

October 2, 2006 Regular Session of the County Commissioners

The Board of Commissioners, in and for Beaverhead County, Montana, met in session on October 2, 2006, at 9:15 a.m. Present: Chairman Garth Haugland, Commissioner Mike McGinley, Commissioner Tom Rice, Secretary Patti Odasz, and Ty Cobb.

Permission to leave the State and County was given to all elected officials.

The minutes of the September 14 and 18, 2006 meetings were read and the following motion was made:

MOTION: Commissioner McGinley moved and Commissioner Rice seconded that the minutes of the September 14 and 18, 2006 meetings be approved with corrections. The motion carried unanimously.

Road Manager Richard Miller and County Superintendent Dottie Donovan joined the meeting. Richard submitted the Scenic Byway Newsletters and the Road Reports for September 17-23 and September 24 – 30, 2006:

September 17-23, 2006

Dillon Area

- ❖ Carter Creek Road, Sweetwater Road, South Valley Road, Anderson Lane, Birch Creek Road, Trout Creek Road, East Bench Road were bladed.
- ❖ Gravel was hauled to South Valley Road.
- ❖ Gravel was screened at the Snowline Gravel Pit.
- ❖ The shoulders of Overland Road, Nissen Lane, Selway Drive, Airport Road, Blacktail Road, Ten Mile Road, and Kidd Road were mowed.
- ❖ Area roads were checked
- ❖ Equipment was moved.
- ❖ Equipment was serviced and repaired.

Lima Area

- ❖ Gravel was hauled to South Valley Road.
- ❖ North and South Valley Roads were bladed.
- ❖ Equipment was serviced and repaired.

Wisdom Area

- ❖ Sand was mixed for the Harrison sand shed.
- ❖ Area roads were checked
- ❖ A phone locate was done for a culvert removal in Jackson.
- ❖ Steel was placed over the 2nd bridge on Little Lake Creek Road.
- ❖ Little Lake Creek Road, Rock Creek Road, and the streets in Jackson were bladed.
- ❖ Equipment was serviced and repaired.

September 24 – 30, 2006

Dillon Area

- ❖ Monida Hill was watered, bladed, and graveled.
- ❖ Brenner Lane, Bloody Dick Road, and Highway 324 were bladed.
- ❖ The shoulders of Hansen Lane and Sage Creek Road were bladed.
- ❖ Equipment was serviced and repaired.

Lima Area

- ❖ Gravel was hauled to Monida Hill.
- ❖ The shoulders of Hansen Lane, Lower Sage Creek Road, and Oregon Shortline Road were bladed.
- ❖ Equipment was serviced and repaired.

Wisdom Area

- ❖ Rock Creek Road, Big Swamp Creek Road, and the streets in Jackson were bladed.
- ❖ Equipment was serviced and repaired.

Richard informed the Commissioners that on the Scenic Byway a box culvert was installed across Blue Creek. During this process the road was raised and the road alignment was changed to accommodate the box culvert. This realignment removed the snowmobile trail. The removal of the Trail is not acceptable to the County. Richard will be meeting with the contractor this week on this matter. The Commissioners will not sign off on the Scenic Byway until next spring. Not signing off on the Road until spring will allow the County to see how the road holds up during the winter and spring.

Dottie told the Commissioners that a special needs student living in the Timber Ridge Estates on Adams Lane needs to be picked up for school. Dottie has given the School District a 30-day emergency access for this child to be picked up by the School District. Adams Lane is a private road and the County does not maintain the Road. After further discussion it was decided that Richard would contact a member of the Timber Butte Estates Subdivision Homeowners' Association regarding this matter. The County would have no problem making sure the Road is assessable in bad weather as long as the Association approves. Dottie left the meeting.

Richard updated the Commissioners on the Monida hill project.

Chairman Haugland reminded Richard that the Airport project needs to be completed. Options were discussed.

Richard informed the Commissioners that he and the entire road crew would be attending an out of town Storm Water Runoff conference next Tuesday in Butte.

There was discussion about the sewer line at the 4-H building and the Jaycee building. The County will hire a contractor to do this project.

Richard informed the Commissioners that the contract between the City and the County for water at the Fairgrounds was missing the 88-cent fee per 1000 gallons. The correction has been made and the City Council has approved the agreement.

Richard has talked to George Freez about the County purchasing gravel out of the Horse Prairie Gravel Pit. If the County does some of the reclamation of the pit the cost of the work will be deducted from the invoice.

Deputy County Attorney Kurt Steadman joined the meeting and Richard left the meeting.

The Commissioners asked Kurt to research State statute on the City of Dillon extending its jurisdiction to a one mile radius outside the city limits.

