MISSOULA COUNTY COMMISSIONERS' JOURNAL: SEPTEMBER, 2016

BCC = BOARD OF COUNTY COMMISSIONERS

= Commissioner Nicole ("Cola") Rowley, Chair

FISCAL YEAR: 2017

JC Commissioner Jean Curtiss = Commissioner Stacy Rye

The following claims lists were signed during the month of September, 2016:

Date Signed Claims List Dated Who Signed Amount \$42,686.87 September 1, 2016 August 31, 2016 BCC \$253.56 September 1, 2016 September 1, 2016 NR, JC \$2,916.74 \$352.86 \$86.00 \$27,024.07 \$1,000.00 \$850.33 September 1, 2016 NR, JC September 1, 2016 \$567.44 \$38,153.30 \$3,365.57 \$92.00 \$35,000.00 \$174,329.58 \$7.98 \$4,059.50 \$1,557.50 \$26.00 \$17,385.76 \$5,124.59 September 6, 2016 September 2, 2016 NR, JC \$24,850.08 \$393.11 \$38.67 \$61.70 \$425.00 \$202,665.48 September 6, 2016 September 2, 2016 BCC \$2,160.02 \$970.60 \$790.87 September 6, 2016 September 6, 2016 NR, JC \$23,576.00 \$246.00 \$19.00 September 7, 2016 September 7, 2016 NR, JC \$14,769.33 September 7, 2016 September 7, 2016 \$81,181.00 JC, SR \$3,909.38 \$3,413.61 \$10,157.43 \$5,972.89 September 7, 2016 September 7, 2016 **BCC** \$23,147.13 \$1,480.03 \$12,188.70 \$630.98 \$52,998.94 August 31, 2016 PHC Smartfill ACH \$143,962.72 September 2, 2016 PHC Amerisource ACH \$53,993.47 Total Report for September 9, 2016 \$2,735,290.08

Fees: \$0

201708299 B: 978 P: 1157 Pages: 58 05/17/2017 09:27:05 AM G2G Submission Tyler R. Gernant, Missoula County Clerk & Recorder eRecording

| Date Signed | Claims List Dated | Who Signed | Amount |
|--------------------|--------------------|--------------|----------------|
| September 9, 2016 | | | \$371.00 |
| | September 7, 2016 | NR, JC | \$35,251.06 |
| | | | \$22,192.71 |
| September 9, 2016 | | | \$2,349.75 |
| | | | \$3,086.08 |
| | | | \$9,036.31 |
| | September 9, 2016 | BCC | \$571.88 |
| | | | \$11,330.77 |
| | | | \$4,286.24 |
| | | | \$4,188.00 |
| | | | \$4,901.02 |
| | | | \$27,261.88 |
| | | | \$29.84 |
| | | | \$1,214.55 |
| | | | \$132.00 |
| | | | \$36.00 |
| | | | \$11,063.58 |
| September 8, 2016 | PHC Smartfill | ACH | \$99,530.51 |
| September 9, 2016 | PHC Amerisour | ce ACH | \$56,297.54 |
| | | | \$13,286.00 |
| | | | \$95,346.63 |
| | | | \$224.00 |
| | | | \$5,298.80 |
| September 13, 2016 | September 12, 2016 | JC, SR | \$1,100.00 |
| | | | \$2,240.50 |
| | | - | \$1,382.34 |
| | | | \$91,890.32 |
| | | | \$250.00 |
| | September 13, 2016 | NR, JC | \$346.77 |
| | | | \$2,081.62 |
| | | | \$700.00 |
| | | | \$4,756.52 |
| September 13, 2016 | | | \$250.00 |
| | | | \$68.99 |
| | | | \$40.00 |
| | | | \$14.00 |
| | | | \$164.90 |
| | | | \$1,260,116.47 |
| | | | \$14,008.61 |
| September 15, 2016 | September 13, 2016 | NR, JC, SR | \$2,322.55 |
| September 15, 2016 | | всс | \$659.10 |
| | September 14, 2016 | | \$3,833.52 |
| | | | \$6,895.42 |
| | | | \$152.00 |
| | | | \$124,831.24 |
| | | | \$300.00 |
| | | | \$2,471.90 |
| | | | \$90.00 |
| | | | \$6,866.66 |
| | | | \$17,442.91 |
| | | | \$4,940.10 |
| | <u> </u> | | |

| Date Signed | Claims List Dated | Who Signed | Amount |
|----------------------|-----------------------------|------------|----------------|
| | | | \$12,746.92 |
| | | | \$6,125.01 |
| | | | \$45,131.49 |
| | | | \$1,504.85 |
| September 16, 2016 | September 15, 2016 | BCC | \$93,461.59 |
| | | | \$366.00 |
| | | | \$2,215.25 |
| | | | \$25,537.00 |
| | | | \$3,240.28 |
| | | | \$80.47 |
| | | | \$40.00 |
| | | | \$123,464.80 |
| | | | \$2,115.03 |
| | | | \$6,359.37 |
| | | | \$5,031.25 |
| | | | \$9,484.21 |
| | | | \$1,333.67 |
| | | | \$675.35 |
| September 16, 2016 | September 15, 2016 | JC, SR | \$10,705.58 |
| | • | | \$213.00 |
| | | | \$6,301.82 |
| | | | \$230.00 |
| | | | \$59,509.95 |
| | | | \$14,111.15 |
| | September 16, 2016 | JC, SR | \$5,821.01 |
| | | | \$4,629.56 |
| September 16, 2016 | | | \$5,920.00 |
| | | | \$500.00 |
| | | | \$238.68 |
| | | | \$3,405.55 |
| | | | \$4,361.42 |
| September 19, 2016 | September 16, 2016 | JC, SR | \$3,055.00 |
| | port for September 23, 2016 | | \$2,415,417.85 |
| September 14, 2016 | PHC Smartfill ACH | | \$93,833.22 |
| September 16, 2016 | PHC Amerisource ACH | | \$42,748.79 |
| | | JC, SR | \$1,207.82 |
| | | | \$688.99 |
| | September 21, 2016 | | \$25,036.69 |
| | | | \$136.75 |
| | | | \$42.00 |
| | | | \$508.08 |
| | | | \$6,169.94 |
| September 23, 2016 | | | \$7,305.84 |
| | | | \$15.04 |
| | | | \$130.00 |
| | | | \$4,593.92 |
| | | | \$21,352.46 |
| | | | \$1,750.00 |
| | | | \$2,224.83 |
| September 27, 2016 | September 26, 2016 | NR, JC | \$5,077.93 |
| - Coptombol 21, 2010 | | 1414, 50 | ψο,ο, τ. σο |

| Date Signed | Claims List Dated | Who Signed | Amount |
|--------------------|--------------------|------------|---|
| | | | \$9,056.03 |
| | | | \$10,596.83 |
| | | | \$24,166.75 |
| | | | \$6,461.75 |
| September 27, 2016 | | BCC | \$11,203.55 |
| | September 26, 2016 | | \$673.51 |
| | | | \$11,084.73 |
| | | | \$2,267.16 |
| | | | \$4,000.00 |
| | | | \$506.94 |
| | | | \$6,490.00 |
| | | | \$3,016.91 |
| | | | \$8,034.15 |
| | | | \$255.00 |
| | | | \$120.00 |
| | | | \$13.67 |
| | | | \$76,699.75 |
| | | | \$15,083.50 |
| | | | \$127.74 |
| | | | \$57,513.90 |
| | | | \$3,330.75 |
| | | | \$40.00 |
| September 27, 2016 | September 27, 2016 | NR, JC | \$661.85 |
| | | | \$115.00 |
| | | - | \$25,702.19 |
| | | | \$112,728.94 |
| | | | \$1,250.00 |
| | | | \$17,794.89 |
| | 1 | NR, JC | \$4,537.50 |
| September 28, 2016 | September 28, 2016 | | \$645.84 |
| | | | \$350.00 |
| | | | \$2,100,833.70 |
| | September 29, 2016 | NR, JC | \$30,042.99 |
| | | | \$5,283.00 |
| | | | \$10,945.00 |
| September 29, 2016 | | | \$132.88 |
| | | | \$16.58 |
| | | | \$914.20 |
| | | | \$534.75 |
| | | | \$196.48 |
| | | | \$240.06 |
| | | ļ | \$98,126.22 |
| September 28, 2016 | PHC Smartfil | ACH | \$182,879.70 |
| | September 29, 2016 | NR, JC | \$55.46 |
| September 30, 2016 | | | \$2,582.73 |
| | | | \$639.78 |
| | September 30, 2016 | | \$3,137.59 |
| | | BCC | \$5,443.08 |
| September 30, 2016 | | | \$2,250.00 |
| | | | \$199.80 |
| | | | \$757.43 |
| | | | \$7,945.67 |
| | | | \$380.00 |
| | | | \$42,817.04 |
| | | · · | , |

All claims lists were returned to the Financial Services Department.

THURSDAY, SEPTEMBER 1, 2016

BCC met in regular session; all three present. Morning: BCC met with Mayor and City and County Chief Administrative Officers.

Replacement Warrant - NR signed. Olivia J. Sears, Missoula, Principal for Missoula County Public Schools Warrant #2824369, issued June 17, 2016 on County Payroll fund. Amount/\$144.75 (for wages). Warrant not received in mail.

ADMINISTRATIVE MEETING

<u>Funding Agreement</u> – BCC approved FY17 Lolo Community Council funding request and signed Agreement with Lolo Community Council. Council agrees to perform assigned tasks, provide annual information, and maintain records. Amount/\$1000.00. Term/July 1, 2016-June 30, 2017. To Laurie Hire/Community and Planning Services.

<u>Professional Services Agreement</u> – BCC signed Professional Services Agreement with Chem-Safe Environmental, Inc. for 2016 Household Hazardous Waste Days and Conditionally Exempt Small Quantity Generator Waste Collection Event to be held September 16-17. Provides for waste collection, bulking, transportation, and disposal services. Amount/\$24,000.00. Term/September 16, 2016-October 31, 2016. To Peter Nielsen/Missoula City-County Health Department.

MACO Resolutions – BCC approved Montana Association of Counties (MACo) resolutions and policy statements: 1) To establish greater flexibility to local governments with respect to setting speed limits on roads within their jurisdiction; 2) To protect emergency responders and emergency equipment from interference by drones; 3) To protect public health regarding the sale of raw milk and raw milk products and hold producers responsible for the costs related to an outbreak; 4) To support Missoula County's petition to the Montana Department of Agriculture to designate common buckthorn (*Rhamnus cathartica*) as a noxious weed in Montana. To be forwarded to MACo Resolutions Committee. To Jean Curtiss/Commissioner.

<u>Bid Award</u> – BCC approved bid award to Smith Contracting, Inc. for Mill Creek Restoration Project. County was awarded Montana Department of Natural Resources and Conservation Renewable Resource Grant in the amount of \$125,000.00 for restoration of 400 linear feet of Mill Creek at Spring Hill Road. Morrison Maierle completed a design and Public Works (PW) solicited bids for the construction. Amount/\$93,342.00. Term/September 1, 2016-October 28, 2016. To Erik Dickson/PW.

<u>Professional Services Agreement</u> – BCC signed Professional Services Agreement with Smith Contracting for Mill Creek Restoration Project. Amount/\$93,342.00 with \$1,500.00 allocated from bridge budget. Term/September 1, 2016-October 28, 2016. To Erik Dickson/PW.

<u>Grant Extension</u> – BCC approved no-cost extension of Federal Enhancement Grant awarded on October 1, 2011 to Missoula County for Missoula Co-Occurring Treatment Court. Fourth and final extension to continue the project in accordance with original proposal. Amount/\$22,790.00. Term/October 1, 2011-September 30, 2017. To Brenda Desmond/District Court.

Additional discussion item(s): Montana Department of Transportation Interstate 90 speed study.

FRIDAY, SEPTEMBER 2, 2016

BCC met in regular session; all three present.

<u>Letter</u> – BCC signed, dated September 1, 2016. To Ed Toavs, Montana Department of Transportation. Commenting on Interstate 90 speed zone study. Agreeing with findings and recommended changes to the 65 mph statutory speed zone limits. Noting need for expanded 65 mph speed zone throughout Missoula urban area.

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Tyler Gernant Clerk & Recorder 88C888EF35614CA

Nicole "Cola" Rowley, Chair BCC

MONDAY, SEPTEMBER 5, 2016

COURTHOUSE AND ADMINSTRATION BUILDING CLOSED FOR LABOR DAY HOLIDAY

TUESDAY, SEPTEMBER 6, 2016

BCC met in regular session; all three present. BCC met with Laura Henning regarding Glacier Ice Rink. BCC met regarding 310 permits. Evening: JC attended Resource Advisory Council meeting.

ADMINISTRATIVE MEETING

<u>Contract Amendment</u> – BCC signed Contract Amendment #13 to Contract DIR-01-001-MCDF between Montana Department of Corrections and Missoula County. Changes per diem rate for General Population offenders. Amount/Change from \$72.55 to \$78.30 per offender per day. Term/Retroactive to July 1, 2013. To Gary Elliott/Sheriff's Office.

<u>Professional Services Agreement</u> – BCC signed Professional Services Agreement with HDR Engineering, Inc. for RSID 8918 Lewis and Clark Septic Vault Replacement Project. To provide project management, design, solicitation assistance, and certification as required by the Montana Department of Environmental Quality, Amount/\$9,959.00. Term/September, 2016-January, 2017. To Amy Rose/Public Works.

Additional discussion item(s): 1) Economic development grant/loan for Missoula Food Bank; 2) Upcoming board meetings and review of meetings.

WEDNESDAY, SEPTEMBER 7, 2016

BCC met in regular session; all three present. Morning: JC participated in conference call for Crown of the Continent. Afternoon: NR attended Human Resource Council Program Council meeting. BCC attended Missoula Economic Partnership meeting. JC attended Montana Healthcare Foundation Integrated Behavioral Health Grant and National Council for Behavioral Health meeting. Evening: JC attended Swan Valley Community Council meeting.

Monthly Report – NR examined/approved/ordered filed the Monthly Reconciliation Report for Justice Courts 1 & 2 (Marie A. Andersen and Landee Holloway) for month ending August, 2016.

<u>Monthly Report</u> – NR examined/approved/ordered filed the Monthly Reconciliation Report for Clerk of District Court, Shirley Faust, for month ending August, 2016.

<u>County Payroll Transmittal Sheet</u> – BCC signed. Pay Period: 18/CY2016 - Pay Date/September 2, 2016. Total Payroll/\$1,746,709.90. To County Auditor.

<u>Letter</u> – BCC signed, dated September 7, 2016. To Rod Austin, Missoula Parking Commission. Requesting free short-term parking on Ryman and Woody Streets for citizens who need to make a quick stop at Missoula County offices.

ADMINISTRATIVE MEETING - CANCELED

THURSDAY, SEPTEMBER 8, 2016

BCC met in regular session; all three present. Morning: NR/JC attended Justice Alliance for Mental Health meeting. NR attended Human Resource Council Board meeting. Afternoon: BCC attended Attainable Housing discussion. Evening: BCC attended Open Space Bond celebration.

<u>Larchmont Claims</u> – BCC signed Signature Page for A/P Invoice Register dated September 6, 2016. Amount/\$54,238.55. To County Auditor.

ADMINISTRATIVE MEETING

Memorandum of Understanding – BCC signed Memorandum of Understanding between Missoula County-Parks, Trails, and Open Lands Program and Missoula County Public Schools District #1 for the use of the existing playground area located in the East Missoula Lions Park (County Park) as a supplemental playground to the existing playground infrastructure at Mount Jumbo Elementary School for the 2016-2017 academic school year. To Garrick Swanson/Parks, Trails, and Open Lands.

<u>Professional Services Agreement Amendment</u> – BCC signed Amendment One of Professional Services Agreement for Nurse-Family Partnership (NFP) home visiting program in Hill County by Missoula City-County Health Department (MCCHD). Provides nurse supervision and data entry. Extends agreement through December 31, 2016 with additional funding. Amount/Additional \$16,378.00, for total of \$43,339.00. Term/July 1, 2015-December 31, 2016. To Holly Behlke/MCCHD.

<u>Professional Services Agreement Amendment</u> – BCC signed Amendment One of Professional Services Agreement for NFP home visiting nurse program in Lewis and Clark County by MCCHD. Provides nurse supervision and data entry. Extends agreement through December 31, 2016 with additional funding. Amount/Additional \$14,944.00 for total of \$42,237.60. Term/July 1, 2015-December 31, 2016. To Holly Behlke/MCCHD.

<u>Professional Services Agreement Amendment</u> – BCC signed Amendment One of Professional Services Agreement for NFP home visiting nurse program in Yellowstone County doing business as RiverStone Health by MCCHD. Provides nurse supervision and data entry. Extends agreement through September 30, 2016 with additional funding. Amount/Additional \$59,001.00 for total of \$213,140.00. Term/July 1, 2015-September 30, 2016. To Holly Behlke/MCCHD.

<u>Provider Agreement Amendment</u> – BCC signed Amendment to Participating Provider Agreement between Blue Cross and Blue Shield of Montana (BCBSMT) and MCCHD. Adds another plan option "Blue Focus" for Montana residents eligible for BCBSMT's Retail Health Maintenance Organization Point of Service Network in Rating Area 3. To Holly Behlke/MCCHD.

<u>Provider Agreement</u> – BCC signed Amendment to Participating Provider Agreement between Blue Cross and Blue Shield of Montana (BCBSMT) and MCCHD. Adds another plan option "Blue Options" for Montana residents eligible for BCBSMT's Retail Health Maintenance Organization Point of Service Network in Rating Area 3. To Holly Behlke/MCCHD.

 $Additional\ discussion\ item (s): Community\ and\ Planning\ Services-Missoula\ Electric\ Cooperative\ Award.$

FRIDAY, SEPTEMBER 9, 2016

BCC met in regular session; all three present. Morning: NR attended Midtown Mojo meeting. Afternoon: NR attended Partnership Health Center Board meeting.

DocuSigned by:

Tyler Gernant Clerk & Recorder RBCRBREE35814CA

Nicole "Cola" Rowley, Chair

FISCAL YEAR: 2017

BCC

MONDAY, SEPTEMBER 12, 2016

BCC met in regular session; all three present. Afternoon: NR attended Aging Services Governing Board meeting. BCC attended meeting regarding Emergency Detention Unit on Western Montana Mental Health Center campus.

Community and Planning Services (CAPS) Update – BCC/CAPS Staff. Agenda: 1) Public comment; 2) Communications; 3) General updates: a) Milltown State Park Agricultural Covenant Lifting; b) Mallo Floodplain Variance; c) Martinsen Boundary Line Relocation and Family Transfer; d) Adoption of Missoula County Subdivision Regulations Chapter 8, as amended; e) Adoption of Missoula County Subdivision Regulations Chapter 5, as amended; f) Adoption of Missoula County Subdivision Regulations Chapter 6, as amended; g) Fort Missoula Regional Park Phase 2 Deconstruction, Heritage Timber, LLC; h) Deschamps Open Space Bond Project Reimbursement Resolution; i) Letter of support for Lolo National Forest's Land and Water Conservation Funding acquisition proposal for areas in Gold Creek, Boles Creek, and Placid Creek drainages; 4) Director's update.

TUESDAY, SEPTEMBER 13, 2016

BCC met in regular session; all three present. Morning: BCC met regarding Flathead National Forest Plan. Afternoon: NR met with Mayor's Downtown Advisory Commission. NR attended meeting on midtown land use study. Evening: BCC attended meeting on final report for Voluntary Incentives for Agricultural Enhancement.

Indemnity Bond – NR signed. Tristan Joshua Morgan, Butte, Principal for Detention Facility Warrant #60043525, issued August 1, 2016 on County 2308 fund. Amount/\$363.14 (for funds on account at time of release). Warrant lost.

Indemnity Bond – NR signed. James Michael Rutherford, Butte, Principal for Detention Facility Warrant #60043282, issued June 16, 2016 on County 2308 fund. Amount/\$75.00 (for funds on account at time of release). Warrant lost.

ADMINISTRATIVE MEETING

<u>Contract</u> – BCC signed Professional Services Agreement with Mountain West Medical and Laboratory, Inc. for preventive maintenance in the Environmental Health water laboratory. Amount/\$1,200.00. Term/August 1, 2016-June 30, 2017. To Shannon Therriault/Missoula City-County Health Department (MCCHD).

