

COMMISSIONERS APPROVAL

CHILCOTT

LUND

THOMPSON

TAYLOR (Clerk & Recorder)

Date.....December 14, 2006

Members Present.....Commissioner Greg Chilcott, Commissioner Betty Lund and Commissioner Alan Thompson

Minutes: Glenda Wiles and Sally Fortino

The Board of County Commissioners met for final approval of the Hidden View Estates. Commissioner Chilcott read the conditions to be met, including a statement from the Fire District. Present were Planning Director Karen Hughes and Projects Planner Jennifer DeGroot. Karen said the letter would suffice as to the requirement from the Fire District. Jennifer stated she talked to Hamilton Rural Fire Chief Ron Ely, ‘who found all in good order, generally’. Karen said it will be noted in the file that Ron was consulted.

Commissioner Thompson made a motion to approve the final plat for Hidden View Estates. Commissioner Lund seconded the motion and all voted ‘aye’.

In other business, the Board of County Commissioners met for the first reading of the Animal Protection and Control Ordinance. Peg Platt and other members of the Animal Protection and Control Board were present, as well as many interested members of the public. Sheriff Chris Hoffman, Under Sheriff Kevin McConnell, and Marty Birkeneder of the Sheriff’s Office Staff were also present. Commissioner Chilcott called the meeting to order reading the legal notice.

Peg Platt gave a brief synopsis of the history of this proposed Ordinance and the need for an Animal Control Officer. The purpose of the ordinance is to generate license fees in order to pay the Animal Control Officer.

Public comment was called for.

Charlotte Sine of Victor has lived there for 34 years. Dogs are numerous in the Victor area and charge the bicyclists and walkers. She felt owning a dog is a privilege and the residents do have a right to walk the streets without being harassed. Charlotte stated this ordinance was a long time coming.

Jessie Applebury asked what happens to the animals that are picked up. Commissioner Lund stated the County will work out an agreement to house the animals at the shelter. The County has a grant writer who is working on this issue for space.

Clark Williams of Stevensville asked about controlling cats. Peg stated Montana law does not allow any authority over cats. Clark asked about the wilderness and forest service areas and who handles the dogs in those areas. He asked if the Sheriff's Office is in charge of this ordinance and questioned if the ordinance would put a huge burden on the Sheriff and Humane Society. In regard to the fee schedule, he felt the fees for neutered and spayed animals should be dropped to \$5.00 and for those not neutered; the fee could be \$50.00. He asked what Class 1 and Class 2 licensing means in regard to costs. Peg stated it is in lieu of and it is not an addition. Peg noted the \$10.00 fee on the neutered classification is one of the lowest in the nation. Clark also stated the ordinance will be unenforceable when passed, as the infrastructure is not in place. Peg agreed the enforcement is predicated on the funds available. Clark suggested the County have impact fees. He asked about the adoption of animals, suggesting none be adopted if they are not spayed or neutered. It was noted State law reads that a dog has to be spayed or neutered after six months old. Clark stated he supports the local and state laws in regards to destroying dogs that harass livestock, etc. However, he feels the County should allow recourse to the owner of a dog if it was shot without cause. Sheriff Hoffman stated if the dog is shot illegally the owner and the dog have recourse under the state law. Clark noted this ordinance will cost the County money and the Commissioners should develop an impact fee on the new growth that is occurring. He stated he is supportive of this ordinance.

Marty Birkeneder addressed page 4, (1.1) stating a portion of the paragraph should be stricken, as it is redundant. She stated to obtain funding the ordinance must be in place.

Under Sheriff McConnell stated he had some concerns over the enforcement issues as they expect to have some phone calls from concerned citizens. The plan clearly indicates a process allowing the Deputies or 'persons of authority' to be the enforcer. He stated they need to review the barking dog issue; as the way this ordinance is written allows a first notification to the owner rather than a progressive notification to the owner under a public nuisance, which is a State statute. Peg stated they have the language for mediation with the owner of the dog. Under Sheriff McConnell stated the Deputies will work under the law for enforcement purposes, while the Animal Control Officer has the time for mediation. He stated he wanted to make it clear that the Sheriff will be the supporting agency for the Animal Control Officer. He also stated if a dog is on Federal lands, they will work with that jurisdiction, but the Federal laws take precedence.

