.3 percent and the rural levy went up 9.96 percent. That equaled approximately \$690,000 worth of new dollars coming into the county if the use the mill levies set originally. Approximately 92 percent would be earmarked to CIP projects, leaving approximately \$76,200 in new funds available to be used throughout the county. The total amount available is \$1,142,384, of which \$671,600 is earmarked for the CIP program, leaving a balance available to the Commission in the amount of \$470,784. On behalf of Clerk of Court Lorraine VanAusdol he requested that the Commission consider re-appropriating the \$2,600 that she put into the wrong account for equipment. He will be recommending approval. Oh behalf of Gallatin County Rest Home Administrator Connie Wagner he requested that the \$60,000 increase in health insurance premiums be funded by either increasing the mill levy to pay for Gallatin Rest Home's increased health insurance premiums; or to use part of the current mill levy to assist with the increase. GIS Director Allan Armstrong stated the increase in their GIS operating budget was a result of funds coming from the Big Sky Resort Tax District for completing the Big Sky Zoning map. Sheriff Jim Cashell asked the Commission to reconsider reinstating 1.5 deputies, which had been applied for under the COPS Program; reconsider the school resource officer and look at the possibility of funding it in total in the event the grant application is not approved; reinstate 1 vehicle purchase and equipment package; and money for Detention Center software. Mr. Blackman noted that the Belgrade Fire District request was removed from the agenda. Communication Services Director Ben Hess commented on issues that affected the 911 budget since the process was completed. He noted that the Gallatin County

communications center was chosen as the model community for the state regarding E911 wireless issues, which requires changing equipment in the center. The equipment will cost \$150,000, of which a grant provided \$50,000 leaving a balance of \$100,000. If it cannot be split between the county and the city they will not accept the \$50,000. He also noted a need for capital monies in reserve that he was under the assumption he had in FY 2003, for equipment for the new high flats building. Commissioner Murdock suggested that Mr. Hess pose the question to the city at the next A Board meeting to see if they would be willing to fund their 45 percent for both issues, adding that he would only provide funding on the condition that they fund their portion. Gallatin County Administrator Larry Watson asked for an increase in his departmental budget to receive funds for repairs on the bicycle pedestrian path in Big Sky. The Commission will consider requests on August 6 and 8, and approve the budget on August 12 or 19, 2003. **No action taken.**

There was no public comment. There were no pending resolutions. There being no further business the meeting was adjourned at 1:15 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 12TH DAY OF AUGUST 2003

The meeting was called to order by Acting Chairman Jennifer Smith Mitchell 9:07 A.M., at the Courthouse Community Room. Also present were County Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller.

Acting Chairman Mitchell 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:

AUGUST 4, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were 9-1-1 Director Ben Hess, Grants Administrator Larry Watson, Commissioners Murdock, Vincent, and Mitchell, Clerk and Recorder Shelley Vance, GIS Technician Bill Ware, and Commission Assistant Christina Thompson. Ben Hess discussed his proposed preliminary budget change request for 9-1-1. Mr. Hess proposed a county match in the amount of \$55,000 for the Public Safety Foundation of America Grant. This grant will enable 9-1-1 to have the capability to track your cell phone in a 5-30 meter range. Larry Watson stated that the county has the Notice of Award and it needs to be approved by the Commission. Mr. Hess stated that he would write a letter to the City Manager Clark Johnson requesting a match in the amount of \$45,000 prior to contract approval.

Mr. Hess requested a change in his capital reserve for FY04 in the amount of \$40,000 to cover capital reserve funds used in FY03 to purchase a new generator for High Flat Tower. The Commission will consider Mr. Hess's budget request during final budget hearings.

The Commission discussed Gallatin Airport Authority's request to donate a home and 5 acres on Baseline Road to Gallatin County. Ed Blackman stated that he would mention the home to the CIP committee for recommendations. Commissioner Mitchell suggested using the home for the Sheriffs evidence files.