<u>Task Order</u> – BCC approved, NR signed. Task Order 17-07-5-21-014-0 for Missoula County Women, Infants, and Children (WIC) program between Department of Public Health and Human Services and MCCHD. For delivery of WIC Program to residents of Missoula County, Granite County, and possibly other counties. Also provides funding for Breastfeeding Peer Counseling services. Amount/\$499,666.00. Term/October 1, 2016-September 30, 2017. To Holly Behlke/MCCHD.

Interdepartmental Amendment – BCC signed Agreement between MCCHD and Missoula County Risks and Benefits for delivery of "Be Your Best" Diabetes Prevention Program. For MCCHD to provide staff to deliver Diabetes Prevention Program classes to eligible County employees. Amount/\$500.00 per participant. Term/July 1, 2016-June 30, 2018. To Holly Behlke/MCCHD.

<u>Payment Request</u> – BCC approved, NR signed. Request for payment form for Montana Department of Commerce Big Sky Economic Development Trust Fund Job Creation Grant Contract #MT-BSTF-1-16-03. For Draw #2 for Columbia Pacific Finance. Amount/\$15,000.00. Term/August 26, 2015-August 26, 2017. To Nicole Rush/BitterRoot Economic Development District.

Memorandum of Understanding – BCC approved, NR signed. Cooperating Agency Memorandum of Understanding between Missoula County and Bureau of Land Management regarding Development of Missoula Resource Management Plan and Environmental Impact Statement. Formalizes working relationship and provides County with additional opportunities to comment on planning document. To Pat O'Herren/Community and Planning Services.

<u>Office Organizational Structure</u> – BCC approved placement of Records Management Office (division) under the overall administration of the Technology and Information Services Department. To Patty Baumgart/Human Resources.

Independent Contractor Agreement – BCC signed Independent Contractor Agreement with Primum Terrae, LLC to complete the Montana Invasive Species Strategic Framework. Last of three priorities set by Montana Invasive Species Advisory Council. Amount/\$29,000.00 from grant funding. Term/September 13, 2016-December 1, 2016. To Bryce Christiaens/Weed District.

<u>Signature Authorization</u> – BCC authorized JC and Heidi Fritchen to sign benefits checks. Signature form needed for new vendor to print and mail benefits checks. Signature update also needed due to Hal Luttschwager's retirement. To Heidi Fritchen/Risks and Benefits.

Budget Reports - BCC approved, NR signed. Missoula County School Budget Reports for FY2016-17 for:

- Bonner Elementary
- Potomac Elementary
- Lolo Elementary
- Heligate Elementary School
- Missoula High School
- Missoula Elementary
- Frenchtown K-12 Schools
- Seeley Lake Elementary
- Swan Valley Elementary
- Clinton Elementary
- Sunset Elementary
- Target Range Elementary
- DeSmet Elementary
- Woodman Elementary

To Erin Lipkind/Missoula County Superintendent of Schools.

<u>Letter</u> – BCC signed, dated September 12, 2016. To Tim Garcia, Lolo National Forest. Supporting Lolo National Forest's application to the Land and Water Conservation Fund in Western Montana for funds to acquire areas in the upper reaches of Gold Creek, Boles Creek, and Placid Creek from the Nature Conservancy.

Additional discussion item(s): Upcoming board meetings and review of meetings.

WEDNESDAY, SEPTEMBER 14, 2016

BCC met in regular session; all three present.

ADMINISTRATIVE MEETING

Resolution 2016-121 — BCC signed, dated September 14, 2016. Budget Amendment to re-instate full time employee in Facilities Management. To Larry Farnes/Facilities Management.

<u>Contract</u> – BCC signed Contract for Collection Services between Collection Bureau Services, Inc. and Missoula City-County Health Department (MCCHD). For bad debt accounts for clinic services received at MCCHD. Amount/Based on percentage of monies collected. Term/October 1, 2016-September 30, 2018. To Holly Behlke/MCCHD.

<u>Professional Services Agreement</u> – BCC signed Professional Services Agreement between Missoula County Detention Center and Information Technology Core for printer services. Amount/\$9,950.00. Term/October 1, 2016-September 30, 2017. To Jason Kowalski/Sheriff's Office.

<u>Appointment</u> – BCC appointed Connie M. Clark to the Seeley Lake Rural Fire Board to fill an unfulfilled term until May 31, 2018. To Heather Schroeder/Commissioners' Office.

<u>Bid Authorization</u> – BCC authorized bidding on a communications building and tower currently owned by Charter Communications. Existing County owned building on Point Six Mountain cannot be expanded to accommodate new microwave system. To Adriane Beck/Emergency Management.

Additional discussion item(s): None.

PUBLIC MEETING - SEPTEMBER 14, 2016

MISSOULA BOARD OF COUNTY COMMISSIONERS PUBLIC MEETING MINUTES

Conference Room 151-Courthouse Annex

If anyone attending the public meeting is in need of special assistance, please provide advance notice by calling 258-4877. Missoula County is happy to provide auxiliary aids and services.

WEDNESDAY, SEPTEMBER 14, 2016 - 1:30 PM

1. CALL TO ORDER

Commissioners Present:

Chair Nicole "Cola" Rowley Commissioner Jean Curtiss Commissioner Stacy Rye

Staff Present:

Christine Dascenzo, Planner - Community and Planning Services
Todd Klietz, Missoula County Floodplain Administrator – Community and Planning Services

John Hart, Civil Deputy Attorney - County Attorney's Office Jennie Dixon, Planner - Community and Planning Services Deborah Evison, Building and Development Manager, Missoula County Public Works Department

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2. PLEDGE OF ALLEGIANCE

3. PUBLIC ANNOUNCEMENTS

None

4. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

None

5. CURRENT CLAIMS LIST

Total claims from August 18, 2016 - September 9, 2016 = \$2,735,290.08

6. HEARINGS

a. Martinsen Boundary Line Relocation and Family Transfer

Christine Dascenzo, Planner - Community and Planning Services – Greg Martinsen proposes to relocate the boundaries between existing tract B4 and A1 as seen on the slide. The proposal would increase tract B4 from 13.37 acres to 26.99 acres and decrease tract A1 from 23.62 acres to 10 acres. Mr. Martinsen is also proposing to create one new five acre parcel from the proposed 10 acre parcel and transfer it to his adult daughter Jennifer Taylor. The property is located in Pattee Canyon and legally described as tract B4 of COS 5053 and tract A1 of COS 5053. Both parcels are and will continue to be accessed from Burning Tree Drive and the property is located and compliant with zoning district four which requires one dwelling per five acres and a minimum lot size of three acres. These parcels are located out of the floodplain and both parcels are vacant of any structures. The remaining parcel will be 26.99 acres and the applicant stated that all of the parcels are intended for residential use. A retracement of ten lots including tract B4 and A1 was performed by and involving the applicant as shown in your packets in COS 5053. The current configuration of tract B4 of COS 5010 was created through a boundary line relocation by and for the applicant. Tract B2 of COS 3811 was created through an occasional sale by the applicant in 1990. Tract A1 of COS 3927 was created through a large lot exemption by Philip Martinsen, Allison Livingston and the applicant in 1991. Tract A of COS 1940 was created through a large lot exemption in '79 by the applicant for A.E. and B. Martinsen. In 2015 the applicant discussed plans to subdivide the land into 19 lots through a project entitled Fire Hill Estates. The request was reviewed for evasion criteria and triggered five. The first, to divide a tract that was created through use of an exemption; the second, to divide tracts that were created as part of an overall development plan with such characteristics as common roads, utility easements, restrictive covenants, open space and common marketing or promotional plan. The only thing in common with Fire Hill Estates is the road accessing the new tract A3 and A4; the third criteria was to divide a tract that will become one of three or more parcels that will have been divided from the original tract; the fifth criteria, to divide tracts by an applicant who has exemptions to create parcels from the original tract or other tracts; and criteria seven, to divide tracts that were recently transferred to the applicant. Tract A4 and B1 were both transferred to Gregory Martinsen in October, 2015 from that Fire Hill Estates LLC. Considering all of the factors and the configuration of the request we are recommending approval of the boundary line relocation and family transfer.

Standard Family Transfer Questions:

1. Please state your name for the record.

Greg Martinsen and Jennifer Taylor

2. Are you using the subdivision exemption process in an attempt to evade the subdivision review process?

No.

3. How long have you owned the property?

My brother, my sister and myself inherited them from my parent's estate in the late 70s and early 80s.

4. Did you buy/inherit the property with the intent of dividing it?

5. Do you or your transferees intend to transfer the property within the next year?

No.

6. Have you talked to anyone at the County about going through subdivision review?

When it was in a different ownership; at one time my brother and sister and I held it all together through different ownerships, at one point in time it was an LLC and last year we decided to dissolve our interests and we each got our own parcels. My intention is to give a piece of property that I told her that she could have for 30 years.

FISCAL YEAR: 2017

7. How long was it in that LLC?

Probably three or four years.

8. Are you in the business of building or developing property?

No, I am a land surveyor.

9. Do you understand that this exemption request is not being reviewed for adequate physical and legal access in all weather for all vehicles, including emergency access vehicles?

Yes, we do.

10. Do you understand that if this exemption is approved, it does not mean the property is approved for zoning compliance, building permit, floodplain or septic systems, or any other permits?

Yes, we do.

11. With the recipient in mind, Jennifer, will the property be developed?

Residentially, with the intent to build a home.

12. Will the recipient of the property be residing on the property?

Yes.

13. Where does the recipient live now?

In Missoula on River Road.

Greg Martinsen – One thing I would ask is that instead of just putting it in her name on the deed, I wanted to put it in her name and her husband's name. Just to eliminate another step in the process.

Commissioner Curtiss - I don't think that is a problem.

Commissioner Rowley – Is there any further questions or public comment? Seeing none, I will close the hearing.

Commissioner Curtiss made a motion that Missoula County Commission approve the request by Greg Martinsen to relocate a boundary line and create and transfer one parcel to his daughter Jennifer Taylor. Commissioner Rye seconds.

Passed 3-0.

b. Milltown State Park Agricultural Covenant Lifting

Christine Dascenzo, Planner – Community and Planning Services – This is a request from Montana Fish, Wildlife and Parks to lift the agricultural covenants on three parcels, in accordance with Missoula County Resolution 2013-135, authorizing the lifting of agricultural exemption covenants under certain circumstances. The parcels are legally described as tract one of COS 5989, tract one of COS 6012 and tract one of COS 6252. They are located in the Bonner/Milltown area with Deer Creek Road access, located to the west. The confluence of the Clarkfork and Blackfoot River are to the north east. The property is zoned C-P1, public lands and institutions; it has a land use designation of parks and open space from the 1998 Urban Comprehensive Plan. Tract one of COS 5989 is 6.58 acres. Tract one of COS 6012 is .51 acres and tract one COS 6252 is 9.79 acres. Together they total 16.86 acres. The parcels are outside of the waste water service area and accessed off Deer Creek Road. Each of these tracts were created by entities other Montana Department of Fish, Wildlife and Parks including Plum Creek, Jacobs Joint Ventures and BNSF Railway. Tract one of COS 5989 was created in 2007, tract one of COS 6012 was created in 2008 and tract one of COS 6252 was created in 2011. These three parcels were acquired by FWP in 2011 for inclusion in Milltown State Park. Lifting the agricultural covenant will eliminate restrictions on these parcels which have complicated development and prevented adequate bathroom facilities. They are seeking to install a vault toilet on one of the parcels and cannot do that with the ag restrictions in place. Missoula County and Montana State Parks entered a memorandum of agreement in October of 2013 to provide access to and improve the state park. As part of that agreement the fee for this review was waived. They are requesting that the agricultural covenant placed on the properties be lifted in accordance with the Resolution 2013-135 which amended the subdivision regulations for the approval of lifting an agricultural exemption covenant, saying that the Board of County Commissioners may approve the removal of an agricultural covenant if the proposed lifting is for a government entity seeking to use the parcels for public purpose. Fish, Wildlife and Parks is a public entity and the proposed use is for public purposes. Staff is recommending approval of the three agricultural liftings.

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Commissioner Rowley – Is there any public comment? Seeing none, I will close the hearing.

Commissioner Rye made the motion that the Board of County Commissioners lift the agricultural exemption covenant from tract one of COS 5989, tract one of COS 6012, tract one of COS 6252 to approve the lifting of the covenant. Commissioner Curtiss seconds.

Passed 3-0.

c. Jeffrey and Larry Mallo Floodplain Variance Request

Todd Klietz, Missoula County Floodplain Administrator – Community and Planning Services - You have a request for a variance from the floodplain regulations that requires a floodplain development permit be issued in compliance with a portion of the regulations that looks at Channel Migration Zones (CMZ) and access during the 100-year flood.

The original tract of record was tract six of COS 1213, created in 1977 as part of a COS that was among several tracts of record that were all over 20 acers so it never went through formal review. In 2006 this parcel was surveyed to determine what areas, if any, were above the 100-year flood elevation; two areas were found. The applicants/property owners at that time submitted a letter of map amendment to FEMA (Federal Emergency Management Agency) which would remove those portions of the property from the 100-year floodplain. FEMA did grant the LOMA (Letter of Map Amendment) and placed the property from AE 100-year floodplain into Shaded X floodplain. This removed the property from flood insurance requirements. That particular tract of record was then subdivided through family transfer to four separate tracts and the current COS is 5852.

It is accessed from Mullan Road west of Frenchtown; south on Erskine Fishing Access and east on Serenity Lane leads you to the four Mallo parcels we are discussing now. The yellow (referring to map) represents the Shaded X floodplain, pink represents 100-year flood fringe, red represents floodway. The parcels do remain in some flood hazard area mapped by FEMA but importantly the areas where their septic systems and proposed development would be located would be in the Shaded X floodplain which does not require flood insurance.

In 1997, Missoula County experienced a 25 year flood event downstream of the Bitterroot River on the Clark Fork. During that flood event we had two homes that were almost captured by the river. Property owners spent both private and public funds of several hundreds of dollars to protect their investments. Knowing that, in 2000 Missoula County passed a floodplain requirement that said, even if a property has been removed from the floodplain by FEMA, as this one has, it still must comply with the floodplain regulations; unless, "The Floodplain Administrator issues a determination that the area is not in danger from flooding caused by migration of a nearby creek or river and that reasonable emergency services would be available to the property in the event of a 100-year flood. This determination will be based on recommendations from an engineer qualified hydrologist and local emergency response personnel respectively." (Missoula County Floodplain Regulations)

As part of this variance process, the applicant contacted the sheriff who is in charge of emergency response during flooding. The sheriff indicated that he believes that there is adequate access for emergency and law enforcement services. As far as the floodplain regulation goes that leaves the issue of migrating streams to be addressed.

In 2009, Missoula County Water Quality District obtained these services of Applied Geomorphology and DTM Consulting, Inc. out of Bozeman to do a channel migration mapping of the Clark Fork River. This occurred three years after the family transfer had been approved. This CMZ location is from the Bitterroot River confluence with the Clark Fork River down to Huson. It contains the area that we are looking at. Specifically referring to Breach four near Frenchtown. This is an aerial photo from 1955 showing where the primary river channel was. This picture on the top shows where that original channel was in 1955, 1972 and 2005 showing that the channel has migrated northwest from where it was in 1955. In particular, this area here is proposed migration that may occur. This is the actual channel migration map from the Bitterroot to Huson. The Mallo Way four properties are right here, the blue diagonal represents the channel migration erosion zone and the pink represents the channel migration avulsion zone. Erosion would be slow moving where the river moves over time; avulsion typically means when the river jumps suddenly during a flood event. The properties are all within either the erosion zone or the avulsion zone of the channel migration mapping.

This is another view of that 1955 aerial. The original parcel had the family home site on it. This parcel has since been developed prior to the 2009 channel migration study. The two properties remaining and the subject of the variance are represented in the blue. I would like to draw your attention to where the river was located in 1955; this is 2011 showing how the river has changed substantially and is marching toward this property, assuming that it continues to do so.

What we are trying to prevent with the CMZ regulation is to ensure that something like this (referring to photo) doesn't happen. This was a home that was built on the Clark Fork River, outside of Missoula County and out of the floodplain, during the 1997 flood the river came and got it. It resulted in the home being burnt down to protect downstream infrastructure.

In summary:

- The location proposed for a variance was originally mapped in the Zone AE flood zone and relocated into the Shaded-X flood zone through a Letter of Map Amendment (LOMA) in 2006. Development here requires a variance.
- Variances must be reviewed against criteria in the Missoula County Floodplain Regulations. Section 3.04(C) (2) requires the Floodplain Administrator to make a determination that migration of a nearby creek or river will not pose danger to development on the property.
- The property is in a confirmed Channel Migration Zone (CMZ). Records indicate the Clark Fork River has advanced 4100 feet toward the property in the past 60 years, and is currently 3000 feet from the property.
- 4. Considering the risk that the migrating Clark Fork River will eventually reach the property and present a public health and safety risk to future residents, the Floodplain Administrator recommends denial of the variance.

Shawn Rowland, representing Mallos - Territorial Landworks, Inc. – I would like to give you background on the Mallo property; explain our take on the staff report; go over the Clark Fork River Migration Zone map and its purpose; explain the process of what we do at Territorial Landworks and how we try to help our clients. I would like to give you a bigger picture of how things play out for something like this.

Jeffery and Anna Mallo bought the property in 1985, they developed it 1988. The property was a part of their lives for quite a while. In 2006 they decided to do a family transfer to give property to their sons. In order to do that they had to complete a LMOA to show that there property was outside of the floodplain. They did this in 2006 and they continued on with the family transfer process and they received MDEQ (Montana Department of Environmental Quality) approval. Tract one, developed in 1988; tract four was developed by Randy Mallo in 2007. Then 2009, it was a bad situation, especially for consultants doing land work, Larry worked for Territorial Landworks at that time, unfortunately due to the economy and the recession he had to leave the valley and go find work elsewhere. Approximately at the same time the Stimson Mill closed down and Mr. Mallo also lost his job. In 2009 we have this channel migration study completed. In 2015, the floodplain regulations are updated to include this language that indicates that if the Floodplain Administrator, or if it is in this zone Shaded-X, the Floodplain Administrator has to say it is not within a floodway of a river or stream and that he has to insure that there is reasonable emergency service access to the property. At the exact time that they were going through that process the FEMA revalidated that LOMA. So it is important that we know the CMZ study goes through and that the LOMA was revalidated on the exact same date, basically saying that the LOMA still is in effect. Sometime in 2015 Larry and his dad put their individual parcels up for sale, they get a buy-sell on one of the pieces of property, the buyer tries to get a building permit and at that time Todd is brought into the process and he indicates that they cannot develop the property, as a single family dwelling, because it is in this Channel Migration Zone. On May 19, 2016 Territorial Landworks submitted their variance request and on September 9, 2016 we received the staff report. Those dates are important.

I would like to go through the staff report. Todd has given you your request form and he has indicated that the river has migrated over 4,100 feet in the last 60 years, which is true, the map shows that. What he fails to indicate is that the CMZ has an erosion buffer that takes this into consideration. So basically this erosion buffer is taking into consideration what is going to happen with this erosion as the stream or the Clark Fork starts to erode we know that the bank is moving and we know that it is a wonderful dynamic system and we want to try and keep it that way. The erosion buffer was created to anticipate future migration beyond the historic corridor boundary that is from the CMZ study. There is a difference between the avulsion area and the erosion buffer that is created. He (Todd) further indicates that the applicant has not submitted information to refute the CMZ study. However, this is not correct. In our variance request we specially request and indicate that the CMZ study was not ever created for regulatory purposes. It is important to the Mallos that you understand that we applied for this on May 19, 2016 and we received the staff report almost four months later. To me that is a pretty long time to have a variance request be processed by the staff. It takes the Mallos out of the situation of trying to determine what they can do with their

property during the summer, when maybe the market is hot, and pushing it out further. It also seems quite long of a period to get the kind of staff report that we received. It was difficult to explain to the Mallos what some of the figures were in the staff report. None of the figures have legends, none of them have scales, and none of them are referenced in the staff report. I think it is important that is there because this is the public record, this is what I am supposed to take to my clients, or this is what my clients are supposed to read. It is important that this staff report is indicating and can explain what is going on, I find that it was very difficult to understand. There are two aerial photos in here without dates, I had no idea what the purpose was, until Todd presented. He did a good job explaining, but when I am trying to explain this to my clients it is very difficult. If someone comes back in to look at this variance request and looks at this staff report, they won't understand why those are even in the staff report. I think it is a little like the sky is falling, I think it is a little much to have this house hanging over and then all of a sudden it is on fire, I think it is a little much. It seems like it is really trying to show that this is in imminent danger and that the fire, I didn't know that the fire was because they burned down, I thought it was because the flood caused it to blow up or something.

