

Mary's River Estates Road District Meeting

Date: June 13, 2024 Zoom meeting hosted by Joe

Meeting will be recorded for the purpose of note taking by secretary. Recording will be kept for one year on personal computer and approved written minutes will be kept on website indefinitely. Personal power outage of secretary resulted approximately 30 minutes into meeting resulting in loss of video recording on computer. Minutes reestablished with agenda and memory. Most was on the review of minutes and budget review. Remaining meeting over 1.5 hours was recorded to Zoom cloud.

Attendees: Joe Chambers (President), Sandy Chapman (Secretary), (Debbie Jackson, treasurer), Adam Schultz, James Roush, Yvett Spitz, John Buskirk, Robyn Lillehei, Rick Veronen,

Call to Order: 7:00 PM by Joe,

Additions/Deletions to agenda: Approve Budget meeting minutes May 15, 2024: No changes noted by Commissioners to the Budget minutes. [Debbie moves we accept the minutes.](#) [Sandy seconds.](#) [Joe: All in favor? All Commissioners agree.](#)

Review of minutes/approval: May 9, 2024 No changes noted by Commissioners to the Monthly minutes. [Debbie moves we accept the minutes.](#) [Sandy seconds.](#) [Joe: All in favor? All Commissioners agree.](#)

Financial Report and Mail: Debbie screenshares financials for Income and Expense by Category YTD 7/1/2023 through 06/08/2024 and Transaction report 05/08/24-6/08/24. These will be added to permanent record on website and be sent out via google groups email with approved minutes each month. See attached records.

Mail received: Received from PO was the receipt from the certified letter sent to Blacktop Northwest on May 13, 2024 for the 30-day notice for Intent to file a complaint with the CCB in regards to the failing chip seal project. Zoom notice, information noted at end of meeting minutes.

Open Forum: None

Review of Action items:

Review and Adoption of Budget: Debbie screenshared the Budget FY24-25 approved by the budget committee on May 13,2024 to be brought forward to the MRERD Commissioners for adoption at this meeting. She reviewed the topics and results for the budget with 68% (159,242.00) budgeted for major repairs, 29% (\$69,138.00) for Materials and Services and 3% (\$6,000.00) contingency. Total budgeting for FY 24-25 is \$234,380.00. There are undetermined projects this year as we are still waiting for the plans from K&D for Daisy Drive and also need examination of other parts of the roads by engineers. There will be the normal mowing, sweeping, fog line costs. Also engineers fees for road maintenances and some possible legal fees with regards to the failing chip seal. See the attached budget, resolution adopting the budget and the LB-50 form.

Iris update: James did the Iris grade and gravel and because of the lack of moisture during the processing of the grading the road started to washboard. It was agreed that we bring in a water tank and James redid the grading and rolling with the application of. Robyn asked if there would be any dust control applied after the project was done as it is "supposed to hold things together" Lignin sulfate was added after the larger grading and gravel project on Iris. James was asked to reply. He said that Sandy was looking into another company that applies Magnesium chloride which is used over in Central Oregon for both deicer and dust control and works real well. Robyn: Back in 2009

pre-paving on Columbine we had created the bed for that and the contract included adding dust control immediately applied by Benton County and it held up well.

Traffic count on Daisy: Sandy called Benton County and there was no traffic count done by them on any of our roads. Going back to what Kevin said he saw the traffic counting lines on Daisy on a day he came down. Because of the speed limit signs the County said we could get traffic count equipment on either Iris or Daisy to determine traffic count for possibly getting an extended speed limit ordinance on more of the roads. We can ask the County to do the evaluation for traffic count for one of the roads. **Sandy Makes motion to get a traffic count on either Iris or Daisy.** Debbie asks if we should put an order on which road we ask them to do? Discussion on which road to have the County evaluate: what road gets more traffic? Daisy gets people walking from over on Iris and it may be the same with people from Daisy walking over to Iris. More house now on Daisy. More traffic on Daisy that has to turn around because there is not a way out. **Debbie amends motion that we ask Benton County to do a traffic count on Daisy Drive and see if they will also do Iris Circle. Joe: All in favor? All Commissioners agree. Action Item: Sandy will contact Benton County to ask for a traffic count on Daisy and Iris if possible.**

Certified letter to Blacktop NW results: Sandy: Debbie showed at the mail portion of the meeting the green receipt that was returned from the certified letter sent to Frank Vedack contractor with Blacktop Northwest in regards to the 30-day notice of intent to file an official complaint with the CCB. Frank picked it up on May 20, 2024, but the date (of 30-day notice) starts on the date mailed. Official date to send the official c/o to the CCB for Blacktop Northwest is today June 13, 2024. We need to make a motion at the end of this to file the complaint. When Frank received the letter, he called me and I let it go to voice message. He did not leave any message, but sent text messages instead. This was at 10:03 AM on May 20.