The Commission discussed JAIBG Funds for the Youth Probation office in which \$36,195 was allocated to the Helping Hands Program in West Yellowstone for continuation of the video conferencing system and Youth Court. The remaining \$7,800 or so was held to help offset the County's cost for secure detention for juveniles for FY04.

Commissioner Murdock made a motion to approve cancellation of Liability Insurance Bonds from St. Paul Insurance. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commission considered approval of a contract with William R. Lane Construction, Inc. for CTEP Funded Sidewalk/Curb/Gutter Project in Manhattan. This is within CTEP's budget. Commissioner Murdock made a motion to approve said contract. Commissioner Vincent seconded the motion. Commissioner Vincent and Murdock voted aye. Commissioner Mitchell voted nay. Motion carried with a vote of two to one.

The Commission reviewed the proposed precinct boundaries based on the legislative district changes as presented by Clerk and Recorder Shelley Vance.

The Commission discussed a letter from Steven O'Dwyer requesting a speed limit reduction of 30 miles per hour for Cameron Bridge road east. The Commission stated that the ordinance shall be

written as recommended by the Road and Bridge Superintendent, and may be altered if enough public comment at the Public Meeting renders it so.

The Commissioners considered a request for records destruction from the Clerk and Recorder's Office. Commissioner Mitchell made a motion to approve said request, finding that it adheres to state statute. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered eight asset disposal requests from the Clerk and Recorder's Office for outdated equipment and computers. Commissioner Murdock made a motion to approve said requests. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered a budget amendment request from the GIS Department. Commissioner Murdock made a motion to approve said request. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

AUGUST 5, 2003

- The Commission conducted regular County business.

AUGUST 6, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent, Murdock and Mitchell, HR Director Randy Kuyath, Finance Officer Ed Blackman, Road and Bridge Superintendent Lee Provance, Grants Administrator Larry Watson, Attorney Holly Brown, and Commission Assistants Christina Thompson and Glenda Howze. The Commissioners considered awarding of the bid for chipsealing for 2003. Mr. Provance recommended that the Commission award the bid to JTL in the amount of \$273,542.60 for 20.45 miles, of 40 lay miles of road – including Cottonwood Road. Commissioner Mitchell made a motion to award said bid to JTL, Inc., pending approval by Finance Officer Ed Blackman. Commissioner Vincent seconded the motion. All voted aye. Motion carried two to zero. Commissioner Murdock joined the meeting at this point.

The Commissioners considered approval of the Antler Ridge mitigation plan as proposed by Attorney Holly Brown. The Commissioners expressed desire for the plan to require replacement of trees up to five years rather than three. Ms. Brown stated that she would try, but didn't think it would be agreed to. Commissioner Mitchell made a motion to approve said mitigation plan, based on the recommendation of Commission legal representative Holly Brown, subject to changing the language from three to five years. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

Commissioner Murdock made a motion to approve a Phase III, IV change order regarding Community Room Furniture. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of the RFP recommendations from the programming Master Plan committee for the Law & Justice Center needs assessment and countywide assessment. The RFP excludes the Rest Home, Road and Bridge and Fairgrounds. This is a non-criminal justice RFP for master planning of space needs. Commissioner Mitchell stated that the County does not need to go there, the County needs to get data for the criminal justice aspect first. Commissioner Murdock made a motion to approve the non-criminal justice RFP as presented and recommended. Commissioner Vincent seconded the motion. Commissioners Vincent and Murdock voted aye. Commissioner Mitchell voted nay. Motion carried with a vote of two to one.

AUGUST 7-8, 2003

- The Commission conducted regular County business.