I would like to move onto the Clark Fork River Channel Migration Zone map and the technical memorandum. The orange is the erosion buffer and the pink is the avulsion area. The Mallo property is in the pink area, the avulsion area and it is in the erosion buffer. In the lower right hand corner it specifically says what the purpose of the map is. It says, "The boundaries on this map are intended to provide a basic screening tool to help guide management decisions on the Clark Fork River, and do not provide regulatory boundaries." It is really important that we understand that. You can't just take a map and start using it for regulatory purposes and telling the Mallos they can't develop their piece of property when the map was never intended for that purpose. I did speak to Karen Boyd, who generated the map as one of the authors, and she confirmed that if they had known it was going to be used for regulatory purposes they would have used different criteria for developing the map. With the map comes a technical memorandum that has three different locations that indicate that the purpose of the map was not for regulatory purposes.

- "The mapping of avulsion prone areas is inherently difficult without intensive modeling efforts supported by high resolution topography." (Section 2.5, Page 7)
- "As described in Section 2.5, mapping avulsion-prone areas is somewhat subjective without intensive analysis that is beyond the scope of this study." (Section 3.4, Page 13)
- "It is important to consider the methodology applied in defining avulsion prone areas when considering management applications of the CMZ maps. If the avulsion hazards are considered high priority with respect to overall land use management strategies, it may be appropriate to conduct a more detailed analysis of avulsion potential, or it may also be appropriate to consider the entire 100-year floodplain as avulsion-prone." (Section3.4, Page 13)

You are probably asking yourself, why would we even do this study if we are not going to use it for these purposes? The Water Quality District has the CMZ done, they paid for it. Through my research just looking into this project and CMZs I found that there are a lot of reasons that you would want to do a CMZ study. The CMZs studies are a good resource for identifying restoration opportunities; they are good education for the river process and assumed risk, accumulative effects studies, quantifying restricted migration areas. One important thing that I found was this Yellowstone River Channel Migration Easement Program (referring to a brochure). I am not going to deny that this CMZ exists, what I want to say is a good use of that tool is to create easementsfor the property. The Yellowstone River Shed has a CMZ study very similar, in fact the same authors did that work. They have used that study to try and get easements on properties, basically saying to the property owners, we will give you a conservation easement on your property and you will not build in that area and you will allow the stream to migrate. Allowing the stream to migrate verses trying to use rift raft or something like that is not a good idea; you want the stream to be dynamic.

I've tried to do a full circle to show you that the CMZ study is not there for regulatory purposes but there is a good purpose for it. It is an amazing asset to have as you look at stream restoration and different activities along the river. I also wanted to indicate that we have met the criteria. In the staff report Todd has listed all of the criteria for the variance request. We never received any information that he disagreed with what we had put here; typically you would have a finding of facts or something to indicate disagreements. My contention is that he must agree with it. In your staff report you have all the information that we indicate that we meet the criteria for the variance. Most of the information for the variance is basically addressed saying if you are in the floodplain. We are in a catch 22 here because we are not in floodplain, but we are in the CMZ and because we are in the CMZ Todd can say that we are in the floodplain, but we are technically not in the floodplain. The only thing that is putting us in the floodplain is the fact that we are in the avulsion prone area of the map. The other criterion that we had to do was to provide evidence that emergency vehicles and responders could come to the property and we have a letter from the sheriff indicating that.

Finally, I think it is important that you as commissioners understand that you cannot find the CMZ map on the floodplain website. You can go to the Water Quality District and find it there, although it was incomplete, I believe Todd let them know some maps were missing. It is important that if we go

in as consultants to do due diligence for a client that that information is available. This map is from the Missoula County Floodplain interactive map program. You will see that it shows where the property is and this is just the southern piece shown, there is no indication that there is a CMZ, there is no indication that that information is even available. I think that is important that is integrated into this as a process. I also think it needs to be understood that when this CMZ was completed and they went out to the public and discussed this it was always that it was not for regulatory purposes. Typically when you bring regulations forward to the public they have an opportunity to have their day in court about those regulations. Basically like what you are doing in allowing the public to comment on the agenda items. That was never completed for the CMZ study saying this could be used for regulatory purposes, it was always proposed that is was going to be used as a planning tool.

Typically, when new FEMA maps come out and a piece of property is shown to now be in the floodplain because a new map has come out, my understanding is Missoula County would send out a card to those properties letting them know that their properties are now in the floodplain, this never happened for the Mallos.

So now there is a CMZ we can't even find the information, we go to the website to see that if something is in the floodplain we can't find that and also it is not on their floodplain website. I feel like we are in a society where that information should be available on the website especially when you have an interactive web tool showing you if you are in the floodplain. It is very complicated. If you have questions we are here to answer them. Thank you.

Commissioner Rowley – Should we hear from the Mallos and then ask questions to the consultant?

Larry Mallo (Jeffery Mallo standing up with him, no comments made) - It has been a long, long journey for us. Back in 2006 we were all here and planning to develop these lots. We went through and got the LOMA, we went through and got the DEQ approvals, we went through all the hoops, even through the new building permit process on the two lots. Then the economic downturn, my brother ended up with a job out of state, I lost my job, he (referring to his dad) lost his job and we have all ended up out of state and for various reasons we have had to liquidate ourselves to keep ourselves afloat during these bad economic times. The only two assets we have been able to hold onto are these two lots. It became necessary for us to try and liquidate it and every time I got one of these letters from the floodplain I called Todd, a number of times, and asked how it affects me. How does it affect the lots? Every time he has responded that it doesn't affect the floodplain; your LOMA is still good. When we had an offer and the lot was on sale for two plus years and we finally got an offer, we were especially shocked to find out that even though it didn't affect my floodplain the study essentially wiped out the value of the property. It just made it unbuildable; although that technically it is not in the floodplain, the way that this is applied it made it unbuildable. I know they are trying to look out for the public interest but at no point in time did I even know this was a possibility until we actually had the offer and then it was denied. That has led us here with the variance request, Back in 1988 they actually surveyed this wrong. They didn't survey they just used the general maps and they created a floodplain map that we have proven that was wrong because our lot was out. Had they originally done the floodplain maps with the correct information our property would not have been shown in the 100-year floodplain and if was not shown in the original 100-year floodplain we would not be here because it wouldn't be subject to this. It is only because we had it LOMA'd out after the original maps that now we are subject to (inaudible). From my understanding, had this thing been originally surveyed out of the floodplain in 1988 with correct information, the elevations and everything would still be good and we wouldn't be subject to the regulations and we would be able to build on these lots. It is just a matter of happenstance. In 1988, they didn't use the correct information they used general information, they surveyed us in, we've proven that information wrong, but because it was originally surveyed in we are now subject to the floodplain regulations. Even though if they had surveyed it correctly in 1988 when they did the original maps and they had shown us out we wouldn't be subject to them and we would be able to build on the same amount of risks. If you go down the valley there is probably lots that were surveyed correctly that are probably at the same risks that these lots would be in. They are in the avulsion zone not the erosion zone. the erosion buffer. The erosion buffer from my understanding is where the river is most likely to go and the avulsion zone is where the worst case scenario the river jumps. Not just a 100-year flood just some catastrophe happens then it can jump. Most of the valley, if something happens, a catastrophe like an ice dam goes down river there is a whole bunch of the valley that if the river jumps, the rivers going to jump and there's nothing you can plan or look at that's going to tell you how it is going to jump and where it is going to jump. They didn't take the LOMA elevations, they took the general 1988 floodplain elevations, ran this study, so they didn't even have the LOMA information that showed different elevations when they put this map together. The map was put together without current or known information; that all impacts how they analyze stuff.

Commissioner Curtiss – So what you are saying is that the Channel Migration Zone study used those general numbers not the LOMA numbers?

Larry Mallo – That is my understanding of it. They took the elevation cut sheets from the 1988 thing and did their study off of it because there wasn't money or funding for surveying everything out.

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Commissioner Curtiss - And yours wasn't quite done?

Larry Mallo – Mine was done. It was done in 2009 it was not used in the study because (inaudible). That is my understanding of it. Is that correct Todd?

Todd Klietz – When we look at the floodplain map, what this yellow represents is the Shaded-X floodplain which is what FEMA has indicated that the LOMA didn't take them completely out of the floodplain. The LOMA took them into the Shaded-X floodplain. That is why this is yellow. The areas that are also yellow, again showing that they are not in the 100-year floodplain but potentially above it, like the railroad grade which is very high and these other properties, even though they didn't use the elevations for the LOMA that was provided by the Mallos, those same Shaded-X flood zones are included in the Channel Migration Zone. Regardless that this area is now yellow, had it been yellow or in the Shaded-X, had the consultants known it was in the Shaded-X flood zone like this is in the Shaded-X flood zone or this is in the Shaded-X flood zone (referring to map) I would anticipate that they would not have changed anything because these other places that are identified in the Shaded-X flood zone are in the Channel Migration Zone already. I don't think there would be any difference with that. Most of the things that they have said I don't find fault with. If I may, there is an indication that the CMZ requirement went into effect in 2015; it went into effect in 2000. We just didn't have the CMZ mapping done prior to their family transfer or prior to the first development down below.

Commissioner Rowley – Can you address how they indicated there was no indication to them about Channel Migration Zones at all affecting their property? They just got letters about floodplain. Is there any public education or is it always a shock that there is channel migration things going on people's properties that can alter their ability to develop. How do we address that?

Todd Klietz – I think that is a very fair assessment to say. The flood requirement for CMZ mapping did of course go through a public process in 2000. As far as the actual CMZ mapping and how that would be interpreted into the floodplain regulations, when that came out in 2009, I believe there was some public involvement with it, but again that is one side of the coin and the CMZ document says it is not to be used for regulatory purposes. The other side is the floodplain regulations that were adopted many years earlier that said there was a CMZ study that showed for a LOMA like this, for an area that in outside the 100-year floodplain, the floodplain regulations specifically state that it has to be outside of a Channel Migration Zone. That is where that comes from.

Commissioner Curtiss – And yet we don't have any reference to the Channel Migration Zones that we have done in our floodplain area of the website.

Todd Klietz – Correct, on the floodplain website we used to have links to the Missoula County Water Quality District. When the County updated the internet several of those duplicative links were removed. There was an interest from the real estate community several months ago to add the CMZ to our website and with our GIS department it would be very simple to do. It has been requested. It hasn't been completed.

Commissioner Rowley – Can you address the statement that if it was surveyed correctly in 1988 they wouldn't be subject to the CMZ issue at this point?

Todd Klietz – It may have been survey in 1988 or 1985, but regardless of that, if it had been shown as being out of the floodplain the floodplain regulations do not effect areas that are shown as being completely out and as zone X. FEMA has three indications for zone X; orange is X out levee protected, clear is X out and that is completely out, and Shaded –X is still subject to floodplain regulations. FEMA has decided this area is Shaded-X based on the survey data. With it being Shaded-X it would still be subject to the floodplain regulations but if it was actually out, like this area over here, zone X out, then those areas aren't subject to floodplain regulations.

Commissioner Rowley – So if the correct numbers had been used in 1988 it would have been Shaded X as opposed to, even if this was done correctly in 1988 or 1985, the Channel Migration Zone would still apply because it would have been placed as Shaded-X not as X-out.

Todd Klietz - That is how FEMA has identified it now as Shaded-X.

Commissioner Rye – Could somebody please put up the channel migration map? The area in pink is the potential place.

Shawn Rowland – That is the avulsion prone areas.

Commissioner Rye - So, the CMZ says that no building should take place in the pink?

Todd Klietz – The floodplain regulations basically say that no building should take place in the pink.

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Commissioner Rye - That is a lot of area.

Todd Klietz - That is a lot of area.

Commissioner Rye - And it is not supposed to be a regulatory document? This CMZ isn't?

Shawn Rowland - That is what is specifically says on the document, correct.

Commissioner Rye – Your point Shawn, if you can boil it down to one or two sentences, was what in response to this should be a building zone according to floodplain regulations.

Shawn Rowland – Effectively that he using this map as his guidance for showing that it is a river or stream migration zone, when this was actually not generated for that purpose. If it had been generated for that purpose they would have used different data. They would have used potentially much higher resolution topography and that type of thing. The idea that you take a tool that is not generated for that and the data and then you are bringing it over and saying it fits. It doesn't match. Even if the regulations say that the Floodplain Administrator knows if there is a migration zone there they can deny it. But that is not what this map really is for. Now, if it were in the buffer it would be a totally different story. I wouldn't be up here discussing that because the buffer used much better information. That is why you don't see the same items that I have indicated saying, okay you need higher resolution, you need better this, better that that is not the case for the buffer. It is the case for the pink avulsion area. Buffer area is the orange. Basically the buffer area is where they think that the river could migrate with a 100 year event and the pink, as Mr. Mallo said, is if there is a catastrophic event, like an ice jam or if the river were to jump its banks, it is an avulsion, an avulsion is a creation of a new channel.

Commissioner Rowley – How come, on the one map with the hash marks, it showed part of the properties being in the erosion zone? But you are saying it is only in the avulsion zone?

Shawn Rowland – No, there is a small portion in the erosion.

Commissioner Rowley – It doesn't really look like that but if you zoom in and have that hash mark map some of it is actually in the erosion zone.

Shawn Rowland – Absolutely, but I believe that part is actually in the floodplain but I am not sure. It is in the part that we would not be developing.

Commissioner Rowley – Wasn't it one entire lot? But not one of the two lots that we are talking about but you also own that bottom left lot?

Larry Mallo - That one has already been developed.

Commissioner Rowley – I guess my issue is with talking about the CMZ as it is not a regulatory document, but it is the regulations that in order to prove a variance we have to look at channel migration. The only tool we have is the Channel Migration Zone study and so if we are tasked with assessing this and this is our only tool, if though that tool isn't regulatory it is the best science we have. How else can we make this assessment in your opinion?

Shawn Rowland – Well, if you are going to do it and you are going to take someone's building rights away, I think you need to do it right. Just throwing something out there and saying it is in the avulsion area. When I spoke with Karen Boyd, the author of this, she absolutely was adamant that it was not to be used for this purpose. I think it is important that its known. Just because you have a map showing something doesn't mean that you have to that for that. This is the avulsion area, if it was in the buffer that is your tool, you know it is going to migrate we've seen it migrating, as Todd has said. But do we know that it is going to avulse into that area? We don't know that.

Commissioner Rowley – So, if we ignore this map and just look at the aerial map where it has moved 4,100 feet in 60 years and it is only 3,000 feet away from this property and it is clearly on that trajectory. The CMZ map actually makes it look better than that aerial view which seems quite obvious that it will impinge on that property.

Shawn Rowland – Right, but they took that into account. So they took that information and they know the topography. That is what that erosion buffer is doing; it is saying that is the limit of how far that is going to erode that direction.

Commissioner Rowley - But if we can't use that information...

Shawn Rowland – But you can because you have that erosion buffer. I am not arguing that the erosion buffer is not done properly.

Commissioner Rowley - I am just saying that if you look at the trajectory of the river it seems very obvious that in the next 60 years it will hit that property without the CMZ.

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Shawn Rowland - I think they are showing though that is not going to happen because of the data that they have.

Commissioner Rye – What he is saying is the buffer zone is orange where it might go. It is not the pink.

Commissioner Rowley – But he is telling us not to look at the map.

Shawn Rowland - Yes and no but I am saying that the avulsion areas are the ones that they definitely indicate are not to be used for regulatory purposes because they didn't use the best data for that.

Commissioner Rowley - I know what you are saying.

Commissioner Rye - I understand what you are saying, but if we are going to refer to that map just to have a map to refer to, the orange is what the river might end up migrating to but not necessarily the pink.

Shawn Rowland - Correct and that is what Ms. Boyd indicated to me. The risk of being in the pink is so significantly less that unless you have true data you should be using the orange for those kinds of decisions

Commissioner Rye - That is a moving argument to me.

Commissioner Rowley - That is what I was trying to say.

Commissioner Curtiss – So, are you saying that she used more detailed data to create the orange than the pink?

Shawn Rowland - It is confusing how they do that. In Appendix A of that report they talk about how they made different assumptions for the avulsion areas. Without being the author and I am not a hydrogeologist, I can't explain. I am only referencing the discussions that I have had with Karen because she is the professional in that field. What they do for the buffer is a different analysis than what they do for avulsions, it is a different model using the GIS.

Commissioner Rowley - I guess the question was, were it to be a regulatory document and were she do the data analysis differently to tighten up the zones, would that only alter the avulsion zone or would the erosion zone also be determined differently?

Shawn Rowland - I can't answer that,

Commissioner Curtiss - Can you pull up to what he is referring to in the Appendix?

Commissioner Rowley - While you do that, our regulations don't specify anything about avulsion verses erosion or anything like that, Todd? It just says look at the channel migration?

Todd Klietz - Channel migration, right,

Shawn Rowland - It only says migration.

Commissioner Rowley - There's not a definition of that really?

Todd Klietz – The actual definition from the floodplain regulations is, "The Floodplain Administrator issues a determination that the area is not in danger from flooding caused by migration of a nearby creek or river and that reasonable emergency services would be available to the property in the event of a 100-year flood. This determination will be based on recommendations from an engineer or qualified hydrologist and local emergency response personnel respectively."

Commissioner Curtiss - I meant what he was referring to as to her data regarding how she created the maps.

Todd Klietz - It should be at the end of the actual channel migration study. During 1997 the Bitterroot River, of course we are not talking about the Bitterroot, it is not a 100-year flood on the Bitterroot River but the river avulsed over 3,000 feet in Ravalli County.

Commissioner Curtiss - What we are trying to do when we look at these kinds of things is even when things aren't regulatory they should still be cautionary. Our regulations also say that you can't use riprap to protect the property when you see the river coming. How are you going to protect, what you are saying is, it is the avulsion area; all of us better be building an arc when that happens.

Commissioner Rye - Todd, this map is what?

Todd Klietz - The 1955 aerial.

Commissioner Rye - And this is 2011? Do you think you could put headings on these so when we page through all of these maps they say what they are. I think I know what I what to find, I just have a hard time finding it.

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Commissioner Curtiss - The variance today is for those two lots only?

Todd Klietz - Correct.

Commissioner Curtiss - Your recommendation is not to do that so they have the right to appeal to us to grant a variance?

Todd Klietz - Right, from a regulatory position I would not issue permits for development to happen there, due to regulations. The way to go about that then is to request a variance from the county commissioners to do that.

Commissioner Rowley - Do we have any further questions? Is there any public comment on this floodplain variance request? Seeing none, we will close the hearing to public comment. And if there were any further questions or clarifications...

Commissioner Rye – I understand your concern but it is moving to me that the yellow is most likely where the river will go and not the pink and I can see on the map that the river has migrated but I just don't know that I can get there on the denial.

Todd Klietz - I do have an exhibit that shows the difference between erosion and avulsion if that would help. Water quality sent it over today. In this particular photo what we are seeing is as the bendway migration as the river erodes out on its outside bend it is a bendway migration so it will erode gradually into this field versus an avulsion where it theoretically quickly jumped into this channel over here. The other one is an avulsion that happened in Rosebud County. Again, a lot of things happened in 1997 where previous to that the river was following the meander here, but during that flood event it just cut that off and went straight ahead.

Commissioner Rowley – But being in the zone next to these would not require flood insurance.

Todd Klietz - Correct.

Commissioner Rowley - What are the repercussions if we do have an event and there is erosion and the house has to be burned down or there is a major flood and there is no flood insurance what happens? The landowner has to take care of it, or?

Todd Klietz - In the case of the one in Sanders County they did because there was concerns about it taking the home and taking out the downstream bridge. They did call in FEMA and get FEMA's approval to burn down the house with total reimbursement from the taxpayers to back to the property owner.

Commissioner Rowley - If we approve development on these lots and something goes wrong we have to pay for it or is that considered president there or is it on the homeowner?

Todd Klietz - Typically it is on the homeowner. It was the State of Montana that requested that from FEMA. Looking at the bigger picture of spending a couple \$100,000 on this house or we will have millions of dollars of damage to a bridge. In that case FEMA made a reasonable determination. Typically it is on the property owner. Anybody in Shaded-X or X or any part of the county get can flood insurance.

Commissioner Rowley - Can, but they are not required to?

Todd Klietz - They are not required to in Shaded - X or unshaded - X

Commissioner Curtiss – So in 30 years if they see river moving there whoever lives there could buy flood insurance then, right?

Todd Klietz - They could.

Commissioner Rowley - I had a legal question that may be hypothetical but could be pertinent to this situation. What is the liability to the County and paying damages if that were to occur on development of the property? And also, if this argument about CMZ study not being regulatory, could we legally use that as a reason to not develop a property or since it was not made to be regulatory, can we not take that into consideration in our deliberation as best information available?