Chairman Haugland gave Kurt a copy of a letter of understanding the County just received from the Union regarding diverting wages to a central pension fund. This letter is worded differently than the previous letter and Kurt was asked to review the letter. Discussion regarding this matter ensued.

There was discussion about Wally Congdon being deposed on the Dixon case. Wally has also asked the County to compensate him for being deposed on the Benson and Bump cases. Kurt will make sure that the paper work to formally remove Wally as a County representative from these cases is completed. Kurt left the meeting.

Planner Rick Hartz, Russ Kluesner, Carter Butori, and Richard Miller joined the meeting.

Rick presented the Staff Report and Planning Board Recommendations for the preliminary plat of the Bar N Z Minor Subdivision. Previous to this meeting the Commissioners were given this report and other pertinent information on this Subdivision to review.

This proposed 2-lot minor subdivision is located in the Section 7, Township 7 South, Range 8 West approximately $\frac{3}{4}$ of a mile north of Dillon adjacent to Highway 91 North.

This proposal will create a 23.32 acre tract that has an existing homesite, outbuildings, well, and septic; a 10.43 acre vacant tract; and a 2.01-acre site with an existing modular home, well, and septic that the owner will retain.

This existing parcel (35.76 acres) is used as irrigated agricultural grazing and hay ground. The potential new owner intends to use it in the same manner for the foreseeable future.

Scattered residential homesites, a mobile home park, and commercial businesses surround this parcel. The owner of record is Bar N Z Co., Neil Strozzi.

Two variance requests have been submitted for this proposal. They are:

One is a request for a variance from the required road width of 20 -22 feet (IV-A-8 Streets & Roads) for the access off of Highway 91. The granting of the variance would allow for the existing 14-16 foot gravel-surfaced driveway to serve as the access to the two existing homes as it has for years.

The second request is for subdivision regulation IV-A-8 (b)(xii) which requires a paved approach off of a paved state or county roadway back to the property line.

The existing driveway has a paved apron, but it does not extend to the property line.

The Planning Board and Fire Chief Scott Marsh did a field review of the site on August 15, 2006.

The consensus of the group was to recommend granting the variance requests as long as this access only services the existing two residences. Any expanded use of the access (i.e. additional homesites) would require compliance with both of the above-mentioned regulations.

Based on the Findings of Fact and the recommendation of the Beaverhead County Sanitarian, the Beaverhead County Land Use and Planning Staff recommends approval of the preliminary plat of the Bar N Z Co. Minor Subdivision subject to the following conditions:

STANDARD CONDITIONS

1. A letter from the Beaverhead County Sanitarian accepting the use of the sanitary exemptions for these parcels will need to be submitted prior to final plat approval.
2. A Beaverhead County septic permit must be obtained prior to any new construction requiring sanitation on this lot.
3. At the time of occupancy, the entrance to these lots shall be clearly marked with an address sign that complies with the Beaverhead County addressing ordinance.
4. Certification by a licensed title abstractor showing the names of any lien holders or claimants of record against the land and the written consent to the subdivision from lien holders or claimants of record against the land.
5. Any and all adopted State and County requirements and standards, which apply to the proposed subdivision, shall be met, unless otherwise waived for cause by the governing body.
6. The final plat shall be submitted to the County Planner by the developer with the appropriate review fee to ensure compliance with all conditions prior to

the approval by the County Commission and recording by the Clerk and Recorder.

7. The owners, heirs, successors, purchasers, and subsequent landowners waive the right to protest the creation of a Special Improvement District or Rural Special Improvement District to provide improved public services to these parcels. This waiver also includes City of Dillon services or infrastructure improvements. This waiver is binding and will run with the lands included in the subdivision and will be clearly stated on the final plat.

SITE SPECIFIC CONDITIONS

8. The two Irrigation ditches shall be shown on the face of the final plat with a sufficient easement width to allow for construction, repair, maintenance, and inspection of the ditches as per 73-3-501(i)(j)(k), M.C.A.
9. Existing utilities shall be shown on the face of the final plat along with utility easements for Parcel 1A.
10. The delineated floodplain that also reflects that portion of the property that was removed from the floodplain by the Letter of Map Amendment shall be shown on the final plat.
11. The final plat shall show that the easement to Parcel 1A is 20 feet wide for agricultural purposes only and shall site the book and page where this easement grant is recorded. (Bk 319, Pgs. 1204-1206)
12. Any expanded use of the existing driveway off of Highway 91 N (i.e. additional homesites) will require compliance with Beaverhead County Subdivision regulations for a minimum 20-foot road width and a paved approach. This requirement shall be clearly stated on the face of the plat.