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- Landfill Revenue for July 2003: \$51,355.00
- Payroll for July 2003: \$1,310,048.64
- Clerk & Recorder's Fees Collected for July 2003: \$118,983.58
- A-101's for July 2003: \$515.08

- New Hire Report for July 2003: Tammy Anderson, Diana Barton, Mishawn Beard, Arletta Derleth, John Hartman, Valerie Hellickson, Trent Humphrey, Randall Hutchinson, Luigi Mostefa, James Oberhofer, Michael Sloan, Mark Williams, Kimberly Wilson

Terminated Employees' Report for July 2003: Wendy Emory, Kristin Hutfilz, Renee Rosen, Jennifer Welton, Kimberly Wilson

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated August 7, 2003, in the amount of \$811,717.05.
2. Approval of Applications for Cancellation of Taxes for Parcel Number(s): PPP5912, PPP5914, PPP5843, PPP6472, PPP6471, and RGG 40971: totaling \$8,132.88.
3. Request for Common Boundary Relocation Exemption for Joel Guttman, described as Tract E-1B, COS 1321-D, Tract 1A, and Tract 2A, COS 2245, located in the SW ¼ and SE ¼ of Section 2, T3S, R4E. (adjacent to US Highway 191). Gallatin County Planner Victoria Drummond reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Aggregation of Lots Outside a Platted Subdivision for Michael and Marcia Clark on behalf of the Clark Family Trust, described as Tracts 14 and 15 of COS 1970B, located in Section 25, T7S, R3E. Gallatin County Planner Karin Caroline reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Common Boundary Relocation Exemption for Gallatin River Hideaway, described as two tracts of land being Tract A of COS 2210A and Tract B of COS 2266, located in the SW ¼ of Section 11, and the NW ¼ of Section 14, T2S, R4E. Gallatin County Planner Karin Caroline reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
6. Approval of Contract(s): Justice Systems, Inc (JSI) Full Court Software of Pre-Trial Officer; Montana Golf Enterprises, LLC for Improvements to Cottontail Road; APS Health Care (EAP) Contract w/Human Resources; Modification of Solid Waste Disposal Agreement-BFI; Second Modification of Transfer Station Agreement-BFI; and Liebert Criminal Justice Space Assessment Contract.

Commissioner Murdock read the consent agenda. Attorney Richard Andriolo, on behalf Linda and Doug Johnson requested an indefinite continuance or denial of consent agenda Item #3, due to a title dispute with the property involved in the boundary relocation. Consent agenda Item #3 was placed on the regular agenda as Item #2, for further discussion. Commissioner Mitchell noted a request by Gallatin County Clerk and Recorder Shelley Vance to move regular agenda Item #7, public hearing and consideration of proposed precinct boundary changes conforming to Legislative District Boundaries to the beginning of the agenda, as Item #1. Commissioner Mitchell requested that the Liebert Criminal Justice Space Assessment Contract be placed on the regular agenda as Item #3, for further discussion. Also the contract for Montana Golf Enterprises, LLC for Improvements to Cottontail Road was placed on the regular agenda as Item #4, for further discussion. **Commissioner Murdock moved to approve the consent agenda, as amended. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing and consideration of proposed precinct boundary changes conforming to Legislative District Boundaries. On July 2, 2003, District Judge Dorothy Mc Carter ruled that the legislative plan 300 be filed with the Secretary of States office. This allowed the Commission 45 days to come up with proposed boundaries matching the legislative boundaries. A letter from the Secretary of State strongly recommended that the county governing body change the boundaries no later than August 15, 2003. Currently the written legal descriptions are not complete however they will be by August 15, 2003. Ms. Vance requested that the Commission take public comment today with regards to the proposed boundaries and consider a resolution on August 15, 2003, at 10:00 am. Further discussion took place regarding whether or not they could take action today pending the written legal descriptions according to the map. These proposed changes will cause some registered voters to vote at different precincts. Each registered voter in Gallatin County will be notified of these changes after the November election and will take effect January 1, 2004. There was no public comment. Ms. Vance explained that the Commission has no authority to change the legislative boundaries however they have authority to set the boundaries of the precincts. She noted that keeping the precinct boundaries concurrent with the legislative boundaries would keep down costs. Commissioner Murdock was satisfied and fully