John Hart, Civil Deputy Attorney - County Attorney's Office - The liability question, like I often times tell you, there is a difference between having liability and then being sued. Anybody can file a lawsuit and bring any claim they want. Whether or not it has merit is a whole other issue. I

personally don't see us incurring any significant liability by approving a variance in this particular circumstance. That isn't something I would think should be part of your consideration. It doesn't mean that something couldn't happen down the road and there be lawsuit but I don't see that being an issue here. So then the second question involves whether or not...I think that despite the disclaimer that is in the CMZ study that it is not a regulatory document, it still is information that our Floodplain Administrator can and should consult in terms in making a decision under the floodplain regulations. That is what he has done and it is one of any number of resources that he might consult in making his decision on how to apply our floodplain regulations. I also think it is incumbent upon the applicant, for the variance, to come forward and show reasons why the information that is contained in the CMZ study should not apply in terms of making the decision whether to deny or grant the variance. That is probably not a very good answer but that is about the best I can do.

Commissioner Rowley – I had one more question for Todd, when does Channel Migration Zone come up? Just when somebody wants to develop and build or does it come up usually when lots are subdivided? Are we going to create new lots that are going to have this issue or is this an issue because these lots have existed for a long time and now they are being developed?

Todd Klietz – I think that is more of a question for the following hearing that we will be talking about with subdivision and subdivision evasion. But in our subdivision regulations and within the proposed subdivision exemption regulations we are talking about if lots couldn't be created under the normal subdivision process is it appropriate to allow them to be created under the subdivision exemption process.

Commissioner Rowley - Right and we are trying to prevent that correct?

Todd Klietz - Correct.

Commissioner Rowley – So, I guess hopefully in the future this won't come up because we won't create lots that will have this problem but the current situation is that we have these lots and we have had them for a long time and people have been holding them as an investment or a place that they want to live unbeknownst to them that it is going to be undevelopable. I am really struggling with when it's in the avulsion as opposed to erosion. I don't know. It is hard to tell people that they can't build on current property, that was at the time of approval was a buildable lot, to make it an unbuildable lot.

Todd Klietz – The floodplain maps change quite regularly. We are on our E series which is our fifth edition of floodplain maps. There have been many properties including in these properties out here, off of Erskine, where under previous maps they were shown as being out of the floodplain and are now shown as being within the floodplain and because of that the County, a different department than the planning office, has determined that the previous liftings no longer apply. A lot of the properties further south of here and also to the west of here that went through a DEQ process and approval from Missoula County and the State of Montana to build are now in the floodplain and they are not able to get septic systems anymore. Obviously those lots were created with the intention of being developed. Lolo Peak Vista is by Lolo Creek and there are dozens of lots down there that were created long before floodplain mapping or septic systems were widely permitted and created in the late 60s. Most of those lots remain undeveloped today because of those same things. It is unfortunate but it does happen that new public health and safety information does come out. That is why it is here before you today.

Commissioner Rowley – Would you agree or disagree that since it is in the avulsion zone as opposed to the erosion zone that it is borderline evidence to deny development on land?

Todd Klietz – It is evidence that the Floodplain Administrator would deny it and why it is here for you today.

Commissioner Rowley - How strongly do you hold an avulsion verses an erosion zone?

Todd Klietz – We have seen it happen, I mentioned that in Ravalli County, how greatly the Bitterroot avulsed during a single flood event which wasn't a 100-year. The applicant mentioned that these areas are not in the floodplain they are above the 100-year floodplain. The two that I showed downstream of Kona Ranch bridge, the two structures in Missoula County that they have spent hundreds of thousands of dollars trying to protect, each of them have built and failed three times as far as their protection of those homes with rock riprap and barbs. The last one was two years ago; in their last attempt they spent \$161,000 to try and protect the house. I think it is a significant concern. Avulsion verses gradual erosion, at least with erosion you know over time that it is coming for you, in most cases. With an avulsion it can happen in a single storm event and has happened in a single flood event.

Commissioner Rowley – Relative to this property, I know there have been discussions about the science of access, instead of just asking the sheriff if they think they can access it, but actually having hydrology analyses, do we have that information on these properties?

Todd Klietz - We do, but a county surveyor did go out and take a look at Erskine, not only for this property but for all the properties down in Erskine that are in the same situation. It is up to two feet to take Erskine south, you've got two feet deep of flood waters. So as you head off Mullan Road south it gets to two feet deep. As you head east back on the access road it is about 2 1/2 feet deep and you go further south on Erskine their access is three feet deep. The sheriff has made the determination that they will provide access, I am not disputing that but in the FEMA and the National Weather Service in their "turn around don't drown" public safety campaigns they talk about one foot deep being able to carry away a human being and two feet deep being able to carry away vehicles.

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Commissioner Rowley - Any other questions, comments, thoughts?

Commissioner Rye - The information that was presented by Territorial Landworks was significant enough for me because the idea which is to take somebody's property right away and that's significant to me and weighs heavily on me. The idea that something may happen in the future that was in the pink verses the yellow (orange). The information that Territorial Landworks presented convinced me that I think it is okay in this particular case to allow for variance. I certainly think that all of those scenarios according to Todd can happen but will they happen in the near future, I think it your job to say that they can happen, Todd, but it doesn't take precedence for me to take somebody's property right away for something that might happen. I would lean towards approving the variance

Commissioner Rowley - Is that a motion?

Commissioner Rye made a motion that the Board of County Commissioners approve the variance. Commissioner Curtiss seconded the motion.

Commissioner Curtiss – I just think that based on what we heard here today regarding the information in the Channel Migration Zone, especially from the author stating that if she realized the avulsion area was going to be used in this manner she would have done it in different modeling and the fact that these two properties are in the avulsion and not the erosion buffer. I think that that gives me some calm and I really appreciate staff making all of us aware of the fact that we should be cautious when we are looking at these kinds of things but in this particular case I am in agreement with you Stacy.

Commissioner Rowley – This was a hard one for me because looking at the data and the science I think there is very good cause to have concern and that is what your job is and there is very good cause to think there might be risk on these properties. But again, pitting that against would I approve this as a lot in the future for this risk as opposed to are we going to tell somebody who has held this property as an investment that it no longer has much value and that they can't develop it. I am just barely 51 percent in favor of going for the variance because I think there is reasonable cause to approve this one.

Commissioner Curtiss - I think also the fact that they have done a LOMA on the property to show what the elevation is and yes, water can move a lot of stuff and could easily take all that elevation that shows they are out of that 100-year floodplain but like I said we all better be building an ark that year.

Commissioner Rowley - This may be a decision I regret but, so there is a motion to second, all in favor...stands approved. Thank you.

Passed 3-0.

Commissioner Curtiss - Could we please direct staff to make sure that any channel migration studies that we have, and I know we have them on a few spots, that somehow the link from all the floodplain information as an appendix but also when you say, if there is a study it could be used. Please have a link so folks can educate themselves on it.

Commissioner Rowley - And make sure labels and legends and everything transfer onto everything we have. Thank you very much. Nice work.

(Five minute recess)

d. Donovan Creek petition to establish a public road

John Hart – Just to get everybody up to speed on this, a resident citizen Howard Edwards petitioned to create a County right-of-way on Donovan Creek Road. That petition I believe was last spring, early summer. There was a lot of opposition in the neighborhood, people who lived along that road, to designating that as a County right-of-way. The plan instead of taking action that petition was to see if all of the residents on Donovan Creek Road would give each other a reciprocal private easement to use the road to access their properties. That is what is happening. I talked with Kevin Jones, the attorney for Mr. Edwards; he told me last week that nine of the 12 people that need to sign the private reciprocal easement have signed that. It is not that the other three have said no

they just haven't responded yet and despite requests to find out how they feel they haven't responded yet. So, nine people have said yes; three have not said no but they haven't said yes either. I would recommend that you reset this for a hearing in 60 days or whenever that comes up on the public meeting calendar and hopefully by that time, and Mr. Jones kind of promised me that he would have something definitive by that time as to whether or not he garnered all twelve signatures. If that happens, if there is a private road easement that all of the neighbors can agree to, then Mr. Edwards would dismiss or withdraw his petition to create a County right-of-way. I think that would be the best result in this case.

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Commissioner Rowley - And none of the property owners are currently trying to sell or are in the process where 60 days would make them lose a sale or anything? Do we need to rush this or is 60 days reasonable?

John Hart - I can't speak for any of the residents up there. Mr. Jones didn't tell me that that was a concern. I told him that I was going to recommend another 60 days and he thought that was appropriate.

Commissioner Curtiss - (inaudible) should we choose a date specific then. Recess the hearing until November 9th which will be the second Wednesday in November.

John Hart - That sounds like a great plan.

Commissioner Curtiss made a motion to recess the hearing and hope the neighbors can settle this issue. Commissioner Rye seconds.

Passed 3-0.

Commissioner Rowley - Was there any other discussion on that? With that we will continue the Donovan Creek petition hearing until the November 9, 2016 meeting.

e. Approve amendments to Chapter 8 Subdivision Exemption Regulations floodplain impacts

Jennie Dixon, Planner – Community and Planning Services – The chapter eight amendments to the subdivision exemption regulations came before you on August 24, 2016 for public hearing. If you recall, you made a motion at that time to approve the chapter with amendments as discussed at that hearing with the exception of portions of the document related to floodplain impacts in subdivision exemptions. Today's hearing is to take testimony and evaluate those parts of chapter eight relative to floodplain impacts.

You should have a packet with four grey tabs on it. In that packet is the full set of revised regulations as you approved them on August 24 and with proposed revisions from CAPS related to floodplain presented to you today. The four grey tabs are the four sections that we are proposing amendments related to floodplain. In your packet last week, with just the pink tabs, you have one public comment letter from Lorna Richardson but since that time we have received a couple of other public comments and those are in your packet today. After the first 36 pages of regulations you will have comment form Bill Nerison, Nick Kaufman - WGM Group and Sarah Babcock - NorthWestern Energy. Sarah Babcock's comment has a second page to it where she has a pink comment bubble making her comment about the one mile distance from Zone A. We also received a comment from Missoula City-County Health Department, Water Quality District supporting the proposed changes. At the end of the packet there are two pages that I will explain in a few minutes, where the Zone A streams are in Missoula County as well as a form that we have that is used when somebody needs a floodplain determination or a site visit. I included that because you were asking about that at the update on Monday. In addition, the motion that I suggest you use is on the second page of the packet with all pink tabs. It is on the bottom on the second page and that is from last week, your recommended motion and it depends on the kind of amendments you make today.

Todd put together this slide show that shows a FEMA map with designated Zone A flood area. Those maps were effective April 15, 1983 which is the reason for the reference to that date in the regulations of why we want to look at where Zone A is as of that date. Prior to that date there was no Zone A. We are looking at parcel history back to that date to determine a proximity to a Zone A designated floodplain. Using this example we have a parent parcel that existed like a, let's say it is a 20 acre piece, in August of 1983 with a stream through it and a Zone A. A couple years later they divide off a tract that is given through family transfer and the exempt tract that is divided is given to a child and it does not have any Zone A on it. However, if that exempt tract that was divided off in 1991 is within a mile of the floodplain, actually proposed exempt tracts within a mile of that Zone A floodplain then what we would be looking to do is to determine a parcel history and using this flow chart you would determine if that new exempt tract is within the Zone A designated floodplain. If it is not, then they just proceed as normal and don't need to do anything else. If it is however, they have to perform land division history to determine did the parent parcel have Zone A on it. In that example on the slide I just showed you it did. You would follow the path that if it didn't you would proceed as normal but if it was within that Zone A designated floodplain on the parent parcel then you would take a look at whether the exempt tracts can be determined to be in or out of that flood

hazard area. If it cannot be determined to be out by a site visit that is the point at which an applicant would need to do a flood analysis. We have offered up another alternative of placing a statement on the survey or the division transfer documents which is shown in the second tab down on the grey. This is a waiver statement that is new. All of the other language in these other three tabs was part of the language that we brought to you on August 24, but revised. This second tab down on the grey is entirely new and it gives a way for an applicant to instead of doing a flood analysis to include a statement on the survey or transfer documents that development may not occur on this tract unless an engineered flood analysis has determined that the location of the proposed development is located outside of the flood hazard area. We have been working on this since August 24, 2016 and sent it out to a variety of interested parties who participated and even came to speak at your last hearing. We got a few comments that are attached in the packet but I think we have addressed those and got back in touch with the people who made those comments to make sure that those have been addressed to the best of our ability. There are a few new changes since you last saw this.

This is a situation that we are trying to avoid, or at least become aware of in the exemption review process, that if the proposed tracts have floodplain on them we have a way of either knowing that through a flood study or placing a waiver statement on the survey for future. This is an example where there was a designated Zone A and a subsequent LOMA with some specific elevation information adjusted that Zone A to encompass quite a large area which was at least a mile away from where FEMA had designated the floodplain and that is why we have that one mile distance and that is what you adopted last summer in your subdivision regulations and that is the same reason that was used at that time.

Commissioner Rye – In regards to the new language on 8-29, can you bring up the flow chart, on the box that is a diamond on the bottom that says, "Can proposed tract be determined out of the flood hazard area; no performed flood analysis." Who performs the flood analysis and who pays for it?

Jennie Dixon – That is the engineered flood study that was at issue last time. A licensed engineer has to perform a flood study to determine actual base flood elevation. Elevations of the property to determine if the relationship to the actual flood...

Commissioner Rye – But the applicant would pay for the study?

Jennie Dixon - Yes.

Commissioner Rye - How much is that?

Jennie Dixon – At the last hearing, numbers that were thrown out were \$12,000-\$15,000. What you need to know is that, if somebody creates a tract through exemption and they intend to build on it and they are within that mile of the Zone A they are going to have to do the flood study eventually. What we are trying to do is prevent someone from knowingly or unknowingly create a tract entirely within a flood hazard area which can include an area in a Zone A or within a mile of Zone A, we may not know until we get the flood study if there is floodplain on that property or not. That is the reason that we propose the waiver. If they want to delay the inevitable they can do that with that statement. One of the reasons that we like this proposal, and I am so glad that it took the extra couple of weeks for us to improve this and we got health department support on this new language, is that there may be situations where someone creates even a family transfer tract that they never intend to build on. This waiver statement lets them say, "We know this is a family transfer tract. Nine times out of 10 people build homes on this. I just want to give this tract to my kid because they want to farm it and we don't ever plan to build on it." In the situation the waiver statement makes perfect sense because why spend that money to do a flood study if they are not ever going to build on it. But in those nine out of 10 times when they are going to build on it they either need to do the flood study before they create the tract, which will help them find out if their property is entirely in flood hazard area, or at the time of development. What they risk doing that is if they wait until after the parcel is created and they are ready to develop and then they do the flood study and they determine their property is entirely within a flood hazard area and then they wish they had done that earlier. We are trying to get them to that point but recognize that there is no need to have a flood study done if they don't ever build.

Commissioner Rye – Didn't Nick in particular comment that a mile was too much and did this compromise get to that concern?

Jennie Dixon – I don't think it was his comment that a mile was too much. I am not remembering that comment. Sadie at NorthWestern Energy commented that she didn't see the relationship between the floodplain regulations and the one mile, but the relationship is one of the maximum distances that we've observed in Missoula County, as to how far off that Zone A is from actual flood hazard area.

Commissioner Rye – Was it the realtors who did that, does anyone else remember seeing a comment that a mile was?

Commissioner Rowley – I think it was oral comment of people questioning the one mile and where did that come from and how is that relevant and isn't it too far? From TLI (Territorial Landworks, Inc.) maybe?

Jennie Dixon – Yes, from the last public meeting. I wasn't able to answer very well at the last hearing why that one mile distance. What I am trying to do better today is let you know the reason for that is that our observations are that some of the FEMA maps over the last couple of decades have been off as much as a mile. I think that is about the maximum that we have seen them be off with the Zone A. Mapping a Zone A here is saying, "Well the floodplain is approximately here but it could be over here." So we have seen it be a mile off.

Commissioner Rowley – Did you go through and analyze how far off the floodplain has been in cases we have seen go through our office in the past decade or so to determine what the median or mean amount is? Is one the absolute max and everything else was two tenths of a mile or are we frequently seeing things around a mile?

Jennie Dixon – The short answer is no, I did not do that in this process. The reason being is that because you adopted this language a year ago I took that as a validation of that concept and that distance. How that distance was arrived at a year ago I may need to have someone else answer that. Whether or not we looked at mean distances or just that maximum, it was a maximum distance.

Commissioner Rowley – Do you have a sense of if that was a very extreme outlier max or how reasonable is a mile really?

Todd Klietz – I think it is more do we want to take a chance that there is something less than a mile that has a significant flood ramification like Mullan Trail did. Currently, even on our newest floodplain maps that we have adopted in 2015, there is a mile and a half of the Swan River that is not within the designated floodplain. But the actual channels, the river, is not in the floodplain in one of these Zone As. So that is how bad these maps can be. The one mile maximum is prudent for the County. Especially for all of the hardship that was on those families that then flooded in Mullan Trail and the subsequent loss to the taxpayers and just the public at large.

Commissioner Rowley – And for the record I would like to say that we are fixing that one map where the river is not even in the floodplain. You are right they can be very off.

Commissioner Curtiss – I would just like to say that part of the reason, the one that Jennie put up on the screen there, it used to be that if a farmer needed some irrigation you just moved the ditch, moved the creek and that is exactly what happened there. I think that the mile is reasonable and I have been here long enough that I was involved with all the grants we went through to correct this so that almost all of those houses ended up not being in the floodplain any more.

I have one question for Todd. The engineered flood study is that pretty much equivalent to what someone would have to do to create a LOMA like the previous folks did to show that you are not in the floodplain? Is that kind of what you are doing? You are doing elevations to show where your property really lies?

Todd Klietz — Not necessarily, on a Zone A floodplain you have to develop what that 100-year flood elevation is and your typical LOMA in most of these areas, like as we see on the screen there, for Zone AE on the south on the Clark Fork River there is already 100-year flood elevations identified. Typically where you have 100-year flood elevation identified it is relatively simple for a surveyor to go out there and say, "Okay we are above that 100-year flood elevation." And then apply to FEMA to change the map. In a Zone A they actually have to develop what that 100-year flood elevation actually is. On one of the exhibits, that Jennie has for you, she identifies all of the Zone A streams that we are blessed with in Missoula County and currently that is about 70 miles of stream. Hopefully we will soon be eliminating that mile and a half of the Swan River from the Zone A. We have also had some other smaller projects that were done on LaValle Creek and other places. But we are narrowing that down to about 50 miles. Additionally, there is a couple new Zone A streams on that sheet, specifically the lower two miles of LaValle Creek and 12 miles of Lolo Creek, those are new Zone A that were just placed on last year. The history that a developer or a consulting firm may have to do that doesn't apply to those either. We are not talking about hundreds of miles of streams but on those particular ones those could be the ones that bite us.

Commissioner Rowley – Jennie could you quickly address Sarah Babcock's comment regarding when we say "flood hazard area" by what definition we mean? She goes through technicalities of what is moderate and what is mild and so when we say flood hazard area do we mean all encompassing? Or do we have that defined somewhere?

Todd Klietz – I think the question was specifically, "Do we have flood hazard area defined?"
That is in chapter three of the subdivision regulations; it defines what the flood hazard area is.

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Commissioner Rowley – Just since we got that comment would it be prudent to reiterate that in chapter eight? So people don't have to go look in chapter three.

Jennie Dixon – I actually sat down yesterday and typed that into the draft that I was going to give you today and as I went through it I didn't think that it clarified anything.

Commissioner Rowley - The definition didn't?

Jennie Dixon - Yes.

Commissioner Rowley - Well that is not helpful then.

Jennie Dixon - No.

Commissioner Rowley - So can we fix that?

Jennie Dixon – Let me tell you why. Last summer you adopted hazard areas and the definition of flood hazard in that newly adopted section says, "Flood hazard area encompasses the flood plain." And then it just defines floodplain.

Commissioner Rowley - So is it to be used interchangeably with the word floodplain?

Jennie Dixon - I don't think so because it says it encompasses it but . . .

Commissioner Rowley - Right, but it encompasses that and what?

Jennie Dixon - I don't know.

Commissioner Rowley - Okay.

Jennie Dixon – And that is why I think I would turn it over to Todd who is a certified floodplain administrator and can maybe answer that question better than I?