Messages reads:

"Sandy,

When you and I last spoke I told you I had intentions on returning in the spring to assess the road and repair as needed. I told you I was not able to get chip oil until spring. (Sandy inserts she does not remember him saying that at all.) If you would like I can give you the phone number to our supplier and ask them if I'm lying about the ability to purchase oil. I believe that your notice of intent to file a complaint is unwarranted and ridiculous.

I'm not convinced wholeheartedly that your snow plow operator didn't rip the top surface of that off. Since you decided you want to take the legal route then I guess that's what we will be doing as well. I will be seeking counsel and a third-party assessment.

10:04 AM

I have copies of every text message from everybody I've dealt with at Mary's River since day one as well as all email communications I never delete anything. As you will be able to see from the emails I was hesitant to do this project so late in the year anyway. I will be sending all of the copies of all communications to you for your records.

10:26 AM

I also want it to be known. If I lose any business over a frivolous open complaint with the CCB, I will be seeking damages for my losses.

You haven't given us an opportunity to address the issue."

That is the end of any communication I have had with him (Frank) since he received the notice. Debbie asks about the CCB communication Sandy had: That this was his (Franks) opportunity and a reminder to meet with his clients and work things out. Yes, that was the intent of the 30-day notice of intent to file. For them to have an opportunity to contact the client and make things right. But he just jumped to assuming we were taking the legal route and he was going to do that too. Sandy did call the CCB on May 20, after she received the texts from Frank and spoke with an Eric. She reviewed what had happened about sending the intent to file a complaint and about Franks responses. She told Eris that she was not expecting Frank to go this route, but to start some communication. She asked what to do next, talk with legal or what? Eric's answer was to wait till the 30-days to file the official complaint with the CCB. And yes, he suggested we inquire with our legal team. She then called Gary Stockoff, director of Benton Co. Public Works on May 21 to discuss the issues. In regards to the chip seal on MRE hill she explained the issue and read pieces of the text that Frank sent me.

Gary's suggestion was that we go ahead with what we are planning to do; which I told him was to call SDAO for legal advice and continue to file the official complaint with the CCB when the 30 days is up according to the instructions with "intent to file a complaint" form which would be June 13, 2024. Gary said it sounds like Frank is trying to bully us. Gary did say he is not a lawyer. So, he is just giving us information. Next SDAO was emailed and a response from Tonya Grass was received. She said we should contact Local Government Law Group, whom we have used in the past. Discussion: Debbie: yes, it does sound like he is being a bully and she does not want to go against that without a lawyer. Sandy: That is why I did not go ahead and file the complaint yet, to get a lawyer on board. Robyn: That is important and also emails and texts when there is a discussion like this about communications, they need to be appended to the record. They are a part of the public record. This makes it so there is a clear concise chronological order to what is happening and everyone is looking at the same thing. Yvette: unless there is concrete evidence with an email, then it is just he said she said. Debbie. Suggests we start with the phone call to Local Government law Group and start compiling things and say we are at the 30-day time frame to file the complaint for them to get back to us ASAP. **Debbie makes a motion that we make contact the LGLG and engage them about the complaint and issues. Joe seconds the motion. Sandy: All in favor? All Commissioners agree.** Sandy adds just for the record that in previous meetings she stated the chip seal was done in November, but it was actually done October 4-6, 2023. **Action Item: Sandy will contact Local Government law Group and get the ball rolling for consult on MRE RD chip seal problem.**

Assessment of MRE chip seal by outside company: Company GRI and spoke with Linds



GRI STANDARD FEE
SCHEDULE eff. 05.29

Hammond and exchanged emails. Fee statement sent for company. GRI does forensic analysis of projects. So, we have them to hire if we need someone to look at the road to see what has happened. They are an engineering firm in Portland. Email communication:

Hello Linds

Thank you for your response to our failing chip seal project and suggestions we discussed.