supported the proposed precinct boundaries. He suggested taking action today, pending the legal descriptions using the map as an exhibit. Discussion took place with regards to notice the statutory scheme regarding adoption of legislative districts. After discussion Gallatin County Attorney Marty Lambert determined that the Commission could pass a motion directing the Clerk and Recorder to complete the legal descriptions and prepare the resolution for consideration on Friday. Public comment was closed. **Commissioner Vincent moved that the appropriate resolution be drafted to confirm the work of the Clerk and Recorder's office in establishing new voter precincts in all of Gallatin County, and that the issue be continued until Friday at a time to be set consistent with open meetings and laws for final approval. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Planner Victoria Drummond reported on a request for a common boundary relocation exemption for Joel Guttman. Ms. Drummond submitted a letter from Attorney Richard Andriolo, labeled Exhibit "A", protesting and objecting to the Guttman proposed boundary relocation. She provided a brief history of the proposed boundary relocation request. Mr. Andriolo, on behalf of Doug and Linda Johnson stated that the protest and objection was based on the fact that the Johnson's own a portion of the land contained within the proposed relocation. He summarized his letter explaining the details of the investigation and review of the recorded deeds and plats. It appeared that the problem arises from the fact that one of the surveys included property that was not owned by Mr. Guttman's predecessor in interest. Mr. Andriolo reiterated his request for an indefinite continuance or denial of the application subject to it being renewed when the title dispute is resolved. Gallatin County Attorney Marty Lambert pointed out that Mr. Guttman had the right to have a decision made, even though there were no specific statutory time requirements for the Commission to determine a relocation of a boundary exemption claim. Unless Mr. Guttman agreed, Mr. Lambert did not believe an indefinite postponement was appropriate. He recommended a continuance for 30 days to resolve the issues otherwise noted Mr. Guttman was entitled to proceed. Mark Chandler, C & H Engineering and Surveying, on behalf of Mr. Guttman was agreeable to a 30-day extension. The 30-day continuance was agreeable by all those involved. **No action taken.**

Gallatin County Attorney Marty Lambert explained in detail that the necessity of the Liebert Criminal Justice Space Assessment contract was due to the close proximity of a lawsuit against the county by the ACLU with regard to the jail. In order to protect the county's interest in this litigation, he added that this contract was absolutely essential. The contract terminates October 31, 2003. Commissioner Mitchell was opposed due to the fact all prior reports regarding the jail and criminal justice system have give an order and process in which to fix, refine and improve the present detention, judicial, and prosecuting systems. She was concerned that this was out of order and inappropriate as well as concerned that the county was being demanded by Mr. Bennett to hire this person without any of the processes used to hire Mr. Bennett himself. She stated that this was against every grain of accountability therefore she was not in favor. Commissioner Murdock stated this was strictly regarding the square footage that the present jail can handle and how it could best be operated. He added that the ACLU threat was very real and believed they needed to show a good faith effort of progress. Commissioner Vincent noted the reason for contacting Mr. Liebert was that he had worked hand in hand with Mr. Bennett in like situations and they have a good working relationship. **Commissioner Murdock moved to approve the Liebert Criminal Justice contract. Seconded by Commissioner Vincent, adding it was clear that the county is in a substantially improved legal position given the pending ACLU lawsuit with the approval of this contract. Commissioners Murdock and Vincent voting aye. Commissioner Mitchell voting nay. Motion carried.**

Jim Anderson read a statement by himself and Ellen Anderson, as neighboring landowners regarding their concerns with Montana Golf Enterprises, LLC for improvements to Cottontail Road. It was their request to see safe speed limits and a bicycle path. Gallatin County Road and Bridge Superintendent Lee Provance stated that the contract was between Montana Ranch and Gallatin County to pave approximately 1.5 miles of road to county standards at no cost to the taxpayers. He confirmed there was no bike path. Mr. Provance believed it was beneficial to the community. Because this was part of the Day Ranch, Commissioner Mitchell questioned if approving this would require approval of any future subdivision requests. Mr. Provance stated that according to Deputy County Attorney Kate Dinwiddie it would not affect any other requirements. Mr. Provance confirmed that in his conversations with the developers, attorneys and engineers it had no bearing on any past, present or future development or subdivision in the area. James Nicholson, Morrison-Maierle on behalf of the applicant's explained their current proposal, noting the county will maintain the road. Chris Gilfeld on behalf of the developers confirmed that all the residents on the road