Todd Klietz - On the map on the screen you've got what is defined as the special flood hazard area which is FEMA speak for the regulatory 100-year floodplain. As you can see on that map the special flood hazard area exempts quite a few areas within the floodplain and were places where they actually flood. For instance the Shaded Zone X on this map, which is an older version of the current FEMA map, it is identified as Zone B. Those are areas that are subject to flooding during the 100-year flood event that are less than one foot deep. Those areas are still a flood hazard area but they are not under FEMA, a special flood hazard area that requires flood insurance, it is similar to what the health department has in their regulations that flood hazard areas include those areas that are shown on the FEMA floodplain maps but there are lots of streams in Missoula County that don't have any FEMA map associated with and every stream will flood. It encompasses those areas that haven't been known by FEMA, to be in a flood hazard area. Additionally in your subdivision regulations if there is proposed subdivision within a stream that hasn't been mapped by FEMA, within a certain distance of a stream, they have to do a flood study to determine where the actual flooding is. So like on one of these new unstudied streams before you would approve a subdivision you would want to ensure that no one is going to be in jeopardy of flooding so you put in the subdivision regulations that they have to do a flood study to determine where that actual flood is. That is not a special flood hazard area but it would be another flood hazard area that the subdivision regulations would ensure that you are apprised of before you approve a subdivision. Did that help?

Commissioner Rowley – It maybe made it worse. I guess just having ambiguity it is not helpful to have regulations where people don't know what they mean.

Jennie Dixon – I knew this was going to come up and I really struggled with it and here is how I resolved it in my mind because this is a recurrent them in a couple of comments we have received in the last few days; for me flood hazard area is an area that is designated on the floodplain maps as being within an area prone to flooding including Zone A because we don't know and any area that is out is not a flood hazard area. That really is what it boiled down to for me.

Commissioner Rowley – Can that be the definition then? Because that is more clear. Or we don't want to be that specific?

Jennie Dixon – I think it would necessitate, and I am fine with this, if you want to delay we can go back and work on definition of flood hazard area. Yesterday when I was putting this together I was not comfortable with that definition. You could approve with the request that staff define flood hazard area and insert it into the definitions in definitions in chapter eight.

Commissioner Curtiss – It almost seems like from what you just said that it's simple enough to be that it is a Zone A because we don't know or 100 and 500 because we do know.

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Jennie Dixon – Or, those areas that aren't mapped but are within the mile of a Zone A that are by a flood study determined to be in a flood hazard area.

Commissioner Rowley – And which it says here in 8.4.5.d "flood hazard area, including within a mile of a Zone A." So it's already kind of encompassing that by spelling it out; so I am just wondering why we say flood hazard area if it doesn't really specifically mean anything.

Jennie Dixon – The reason for that is in the language that you adopted last summer. It says, "Flood hazard standards." It's got technically a definition of flood hazard but like I said it is clearer for me to just think about it as those areas on a floodplain map that have shading or by a flood study show it in.

Commissioner Rowley – I would be more comfortable kind of including some sort of definition.

Jennie Dixon - Would you like me to work a definition?

Commissioner Rowley – Unless I am just being annoying, what do you think am I being too particular here?

Commissioner Rye - I don't care one way or the other.

Commissioner Rowley - She doesn't care do you care?

Commissioner Curtiss - No.

Commissioner Rowley - They don't care so I am out voted. It is good enough.

Commissioner Curtiss – I think we can define things until the cows come home.

Commissioner Rowley – Right, but since we have had multiple public comments saying that they don't know what this is.

Commissioner Curtiss - It is an area that is in danger of flood.

Commissioner Rowley – Do we have any other question or comments? Was there any public comment on chapter eight? Okay, we will close that hearing.

Commissioner Rye – Where is the motion?

Jennie Dixon – The packet with the pink tabs, second page, bottom and what I would suggest is that the second line on the bottom I would change that to "as shown in the attachment distributed at the public hearing on September 14, 2016." And cross out as amended because you haven't amended anything that I have given you today.

Commissioner Curtiss made a motion that the resolution to amend chapter eight of the Missoula County Subdivision Regulations, entitled "Divisions of Land Exempt from review under

MSPA (Montana Subdiv is ion and Plating Act)," as shown in attachment E be adopted with revisions as shown in the attachment distributed today, September 14, 2016, in conjunction with amendments to chapter eight approved by the county commissioners on August 24, 2016, Commissioner Rye seconds.

Passed 3-0.

f. Chapter 5 subdivision regulations review

Christine Dascenzo, Planner, Community and Planning Services – Thank you commissioners. We did have some recent public comment that I will distribute to you now. Today we will be looking at chapter five of the subdivision regulations (Procedures for Subdivision Review, Preliminary Plat, Variances, and Appeals). For a timeline for what we have done to date: we went to Planning Board on August 22, 2016 and got unanimous approval for recommending approval of the regulations; a legal add for this hearing ran on August 28, 2016 and September 4, 2016; September 14, 2016 is today's hearing; and these will become effective November 4, 2016.

As an overall and brief summary of what we will be looking at today, we have a general cleanup to ensure consistent language throughout the regulations, renumbering and moving multiple sections, text amendments to section 5.7 and 5.8 and those text amendments may be considered the most substantial of the changes as they introduce or alter County timelines and processes for public notice, preliminary plat approval, the creation and extension of phasing plans and adjustments to preliminary plats. That is what the majority of the presentation will focus on and I'll use a few hypothetical subdivisions to sort of help demonstrate those timelines and processes.

First we will look to public meeting notices for minors, the change here is that we establish a 15 day public notice period for a commissioner meeting on minor subdivisions. This we had public notice in the process prior but a 15 day wasn't standardized in the regulations and so this is consistent time period with other public notice periods and then we have the time period for preliminary plat approval. This has been increased from two years to three years. Similarly the preliminary plats must be filed within three years of that approval date. Unless an extension or phasing plan has been approved they will have to file a preliminary plat within three years of the approval date. The extension of a preliminary plat in section 5.7.15 we see preliminary plat extensions that go out six years from the approval date rather than five so that's an increase so they could have up to three one year extensions of a preliminary plat or one three year extension.

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Commissioner Rye – I'm sorry can you please say that again and describe how that is different than it is now?

Christine Dascenzo - The basic difference is that it is increase from five years to six years.

Commissioner Rye – So what was the concern of the realtors then? The extensions proposed to public comment.

Christine Dascenzo – We will get to exemptions on phasing plan amendments which are different than how they work on preliminary plats. This just focuses on un-phased subdivisions with all the lots being filed at one time.

Commissioner Rye - So right now it is five years and this change would make it to six?

Christine Dascenzo – That's right. This would also apply to all subdivisions even those approved under previous sets of regulations.

Commissioner Rowley - Would the date start at November 4 of this year?

Christine Dascenzo - That November 4 deadline only applies to phase plats as well.

Commissioner Rowley - Okay, so it would be back to their original?

Christine Dascenzo — Right, and the reason for that is anything that is just a preliminary plat at this stage is probably a more recent approval, so we are going through with the six years for that approval but not changing if they have already extended that filing date. Then they would be able to use what they are currently approved for.

Commissioner Rowley – And it shouldn't create problems because it is longer not shorter, right?

Christine Dascenzo - Right, that could be the case.

Commissioner Rye – If there is a preliminary plat it goes out to six years but if there is phasing extensions, and you said that would go into effect immediately even for subdivisions that have been already approved, do phasing plans or extensions also fall under the new regulations verses what they had?

Christine Dascenzo – They do and I have slides that I think will clarify it, in a few, and we will get to the hypothetical subdivision which I think helps to demonstrate the life of a subdivision and the preliminary plat stage verses the phased plat stage. I have got some slides addressing that and I think that will get you where you need to be. So here is our hypothetical subdivision, Colorful Acre Subdivision, it will have been approved on May 1, 2020 with 24 lots and so this is un-phased full just preliminary plat and would have a filing date of May 1, 2023, that first three year chunk, and then that could be extended to May 1, 2026 and they must file or phase the subdivision by that May 1, 2026 date. Now that gets us to phasing and that May 1, 2026 is approaching and all final plat deadlines for a phased subdivision in any subsequent extensions must be set within a three year period.

Commissioner Rye – This is approved 2020 and the filing deadline is 2023?

Christine Dascenzo - That would be the immediate filing deadline on...

Commissioner Rye - I thought you said it was six years.

Christine Dascenzo – So the original approval period is three years from the application submittal so when the...

Commissioner Rye – So it is five right now and it would go to three?

Christine Dascenzo – It is two right now for the initial approval period and would go to three. They can extend without phasing once, for three more years.

Commissioner Rye – Okay, can you make sure to illustrate what it is now and what it would change to when you go through examples?

Christine Dascenzo – Yes. So if they are looking to phase a subdivision because they have reached that six year period all of the phases would have to be filed within a three year window and so that is what they decide to do and they established four phases. All of those phases, phase four would basically have to be filed by the third year, May 1, 2023, and at this point we don't have increments required for extensions. That is while you see one subdivision from another differing within the phasing schedule so drastically. You will see some going out to 2029 and in some cases and five years between each phase but this would require all the phases being filed within a three year window.

Commissioner Rye - Instead of like four year windows or three years a piece?

Christine Dascenzo – So this establishes a three year window where there wasn't a requirement before.

Commissioner Rowley - And the three years was due to the court case?

Christine Dascenzo – Right, there was a Legacy Ranch court case in Ravalli County that looked at a phasing of a subdivision that went out I think into 2040 something like that and it was decided that was too long and it sort of prevents public process from being involved at that point and the findings become stale at the point of filing.

Commissioner Rye - So which part is due to the Legacy Ranch?

Christine Dascenzo – The original approval date and we have used that as sort of a mirror throughout to use three year increments for filing. So what we have had in place to date are these phasing deadlines and we have changed these a bit to be three year increments, so what was ten years for a minor subdivision is now nine years. This is section 5.7.16.4; we had 10 year for minor subdivisions which now we recommend nine years. For subdivisions with six to 20 lots we originally had 15 years and that is staying consistent since it is still a three year increment. Subdivisions with 21-49 lots had 20 years to file and now that is 21 years and subdivisions with 50 lots or greater had 25 years and that is down by 24 years.

Commissioner Rowley - This is all to make it divisible by three.

Christine Dascenzo – Exactly. A little interior logic attempt. We have also recommended some changes to the process for establishing phasing plans and requesting extensions to phasing plans. They basically mirror the process for the first application of a subdivision. A minor subdivision that is requesting to establish a phasing plan or extend a phasing plan would get noticed to the adjacent land owners and go to commissioners for action. That notice is new and we think we will just increase input and get a more thorough check in on the findings and anything relevant to the reasons the applicant is requesting the change.

The major subdivisions, to establish a phasing plan or extend a phasing plan would have to go through a public notice, so a mailing to adjacent property owners, notice in the Missoulian and go to Planning Board and then come to commissioners for action. The one difference in that process is extensions for major subdivisions within six years of the approval. That would mirror the minor subdivision process and skip Planning Board if it is within six years of that approval period.

Commissioner Rye – How is the major subdivision public notice Planning Board, BCC action different than it is today?

Christine Dascenzo – The major subdivisions just go to commissioners and no notice is provided and no Planning Board meeting takes place. So it is increased check-ins and more thorough notification to those that may be affected.

Commissioner Rowley – This is in the event of an establishing phasing where none was before?

Christine Dascenzo - Right, it is both phasing and extensions.

Commissioner Rowley – So every three years they would have to go through Planning Board to continue to extend?

Christine Dascenzo – That's right, yes. So in section 5.7.16.1 applicability, we are applying that three year increment, this is where it may get confusing, but we are applying that three year increment to all subdivisions including those approved under previous sets of regulations. I have a new subdivision that we can visit, Green Acres subdivision, which was approved prior to these regulations going into effect on May 1, 2010 and is 12 lots. Hypothetically it was previously extended out to 2018 and they must file or phase by that 2018 period and wouldn't really be affected by that new six year preliminary plat approval, we wouldn't take away those two extra years, they would maintain the filing deadline of 2018. Then if they did and that 2018 date is

approaching and they did decide to phase and were approved we will see how that affects it. So they have the 2018 approval date and they are now using that November 4, 2016 effective date as their new approval date. They are approved for filing until 2018. The phasing established in phase one would have to be filed by May 1, 2020 and this is sort of arbitrary but it would have within the three year windows to set a year for that schedule. And phase two would have to be filed within three years of that 2018 current approval filing date, so to 2021. They are able to extend in three year increments until 2031 and three year increments from whatever is previously established as their filing deadline.

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Commissioner Rye – Can you go back to the previous slide? Can you please illustrate how it would be different under these regulations verses how this subdivision, if it was approved in 2010 would now be extended?

Christine Dascenzo – Yes. Once they get extended out far enough most subdivisions tend to phase, but at this stage, in this Green Acres subdivision, it hasn't phased and it is approved for filing until 2018. Currently they could come in and request an extension for any number of years and we would bring it to the commissioners and you may or may not approve that.

Commissioner Rye – And under the regulations, the next slide, if these regulations were approved, this subdivision, Green Acres, would have new automatic approval?

Christine Dascenzo – You are using November 4, 2016 as the approval date and working forward from there but that only applies to phased subdivisions. They wouldn't be able to extend beyond the 2018 if it was un-phased.

Commissioner Rowley – And 12 lots was always, shall be recorded within 15 years of approval?

Christine Dascenzo - Right, that is a consistent number.

Commissioner Rowley – So it was 15 years previously and now it is still 15 years but it is 15 years from 2016 instead of using their original date? So it actually gives them more time.

Christine Dascenzo – Right, it will sort of extend the life of a subdivision but they will be coming in...

Commissioner Rye - For review every three years with notice to adjacent property owners and...

Christine Dascenzo - Right, and Planning Board, in this case, and commissioner action.

Commissioner Rye - Whereas before they wouldn't.

Christine Dascenzo - Right, they would just come to commissioners.

Commissioner Rye - But not for 15 years, they wouldn't come every three years.

Christine Dascenzo – Well, it would depend on when they established the phasing plan, what that schedule looked like. So if a phase was about to expire in 2020 and it is 2019 they are likely to come in and request an extension of that. It is usually increments of the 15 year period. We have been using these phasing deadlines consistently throughout with the current set of regulations. So it is sort of the life of a subdivision you can think of it as but the phasing plan would usually not maximize the 15 years but use a time period within there and then enable extension requests as needed.

We do have one staff amendment after Planning Board, just a text change to section 5.7.16.7 (A), points one and two, and that would change the phrase "plat approval period" to "plat approval date."

3:06:20 - The recorded audio was lost eliminating the ability to provide bookmarks. However, the written minutes that follow are verbatim.

The following are language changes.

Section 5.7.16.8 (B) void; the preliminary plat will be voided if the final plat is not submitted and no extension is requested before the expiration date.

Section 5.8, adjustments to preliminary plats and related documents; this new section creates a process and criteria for reviewing modest changes to preliminary plats. So this section mirrors that sort of public process that we have established throughout the extensions and phasing plan creations for minor subdivisions, getting a mailing to adjacent landowners and coming to commissioners for action. For major subdivisions; providing public notice, going to Planning Board and commissioners for action. That is for adjustments that sort of meet the criteria of just enough change, not too much and not minor enough to be sort of administratively approvable.

We did receive public comment. The first from Missoula Organization of Realtors which you have seen and I submitted packets that included that draft language to the Montana Code Annotated. Their main concern seemed to be around maintaining lot inventory throughout a recession, the risk of misdirected focus during the increased public process. So trying to avoid a situation where a subdivision is denied an extension for some other reason than what the extension reason is for. It also had the comment that this could limit master planning because the likely result is less phased subdivision or a large number of lot subdivisions. The set of regulations that we are working through at this point does something to address that limited master planning by requiring connections to adjacent land if it is currently developed or has potential to be developed so street connections and connectivity that way. If it is not developed to the full density that is allowed in the zoning then we do require that they show how that full density could be obtained at some point in the future with the current development.

We did also receive comment from Public Works that had a number of housekeeping edits and also included recommendation to change the filing deadlines in section 5.7.16.4 and I think Deb will speak about that. Staff is recommending approval to the chapter five amendments made to the subdivision regulations.

Deborah Evison, Building and Development Manager, Missoula County Public Works
Department - I want to thank Christine and the CAPS office for doing this arduous task. When working with the subdivision regulations it is never easy and I am kind of taking this in piece meals. Chapter five deals specifically with the procedures after the preliminary plat has been reviewed. It has run the gamut and then it kind of sits in limbo and that is where the magic happens. That is where it goes from being a conceptual plan to actually being a constructed environment and then once the final plan is done then people can start selling lots. We are specifically talking about that window of where it goes from concept to reality and Public Works that is where our rubber meets the road so to speak, that is where we take things from being concept to being built. Some of the housekeeping issues I won't speak to because Christine and I have kind of already hashed those out and we agreed on those. The areas that we don't agree and I will make some recommendations to you and you can decide on that are basically with timing of things as well as allowing for some disclaimer language.

In section 5.7.15.3 is talking about extensions of preliminary plats. So people have got their concept approved, they are coming in to you and saying we can't meet that filing deadline, we want to extend that. The problem with extending that deadline out from concept to construction is what we run into is that folks are so excited that they got their concept approved they will come in with a set of construction plans their engineer has created based on current criteria, certain regulations, ADA standards, road widths, etc. They get those construction plans preliminarily approved and then they sit and they sit and they sit. We have construction plans that have been approved since 2013 or 2003 and the actually don't meet current specifications. Where we run into problems with that is like where you have ADA criteria. So if we are extending out these deadlines and something has been preliminarily approved for construction with ADA criteria from 2003 but it is now 2020 and they are coming in to file which set do we follow? Do we have to void those approved construction plans, which would be our recommendation and follow current regulations, or do we allow them to be built knowing that they don't meet current standard? We would request that under 5.7.15.3 with the criteria we add a disclaimer would allow Missoula County to reserve the right to void any and all approved plans in the event that any significant changes are made to laws, regulations or specifications and this determination will be made by Missoula County.

Commissioner Rye - Deb, can you say where that was again please?

Deb Evison – On the clean copy it is on page 5-22 under letter E. We would add that you add an F. for infrastructure and we would make a recommendation that you would put in some sort of disclaimer that allows Missoula County the right to void any and all approved plans in the event that any significant changes are made to laws, regulations or specifications and this determination will be made by Missoula County.

Commissioner Curtiss – I just think that one is really dangerous in that you approve something under current regulations. I understand where you are coming from but it seems like we are changing their subdivision without giving them due process.

Commissioner Rye – I would agree. It would also concern me to...It would be my preference to leave this hearing open for a couple of weeks to do the staff report but to let it sit for a couple of weeks because I like asking a lot of questions at the public hearing because I think it is helpful for the public, but it would be good to get feedback on proposed staff changes and commissioner amendments over the next couple of weeks and there is nobody here except mostly staff. So it would be my preference to hold this.

Commissioner Rowley – It is also difficult when we have two departments disagreeing with each other. We need time to sit with that information. A lot of times staff has a recommendation and that is the recommendation of what is best but when we have two departments giving us different recommendations of what is best I feel like I need more time to sift through more background and

understand where you are coming from and this is a complicated issues as well as with moving dates and what not. And also we have been here for almost three hours our brains are shutting down maybe?

Commissioner Rye - Yes.

Commissioner Curtiss – Deb, you sent these comments in and they are hand written in this, but we might want to let people comment. So I think that we should put your comments out there for public comment. Go ahead with your other ones though.

Commissioner Rye – I agree and I just wanted to add onto Cola's comment that it is important to me that people are here to comment on this and there is nobody here. I do know that CAPS does have a standing meeting with a variety of groups every other Friday or something like that but it concerns me that no one is here for the formal public hearing and we have some concerns from the realtors we have some staff disagreements I think it would be good to have a more voluminous audience. I can't think of good adjectives at this time of day.

Deborah Evison – I would actually wholeheartedly agree with you because I think that the proposed changes are significant and I think that they have a huge impact on everyone across the board dealing with subdivisions. So I don't have a problem with that at all. As you said my comments are hand written and that was because they were done last night and that is because it was oh shoot here we are, these are significant and what does this really mean and let's put on our thinking caps. If you want me to continue I can or I can just table it and get you a...

Commissioner Curtiss – I think you should continue with your points. When you put these together I think it should be done in a way that the public can see your rationale with them so they understand why you don't want people to build a road that doesn't meet ADA anymore, kind of thing.

Deborah Evison - Sure thing.

Commissioner Rowley — Would it have been helpful to follow the process that we had for chapter eight where we had a working group of people in this business so that they solicited many different groups and interacted with people. Just because it is odd to get to the point where we are at the formal hearing and we are for the first time hearing disagreement between staff.