Preliminary plat approval is for a period of not more than three calendar years from the date of approval by the County Commission. The applicant may request a time extension of preliminary plat approval, but such request must be received prior to the expiration date of this approval for due consideration of the request to occur.

MOTION: Commissioner McGinley moved and Commissioner Rice seconded that both variance requests for the Bar N Z Minor Subdivisions be approved. The motion carried unanimously.

MOTION: Commissioner Rice moved and Commissioner McGinley seconded that the preliminary plat of the Bar N Z Minor Subdivision be conditionally approved. The motion carried unanimously.

Rick presented the preliminary plat and the Staff Report and Planning Board Recommendation of the North Valley Properties Minor Subdivision. Previous to this meeting the Commissioners were given a subdivision information packet to review.

This proposed 5-lot minor subdivision is located in the Section 19, Township 6 South, Range 8 West approximately 5.5 miles north of Dillon adjacent to Highway 91 North and Anderson Lane.

This proposal will create 5 lots ranging from 9.6 acres to 13.9 acres in size from an existing 53.15-acre parcel. The existing land use of this parcel is irrigated agriculture. Predominate land use of this area is irrigated agricultural, with some scattered residential ranchette parcels.

The property is currently owned by Carter Butori Limited Partnership, Carter Butori, President.

A variance request has been made for lot 1. Subdivision Regulation IV-A-6 Lots (f). "No lot may have an average depth greater than three times its average width." Lot #1 does not comply with this regulation.

Based on the Findings of Fact and the recommendation of the Beaverhead County Sanitarian, the Beaverhead County Land Use and Planning Staff recommends approval of the preliminary plat of the North Valley Minor Subdivision subject to the following conditions:

STANDARD CONDITIONS

1. Montana Department of Environmental Quality (DEQ) approval for water, sewer, and drainage needs to be obtained prior to final plat approval.
2. A Beaverhead County septic permit must be obtained prior to any new construction requiring sanitation on this lot.
3. At the time of occupancy, the entrance to these lots shall be clearly marked with an address sign that complies with the Beaverhead County addressing ordinance.
4. Certification by a licensed title abstractor showing the names of any lien holders or claimants of record against the land and the written consent to the subdivision from lien holders or claimants of record against the land.
5. Any and all adopted State and County requirements and standards, which apply to the proposed subdivision, shall be met, unless otherwise waived for cause by the governing body.
6. The final plat shall be submitted to the County Planner by the developer with the appropriate review fee to ensure compliance with all conditions prior to the approval by the County Commission and recording by the Clerk and Recorder.
7. A noxious weed management plan will need to be submitted to the Beaverhead County Weed Board and approved by them prior to final plat approval. A letter-of-credit will be required as part of their approval process.
8. The owners, heirs, successors, purchasers, and subsequent landowners waive the right to protest the creation of a Special Improvement District, or Rural Special Improvement District to provide improved public services to these parcels. This waiver is binding, and will run with the lands included in the subdivision and will be clearly stated on the final plat.

SITE SPECIFIC CONDITIONS

9. The West Side Canal's 35 feet from centerline easement shall be shown on the final plat.
10. An access permit needs to be issued by the Montana Department of Transportation for access to lot 1. A copy of this access permit shall be submitted to the Planning Office prior to final plat approval.
11. The properties that do not have existing accesses from Anderson Lane (Lots 3 & 4) will need to secure an access permit from the Beaverhead County Road Department prior to the construction of their individual access driveways.
12. An on-site water supply and fill site will be installed prior to final plat approval. The location and installation must be approved in writing by Fire District #2 as part of this condition.
13. Language shall be included in the covenants and on the face of the final

plat that these lots cannot be further divided.

The preliminary plat approval is for a period of not more than three calendar years from the date of approval by the County Commission. The applicant may request a time extension of preliminary plat approval, but such request must be received prior to the expiration date of this approval for due consideration of the request to occur.

Rick informed the Commissioners that the Planning Board added Site Specific Condition 13 to his staff report. This condition limits the number of approaches because these lots cannot be further subdivided. At the Planning Board meeting there had been lengthy discussion about the approaches to this Subdivision. Road Manager Richard Miller submitted information to the Planning Board about limiting the number of approaches. Richard suggested that there only be two shared approaches to the subdivision. Richard addressed the Commissioners about his suggestion. Richard brought up the problem about the bridge across the West Side Canal is replaced and guardrail installed the current access to Lot 5 would be blocked. Carter and Russ explained why they do not feel that there needs to be joint accesses. At the time the Planning Board made its recommendation it did not have the information about the bridge. There was lengthy discussion about the number of access and where they should be located.