were in agreement. Further discussion took place with regards to an ad in the classified section of the Bozeman Daily Chronicle regarding a Montana Ranch Absolute auction. **Commissioner Murdock moved to approve the contract with Montana Golf Enterprises, LLC for improvements to Cottontail Road. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Planning Director Jennifer Madgic reported on the public hearing and consideration of a request for Larry Schroeder for partial or full waiver of Road and Fire Impact Fees for the Amended River Rock Subdivision, Block 6, Lots 2-9, which was approved by the County Commission on July 15, 2003. Ms. Madgic briefly summarized the proposal explaining that the applicant requested to further subdivide 8 lots to 32 lots, resulting in ability to transfer fee title with each unit (townhouse). Impact fees were paid with the initial subdivision of land for the original 8 lots. According to the policy the fees are paid on a per lot basis and there is no formula to determine how many impacts a lot may have. The Planning Department does not support the waiver or partial waiver of road and fire impact fees. Both the Belgrade Rural Fire District and the County Road Department agree that the fire and road impact fee requirements should not be waived on the 24 lots. Ms. Madgic submitted a list of impact fees paid to date by River Rock, labeled Exhibit "A". Attorney Joby Sabol, on behalf of the applicant's Larry and Jerry Schroeder gave the applicant's perspective on the fee reduction as well as an overview of the request for preliminary plat approval for the Amended River Rock Major Subdivision. He explained that the most efficient way to put affordable housing on the market relative to duplexes, town homes, and condominiums is to allow a fee title to pass with each section of a town house as opposed to a condominium being created on a lot with the ownership being entangled with the adjacent unit. It was determined that lenders are much more amenable to financing town homes with fee ownership than condominiums or multifamily units and is therefore much easier for first time buyers to qualify for and obtain financing for a town home than for a condominium, again because of the fee title situation and the bank's increased level of security and comfort that fee title affords. He stated if the buildings were condominiumized there would be no additional impact fees paid, as well as noting the impacts are going to be the same whether the units are town homes or condominiums. The applicant requested that the 8 buildings with 4 units each be allowed to be created without payment of additional impact fees or a reduced impact fee so that entry-level buyers can get into the units at a reduced rate. Mr. Sabol proposed as a compromise on behalf of the applicant to pay an impact fee on 8 additional lots as well as the 8 original lots so the county would receive impact fees on 16 lots. He believed this would send a clear message that the county is behind them in trying to do something about affordable housing in working with the applicant and developer. It was determined that without a reduction the road and fire impact fees to be paid would total \$55,344 on 24 lots. Gallatin County Attorney Marty Lambert questioned Mr. Sabol regarding the amendment to preliminary plat and the applicant's intent provisions. Public comment: Realtor Carol Lister; Sonja Berg; Frank Culver; Belgrade Assistant Rural Fire Chief Bryan Connelley; Frank Silva; and Attorney Susan Swimley. Commissioner Murdock agreed with some of Mr. Sabol's attempts however he was not persuaded, as there was no guarantee the price reduction would be passed along to the buyer. While affordable housing is a very real issue he did not want to address it this way by passing on the costs of county road improvements to the rest of the taxpayers. The impact fees were meant to more equitably distribute those costs to the developers and buyers. He believed it set a bad precedent and that the impacts fees were not collected equitably enough because of the lack of a building permit program. He added that it did not meet the intent and he would not support the waiver. Commissioner Vincent agreed that denial of this application would be legally consistent with the current policy and he saw no real difference in impact given the change in configuration. He was also unconvinced that all the saving would be passed on to the buyers. Commissioner Mitchell concurred. **Commissioner Murdock moved to deny the request for partial or full waiver of road and fire impact fees for the amended River Rock Subdivision, Block 6 Lots 2 - 9. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Planner Victoria Drummond reported on the continuation of the public hearing and consideration of a request for preliminary plat approval for Hawthorn Ridge Minor Subdivision. Ms. Drummond stated that the subdividers were no longer in agreement with the conditions and wished to request a variance therefore; she requested that consideration of this preliminary plat be re-scheduled to August 26, 2003. **No action taken.**