Tim Worley – We actually had multiple rounds of interactions with Missoula Organization of Realtors and I called individuals who these regulations might affect the most, those who have big subdivisions on the urban fringe for instance multi-phased subdivisions for instance. We did have substantial, it wasn't exactly like Jennie's kind of working groups, but we did have a fair amount of interaction with individuals up to this point. Just a little bit different than Jennie's with chapter eight.

Commissioner Rowley – So maybe the reason there is not a lot of comment is because had their input and people got their input and didn't say they wanted to have a formal comment in there but they all worked to arrive at this document.

Tim Worley – I think the challenge is the initial three year period and then the approval period and the three year increments that is the big thing. If we had folks here that is probably what you would hear the most about.

Commissioner Rowley – I am interested in what you have to say but in the interest of the fact that we are already low on time and that we do have another staff presentation on another chapter to go through, should you submit those comments to us and to the public to get them out there and ask that we have a comment period for comment on those so that we can have more information next time we revisit this? Does anyone have a timeline for what a timeline for that process would appropriately be?

Tim Worley – We could see how chapter six goes and then just continue chapter five to the next hearing which is September 28, 2016. We will be seeing chapter seven that day. Chapter seven is about submittal requirements, it is a little bit more nuts and bolts. There have been changes to that chapter but it is more of what is required to be submitted at preliminary and final plat. So maybe just continue to September 28. We would have five, six and seven on September 28 but hopefully maybe not one of those chapters.

Commissioner Rye – I have definite questions about some of the things in chapter five, I can't imagine that I won't about chapter six if that is the final plat filing. I mean we can try but I can't see getting a staff report and passing major changes to subdivision regulations in the next 40 minutes. I mean they could. I can't.

Christine Dascenzo – I think chapter six is a little less complicated on time lines and things like that. It is just the submittal and it is not how to keep it alive. So we may be able to do it.

Commissioner Rowley – So it sounds like for chapter five we want to continue it until September 28, 2016 and if we at that point just get an update or we are in the middle of some sort of process we can see where we are at on September 28, 2016 and we will just keep public comment open during that time period.

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Commissioner Curtiss – And Deb if you can put your comments in writing with rationale?

Commissioner Rowley – Does that work for you, unless you are really excited about it you can share now.

Deborah Evison – In the interest of time and our brains I will wait for later.

Commissioner Rowley - With that we will continue this on September 28, 2016.

g. Chapter 6 subdivision regulations review

Christine Dascenzo – This is the hearing on chapter six, final plat agreement and guarantees. The history on this: August 2, 2016 went to the Planning Board; August 28 and September 2, 2016 ran a legal ad; September 14, 2016 presented to the Board of County Commissioners; an effective date of November 4, 2016. This includes general cleanup to ensure consistent language throughout the regulations and renumbering and moving multiple sections.

Text amendments to:

- 6.1 Purpose and Intent
- 6.2 Final Plat
- 6.3 Provisions for Public and Private Improvements and Maintenance
- 6.5 Error Correction Procedure
- 6.6 Adjustments to Filed Plates and Related Documents

In section 6.2.3, a new process is established to determine sufficiency for a final plat submittal, sufficiency. Fifteen days before the review of the packet it can be routed to departments, it will come to the CAPS office to gain that sufficiency for all of those detailed documents that need to be filed with the final plat. When this went to planning board for recommendation they did make some text amendments to section 6.2.4.1, minor deviations. The minor deviation section deals with changes on the final plat which deviate from the preliminary plat and deemed permissible by the planning director. So the smaller changes that don't need further public process but can be accepted by the planning director administratively. The changes Planning Board made applied to the first paragraph, added "The planning director may give consideration to minor changes that encourage environmental and public health and safety improvements."

Section 6.2.4.1 A changed to "Maintain basic configuration and number of lots."

Section 6.2.4.1. B changed from "Maintain road and pathway layouts," to "Maintain overall traffic patterns for pedestrian and vehicular travel."

Section 6.2.4.1 C changed to "Maintain the <u>basic</u> plans for water and wastewater."

Commissioner Curtiss – So it seems to me like those changes, I am okay with the recommendation in the first paragraph but to go to basic configuration and number of lots and overall patterns seems like it is giving a lot of leeway to the planning director. I think that we should work on what those mean.

Commissioner Rowley – Does the word basic apply to the number of lots, too? So, can they change the number of lots or can't they? And what is the basic number, what is the standard deviation, what is a significant change in the number of lots and what matters and what doesn't? I thought that needed to be clarified.

Christine Dascenzo - I think the intent was to just apply that to configuration, good point.

Commissioner Rowley - Okay.

Christine Dascenzo – We could convert to original language or we could tinker with it if you like.

Commissioner Rowley – I am going back to chapter five really quick, I would just like to point out that there was no public comment on chapter five or chapter six at Planning Board, correct?

Christine Dascenzo - That is correct.

Commissioner Rowley – Okay, I think it is unlikely that we will get a lot of public comment, also when Public Works had comments it didn't look like your suggestions were presented to Planning Board, Deb did you bring your comments and suggestions to Planning Board?

Deborah Evison - They were not.

Commissioner Rowley – Okay, do you have any for chapter six and were they brought to Planning Board?

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Deborah Evison – I do have four comments for chapter six and they also were not submitted to Planning Board.

Commissioner Rowley - Okay, thank you.

Christine Dascenzo – But that is actually a good reminder because we did get public comment from PCI (Professional Consultants, Inc.) in talking about public verses private improvements and it doesn't necessarily make a recommendation but it does bring up some language. This is for chapter six.

Moving to section 6.2.4.4, review agencies, this section replace 6.2.9, review responsibilities, by referencing resolution 2016-004, which captures agencies responsibilities. Section 6.3.5, alternative guarantee methods, allows for multiple options have been incorporated for when a financial guarantee is required, including private and public escrow agreements, bond special improvement districts and real property. Section 6.6, adjustments to filed plats and related documents (page 6-23); this section expands on the process and criteria for review of modest changes to subdivision plats that have been filed. This sort of mirrors section 5.8. This process requires notification to adjacent landowners and commissioner meeting for minor subdivision and then for a major subdivision it gets public notice, Planning Board and commissioner meeting for action. We did get that comment from Professional Consultants, Inc. regarding the clarity on whether improvement guarantees can be used for private roads, it seems like there has been an ongoing conversation around that. A number of currently approved and filed subdivisions have private roads which used improvement guarantees on them and the planning staff is comfortable continuing that as established in section 6.2.3.4. We are recommending approval of the proposed amendments as shown in attachments one and three and as amended.

Commissioner Rye – Can you point out again in 6.6 where the second to last thing you just talked about was? It was modest changes to final plat must now go to someone, etc.

Christine Dascenzo – So adjustments to final plat section 6.6. So these are those changes, you've seen some of these requests like Caitlin Estates move access easements and shift building envelope placements on existing tracts and this opens up that process to public notification and then in the case of major subdivisions it would go to Planning Board and then to commissioners for action.

Commissioner Rye – So for instance, with the changing of the building envelope, if it is a two lot four lot subdivision, it would have to do what now?

Christine Dascenzo – A change on a minor subdivision would go to, the adjacent landowners would be notified, and it would go to commissioners for action.

Commissioner Rye - And if it was over five lots?

Christine Dascenzo – It would go to Planning Board and be noticed in the Missoulian.

Commissioner Rowley – And Deb, you have four comments on this you said, it is a similar nature where you are at odds with CAPS? Would you like to make comment on those things?

Deborah Evison – Thank you. For the record I just want to clarify, Public Works has been asked to comment on all of the chapters and we have provided those. There has been a lot of preliminary discussion before we got to this stage.

Commissioner Rowley – Can I clarify what you just said? So, on chapter five, it isn't the first time that these discussions have been had and yet they are still ongoing?

Deborah Evison – Correct, we have had those comments made previously. For chapter six, these are the things we noticed when going through this with a fine toothed comb and it is just some verbiage that was missed. On the clean copy page 6-2 under 6.2.2, the last sentence says, under "various agreements required by these regulations for maintenance or construction of facilities and improvements," we request that you insert "bonding or financial securities" into the documents. Something similar on page 6-7 section 6.3.3.1, before final plat we would request that you strike or add before the work construction add "approved construction plans in or installation of certain improvements."

Commissioner Curtiss - So it would say, "approved construction and/or?"

Deborah Evison – Correct, "Approved construction plans and/or installation." The third one is done on page 6-9 section 6.3.5.3 a, you will notice amount that should actually be its own section. So it should be a. and amount should be b. and then c. and d.

Commissioner Curtiss - Okay, I lost you. Where is it again?

Deborah Evison – On page 6-9, under 6.3.5.3, you've got a. and then at the very last there is the word amount at the end of a. that should actually be its own section or subsection.

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Commissioner Rowley - The amount shall be increased three percent for each year...

Commissioner Curtiss - Oh no, it should be b. and then amount.

Deborah Evison - Correct.

Commissioner Curtiss - We have bond a. and then it should say amount a.

Deborah Evison - Correct.

Commissioner Curtiss - It is its own section.

Commissioner Rye - The outline is just a little mixed up.

Deborah Evison – Correct. The very last one 6.3.9, warranty improvements, page 6-12, the very last sentence under 6.3.9, it should say, "accepted by the county."

Commissioner Curtiss - Not approved.

Deborah Evison – Correct, we have to accept them first as them being constructed appropriately.

Commissioner Curtiss - And it wouldn't be by the governing body it would be by the county?

Deborah Evison – Public Works accepts them and then you agree. So it can say governing body or the county. Normally it is interchangeable but the way the Public Works reads it says county.

Commissioner Rowley – Okay, because those are two different dates when you accept them and we approve them. Yours is sooner so it is moving that deadline up.

Deborah Evison – Ours is after because this is something that has already been built and this is a one year warranty for that built road to last.

Commissioner Rowley - So we had already approved it and then...

Deborah Evison - Correct and then it's been built appropriately and that starts warranty date for...

Commissioner Rowley – Gotcha, so it is the later date for when Public Works is accepting the work not...

Commissioner Curtiss - So, I would say take the governing body out.

Commissioner Rowley – Any other public comment or comment from staff? Okay with this one as well I think that we would all prefer to continue it to September 28 or do we want to pick a different day? We can try it September 28, 2016.

7. OTHER BUSINESS

None

8. RECESS

Commissioner Rowley - Called the meeting to recess at 4:37 p.m.

Resolution No. 2016-123 – BCC signed, dated September 14, 2016. Revoking an Agricultural Covenant on Tract 1 of Certificate of Survey 5989, Tract 1 of Certificate of Survey 6012, and Tract 1 of Certificate of Survey 6252 located in Section 20 Township 13 North Range 18 W, P.M.M., Missoula County. Approved at September 14, 2016 public meeting.

<u>Resolution No. 2016-122</u> – BCC signed, dated September 14, 2016. Amending Missoula County Subdivision Regulations Pertaining to Subdivision Exemptions (Chapter 8). Approved at September 14, 2016 public meeting.

THURSDAY, SEPTEMBER 15, 2016

BCC met in regular session; all three present. Morning: JC attended Missoula Economic Partnership meeting. Afternoon: JC attended Health Board meeting. NR attended Urban Growth Commission meeting.

<u>Letter</u> – BCC signed. To Brent Burton, c/o Territorial Landworks. Confirming denial of Burton Family Transfer Exemption at August 10, 2016 public meeting. Determined that proposed division of land is for the purpose of evading subdivision review.

<u>Tax Abatement Requests</u> – At meeting with Clerk & Recorder on September 14, 2016, BCC approved/signed following letters dated September 15, 2016:

- Approving request from Dan Alt for refund of taxes paid regarding Taxpayer ID No. 60000982. Law allows BCC to refund up to five years in taxes paid as the result of an error.
- Denying request from David Stube for a refund of penalty, interests, and costs paid regarding Taxpayer ID No. 2302803. Law requires that taxpayer who pays taxes late be assessed penalty and interest. BCC only has authority to refund penalty and interest if there was an error in how assessed or billed. Tax lien sale notice clearly stated date by which additional funds must be received.
- Approving request from Greg Ross for a refund of 2015 taxes paid regarding Taxpayer ID No. 41474002. Error was made in assessment.
- Approving request from Jacqueline A. Johnson Revocable Trust, c/o Rebecca Tucker for a refund of taxes paid regarding Taxpayer ID No. 1960301. Law allows BCC to refund up to five years in taxes paid as the result of an error.
- Approving request from John DuBois for a refund of 2015 taxes paid regarding Taxpayer ID No. 1749525. Error made in assessment.
- Approving request from Montana Materials, Inc. c/o Paul Hunthausen for refund of penalty and interest
 paid regarding Taxpayer ID No. 481610501. General policy is not to refund penalty or interest due to
 alleged failure to receive bill. However, claim deemed credible and taxes paid within date range that
 taxes have been billed in recent past.
- Approving request from William Lawson for refund of taxes paid regarding Taxpayer ID No. 1779706.
 Law allows BCC to refund up to five years of taxes paid as the result of an error.

Replacement Warrant - NR signed. TNVC Inc, Redlands, CA, Principal for Sheriff's Office Warrant #282603, issued June 16, 2016 on Sheriff's Office fund. Amount/\$46,176.50 (for overpayment of property taxes).

Replacement Warrant - NR signed. Hartley's School Buses, Rugby, North Dakota, Principal for Frenchtown School District #40 Warrant #25064363, issued September 8, 2016 on County fund. Amount/\$179,200.00 (for activity bus).

ADMINISTRATIVE MEETING

<u>Employment Agreement</u> – BCC signed Employment Agreement between Missoula County-Partnership Health Center (PHC) and Peggy Lowney, DMD for services in capacity as Dentist. Term/July 1, 2016-June 30, 2016. To Bernadette Roy/PHC.

<u>Professional Services Agreement</u> – BCC signed between PHC and University of Montana Psychology Department. For students to be placed at PHC to conduct mental health intakes, problem focused therapy, and referrals. Amount/Not to exceed \$8,000.00. Term/September 2, 2016-June 1, 2017. To Bernadette Roy/PHC.

<u>Clinical Education Agreement</u> – BCC signed Clinical/Practical Education Agreement between PHC and Eastern Kentucky University College of Health Sciences. Includes terms for cooperating on educational activities. Term/August 4, 2016 until terminated. To Bernadette Roy/PHC.

Resolution No. 2016-125 – BCC signed, dated September 15, 2016. Budget Amendment for Elections maintenance fees. Three new pieces of equipment purchased. Formally adopted as part of FY17 budget. To Jason Emery/Technology Department.

Resolution No. 2016-124 – BCC signed, dated September 15, 2016. Budget Amendment for Electronic Content Management System maintenance. Increase of \$5,721.00 to \$25,521.00 total for additional software modules for Onbase product. Formally adopted as part of FY17 budget. To Jason Emery/Technology Department.

<u>Agreement</u> – BCC signed Latecomers Agreement for Missoula Special Improvement District No. 901 for Reimbursement of Development Costs of Extension of Water Lines with DMK Development-Lolo, LLC. DMK installed water main extension that allows continuation of a main along Lewis and Clark Drive connecting to the system near Expedition Drive. Agreement allows developer to recoup some costs from properties that benefit from extension. To Greg Robertson/Public Works (PW).

<u>Professional Services Agreement</u> – BCC signed Professional Services Agreement between Missoula County and Parenting Place. County received \$25,000 grant from Montana Department of Public Health and Human Services to reduce child abuse and neglect through provision of respite care services and outreach activities. Parenting Place will provide respite care services. Amount/\$10,476.00. Term/July 1, 2016-June 30, 2017. To Melissa Gordon/Grants and Community Programs (GCP).

Application – BCC approved, NR endorsed. Montana Board of Investments INTERCAP Loan Application for RSID 8918 Lewis and Clark Septic Vault Replacement Project. Loan term is 15 years to be repaid from annual RSID 8918 assessments. Amount/\$55,000.00. Term/September, 2016-January, 2016. To Amy Rose/PW.

<u>Buy-Sell Agreement</u> – BCC approved Buy-Sell Agreement on offer from 836 Technologies to purchase Lot 7 in Phase 5C of the Missoula Development Park. Lot is 1.41 acres in size. Total offer is \$175,000 or \$2.85 per square foot. BCC approved offer price on July 5, 2016. To Dori Brownlow/Development Districts.

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<u>Contract</u> – BCC approved, NR signed. Montana Department of Commerce Community Block Grant Development Program Contract #MT-CDBG-SHSG-15-03. For State CDBG Housing Rehabilitation Grant awarded to District XI Human Resource Council. Contract awards funds to Human Resource Council to support purchase, rehabilitation, resale, or demolition of up to 18 housing units outside of the city limits that have health and safety deficiencies. Amount/\$212,355.00. Term/Upon execution for five years. To Sindie Kennedy/GCP.

Additional discussion item(s): None.

FRIDAY, SEPTEMBER 16, 2016

BCC met in regular session; all three present. Morning through mid-afternoon: JC attended Mental Health and Child Development Center Board meetings.

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Nicole "Cola" Rowley, Chair

MONDAY, SEPTEMBER 19, 2016

BCC did not meet in regular session. JC/NR at Montana Association of Counties meeting in Billings through Thursday, September 22.

<u>Larchmont Claims</u> – BCC signed Signature Page for A/P Invoice Register dated September 16, 2016. Amount/\$9,833.99. To County Auditor.

County Payroll Transmittal Sheet – BCC signed. Pay Period: 19/CY2016 - Pay Date/September 16, 2016. Total Payroll/\$1,707,392.81. To County Auditor.

TUESDAY, SEPTEMBER 20, 2016

BCC did not meet in regular session. JC/NR at Montana Association of Counties meeting in Billings through Thursday, September 22.

ADMINISTRATIVE MEETING - CANCELED

WEDNESDAY, SEPTEMBER 21, 2016

BCC did not meet in regular session. JC/NR at Montana Association of Counties meeting in Billings through Thursday, September 22.

ADMINISTRATIVE MEETING - CANCELED

THURSDAY, SEPTEMBER 22, 2016

BCC did not meet in regular session. JC/NR at Montana Association of Counties meeting in Billings through Thursday, September 22. JC attended Leadership Montana Confluence Event in Butte. Evening: BCC attended Board Appreciation Ice Cream Social.

ADMINISTRATIVE MEETING - CANCELED

FRIDAY, SEPTEMBER 23, 2016

BCC met in regular session; quorum present. JC attended Leadership Montana Confluence Event in Butte.

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Tyler Gernant Clerk & Recorder 88C888EF35614CA

Nicole "Cola" Rowley, Chair BCC

MONDAY, SEPTEMBER 26, 2016

BCC met in regular session; all three present. Morning: SR attended Missoula Ravalli Transportation Management Association meeting. Afternoon: BCC attended Freedom Gardens meeting.

Replacement Warrant - NR signed. Ashleigh Dean Burwick, Missoula, Principal for Missoula County Attorney's Office Warrant #65009697, issued March 15, 2016 on Missoula County Attorney's Office Special Restitution fund. Amount/\$100.00. Warrant not received in mail.

Replacement Warrant - NR signed. TNVC Inc, Redlands, CA, Principal for Sheriff's Department Warrant #30282603, issued June 16, 2016 on County 2300 fund. Amount/\$60,431.26 (for invoices). Warrant not received in mail.

Replacement Warrant - NR signed. James Matthew Hintz, Missoula, Principal for District Court Warrant #30244949, issued October 21, 2013 on County 2180 fund. Amount/\$14.83 (for jury duty). Warrant not received in mail.

Replacement Warrant - NR signed. Etienne McFarling, Missoula, Principal for Elections Warrant #30250256, issued March 20, 2014 on County 1000 fund. Amount/\$25.00 (for election judge training). Warrant not received in mail.

<u>Letter</u> – BCC signed, dated September 21, 2016. To Gregory Martinsen. Confirming approval of Martinsen Family Transfer at September 14, 2016 public meeting.

<u>Community and Planning Services (CAPS) Update</u> – BCC/CAPS Staff. Agenda: 1) Public comment; 2) Communications; 3) General updates: a) Subdivision Regulations Chapter 5 & 6 update; b) Subdivision Regulations Chapter 7, General Submittal Requirements; c) Isbell-Blue Heron Open Space Bond Project-joint project; d) Teague-Woodworth Meadows Open Space Bond Project; 4) Director's update.

TUESDAY, SEPTEMBER 27, 2016

BCC met in regular session; all three present. Morning: BCC attended Smurfit/M2Green update.

Replacement Warrant - NR signed. Melody McCleary, Missoula, Principal for Health Department Warrant, #30243227, issued September 17, 2013 on County fund. Amount/\$144.00 (for refund of wastewater fees). Warrant not received in mail.