Kevin asked why the ordinance duplicates State law. Peg stated this does not over-ride any State law; it simply reads State law; putting it in one place for the Animal Control Officer. Barking dogs are addressed under 2.4 (definitions). Commissioner Chilcott indicated State law does not provide a definition of a barking dog. Kevin stated he wants to make sure they are not exceeding State law with the mediation issue. He is concerned

about tacking penalties onto a barking dog call. If they duplicate the Public Nuisance Law in the ordinance, they need to make sure it is correct.

Marty stated the court should have the jurisdiction to require mediation. Once the language and job description is cleaned up, then other jurisdictions should address ways in which they will follow the protocol for enforcement. She agreed citing State law rather than repeating it would be more beneficial.

Clark stated from what he has heard this date, he sees the need for an Animal Control Officer to be hired before this comes into effect. They need to have the protocol set up prior to the adoption. When he calls the Sheriff's Office he wants the best response and does not want them out chasing a dog. He felt when the ordinance is passed many people will start calling in regard to their dog problems.

Commissioner Chilcott stated they need to create the licensing to build revenue to support the infrastructure. Clark stated adopting the ordinance prematurely will spread the problem to the Sheriff's Office.

Linda stated the plan is to get a foundation for grants by passing the Ordinance. This is a progressive thing and the ordinance will create the foundation for the fees, etc.

Vicki stated there will be low compliance and they will need to have a marketing plan to educate the people.

Tam Richardson stated she would like to see more on the altered animals, as they do not stray or over populate. Peg stated Montana Law does not address the altered animals, but they could increase their fees for an unaltered fee.

Peg asked about removing Section 6.3 as it reads now, and simply state that it follows State law.

Charlotte stated the issue is the dogs that roam at large and this ordinance is a good place to start.

Commissioner Chilcott reviewed the Public Nuisance Statute for barking dogs. He felt Chapter 45, section 8 -111 added to 6.3 would address their concerns. Kevin stated he does not want to say that a barking dog is a public nuisance, as there are variables that need to be reviewed.

Peg asked if they can review Section 6.3 with Under Sheriff McConnell.

Tam asked about adopting animals and what is encompassed in communicable diseases. Peg stated this ordinance is for dogs and they can change the word from animal to canine. It was agreed to change the word dog to canine. Other State law addresses cruelty to animals, which would include cats and other animals.

Public comment was closed.

Commissioner Lund called attention to fees under Section 4.3, special permit license, and 4.3.2 on page 4. She suggested they use the word 'permanent' or 'special'. Peg suggested 'special permanent license'. She asked if they might use 'designate a facility' on page 5 (5.1.1 and 5.4.4) for Animal Protective Services Facility.

Commissioner Lund said throughout the document there are different fines for many things. Kevin stated he is not sure about the fee assessments, but the State law is clear and the judge has latitude; their opinions vary.

Commissioner Lund said record keeping, addressed in Section 9.2, should be done by licensed veterinarians, with each keeping his own registration in a Central Depository. Commissioner Chilcott said Section 5.3 declares a pet must be licensed for its' first confinement. He suggested they do away with the second column. He also suggested in regard to impact fees, they review SB 185 in regard to capital expenditures (which could build a shelter). He stated impact fees can not be for past growth, only for future growth. Commissioner Chilcott also asked about chasing animals on federal land. Under Sheriff McConnell stated they would discuss this with the Forest Service, but they have no intent to enforce this ordinance on their lands.

Vicki stated the Human Shelter has informal agreement on taking the dogs on an as needed basis from the Sheriff's Office. Commissioner Chilcott suggested if the county has an inter local agreement with the Humane Society; they might look at impact fees for expansion. Vicki stated that would be a good thing to look into.

Commissioner Lund asked if they had checked with the County Treasurer in regard to Section 4.1.1. Peg stated they discussed this with Administrative Director Skip Rosenthal and an account number was set up.

Commissioner Lund made a motion to continue this First Reading until 9:00 a.m. on Dec 20th. Commissioner Chilcott seconded the motion and all voted "aye". Commissioner Thompson was not present for this vote due to his need to travel to Missoula for a Human Resource meeting.