MOTION: Commissioner McGinley moved and Commissioner Rice seconded that the variance requested be approved. The motion carried unanimously.

There was discussion about the cistern placement and access, about the mailbox area, and about the approaches.

MOTION: Commissioner McGinley moved Commissioner Rice seconded that Condition #14 be added stating that Lots 2 and 3 share an approach and Lots 4 and 5 share an approach and that these approaches will not need to be constructed prior to final plat approval, but at such time one or the other of the lots that share a common driveway is sold that particular approach will need to be built to Beaverhead County Road Standards. The motion carried 2 to 1 with Chairman Haugland voting against the motion.

Condition #14 will be as follows:

14. Access onto Anderson Lane for Lots 2 and 3 will be from a shared access driveway located on the lot line between the two lots. Access for Lots 4 and 5 will also have a shared driveway on the lot line between these two lots on Anderson Lane.

These accesses do not have to be constructed prior to final plat approval. Sale of one or the other of the lots that share one of the common access driveways will require that the access be constructed at that time.

When constructed, the access driveways will need to be built to Beaverhead County Subdivision Road Standards and approved by a licensed engineer.

Chairman Haugland stated that he voted against the motion because he did not like overturning Board recommendations.

Chairman Haugland recessed the meeting at 12:00 p.m. for the lunch break and reconvened the meeting at 1:30 p.m. with all Commissioners and Secretary Patti Odasz in attendance.

Lee Squires from KDBM, Sylvia Flannagan, City Planning Board Chairman Jean Stewart, City Councilmen Al Lawson and Mike Klakken, Deputy County Attorney Kurt Steadman, County Planner Rick Hartz, Tom Graham, Don Murray, and City of Dillon Operations Manager J.S. Turner joined the meeting. Jean distributed copies of Montana Code Annotated 76-1-310 Extension of municipal zoning and subdivision

regulations beyond municipal boundaries; 76-1-312 – Exclusion for commission-manager plan municipalities; and 76-1-504 – Jurisdictional area of city-county planning board and copies from Chapter 2. Community Goals and Objectives and Corresponding Implementation Strategies from the City's Growth Policy. Jean said that the City would like to take jurisdiction of one mile beyond the City limits. Jean referred to the Statutes that she distributed. This morning the Commissioners asked Kurt to research the Statutes regarding this matter. Kurt feels that the Statutes distributed do not reflect the situation. Jean stated that she had talked to Myra Shultz, MACo Joint Powers Insurance Authority Attorney, and Myra believes that 76-1-504 was written for either County or City Planning Boards. Discussion ensued and options were discussed. The Commissioners made it clear that the County cannot legally relinquish its jurisdiction for one mile beyond the City limits. Jean explained why the City Planning Board wants jurisdiction for one mile beyond the City limits. Rick suggested that a joint task force be created. This task force would create an action plan for development taking place one mile beyond the City limits and would be advisory and make recommendations to the City Planning Board and the County Planning Board to help address identified issues. Rick volunteered to work developing the Task Force. There was discussion about who should be appointed to the task force, i.e., members from City Planning Board, the County Planning Board, interested citizens, landowners, etc. Rick will take this matter to the County Planning Board. Advertising will be done to solicit members for this task force. Sylvia said that she would be interested in being part of the task force. Lee, Sylvia, Don, Tom left the meeting.

Jean informed the Commissioners that the City would like to contract with the County for planning services. There was discussion as to what might be expected of the Planner, the wages, etc. Chairman Haugland suggested that the City do a formal Request For Proposal (RFP) for this position. Mike Klakken and Al left the meeting.

Rick updated the Commissioners on the North Lane project. Anderson Engineering quoted \$3,470 to survey North Lane. Ira Walker, the owner of this Lane, stated that he would not participate in the cost sharing. Rick mentioned that an easement for a turnaround at the end of the lane needs to be acquired from Justin Devers. Jean and J.S left the meeting. Further discussion ensued. Rick was instructed to send a letter to the residents living on North Lane explaining that the cost to each landowner will be calculated by using how many feet of frontage property each landowner has on North Lane. The residents also have to be informed that there has to be 100% participation of the residents for this project to move forward. Rick left the meeting.

Chairman Haugland went over the day's business with the news media

The Commissioners reviewed and approved September 17 – September 30, 2006 invoices for a total of \$124,142.02. The Invoice Payment Schedule is located in the Financial Administrator's Office.

There being no further business to come before the Board, the meeting was adjourned at 5:00 p.m.

Attest: _____ Approved: _____
 Clerk of the Board Chairman of the Board