ADMINISTRATIVE MEETING

<u>Professional Services Agreement</u> – BCC signed Professional Services Agreement between Missoula County-Missoula Valley Water Quality Control District (WQD) and Soil & Water Conservation Districts of Montana (SWCDM). SWCDM has funding through the Federal Clean Water Act to assist local groups with developing Watershed Restoration Plans. WQD offered funding to develop restoration plan for Miller Creek. Amount/Not to exceed \$8,800.00. Term/October 18, 2016-December 31, 2017. To Travis Ross/Missoula City-County Health Department (MCCHD).

Resolution No. 2016-126 – BCC signed, dated September 27, 20176. Budget amendment for WQD to reflect additional revenue from grant. Formally adopted as part of FY17 budget. To Travis Ross/MCCHD.

Memorandum of Understanding – BCC approved, NR signed. Memorandum of Understanding between Missoula County and National Center for Appropriate Technology's Energy Corps AmeriCorps Program. For EnergyCorps member to complete greenhouse gas emissions assessment for County operations and participate in other energy and climate action initiatives. Amount/\$11,500.00. Term/October 3, 2016-August 31, 2017. To Karen Hughes/Community and Planning Services.

<u>Employment Amendment</u> – BCC signed Employment Agreement between Missoula County-Partnership Health Center (PHC) and Katherine Kresbach, DO for services as Assistant Medical Director. Term/July 1, 2016-June 30, 2017. To Bernadette Roy/PHC.

<u>Service Agreement</u> – BCC signed Service Agreement between PHC and Stericycle for Stericycle to collect, transport, treat, and dispose of biohazardous waste/sharps. Amount/\$1,300.00 per month. Term/September 1, 2016-September 1, 2018. To Bernadette Roy/PHC.

Employment Agreement – BCC signed Employment Agreement between PHC and Scott Doherty, PA-C for services in capacity as Physician Assistant. Term/September 6, 2016-December 31, 2016.

Employment Agreement – BCC signed Employment Agreement between PHC and Susan Taylor, Dental Hygienist for services in capacity as Dental Hygienist. Term/July 1, 2016-June 30, 2017. To Bernadette Roy/PHC.

Employment Agreement – BCC signed Employment Agreement between PHC and Roger Pafford, MD for services in capacity as a Physician. Term/July 1, 2016-June 30, 2017. To Bernadette Roy/PHC.

<u>Employment Agreement</u> – BCC signed Employment Agreement between PHC and Jo Persons for services in capacity as Dental Hygienist. Term/July 1, 2016-June 30, 2017. To Bernadette Roy/PHC.

<u>Employment Agreement</u> – BCC signed Employment Agreement between PHC and Amanda Moffett-Frey for services in capacity as Clinical Pharmacist. Term/July 1, 2016-June 30, 2017. To Bernadette Roy/PHC.

<u>Community Assistance Fund Contracts</u> – BCC signed Community Assistance Fund Contract Agreements for 10 grant recipients:

- Missoula Aging Services \$15,000.00
- Homeword, Inc. \$15,000.00
- Learning Center at Red Willow \$15,000.00
- Missoula Food Bank \$45,000.00
- Mountain Home Montana \$19,900.00
- Parenting Place \$10,000.00
- Partnership Health Center Awarded \$200,600.00
- WORD, Inc. \$19,500.00
- YWCA of Missoula Gateway Program \$32,000.00
- YWCA of Missoula Pathways Program \$25,200.00

Term/July 1, 2016-June 30, 2017. To Nancy Harte/Grants and Community Programs.

Additional discussion item(s): 1) Missoula City Board of Adjustment Variance request for Fort Missoula Regional Park signage; 2) MacArthur Drive on-street parking; 3) Upcoming board meetings and review of meetings.

WEDNESDAY, SEPTEMBER 28, 2016

BCC met in regular session; all three present. Morning: BCC met with Rod Austin/Parking Commission.

Indemnity Bond – NR signed. Sandra Earling, Missoula, Principal for Frenchtown School District #40 Warrant #26064575, issued February 9, 2007 on Payroll fund. Amount/\$205.79 (for salary). Warrant lost.

Replacement Warrant - NR signed. Susanne J. Johnson, Frenchtown, Principal for Frenchtown School District #40 Warrant #26069481, issued November 5, 2009 on Payroll fund. Amount/\$18.66 (for salary). Warrant not received in mail.

Replacement Warrant - NR signed. Susanne J. Johnson, Frenchtown, Principal for Frenchtown School District #40 Warrant #26069420, issued November 5, 2009 on Payroll fund. Amount/\$22.50 (for salary). Warrant not received in mail.

Replacement Warrant - NR signed. Susanne J. Johnson, Frenchtown, Principal for Frenchtown School District #40 Warrant #2606523, issued November 5, 2009 on Payroll fund. Amount/\$11.45 (for salary). Warrant not received in mail.

Replacement Warrant - NR signed. Susan Green, Frenchtown, Principal for Frenchtown School District Warrant #26072905, issued September 9, 2011 on Payroll fund. Amount/\$74.49 (for salary). Warrant not received in mail.

<u>Letter</u> – BCC signed, dated September 28, 2016. To Mike Kustudia, Milltown State Park. Confirming lifting of agricultural exemption covenant from property at September 14 public meeting and attaching Resolution 2016-123.

ADMINISTRATIVE MEETING

Interlocal Agreement – BCC signed Interlocal Agreement between Missoula County and Missoula County Public Schools to provide education programs to juvenile inmates at the Missoula County Detention Facility. Amount/\$61,995.00. Term/July 1, 2016-June 30, 2017. To Sheryl Ziegler/Sheriff's Office.

<u>Professional Services Agreement</u> – BCC signed Professional Services Agreement with Heritage Timber, LLC to provide deconstruction services at Fort Missoula Regional Park. For deconstruction of four existing shade shelters at the softball fourplex and two shade shelters at the horseshoe pits. Amount/\$5,600.00. Term/October 1, 2016-October 14, 2016. To Garrick Swanson/Parks, Trails, and Open Lands.

<u>Task Order Amendment</u> – BCC approved, NR signed. Amendment Two of Task Order 16-07-5-01-076-0 for Healthy Montana Families Project between Montana Department of Public Health and Human Services (DPHHS) and Missoula City-County Health Department (MCCHD). Extends contract period to December 31, 2016 with additional funding. Amount/Additional \$20,913.21, for total of \$132,222.71. Term/July 1, 2015-December 31, 2016. To Ellen Leahy/MCCHD.

<u>Task Order Amendment</u> – BCC approved, NR signed. Amendment Two of Task Order 16-07-5-01-150-0 for SafeCare Augmented Maternal, Infant, and Early Childhood Home Visiting Program. Between DPHHS and MCCHD. Extends contract period through to June 30, 2017 with additional funding. Amount/Additional \$189,211.30, for total of \$239,211.30. Term/July 1, 2015-June 30, 2017. To Ellen Leahy/MCCHD.

<u>Agreement</u> – BCC signed Agreement between Missoula County and Opportunity Resources, Inc. to provide transportation services for persons with disabilities on Sundays. Amount/\$12,000.00. Term/July 1, 2016-June 30, 2017. To Nancy Harte/Grants and Community Programs.

Additional discussion item(s): 1) Employee benefits claims; 2) Alder Street property.

PUBLIC MEETING - SEPTEMBER 28, 2016

MISSOULA BOARD OF COUNTY COMMISSIONERS PUBLIC MEETING MINUTES

Conference Room 151-Courthouse Annex

If anyone attending the public meeting is in need of special assistance, please provide advance notice by calling 258-4877. Missoula County is happy to provide auxiliary aids and services.

WEDNESDAY, SEPTEMBER 28, 2016 - 1:30 PM

1. CALL TO ORDER



Chair Nicole "Cola" Rowley Commissioner Jean Curtiss Commissioner Stacy Rye

Staff Present:

Christine Dascenzo, Planner – Community and Planning Services
Tim Worley, Planner – Community and Planning Services
Deborah Evison, Building and Development Manager - Missoula County Public Works

2. PLEDGE OF ALLEGIANCE

3. PUBLIC ANNOUNCEMENTS

None

4. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

None

5. CURRENT CLAIMS LIST

Total claims from September 9, 2016 - September 23, 2016 = \$2,415,417.85

6. HEARINGS

a. Chapter 5 Subdivision Regulations Review

Christine Dascenzo, Planner - Community and Planning Services – We are taking another look at chapter five of the subdivision regulations and the amendments to those regulations. Two weeks ago, we looked at new processes for changes to the preliminary plat and phasing plans and the implementation of a three year interval for preliminary plat and phasing plan approvals. New today we will look at comment we have received from Public Works and subsequent amendments to the regulations after we debrief what we talked about last time. The public process to date:

July – Present: Discussions with agents, website and email updates July 20, 2016: chapter five public workshop August 2, 2016: Planning Board August 28, 2016 & September 4, 2016: Legal ad September 14 & 28, 2016: Board of County Commissioners

September 21, 2016: Meeting with Public Works

November 4, 2016: Effective date

The amendments introduce more public process when it comes to requests on: preliminary plat extensions (section 5.7.15); phasing plan creation (section 5.7.16); phasing plan extension (section 5.7.16.7); preliminary plat adjustments (section 5.8.5). That can apply to both preliminary plats and phased subdivisions. We feel like the increased public participation justifies continuing through with extensions for subdivisions and maintains that constitutional right to participate for those that were involved or would be affected in the immediate area of the subdivision. There is more frequency and more ways for the public to be involved with these recommendations.

I have put together a chart that shows the process as it is with the current regulations and how it would be in the proposed changes. You will see how it affects the process for preliminary plat extensions as that first row and then preliminary and final plat adjustments. Final plat adjustments are actually detailed in chapter six but I just included them for brevity, hopefully. Phasing plan creations, phasing plan extensions and then you have phasing plan adjustments. New to all these processes and requests would be involving notice to the adjacent property owners, we haven't done that in the past and that would be new. For those processes as it involves major subdivisions those would also get a legal ad, in the newspaper, as well as that adjacent property owner notice. We would maintain the current practice of requesting comment from county agencies or relevant agencies. Major subdivision request would go to Planning Board, hence the legal ad. We would also maintain that current practice of getting commissioner action on all of those requests. Here is that chart with everything together. It is basically new notice to the adjacent property owners, legal ads and Planning Board when it comes to major subdivisions.

Now to touch on the three year interval that sweeps through the process as well. When it comes to preliminary plats the approval period would be for three years and there would be an opportunity to extend for three more years, so that would be up to six years for that preliminary plat approval, at that point the subdivision would have to either be filed, phased or be voided. When it comes to phasing plans the phases must be established with deadlines that fit within a three year window. So if a deadline, for a four phased subdivision, if a subdivision requests an extension in 2017, for a four phased subdivision, that deadline could ultimately be 2020 and that fourth phase would have to be filed by 2020.

Commissioner Rye - Can you say how it works now as opposed to proposed?

Christine Dascenzo – So it is sort of unlimited. Folks can come in for extensions at the interval of their choosing so that is why you will see a variety of phasing deadlines for different subdivisions. On this next slide you will see the phasing deadlines and how those change. That was sort of the only parameter that was in place before limiting extensions.

Commissioner Rye – Can you just go back to the previous slide? I like the charts that you have come up with, this really helps explain it, but on the timing thing on the phase thing I am still a little bit unsure. It says on here, 2017 extension request, the four phases would still have to be filled by 2020.

Christine Dascenzo – That is new. Most of this is new which is why it is hard to chart. It is introducing the concept of three year intervals, where there wasn't an interval before.

Commissioner Rye – So all four phase would have to be filed by 2020 or just in intervals of three years?

Christine Dascenzo – All four phases would have to be filed within three years of the extension request.

Commissioner Rye – So if you go to the next slide this is where I am confused. It says nine years, 12 years, 18 and 21. So how is that different?

Christine Dascenzo – That is the life of a subdivision. It can ultimately be extended. How it works now is that it could ultimately be used those nine years, 15 years, 20 years, 25 years immediately and spread out those phases throughout the 25 years in the most extreme example. It could be every five years a phase would have to be filed.

Commissioner Curtiss – So, what I think you are asking, under these new regulations they would have to ask for it to be phased so that they didn't have to file the plat. Then in 2020 they could come in and ask that phase two be extended out and then 2023 they could ask again.

Christine Dascenzo - Right.

Commissioner Curtiss – It is just that we only do it in three year increments.

Christine Dascenzo – Right and all the phases would have to have set deadlines within that three year window but they could come back and ask for another extension every three years.

Commissioner Rowley — So you have a total of nine, 15, 20 but it has to be in three year intervals and that three years comes from the Legacy Ranch decision basically; or state law kind of spells out the three years and that is why we are adding that is because that is technically what we have. Is that correct?

Christine Dascenzo – So the three years mirrors what we saw in Legacy Ranch it is not exactly dictated from that but it is recommended from CTAP (Community Technical Assistance Program) and another, I think MACO attorney.

Commissioner Rowley - What is CTAP?

Christine Dascenzo – That is the Community Technical Assistance Program at the state. The Legacy Ranch decision dictated the approval period be three years and so we are working from that and using a three year interval. There is some wiggle room if you wanted to.

Commissioner Rye – But it doesn't mean a subdivision. A large subdivision say like the Twite one from a number of years ago, up Miller Creek, which is numerous phases and 1,500 lots, wouldn't have to be completely done in three years.

Christine Dascenzo – No, they would have opportunities to come back and extend it but it would just be those three year increments and so we would see them more frequently; we'd see them likely every three years.

Commissioner Rye – And they would have to do public notice each time.

Christine Dascenzo – Right. We are feeling like the public notice allows us to continue extending the subdivisions. Whereas interpretations have sort of limited the ability to extend but we are thinking with increased public participation we'd be able to justify those extensions in keeping that process.

So we are seeing the recommendations for the phasing deadlines which is the ultimate deadline for the subdivision. We are recommending those to be changed to be divisible by three. Minor subdivisions would maintain a three year ultimate phasing deadline. Subdivisions with six to 20 lots would be reduced down to 12. This is with a feedback from Public Works in how long extensions affect their approvals and ability to maintain consistency in compliance with their regulations. That is

why we are trimming them back a bit from the draft you saw last time. So 12 years and then 18 years for subdivisions with lots between 21 and 49 lots and 21 years would be for subdivisions with 50 or more lots.

FISCAL YEAR: 2017

We did get that comment from Public Works last time we met and I wanted to go through that piece by piece. Many of the comments were copy edits and so you will see that in section 5.7.4 clarifying that that requirement applies to a minor subdivision. The neighborhood meeting is not required for a minor subdivision only a major. In 5.7.14.10, decision letter, section C, page 5-21, we received the suggestion to add in from the date of the governing body decision, so it is more specific timeline; the three year approval period would be from that decision of approval. All of these are in brown highlighting throughout that draft. The next one is section 5.7.15.2, written requests, and those are updated references that were changed just with the changes that we made to the section. In this area there is an info box that we added and this is what you have in your packet, "Missoula County reserves the right to void any and all approved plans, including but not limited to construction plans and drainage reports, in the event that any significant changes are made to laws, regulations, or specifications. This determination will be made by Missoula County." This is that comment from Public Works trying to tie approvals based on subdivisions for construction plans and drainage reports, things like that, trying to find some mechanism to be able to address when they become out of compliance. So you have the preliminary approval and then approved plans but filing might not come until many years later so trying to tie compliance back to the approved plans. We have some alternative languages provided as well. We have heard from Public Works that these would address the issue as well. The first alternative is, "Plans, including but not limited to construction plans, are approved by Missoula County Public Works for compliance with those rules, regulations and specifications in place at the time of review. Plan updates may be required at the time a final plat is filed in order to maintain compliance." The second alternative is, "When an extension is requested for projects with approved plans, including construction plans, consultation with Missoula County Public Works is recommended." So we have some options for that info box text. Maybe just a starting place to further tweak it but wanted to provide that today. You will also see that info box in section 5.7.16.6.

Moving on to the other comments we received. Getting back to the phasing deadlines. This is the compromise we reached at our meeting, it is an update to what is in that comment letter. We were able to find a middle ground there. You will see that info box again in that 5.7.16.6 area. There are also the inclusions, of the word "of," in 5.7.16.6 criteria, point B. That is a helpful edit to make it more clear and make sense. Also the inclusion of, "independent of and," in the last sentence. When we are creating a phasing plan we are making sure that each phase remains functional within itself. It is the, "Shall contain fully functional systems of access to non-motorized facilities, storm water management, fire suppression etc. and the service delivery independent of and without reliance a future or subsequent phase." That drills it down a bit more. We also have an edit on 5.7.16.8, final plat, point B, void. This crystalizes it a bit too by including that "all accompanying documents shall also be considered void when a subdivision is voided." We have our next one on 5.7.17.6, material, it involves the list of items that could be determined to be a material change. In that point B, road layout, we are recommending adding in "road layout and infrastructure construction plans" to that point. In 5.8, adjustments to preliminary plats, we have a grammatical inclusion of the word "a;" it would read "practical as a result of changing conditions." In 5.8.3.1, conditions, hoping to replicate the inclusion of approved plans here as well. So conditions/approved plans and the applicability of these regulations. Section 5.9.2.10, improvements, the inclusion of "approval and," so that is says, "The approval and installation of improvements required before final plat approval or the required assurances and guarantees for any improvements that will be required after final plan approval." Section 5.9.2.11, extending capital facilities, striking the beginning phrase makes it actually more applicable and more understandable in the context. It would say, "Extending capital facilities related to public health and safety, including but not limited to public roads, sewer lines, etc." Those are the comments that we have folded in from Public Works and that is all of the new information that we have received over the last two weeks. We would recommend approval of chapter five as amended

Commissioner Rye – Can you go back to the last grid that you were on that showed the proposed and current with the Public Works. It was in regards to you meeting with Public Works and coming up with a compromise.

Christine Dascenzo — So I think that was the phasing deadlines. This is the second version of that same slide. These proposed deadlines reflect the current compromise that you will see in this draft of the regulations. Are you interested in what the previous deadlines were?

Commissioner Rye - No it says current, right?

Christine Dascenzo – So that is what we work under now. The proposed would be the recommended changes in the draft regulations.

Commissioner Rye - Which is this, on the right hand side of the column?

Christine Dascenzo - Right.

Commissioner Rowley – Is there any way around the three year, I get 21 years, but for 50 plus lots we know that they are not going to be done in three years and then they have to pay more money to back through and do all the public process. That does cost money and you know in the first place that they are not going to be done in three years. Is there any way that they can up front say we plan on being done in 12 years and if they go past that they need more process or are we stuck with three years?

Christine Dascenzo - There is some room to play with the three years. Having them come in in regular intervals allows us to check in on the findings and see if those have become stale or if they are still relevant or if they should go through subdivision all over again. It gives the public a chance to participate and reflect on the specific cause for the extension or justification for the extension. We would want to keep the public process focused on whatever elements are contributing to the need for the extension. There could be some wiggle room. I am not sure that we could go to 12 immediately.

Tim Worley, Planner - Community and Planning Services - We would certainly recommend, even though it is difficult, to maintain that three year initial approval period. That comes out of 76.3.6.10 that is what came out of the court case that Christine was alluding to. As difficult as it is we would really recommend holding on to that three year initial approval period per the statute. It is the three year increments that are probably something that you might want to consider amending, if you are not comfortable with that short time frame.

Commissioner Rowley - When they have to come back through every three years, how much work and money does that intel?

Tim Worley - It is some work. It kind of depends on the scoop of what they are requesting are they just requesting a date change or are they tinkering with things a little bit? They will have a public process component now that they didn't have in the past. That is something I think we have to let that play out to what it would involve.

Commissioner Rowley – But if it is going to expire, when does that clock start? So if the process takes longer, the clock starts once they submit thought right? So even if it takes two months longer than it takes now, they are not going to expire because the clock still starts at the same time?

Tim Worley - The clock is going to start upon, I guess I am not sure about the question, but...

Commissioner Rowley - Since it is going expire after three years now.

Commissioner Curtiss - So if they came in at two years and 11 months and talked to you, they met the deadline.

Tim Worley - Right. They could even fall past that three year date if they snuck it in 10 or 14 days before.

Commissioner Rowley - Okay, so even if it takes us three months to get through the process that won't penalize them as far as hitting the time mark.

Tim Worley - That is right. Basically they are in the door when they pay and they have essentially a complete packet.

Christine Dascenzo – And the clock on the approval stops at that point as well. So if they are ten days from the deadline they would sort of get ten more days after, if the extension wasn't approved, in theory, and then they could plat their subdivision in ten days.