In other business the Board met to hear protests for the creation of a Ravalli County Water Quality District. Present at this meeting was Environmental Health Director Theresa Blazicevich and numerous citizens. Theresa gave some general background on how this Resolution of Intent to Create the District came about under 7-13-45 MCA. She also gave some background on the needs for a water quality district.

She relayed in 2004 a Citizen Survey revealed the citizens were concerned about water degradation. The Bureau of Mines and Gallatin County Officials came to Ravalli County giving us a synopsis of how these water districts work and how they benefit the residents. Theresa stated this Ravalli County Water Quality District proposal is patterned after

Gallatin County. Missoula, Lewis and Clark and Gallatin County also have these districts.

Commissioner Thompson stated bad information has floated around such as this district will allow the county to meter people's wells. He stated that is incorrect as this district is for water quality, not water quantity. Theresa agreed stating the typical household would be assessed \$9.00 (as they use less than 1,000 gallons per day). Utilizing 1,000 to 5,000 gallons of water daily would cost \$18.00 and anything over 5,000 gallons would cost \$27.00. Engineering documents show households use less than 1,000 gallons per day. Commercial businesses with a certain number of employees also generate a certain amount of waste water flow. She stated there is no intent to restrict the amount of water; this is solely for water quality.

Theresa relayed the Clerk and Recorder counted 2,153 protests, 10 of which were unsigned, leaving a total of 2,143. She stated they were 1,007 protests short of stopping the district and they did not confirm the signatures since they did not meet the required amount needed.

Theresa stated the district would collect necessary data on water quality throughout the county. That work would be paid for by the collection of the monies for each improved property. She stated the Resolution of Intent has a work plan included, and the projection of monies collected would be \$142,236.00. This would be utilized to fund a hydrologist, administrative support, office and operating expenses. Tasks will be to provide water shed protection plan, hazardous waste campaign, public outreach to keep pollutants from getting to your wells; put water data together and available to citizens, oversight group of other agencies for collaborate. She stated they will also seek other funding such as grants.

Commissioner Lund asked if the \$9.00 fee would ever increase. Theresa stated the fees are regulated by MCA 7-13-4523. This code section addresses rates increases and limitations up to 10% pre year unless notice given as provided according to other sections and protest is provided. A ballot measure could be done by referendum which could also address fees.

Commissioner Lund asked where the Board of Directors, hydrologist, and staff would be housed. Theresa stated they can be housed anywhere, including county offices. The 5-member Board with three year terms is appointed by the Commissioners. The Board will oversee the expenditures.

Public Comment was then called for.

Vivian Yang – President of the League of Women Voters stated she and her group supports this district. She stated this issue has been studied for several years but a collaborative effort needs to be done. She stated she has also worked with the water forum and it became evident the need for water quality in Ravalli County. She relayed Gallatin County has a successful water quality district and Ravalli County needs a trained

hydrologist. She stated Ravalli County is in what they call an 'enclosed watershed' and the greatest gift we could leave to our children is good clean water.

Rod Daniel stated as a private citizen he is concerned about water quality and this district gives the Commissioners better information on water quality so good decisions can be made.

Susan Smith asked why there is an urgency to pass this Resolution when many members of the public needed a better explanation. She stated many people did not know about this district until the post card came in the mail. And many people did not even see the post card. She also complained that they had to pick up a protest form when it should have been mailed to them. She commented when people heard about the protest by way of the notice in the paper, many people filed the protest. She asked how the district would work if the cities do not belong to the district. She stated this issue should be put on the April ballot.

Lou Bailing of Darby asked if the aquifer in the county had some problems. Theresa stated thus far the county has good water quality, but they are finding spots of arsenic, radon and turbidity. Lou suggested the people should decide by ballot, not three Commissioners. Lou stated people 'get upset with government because this thing was slipped in under the radar, and the Commissioners do this kind of thing to citizens all the time. When he lived in Illinois, a Congressman told him they do not obtain much public comment so they based their passage of legislation on the fact that for every one person who has a certain opinion; five other people will feel the same way. Lou advised the Commissioners if they received 2,000 protests for this water district, they should times it by five. He stated the issue needs to be put on the ballot as the Commissioners are 'doing things backward'. He stated if this is going to be the way the Commissioners do things in the future, then the citizens need to have five new Commissioners and they should vote the existing Commissioners out.