Gallatin County Planning Director Jennifer Madgic reported on the public hearing and consideration of a request for an Independent Fee Calculation Study for Road Impact Fees for Elk Grove PUD, Phase II. The proposed Elk Grove Planned Unit Development received preliminary plat approval on June 27, 2000, for

development of 299 residential lots and 12 commercial lots on approximately 300 acres to be constructed in four phases. Phase 1 of the Planned Unit Development received final plat approval on June 19, 2001. The applicant is now requesting final plat on Phase 2 and has requested acceptance of an independent fee calculation study submitted for road impact fees on Phase 2. Ms. Madgic provided the Commission with totals from the study: 92.1% Elk Grove traffic using Violet Road-\$177.60; and 7.9% Elk Grove traffic using Blackwood Road-\$3,547.62 = \$3,725.22. Standard Impact Fee: 86 lots @ \$1,596.00 = \$138,852.00. She also provided a letter from George Durkin, on behalf of Gallatin County Road and Bridge. Attorney Susan Swimley explained that Appendix E Section 5.1 of the Subdivision Regulations allows the applicant a choice in determining the amount of such fee. Applicants can either: (1) accept the County's fixed per-lot fee of \$1,596 or: (2) prepare and submit an independent fee calculation study. Ms. Swimley explained how and when the study was conducted, noting if the Commission had questions they could request additional information to be submitted. Public comment: Frank Silva, submitting a letter from the Gallatin County Road and Bridge Department to Fluidyne, dated February 12, 2003 labeled Exhibit "A" and a diagram of the occupied lots of Phase I, labeled Exhibit "B". Frank Culver submitted a copy of his testimony, labeled Exhibit "C". Both spoke in support of the Gallatin County Road and Bridge letter, dated August 7, 2003. Ms. Swimley reiterated the methodology used for the independent traffic study. Commissioner Murdock was prepared to move to deny the request for the waiver because he did not believe it adequately addressed Section 5.3.1 of the impact fee calculations based on the testimony received, both written and oral from Frank Silva and Frank Culver, specifically the percentage of build out of Elk Grove, other approaches in the future, approaches to Blackwood Road in Phase 2, and the Elk Grove traffic that drives on other county roads. He also was not in support based on the fact that Blackwood Road will be paved at some point in the future, which he believed would alter the trip generation. Adding there will be a traffic light on Cottonwood Road and Huffine Lane, which could also influence that in the future. He believed that illegal turns on Blackwood Road would most likely occur and he questioned the difference between the County Road Department traffic counts and Marvin's traffic counts. He said other county roads would be impacted. He commented that George Durkin's letter, on behalf of the Road and Bridge Department stated that he did not think because Elk Grove is not at full build out that they can accurately assess this and that questions still remain concerning return trips and that the accumulative affects would have a damaging impact on the road network. Commissioner Murdock moved to deny the waiver request submitted today for the Commission's consideration. Ms. Madgic pointed out that Commissioner Murdock was calling this a waiver and it was to accept, reject or accept with modifications the applicants' independent fee calculation. Commissioner Murdock withdrew the motion. **Commissioner Murdock moved to reject the Independent Fee Calculation Study for road impact fees for Elk Grove PUD Phase 2. Seconded by Commissioner Vincent, in support of the motion and requesting that George Durkin's letter be entered into the record, labeled Exhibit "D". Commissioner Mitchell concurred with the comments of both Commissioners Murdock and Vincent. None voting nay. Motion carried.**