The fee schedule did not come through as an attachment with this email. If you can resend the document, it would be much appreciated.

Just for the record, I looked back and the project was completed October 4-6, not in November as I had stated.

Also, while looking at the contract again, the chip oil was stated to be "crs-3p" for the MRE Rd. portion of the project. Then at a different place in the contract for another part of the job we did not discuss, it was stated to be "crsp2". I am just now seeing this difference in oils stated to be used. So, I am not sure which oil was used or why it would be two different oils. In looking back over the first quote we received in May 2023 the oils were to be the same "crsp2".

In the contract it is stated, the chip rock was to be "**3/8" or 1/2" chip rock** whatever is available". And as discussed, the application was rounded edged pea gravel type rock.

I look forward to working with you as necessity dictates.

Thank you again.

Sandy Chapman

MREDRD Commissioner/Secretary

From: Lindsi Hammond <lhammond@gri.com>

Sent: Wednesday, May 29, 2024 1:08 PM

To: SLCStainglass2@outlook.com

Cc: Todd Scholz <TScholz@gri.com>

Subject: Chip Seal Construction Issue

Good Afternoon Sandy,

It was nice to meet you this morning. Based on our discussion, I understand that the Mary's River Estates Road District, near Philomath, hired Blacktop NW in 2023 to place a chip and fog seal. Construction was completed in November 2023 and since that time the chip seal has failed to perform and as you put it, there are piles of round aggregate along the roadway. Some of the information we discussed includes:

- Location: 1/2-mile long, two-way road, on a hill
- Weather during construction was warm but it turned cold shortly after
- Cost:
 - o \$60,000 for the chip seal
 - o \$30,000 for the fog seal
- Based on visual observation and knowledge from materials used on a prior chip seal, the chip rock appears to be round rather than crushed and angular.
- Contract documents did not include technical specification and the contractor did not provide any submittals for materials prior to construction.
- Mary's River Estates Road District notified Blacktop NW via certified letter of their intent to file a complaint with the CCB on May 13. On June 13, after the 30-day waiting period, Mary's River Estates Road District plans to file the formal complaint.
 - o The contractor will respond to the letter and you all will attempt a resolution through CCB mediation.

As I mentioned, with the limited amount of documentation it may be difficult to pinpoint the cause of the failing chip seal and it may become an expensive we-said/they-said back and forth with legal counsel. I suggest we wait to decide next steps until you file the complaint in June and hear back from the contractor. In the meantime, I am attaching our fee schedule for your reference. For past work similar to your circumstances, we typically perform a site visit, there may be some laboratory testing, and we will prepare a letter of opinion.

Tansy signs and Speed limit signs: Chris Baillie was supposed to get back from paternity leave on May 11, but I was giving him some time to get back into things. Sandy will reach out again and see when we can get the signs. **Action Item: reconnect with Chris Ballie at BCPW about signs.**

Grass mowing review: There has been a lot of good reviews on the new mowing that was done in early June. Several from several emails. The grass was cut down to the ground and into the ditch and he was noted to be very careful with the operation of his tractor. No Damage reflectors. Comment not a complaint: that the cutting went too far into the woods (Cut was max. six feet off of the road) and cut wild flowers. Response: We only need one car that goes a little off of the road and can start a fire if we do not mow. Does not matter if it is the front or the back (of the Estates). Yes, the mowing was for fire suppression.

Daisy Drive update: There has been no communication again with K&D. Sandy called and the receptionist said Dan was out of the office until Monday and she would have him call me then. UPDATE: As of this writing Tuesday June 18, Sandy had a conversation today with Dan and he said the plans are being worked on right now and should be done in a couple of weeks. Then they can have costs and material plan made up.

Previous annexation attempt: This was talked about at last meeting if we wanted to redo an annexation proposal. I went through the minutes that referenced this and sent out a summary of all the minutes for that which was from 2021. If anyone wants the compiled results Sandy can send them out. Discussion: Joe: Is this the annexation dissolving and reforming the district? Sandy: Yes. Robyn: Done by LGLG by a new lawyer that didn't seem to know what to do and seemed to be a resistance on the part of the commissioners to spend any more on lawyers. She thinks that money would be gotten back rather fast if the properties were included. Joe: One of the issues was that it comes with a risk. But this thought was contested by what was discussed. And stated in the last meeting minutes in 2021, it declares that dissolution is contingent on resolution being successful. Debbie: Another project to take on and needs legal advice and right now we have a lot on our plate. This is not ruled out, but needs to be looked at later. Adam: there is an equity issue also, people using a resource and not paying for it. New people paying more and those that have been here forever do not pay as much. Discrepancy comes from a lack of recording by prior property owner not recording the land sold as part of MRERD. Just the 30 feet from the road edge is taxed on certain properties coming up the left side of MRE Rd. Summary of the last meeting in September 9, 2021 in regards to the annexation attempt:

Just to summarize, we have three options now:

- 1) Pursue a writ of mandamus from Circuit Court to force the County to enter into an agreement, which will be time consuming, expensive, and contentious with the County;
- 2) Coordinate with the Planning Department to ensure notices of land use and administrative actions are being provided to the District with sufficient time for the District to comment on the actions;
- 3) Coordinate with the Planning Department to ask if the County would consider a development code amendment to require annexation into the District as a condition of approval.

I also wanted to remind the District that dissolving and reforming the District is an option to address unannexed properties, but doing so would require an election that would allow every resident of the District to vote for the proposal. The potential benefit would be that the election is District-wide, instead of just amongst unannexed properties, increasing the likelihood of success. However, the risk is that voters could potentially vote not to approve the proposal, which would waste the Districts' time and money. However, for dissolution to occur, reformation would also have to be approved, so there's no chance that voters would vote only to dissolve the District. Let me know if you want more information on this process.

John moved that we cease pursuing the ORS 195. Rebecca seconded.

Sandy agrees with Debbie that we have a lot on our plate right now and we can table this for now and maybe work on it in the background.

Crack on MRE and what we can do:

Sandy called Branch Engineering in Philomath. She contacted them previously in early 2024 to come out and look at Daisy Drive when K&D did not respond to us. Then K&D responded. She contacted them again and went to talk with them concerning the crack on the right downhill side of MRE RD just after the crest of the hill past Brightstar Lane. Rate charges received from them via email as well as explanation of what could be done on 5/23/2024:



2024 Charge out
rates.pdf

Sandra-

Please see the attached rate sheet, any estimate of costs would depend on the amount of information the Road District would be looking for and what specific scope of work would be required to deliver such data. The scope could range from a simple site with a verbal opinion based on our observations to an in-depth study that could include drilling, sampling, and testing. Installation of a slope inclinometer would require drilling, setting of the casing, and typically quarterly monitoring for at least a year, the minimum cost would likely be on the order of \$8,000 to \$10,000.

Regards,

RON DERRICK, PE, GE

Principal Engineer

BRANCH ENGINEERING, INC. p: 541.746.0637 www.branchengineering.com

Sandy explained to Branch Engineering the possible reason for the crack was the dig-out at the bottom of the hill over the edge of the road. Sandy also had a conversation with Benton County on the dig-out around the barn possibly causing the crack on the road. The County does not have any post construction monitoring or regulations of any dig-outs around permitted structures. Discussion: are they digging in the right of way? It is a possibility. No stakes were seen. But it has to be determined. An enforcement route may be needed? Basic question with answers from an engineer is needed. James gives us information that he had done some shoulder work on the that area with the development of the 3 new houses off MRE Rd. across the road from this property. He says that part of the road there is over that property line and the dig-out is definitely not in the right of way. The area was surveyed at one point that determined this. Robyn gives a statement from a legal perspective obtained while she was a commissioner when the road is on private property. When nobody disputes the road when it is put in, it becomes the road districts. We cannot add easement to the side of a road if it is already on private property. We get the 60 feet plated road as is and the extra if it goes on private property if it is not disputes at the time the road is developed. Discussion: to have the Engineer come out to assess the problem of why the crack is happening. [Sandy makes a motion to engage Branch Engineering to come out and assess the crack on the right side of MRE Rd. downhill from Brightstar Lane for possible reason and repair solution and also assess the cracked areas on Tansy Drive for possible resolutions for repair. Debbie seconds the motion Joe: All in favor? All Commissioners agree. Action Item: Sandy to contact Branch Engineering for assessments and solutions.](#)

New business:

Request from POA for conversation on separation from MRERD: In the past few months Joe received a request from a member of the POA about separation from the Road District. This request was added to road district agenda to be discussed. Joe says that the separation was for the website and other Commissioners question this as they were now just hearing this from Joe. There are three POA board members at this meeting to discuss the request. Adam clarifies that the request sent by David, was not known by the other POA Board members until last Monday and did not appear to

reflect what the POA Board had decided to bring up with the MRERD. The request is about the WIX website where the cost is split by the POA and MRERD. The cost of the website by the MRERD is .1% while it is 22% of the POA budget, which impacts 220 times as much on the budget. Yet, 100% of the members of the POA are part of the road district and providing a community service. The discussion was this: can we consider a new arrangement. Whether cost sharing to reflect the (financial) asymmetry or some other arrangement. Discussion: MRERD post more to our section of the website than POA and we do have a larger budget. The cost is \$160.00 a year. It is not about the money, but about keeping things joined together so we do not have to go through another login to find information. We can see both POA and MRERD information once we get onto the website. Debbie personally feels that MRERD covers the full cost and shares the site with POA as it comes down to a community thing. Suggestion that POA be charged \$1.00 for legal reasons, with a chuckle received from everyone. Robyn explains that there are some things that MRERD can not do and the POA steps in to do them. A nominal fee maintains the relationship. Adam: thinks it is a bad idea to confuse people having multiple domains out there. It is one Community. The POA \$20.00 fee for dues is a volunteer donation. It takes eight persons dues to make up the POA contribution to the website. This year there has been only twenty-four dues paid from the whole community. Originally POA made up the website and the MRERD followed. Shout out to Rich Kaestner for managing the website for many years. POA is paid through the end of the year so we have time to discuss the solution. Joe asks if we have the legal right to use MRERD money for POA costs? Discussion: Robyn: The MRERD is not paying for any services or a webmaster. They would have a website. And they are separated. question: is the invitation to host on our website a violation of your payment of the WIX website domain? Is usage of the website a factor in cost share? Joe: Is this considered a gift of website service? Over \$75.00 public isn't that illegal. SDAO will be contacted to answer these questions. **Action Item: Joe will contact SDAO and ask questions about the MRERD paying for all or some of the POA part of the website usage.**

Local Government Law request for legal assistance in chip seal job:

Email from Val Bach: Val sent an email to the MRERD Commissioners and said it could be read into the minutes. The email from 5/21/2024 is as follows:

Hi Sandy, Debbie and Joe,

First, thank you for the work you do as commissioners. After talking with Sandy about the challenges of managing contractors and monitoring their work. I had a thought that you might want to read into the notes at the meeting (so no one thinks you are planning offline on your own).

As you know when John was president, we pushed to hire K&D to scope, put out RFP's and manage the asphalt work done on the Columbine Hill and the survey on Iris. Positives were K&D was able to work with the county to authorize the bi-model road (cheaper than 20' wide asphalt) and there were no technical oops, like on previous jobs that volunteers had written the RFP's for and managed. For instance, the apron onto Queen Anne was included (unlike the apron on to the other end of QA that was 'missed' when Iris was paved and had to be done later. In the notes from that time frame, some people maintained we had to put out an RFP and get at least 3 engineering/consultants to reply. Not true. Consulting has different rules than 'physical' work. The negative was K&D had to be 'managed' and it took a lot of John's time and Andy Evans.

You may have a golden opportunity with James Roush in the neighborhood. If it is possible to put him on a retainer or hourly re-imburement to write RFP's, bring recommendations back to the commissioners and then manage the contractors. Especially for chip seal, and asphalt work. But, even if it was for road work like he did on Iris, he could write the RFP, a commissioner could receive the proposals back (so, so he would not have insider information for bidding against).

Just a thought.

Good luck.

Val

Discussion: Noted that in the past that previous commissioners tried to hire Bill Pepper to do that and he said, "he did not want that job, he wanted the work". Also makes it awkward to manage specifications and awarding and those things if you are bidding. We need to find a responsive engineer. Part of what we did ask already in our current contract (with K&D) was to get a recommendation about the work. So, we need a responsive engineer we can trust with giving us the right information about a job. When we go out and ask for responses and do not get a lot of responses, we do not want it to look as if we are favoring anyone. Things take time to develop a relationship with the correct contractor. There are many different ways to solve problems. Robyn brings up a road assessment by Benton County in 2017 that give us ideas on what it would take to have our roads brought up to County standards. No motion needed on this issue.

Zoom renewal: Discussed earlier in the meeting by Debbie. The renewal will be automatically debited on Debbie's MRERD debit card through Citizens Bank.

Meeting adjourned 9:15