Jerry Amen stated he is a cattle rancher in Sula. He also owns a gravel and excavating business. Jerry stated clean water is important. As a livestock rancher he runs cattle on public lands. In doing so he works with fisheries, forest service and hydrologists. They work hard to keep water clean. DNRC, Environmental Health Office, and other governmental entities work hard for clean water already. Jerry felt this district is a reproduction of what is already in existence. He stated the people don't need more government, and the people don't need any more monies taken out of their pocket.

Jenny Forbes asked if their well water would be metered. Theresa stated this district will not meter wells. Jenny stated it was not fair that citizens in the incorporated areas reap the benefits of the district but do not have to pay. She stated that is a disparity to the county tax payer.

Peggy Minose of Grantsdale Road stated she has used the same well for many years. But about 10 years ago they found some problems with the water and now they use Culligan Water. She has paid for bottled water for ten years and it certainly cost more than \$9.00

per year. She stated there are a lot of people who will end up with polluted wells and they too will be buying bottled water.

Tex Irwin of West Fork is a property and business owner. He stated he came here from a place that had a water district. The district started small as it went from 3-5 people to 45 people. The district has not done anything. He stated there are already too many agencies that govern and keep their water clean. The Ravalli County Environmental Health Office already has a Health Officer who is responsible for this issue. He felt the district would be a duplication of responsibilities. He also indicated his suspicions that the cost of the district will not be held back and that every year the fees will go up. He agrees for the need to have clean water and one way is to monitor the pollution that comes from the road run off. He also stated the development of subdivisions needs to be reviewed because the high density development causes pollution and water quantity issues. He felt the subdivision approval process should include the environmental assessment of degradation of quality and quantity. He also felt the county residents should not take the full hit on paying for the district, as cities need to pay their fair share.

Senator Rick Laible of Darby felt there was not proper notice to the citizens. He stated the Commissioners need to show the 'need' or necessity for this district. Thus far, he has not heard anything to show there is a necessity. He asked what the current problem is. He asked if the information the district comes up with could be used to evaluate subdivision submittals. Theresa stated the water data can be used for any purpose. In Gallatin County, their district comments on the subdivisions with data they have collected. He does not support this because there was not sufficient public notification. He also felt this district is an unnecessary bureaucracy. Discharge permits, well permits are already required. He asked what services this district will provide to the citizens that are not already provided for. He felt this issue should have been placed on ballot, as we all have a voice.

Elgin Forbes is a retired electrician. He felt this just adds to the bureaucracy. He stated when the hydrologist finishes his data collection he will look for more things to regulate. Theresa stated the district has no regulatory authority. Elgin asked if each well has to be tested. Theresa stated no. He stated he only found out about this on Saturday. He took some petitions out on Saturday and no one new about this proposed district. He would like it placed on the ballot.

Wolfgang Coon of Sula is against the district. He stated he does not see any citizens supporting this and it 'gives me the red flag'. He asked who will write the rules and regulations. He also stated there was not enough time to obtain enough protests to stop the district. He also felt the post card did not give enough detail as to what kind of authority the district has. He does not want to pay any more taxes and he can't do anything in the river without a permit anyway.

Frankie Laible of West Fork Road brought up MCA 7-13-4501 which addresses the purpose of the district in regard to pollution. She stated the county needs to have a problem before the district is created. She also noted the local subdivision regulations

allow the use of a hydrologist. She stated when she served on the Ravalli County Planning Board, if a proposal came up that had certain water issues, they would ask questions of a hydrologist. She questioned a 'well head' protection plan for all which is 35 gallons per minute. Theresa stated 'well head' protection looks at things that pollute wells and what we should be doing is looking ways to protect our wells. Frankie stated when they lived on Moose Hollow Road near Victor; their property had three wells and three septic systems. They were designated to be located at certain spots; so what else will contaminate the wells? She felt the district was a duplication of other agency efforts.

Theresa stated most houses do not come under the protection of DNRC for public wells. This district would help to protect those who do not have protection by DNRC. She also noted the district is not a regulatory district; rather it is for data collection and education. She also stated the local subdivision regulations do not require hydrologists, and DEQ determines how accurate information is that comes to the Commissioners for decisions on subdivisions.