Gallatin County GIS Coordinator Allen Armstrong reported on the continuation of a public hearing and consideration of a resolution for a road name change in Gallatin County. (An un-named road off of Stucky Road to Briggs Drive). Mr. Armstrong explained that this was continued from three weeks ago due to opposition of the proposed road name. The residents were unable to come to a consensus therefore the GIS Department chose Briggs Drive. There was no public comment. **Commissioner Vincent moved to adopt Resolution #2003-089. Seconded by Commissioner Mitchell. Commissioners Vincent and Mitchell voting aye. Commissioner Murdock voting nay. Motion carried.**

Gallatin County GIS Coordinator Allen Armstrong reported on the continuation of a public hearing and consideration of a resolution for a road name change in Gallatin County. (An un-named road off of Crystal Mountain Road to Crystal Lane). Mr. Armstrong requested a three-week continuance due to some residents suggesting the proposed name of Missouri Overlook Road. **No action taken.**

Gallatin County GIS Coordinator Allen Armstrong reported on the continuation of a public hearing and consideration of a resolution for a road name change in Gallatin County. (An un-named road off of Tamarack Drive to Limber Pine Place). There was no public comment. **Commissioner Murdock moved to approve Resolution #2003-090. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Public comment. Greg Rath, Mike Gaffke, Lorna Smart, Frank Culver, and Blair Howze spoke regarding the Commission's decision to sell off the 10-acre property that is currently occupied by the Road and Bridge Department. They urged the Commission to reconsider their decision noting a crucial need for the property. A letter was received from Bob Brekke in support of reconsidering the sale of the road department property. **No action taken.**

Consideration of a pending resolution relating to \$160,000 Rural Improvement District #384 bonds, fixing the form and details and providing for the execution and delivery thereof and security therefore and providing for and establishing a maintenance fund for the district. **Commissioner Vincent moved adoption of Resolution #RID-03-384-F. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

There being no further business the meeting was adjourned at 12:05 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

AUGUST 11-12, 2003

- The Commission conducted regular County business.

AUGUST 13, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent and Murdock, Grants Administrator Larry Watson, HR Director Randy Kuyath, and Commission Assistants Christina Thompson and Glenda Howze. The Commissioners considered appointment of Chair for the Parks and Trails Task Force. Commissioner Murdock made a motion to appoint Ron Dingman as Chair of the Parks and Trails Task Force. Commissioner Vincent seconded the motion. All voted aye. Motion carried two to zero.

The Commissioners considered approval of a grant application to the Montana Board of Crime Control for an LLEB Grant for the Sheriff's Department. The grant will be in the amount of \$8,400.00, with a match of \$840.00. Commissioner Murdock made a motion to approve said application to the MBOCC for an LLEB Grant. Commissioner Vincent seconded the motion. All voted aye. Motion carried two to zero.

The Commissioners considered approval of a request from the Road Department for Asset Disposal. Commissioner Murdock made a motion to approve said request. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

AUGUST 14, 2003

- The Commissioners attended a special meeting for the purpose of discussing Amsterdam Road matters. In attendance were Commissioners Vincent and Murdock, County Attorney Marty Lambert, Road and Bridge Superintendent Lee Provance, Engineer Rick Kerin, PC Development Executives Tom Clinton and Jason Leep, and Guest Sonja Berg. Mr. Lambert presented a letter of response written to Sandra Staehl and Dan Martin of MDOT regarding the Amsterdam improvements. Commissioner Murdock made a motion to sign the letter and send to the parties mentioned. Commissioner Vincent seconded the motion. All voted aye. Motion carried two to zero. Commissioner Murdock made a motion to direct staff and engineers to proceed with the Amsterdam improvements ASAP. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

AUGUST 15, 2003

- The Commissioners attended a special meeting for the purpose of approving a resolution conforming precinct boundaries to legislative district boundaries following the adoption of the 2003 District and Apportionment Plan under the Article V Section 14 of the 1972 Montana Constitution. In attendance were Commissioners Vincent, Murdock and Mitchell, and Commission Assistant Glenda Howze. Commissioner Mitchell made a motion to approve Resolution 2003-091, conforming precinct boundaries to legislative district boundaries following the adoption of the 2003 District and

Apportionment Plan under the Article V Section 14 of the 1972 Montana Constitution. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.