

RESOLUTION 2018-024

MISSOULA COUNTY, MONTANA

RESOLUTION DENYING A PETITION TO TRANSFER OWNERSHIP OF THE BRIDGE CROSSING THE SWAN RIVER AT THE OUTLET OF LINDBERGH LAKE TO THE LINDBERGH LAKE HOMEOWNERS ASSOCIATION

WHEREAS, on Nov. 3, 1977, the Missoula Board of County Commissioners recorded a Resolution of Intention to Create Rural Special Improvement District No. 282 after finding that 60 percent of the freeholders located within the proposed boundaries of the RSID signed a petition to create a district and the petition was in accord with the laws and statutes of the State of Montana (Resolution No. 77-182); and

WHEREAS, on Jan. 12, 1978, the Missoula Board of County Commissioners recorded a resolution creating RSID No. 282 (Resolution No. 78-2); and

WHEREAS, the Commissioners created RSID No. 282 for the purpose of constructing a bridge crossing the Swan River at the outlet of Lindbergh Lake in Missoula County (the bridge); and

WHEREAS, the cost of constructing the bridge was assessed against certain lots and land set forth in Exhibit A of Resolution No. 77-182; and

WHEREAS, Resolution No. 78-2 did not establish a date on which RSID No. 282 would terminate or cease to exist or otherwise indicate that RSID No. 282 would cease to exist after the assessments to construct the bridge were paid in full; and

WHEREAS, Montana laws and statutes do not establish a date or fix an event on which improvement districts like RSID No. 282 terminate or cease to exist; and

WHEREAS, Missoula County contracted with Morrison-Maierle, Inc., Consulting Engineers, and E.F. Matelich Construction Co. to construct the bridge in 1978; and

WHEREAS, during the time RSID No. 282 was being contemplated and created, and the bridge constructed, there was discussion and correspondence between Missoula County employees, representatives of the Lindbergh Lake Homeowners Association (LLHOA), and property owners concerning future ownership and maintenance of the bridge; and

WHEREAS, there is no evidence that the Missoula Board of County Commissioners took formal or documented action to sell or transfer the bridge to the LLHOA or other entities or individuals; and

WHEREAS, the Missoula Board of County Commissioners has concluded the bridge is public infrastructure owned by Missoula County and that RSID 282 has not been terminated and continues to exist; and

WHEREAS, Montana Code Annotated § 7-12-2120 provides that a board of county commissioners shall adequately and suitably maintain and preserve the improvements of a district, like the bridge in RSID No. 282, and keep those improvements in proper repair and operation, by contract or otherwise; and

WHEREAS, the LLHOA has in the past paid the Missoula County Road Department k/n/a the Missoula County Department of Public Works for some routine inspection and maintenance of the bridge; and

WHEREAS, the Montana Legislature in 2015 enacted Montana Code Annotated § 7-12-2128 authorizing a board of county commissioners to transfer the ownership of the improvements in a district like RSID No. 282 to the owners of property in a district; and

WHEREAS, on August 21, 2017, the Missoula County Clerk & Recorder recorded at Book 985 Page 87 signed petitions from property owners in RSID No. 282 requesting transfer of the bridge to the LLHOA (the petitions); and

WHEREAS, the petitions state, in part, "[w]e the undersigned as owners of real property in RSID District 282, do hereby petition the Missoula County Commissioners to confirm ownership of the improvements funded by RSID 282, a bridge crossing the Swan River at the outlet of Lindbergh Lake, as belonging to the Lindbergh Lake Homeowners Association, Inc."; and

WHEREAS, on Nov. 30, 2017, the Missoula Board of County Commissioners held a duly-noticed public hearing on the petitions and took public comment on whether to grant or deny the request to transfer the bridge to the LLHOA or confirm ownership in the LLHOA; and

WHEREAS, the Missoula Board of County Commissioners continued the public hearing on Feb. 22, 2018, and took additional public comment after which it deliberated and voted not to transfer ownership of the bridge to the LLHOA or confirm ownership of the bridge as requested in the petitions; and

WHEREAS, the Missoula Board of County Commissioners deems it appropriate, by resolution, to confirm that Missoula County owns the bridge and is mandated by statute to adequately and suitably maintain and preserve the bridge and to provide for keeping it in proper repair and operation.

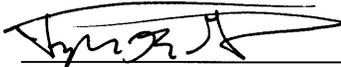
NOW, THEREFORE, BE IT RESOLVED, by the Missoula Board of County Commissioners, as follows:

1. Inasmuch as the bridge is owned by Missoula County, the petitions requesting confirmation of ownership of the bridge as belonging to the Lindbergh Lake Homeowners Association, Inc., are denied.
2. RSID 282 continues to exist and has not been terminated.
3. The cost of maintaining, preserving and repairing the bridge shall be paid by the owners of property in RSID 282 by way of assessments made and taxes in accordance with applicable provisions of Title 7, Chapter 12, Part 21, of the Montana Code Annotated including, but not limited to, MCA sections 7-12-2120, 7-12-2161, 7-12-2162 and 7-14-2101.
4. With regard to the maintenance and preservation of the bridge and the proper repair and operation thereof, the Missoula County Public Works Department through its chief public works officer, or other designees, shall have, perform and oversee all duties thereof and pertaining thereto in accordance with Montana law including, but not limited to, MCA sections 7-4-2812, 7-14-2101 and 7-14-2302.

DATED THIS 22nd DAY OF FEBRUARY, 2018

ATTEST:

BOARD OF COUNTY COMMISSIONERS
MISSOULA COUNTY



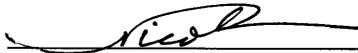
 Tyler Gernant
 Clerk and Recorder



 David Strohmaier, Chair



 Jean Curtiss, Commissioner



 Nicole Rowley, Commissioner