Patti Eldredge, a local citizen and Ravalli County Board of Health member stated this district is important to the quality of our water. She has been very involved in the Bitterroot Water Forum and there are a lot of mis-conceptions about this district. She introduced a pamphlet that was produced by the Bitterroot Water Forum which was formed in early 90's by a group of citizens because of the growth in the valley. She stated most of the growth has an impact on the number and location of wells and septic systems, and when they come too close together, we have problems. She stated the Water Forum has two missions: one is public education for hydrology and how it works in the valley and one is to educate the people on how to take care of the water when the property you live on has a well and a septic.

She stated the Water Forum and others in the valley are simply volunteers and as such they can not pull all this important information together. She stated the Water Forum requested the district be formed and they worked with the League of Women Voters for that support. She stated they can not have public education without government support. Over the past ten years they have tried hard to make their educational venues work, but they need the support of the county government. She stated \$9.00 per year is not very much money to pay for clean water. Missoula has had a water quality district for 10 years and their fees just got raised to \$9.90. She asked how many people spend \$9.00 per year on something else and do not think anything about it.

Unknown citizen stated the voters just passed one house for every two acres, and now the Commissioners want to tax their water. He stated they had given land to their children and when they did they had to spend a lot of money for survey, wells, etc. He asked where this stopped, as government interferes too much as it is.

Dave Schultz of Rose Lane in Hamilton stated he is in favor of the district but would like to see it placed on the ballot. He agreed it is important to address the problem first, because once there is a pollution problem it is much more difficult to address.

Lee Foss stated the benefits of keeping the water clean is already occurring because the area already has stream bed protection action, water quality standards, water rights, and storm water permits. He stated there are already several agencies that have a permitting process. He stated in 2004 Gallatin County had a water quality district budget of \$96,000.00 and Missoula County has a \$459,000 budget. He asked if these fees will be on improved properties or on all properties. He noted Missoula County has 21 pages of regulations for their water quality district. He stated there are too many governmental agencies that exist to day, and the old saying goes that the 'puppy dog grows up to be a wolf'.

Wallace Oliff asked who is pushing to have a water quality district. The Commissioners stated they had developed the Resolution of Intent to Create the District.

Lou asked who would handle the hazardous waste. Theresa stated it would be similar to other counties. They bring in professionals from the private sector that collect the waste and send it off. She stated the collection of waste is strictly on a volunteer basis, but most communities find that each year more and more people bring in their waste products. She stated it is important because it is an easy way for people to get rid of their hazardous waste and keep it out of the ground water. Lou stated somehow he ends up paying for that service. Theresa responded the volunteers are not paid, but the actual disposal is. She also advised Lou that disposal keeps the groundwater safe and it is worth the cost.

Bud Taylor has good drinking water and he cautioned everyone to try drinking the water from the Missoula or Hamilton, because that water is bad. He stated right now the water is clean from the wells. He stated it is important to keep the well water clean.

Don Dobberstein a retired rancher asked about irrigation water. Theresa stated the district can not charge agriculture water and irrigation users. The statutes exclude any charges to these users.

Terry Daniel of West Fork asked about the \$9.00 fee. Theresa stated the fee is only charged to properties that are improved (well and septic). This includes businesses but excludes the incorporated area. There are 15,804 improved parcels of ground and that equals the number of cards that were mailed out. Terry stated some of those 15,804 did not get their cards, so it is important to put the information on the ballot.

Jake Kammerer asked if Mr. and Mrs. Spikes letter was given to the Commissioners. It was noted that Glenda had given it to them and they will read it and place it in the file. (See attached).

Henry Silberia spoke to the manner in which this district is being done. He stated it seems it is a difficult manner in which to protest. He asked for one more week in order to gather protest signatures. The Commissioners advised Henry they followed the Montana Statutes and several meetings had been held which were duly noticed to the citizens.

Public comment was now closed. Board deliberations took place.

Commissioner Thompson stated this whole thing is frustrating to him. He stated citizens 'people get on us all the time', telling the Commissioners we don't plan anything. So now the Commissioners take a proactive approach and are being told we should not have done that either. He further stated they are told they don't plan, so when they do and they try to preserve a precious entity 'called water' people get mad and tell us we are doing too much. He stated he did not think \$9.00 a year is too much for the property owner to pay in order to have good information about keeping our water clean. He stated if they had not been proactive, and the water ends up being polluted, then the people will be mad that the Commissioners did not do anything. He stated 'sometimes the Commissioners can't win for losing'. He reiterated that \$9.00 a year is nothing when it comes to protecting public health and safety. He suggested everyone go to Phoenix or even Glendive and they can not drink the water. He stated Supermarkets have whole aisles of water and people spend more than \$9.00 a year on bottled water. Commissioner Thompson also noted that in regard to the cities, the county has no jurisdiction over them. However, he reminded people they need to remember everyone gets the benefit of their roads being plowed and pot holes filled and they did it with their city tax dollars. He stated he understands what some people are saying about not being happy with the district and the last election did not make him happy, therefore he would not be opposed to putting this issue on the ballot. However, he stated he wanted to caution those people who went out for protest signatures that were spreading untruths about this district such as metering the wells. He also stated during their subdivision hearing the hydrologists who represents the developer will come in and say there is 'lots of water', then six months later another 'expert' will say there is none. He stated there is a conflict and in order for the Commissioners to make good decisions they need someone who does not have any special interest. He stated they already have some issues in the valley such as on Hamilton Heights there is arsenic that is natural occurring. There are also hot pockets of nitrates, particularly in Florence, which many experts say leads to dementia, birth defects etc. He stated they are trying to look ahead and plan. He stated he was frustrated on the last election because many people did not know what they were voting for. He stated he wants to see a water quality district and agrees to put the matter forth for a vote, but he wants to see the correct information going out to the people. He stated he does not appreciate someone who sabotages the issue at the last minute but putting a flyer out when there is not enough time to rebut the bad information.

Commissioner Lund concurred with this frustration as they are trying to do something good. Sula and Darby have good water and her goal is to have the water stay 'wonderful' in the valley. She stated this district will do something good and when the water quality goes down, it will be too late. She questioned the notion that this would create another bureaucracy. At the last election the voters voted for two more Commissioners and open space bonds, so it does not seem people are too worried about bureaucracy. She stated the question of the hour was what day will the water degrade and it will be too late to have clean water. She stated she has no problem putting this issue on the ballot but she is worried about people's last minute scare tactics such as the statement that this district will put meters on wells.

Commissioner Chilcott stated he understands the concern of more bureaucracy and taxes, but this district would not be permitting or regulating. It simply gathers information and educates the citizens on keeping our water clean. He stated they listen to experts that represent developers during the subdivision process and hear the emotional pleas of the citizens. He stated they already have some areas that have been named by the state as problem areas such as Hamilton Heights, Westside, parts of Stevensville and Florence. In 1997 a study was done for the main stem of the Bitterroot River and the tributaries. This study was never followed up on due to lack of funding. So far many areas have excellent water. Commissioner Chilcott stated the point is that the county does not have solid data on the water issues. What the county currently has is old data and somewhat spotty. This new data collection would be his hope to generate a base line of solid information. He stated they are not going to meter any one's well. Rather they are giving people the opportunity to learn how to help protect the water with good information.

Rick Laible stated the information given here today is what the voters need to hear. Vivian stated the citizens elected the Commissioners to make decisions. She stated this small group of citizens comes in and puts pressure on the Commissioners of their displeasure in hopes that the Commissioners will change their minds about the creation of the district. She stated there were not enough protests filed and the meetings have been noticed to the public, therefore it is the Commissioner's job to make the decision and do the right thing.

Commissioner Chilcott stated he will personally support the creation of a water district on a ballot measure, but he too has some concerns because he does not remember receiving his post card in the mail. Thus, if people were not well informed, the Commissioners need to give people the opportunity to decide whether they want a district or not. He also stated he expects people to be honorable and not circulate bad information that will 'kill the district'.

Commissioner Chilcott also noted there is a lack of information being reported by the Ravalli Republic. He stated the Commissioners need to proof read what the Republic prints. Commissioner Chilcott stated the Commissioners sometimes fail in letting the people know what they are doing.

Commissioner Thompson stated he will vote for the creation of a water district when it is put on the ballot.

Commissioner Thompson made a motion based on MCA 7-13-45 12 to adopt a resolution causing a referendum to be submitted to the registered voters who reside within a proposed local water district to authorize the creation of the district and establish fees. This referendum to be submitted to the registered voters at the next general election. Commissioner Lund seconded the motion and all voted "aye". See Resolution No. 2022.

The meeting was adjourned.