Commissioner Curtiss - So at the Montana Association of Counties conference last week there was quite a bit of discussion about phasing of subdivisions in the land use committee and then on the floor of the conference. What came out of that is why it is important to have folks look at the development of their whole property and not come in in little pieces and corners of their property. Phasing has its advantages for larger pieces of property especially. I think the one good thing that the county has done, at CAPS recommendation, has set forth that we will review on a more regular basis. So if something changes in the legislature that gives us a little more flexibility we can always approach this, and if we find out it is a headache that we didn't think we were going get, we can change it another time too. I agree it seems like it makes more sense for them to, in some cases that I have approved in the past, it makes sense do phasing from the beginning. But because the regulations that the process out, I think we are okay.

Commissioner Rye - I don't necessarily quibble with the new phasing being three years and the different phasing deadlines. I think the part that is difficult for me that makes doing a subdivision almost of any kind more onerous is the idea of adjacent property notice, the legal ad, the Planning Board and then action by the Board of County Commissioners. It is significant because you have

the opportunity to then stop a subdivision again to have that same kind of argument about a property. So I don't necessarily quibble with the new phasing deadlines but I can't see how the, I mean we know that a subdivision of x number of lots is going to have to go through phases. To go through a significant public process including Planning Board is risky because what if something substantially changes and all of a sudden a subdivision could be in trouble and doesn't get its extension or phasing plan creation accomplished. We are in significant need of housing supply in this area, and if you look at the risks that you have to undertake to develop a ten acre parcel that is an undertaking. I don't know that we need to necessarily include this significant process, as to the way it is now.

Commissioner Rowley – I guess that was my issue with the three years because my understanding is you would have to do all of this every time, is that correct? All the legal ad and the adjacent property owners and everything, every time, so you would have to do that every three years now. Is that correct?

Christine Dascenzo – That is how it is laid out and it would be for major subdivisions. It does mirror that process that got the original subdivision approved. It does introduce some risk, increased risk of a denial of the request, which could potentially halt the subdivision. We are hoping that the increased public participation and the process at Planning Board would be narrowly focused on whatever is the extenuating circumstance, requiring the extension or adjustment, rather than opening it up to the entire subdivision as a concept.

Commissioner Curtiss – And they could still always file the plat that was approved and if they haven't got the infrastructure in they can bond for it.

Commissioner Rowley — But expecting a 50 plus lots to go through in three years is not going to happen. Okay, so we have to do the initial three years maybe but maybe after that if we legally can decrease the number of times because we extend subdivisions very regularly right now and it is important to be able to do that to maintain housing stock. I also understand that there should be, you can only do it for 21 years and that maybe things should be up to current standards but going through such a major process just to phase it when we already knew that it was going to need to be phased seems odd.

Christine Dascenzo – There could be an option. So in this chart you will see asterisks, in a phasing plan extension there are asterisks where that process, the legal ad and the Planning Board, would not apply until the sixth year. There could maybe be room to play with applying that throughout the process requests and possibly the number of years where that is required.

Commissioner Rye – I guess my issue is both for large subdivisions, which are their own special animal, but also for minors where the property owner comes in, and they use a professional firm for the subdivision itself, they get through and often times those are the most continuous are these small subdivisions; so they get through the process, they have this subdivision, the large subdivisions will have a professional team involved for a decade or more but these small ones do not. They revert to mom and pop kind of doing the subdivision on their own and it is easy to forget about a deadline or not be aware completely of the process because they don't do it for a living. So I think for both of these areas the minors and the majors nothing is changing when developers want to do a preliminary plat extension or a phasing plan creation or a phasing plan extension. Nothing is changing in the subdivision itself and so I see what you are hoping for with going for adjacent property owner notice and the Planning Board and having more of a process but really what probably will happen is that it opens it up for, 'I don't want this subdivision to be phased because we had a flood last year and we think we will have a flood again in a couple of years and see my original concern came true and blah, blah, blah.' You know that may then start this ball towards all kinds of other things that may or may not be relevant to the creation of a phasing plan. My concern is that it creates a political scenario that I don't think we want to. I guess I wouldn't lean towards this largely expanded public process.

Commissioner Curtiss – But if you look at it, it doesn't look like the minors. They don't have to put in a legal ad; they don't go to Planning Board or any of these things. So it is just talking to the commissioners in that case and letting the neighbors know of course and neighbors should have a right to know what is going on.

Commissioner Rowley - I am thinking of two things; the asterisk says, "Phasing plan extensions would follow minor process if within six years of approval." But we can't skimp on that original three year and is that what the minors have, so how is that different? Because then six would just be the next three year period. I don't get the timeline of how that is different.

Christine Dascenzo – The situation if it was phased from the beginning. If it is phased from the beginning, a phasing plan extension for a major subdivision, would only get that adjacent property notice and commissioner action. That is to mirror the allowable preliminary plat approval timeline of six years. Does that explain it or not?

Commissioner Curtiss – Could you give an example? So I have a subdivision, I have a major subdivision and it was approved for three years and now I am coming in for a phasing plan extension so I must have asked for phasing in the beginning.

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Christine Dascenzo - Right, they are phased in the beginning.

Commissioner Curtiss – So, I could come in in three years and I wouldn't have to do a legal ad and I wouldn't have to go to Planning Board? I could just say, 'Could you please extend it, things didn't work out in the market.' But then if I came in at the six year then I would have to do these two things.

Christine Dascenzo - Right.

Commissioner Rye – It's not that neighbors don't deserve to know, it's that opponents of a subdivision will use whatever, the economy crashed, to further oppose the development of that subdivision and the ability for nimbyism to take place is a detriment to developing housing in the first place and so that is my concern.

Commissioner Rowley – If a developer puts all this time and money and gets a subdivision approved and then three years later it can be taken away, when they expected all along that it would take 21 years to finish. It seems like we could be really putting developers out. I know that is unlikely but it could happen and this increases the probability of that happening.

Commissioner Rye – If we continue to add to a process that makes it significantly harder and significantly harder, the culmination of that, are there properties that don't get developed that would have been mid-priced housing. I mean we can talk about affordable housing all day long in Missoula County, but the fact of the matter is that we can't build our way to affordable housing through government subsidies we have to have supply. I understand alerting the neighbors but I don't understand how that doesn't just lead to kind of the culmination of regulations that is a detriment to housing.

Commissioner Rowley – This is being brought up at the legislative session this year and I am wondering to what level this addresses specifically these concerns and if we want to do this now or see what comes out of that or mirror what is proposed. I can't remember what is being proposed, does anyone from MOR know specifically with phasing and things what is going to be pushed at the legislature?

Sam Sill, Missoula Organization of Realtors – We did send over language to you. I don't have it on me today, frankly I think folks from MAR would be better equipped to speak to then I would right now.

Deborah Evison, Building and Development Manager - Missoula County Public Works- I have sat at both sides of the table in doing development in subdivisions and so I understand what Christine is getting at and I totally understand what you are getting at and the situation of a developer would be in in this situation. Opening it back up to the public process is quite alarming but I think that is where staff, the Planning Board and the commissioners need to be very clear that if that is the route you are going to go that you are only looking at the timeline you are not looking at the infrastructure, design, anything else, it is only very specifically 'can we extend this for three years.' And you are not opening it up to re-review. I think you would have to be very strong in that regard in informing the public that if you are going to follow the public process as proposed it is specifically only for timelines and nothing else about the review of the subdivision. It can't look at any other part of it during that time. My other suggestion would be if a developer is doing a major subdivision and they want to do phasing allow them to propose what that timeline would be and see if it is acceptable; if legislature has changed at that point, if it is something that you can do, if there is any wiggle room. Rather than, if you don't propose anything this is what you are stuck with but if you actually have a plan and you actually have dates and deadlines into the future that they think are reasonable allow yourselves the ability to actually accept that. That would be my suggestion.

Commissioner Rowley – I like that idea. Can we do something like that?

Commissioner Curtiss – What if we said, they could phase but they had to finish the last phase within 21 years? We still get to the same thing, but we had that Legacy Ranch thing hanging out there too so we might have to wait for the legislature to be able to do that. I don't know.

Commissioner Rowley – And with your first point, how we limit the public comment to only the time period but still if you cut off a major subdivision after six years it kills the entire thing because it is unreasonable to do that in that amount of time. But I like Deb's suggestion. That is kind of what I was getting to, can we get extra time if it is proposed initially and it is more reasonable then three years

Commissioner Rye – I think the other thing I would be interested in is not having to go to Planning Board, maybe.

Commissioner Rowley - Ever, or? After the first three years or initially?

Commissioner Rye — This column, major having to go to Planning Board, the most common subdivision I can think of is ten acres, 20-30 lots; I don't know how many big ones are left out there. But Planning Board is a major endeavor. I think this is executive action. Planning Board strikes me as necessary for the creation of the subdivision to look at all of those technical issues. To look at if the subdivision works on both vertical and horizontal levels, the subdivision of land and the development of land, but in terms of technically should this subdivision have a phasing plan extension, I don't know that I see that in Planning Board's purview necessarily, that is an executive decision that belongs with the executive body.

Commissioner Rowley – When it says preliminary plat adjustment, what specifically does that mean? Would that be like the Caitlin Estates adjustment that we did?

Christine Dascenzo - Right.

Commissioner Rowley – I could see substantial adjustments like that going to Planning Board but as far as extending time and phasing plans, I mean currently our public process is that we do that in administrative meeting and I think we should add the Wednesday public meeting to it but I agree that I am not certain that it needs to involve Planning Board because it is something that has already been approved and that we are just changing the time.

Commissioner Rye – I agree, I can see the final plat adjustments, preliminary plat adjustments, I can see those being esthetic in nature and should go to planning board for their expertise but then just going to the executive board in a Wednesday public meeting for the rest of the extension creation, extension adjustment.

Commissioner Rowley – Does our lawyer have any heartburn with the direction we are sounding like we want to go?

John Hart, County Attorney's Office - No, I don't have any particular heartburn, I have the same heartburn. I think we are struggling with how much public participation is necessary to discharge our obligations under the constitution and state law to make sure that the public has an opportunity to comment and participate in significant government actions. As I worked with CAPS in development of these regulations and reading some of the court decisions like Legacy Ranch, and it was also a very important supreme court decision out of Sanders County, which really hammered this home that, commissioners, you've got to involve the public in every decision that you make and all of the information that you consider in making the decision has to be known and made available to the public for them to comment and give feedback and all those kinds of things. I don't have any particular heartburn about it because it is hard to balance what is the right amount of public participation here. I mean at a minimum I think that the phasing extension request should come to a meeting like this that has been noticed and is a little bit more of a formal process then the administrative meetings where we have been doing them. The three year period, I would hesitate to move away from that three year period. For me, the three years comes out of the statute that Tim Worley referenced earlier in this meeting. The legislature said a preliminary plat approval cannot be in place for more than three years. There are opportunity for extensions beyond that but there has to be a process that we engage in, in order to allow those extensions. For me, the three year period, it seems like a lot but I think that is a good segment of time to use to extend these phases out. Even though, Commissioner Rowley just like you are saying and Commissioner Rye, we know that these major subdivisions probably aren't going to occur within three years. We might know right from the get go they are going to take 15, 18, 21 years, but let's still provide an opportunity every period of time for public participation.

Commissioner Rowley – That opportunity though could be whittled down to a public meeting every three years as opposed to the adjacent property owners notice, legal ad, Planning Board. I think that is when it gets to be expensive for people, whereas if they just have to come and update us at a meeting and we can approve it. Or do you think that is not adequate if it is noticed every three years and we have a public meeting like this?

John Hart – I am not going to make a recommendation about how much you need to do. There needs to be an adequate opportunity for the public to participate in comment in the phasing plan extension process. Just like they had during the initial subdivision approval and creation. That is my response to that.

Commissioner Rowley – So that sounds like you are suggesting it does have to go through that entire process since you said, just like when it went through it originally, and we are suggesting less.

John Hart – I didn't mean to suggest that it has to go through the full blown process. There has to be a meaningful opportunity. I don't think that our current procedure is quite adequate enough.

Commissioner Rye - I could see maybe a legal ad.

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Commissioner Rowley - A legal ad and public meeting.

Commissioner Curtiss - Nobody reads those legal ads.

Commissioner Rowley - Nobody reads those legal ads she says, but we have ads for our public meetinas

Commissioner Rye - The thing that does get read is that thing on Sundays in the Missoulian the little section that gives the agenda for the upcoming week for government. That does get read. If it was part of the Wednesday meeting it would be in there.

Commissioner Curtiss - I think there is a difference in the law between a legal ad and notification, right? So if we don't want it to be the little tiny whatever with a map and stuff in the legal ads we could still give notice just like anything else we notice.

Commissioner Rowley - So are you suggesting not bothering with the legal ad?

Commissioner Curtiss - With adjustments maybe, like Caitlin Estates.

Commissioner Rowley – It sounds like we do want the entire process for adjustments, I even think adjacent property notice would be appropriate there because if you are changing the layout of their subdivision and they are already living there, if you are changing roads or something that could be of interest to the property owners.

Commissioner Rye – So for the preliminary final plat adjustment that whole line stays.

Commissioner Rowley - Yes, but for everything else it would go to just a public meeting of the county commissioners that is adequately noticed.

Christine Dascenzo - And so the last row is also an adjustment to phasing plans.

Commissioner Rowley - How significant are those? What does that really mean?

Christine Dascenzo - That would be a similar situation where you are removing a no build zone or something like that from a phased preliminary plat.

Commissioner Rowley - Okay, I was lumping that in with the others and thinking that was just adjusting the timeline but that's meaning actually adjusting the plat. Okay, so for that too, if we are substantially changing the subdivision we should go through the process, but if it is the timeline phasing it or extending it I think just a public meeting is adequate.

Commissioner Rye - I agree, phasing plan adjustment could be changing of the dates or it could be changing a no build zone, right?

Commissioner Curtiss – One would be extension the other would be adjustment. If it is just dates it would be extension.

Christine Dascenzo - There is modifications.

Commissioner Rye – So the phasing plan adjustment doesn't refer to timelines it just refers to...

Christine Dascenzo - Significant things on the plat.

Commissioner Rye - Changing a road in phase three.

Commissioner Curtiss - Saying, no sidewalks to the end or something.

Christine Dascenzo - In section 5.7.16.7, modifications, I probably should have used modifications in phasing plan extension because that includes the dates as well as the orders of the phase. So if you needed to exclude two lots from one phase and put them in a different phase that would be included in that extension process.

Commissioner Rye - So the phasing plan adjustment which is the bottom row would be any physical manipulation of subdivision lines, correct?

Christine Dascenzo - Right, so you will see that in 5.8 and so the definition is, "A preliminary plat plan adjustment grants minor relief from conditions of approval or facilitates minor changes to the details of an approved preliminary plat/plan. When the nature of the adjustment and the absence of impact on neighboring properties or the community warrant a process for submittal review and decision by the governing body." It is slightly more significant changes without being too significant to void a subdivision.

Commissioner Rye - Okay, so that one we would want to do the adjacent property notice, legal ad; do we want to do Planning Board?

Commissioner Rowley – I think so, it is adjusting the plat and it is just if it is phased, so it is really the same thing.

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Commissioner Curtiss – I don't have any problem with notifying adjacent property owners because a lot of people don't follow our agendas that much. So I think that is something that we haven't done in the past and it would be nice. I know that is where you are going to get grumpy people but they might also have a really good reason why we don't want to extend it out or something.

Commissioner Rye – So I was still on the phasing plan adjustment, whether or not it goes to Planning Board, I can go either way on that, but the adjacent property notice on the preliminary plat extension where the creation or extension of the phasing plan, I don't see why that would need to have adjacent property owners notice.

Commissioner Rowley – I kind of agree just because when they bought their property, whatever else is there was there. So it is not actually changing anything other than giving it more time.

Commissioner Rye — God forbid, I can see a scenario in which part of a subdivision is built, the next part is due to come on, there has to be adjacent property owners notice and those new lots protest the ones that want to be phased. I remember one right out third street, there was planned to be two different subdivisions, one was built and the next one had a road that was going to be put through it for connectivity and the ones who were in the first subdivision greatly protested the connectivity of the road of the second. There's that scenario. I guess the part about adjacent property owner notice is not letting them know, not to mean that anybody would be kept in the dark, but that it's simply for preliminary plat extension, phasing plan creation or phasing plan extension and that doesn't have anything to do with original subdivision.

Commissioner Rowley – I agree. I do want there to be public notice and people to know what is going on but when their lot was created it had those other lots included. Of course we would all love it if our house was built and we have all this nice open space and then the rest of the subdivision is void and so we get to keep our open space. I think it would be pretty common that people in the first phase of a subdivision would protest the other phases being built out. So while I am not against public process and I would welcome the input, I do think that allowing phasing is maintaining the subdivision as originally approved and that had all the public input and I think it is adequate.

Commissioner Curtiss – So we'd change the first column to read, instead of adjacent property notice, just public notice because that way it is on our schedule. It isn't the same as a legal ad, it is just public notice.

Commissioner Rowley – Right, although I think we could have adjacent property notice for the adjustments. Like when we had Caitlin's Estates the other neighbors, I think, would have an interest in whether the road is moving or not.

Commissioner Rye - Or a no build zone.

Commissioner Rowley – Right because that is changing the surroundings that people bought property in. Does that make sense?

Christine Dascenzo – It makes sense, I am following it. One thing you may want to consider as well, the public notice may be sufficient but the extension requests, by doing the adjacent property notice, we are feeling like that piece of the public notice sort of justifies the extension. Whereas, extensions, as you heard in your conference, we were thinking that the public right to participate in the constitution would be met by that adjacent property notice.

Commissioner Rowley – And that it is not met by having a public meeting noticed.

Christine Dascenzo – The public meeting notice may be sufficient. It is just that the direct contact would be missed. You have already thought about that though.

Commissioner Rye – So the second row and the fifth row would stay the same but the first, third and fourth would have agency comment and go to the Board of County Commissioners Wednesday public meeting.

Christine Dascenzo – And public notice, right?

Commissioner Rowley – With the meeting, yes. I would ask our lawyer if he thinks that is legally adequate?

John Hart – The legal notice that we provide now is sufficient. I think what CAPS was trying to do is embody the public policy of maybe providing a little bit more direct public notice to landowners. I don't think there is any harm in that. It may reflect good public policy but it isn't legally required for purposes of our regulations and meeting the law and constitution.

Commissioner Rowley – That being said, I do want to embody public participation in government and everything. I do think that since that initially happens and it is not changing anything and we are going to a deadline and it is known when that subdivision is created that this developer may have up to 21 years to do it; I think that is fair and is a balance between public and private interests in the creation and phasing of subdivisions.

Commissioner Rye - I am glad it will go to the Wednesday meeting. I think that is appropriate.

Commissioner Rowley - Yes, absolutely should have more process.

Commissioner Rye - Do we need that to be an amendment right now?

Commissioner Curtiss – I think we could amend this chart and if we deal with this chart it deals with the other charts.

Commissioner Rowley - And whatever text needs to be amended to go along with it?

Commissioner Rye - I mean, does there need to be a motion right now, should I make a motion?

Commissioner Curtiss - I think we can do it in pieces.

Commissioner Rye made motion that the chart is amended as previously stated.

Commissioner Curtiss – Can we do them by section, so adjacent property notice, then legal ad, then agency just so we are...

Commissioner Rye - I can do it by row.

Commissioner Rowley – Also, is there any public comment on this specific piece since we are going to be moving on it?

Commissioner Curtiss – Just on notice requirements for plat extensions.

Commissioner Rowley – Any public comment on this chart? Okay, so let's go ahead and move through the motions.

Commissioner Rye - So could I say it by saying rows.

Commissioner Curtiss – I would rather say columns then rows because it is only one column I have a problem with.

Commissioner Rye - Okay, I don't know what to do then.

Commissioner Rowley – Well, weren't we going to change to columns? What were you going to put in there?

Commissioner Curtiss – I am just in favor of adjacent property notice on all of them, so that is the only one that I wanted to segregate out. The rest I agree with. So if you could make your proposal for who you think should have adjacent property notice then I can vote no on that piece and yes on the rest is all.

Commissioner Rowley - Okay, unless you want to have discussion about the property owners.

Commissioner Rye made motion that we have adjacent property owner notice on the preliminary plat, final plat adjustments and on phasing plan adjustments only. Commissioner Rowley seconds.

Passed 2-1.
Rowley –Aye
Rye – Aye
Curtiss – Nay

Commissioner Rye made motion to amend row two and row five, the final plat adjustment and phasing plan adjustment, have a legal ad, agency comment, Planning Board and Board of County of Commissioner Wednesday action. Commissioner Curtiss seconds.

Passed 3-0.

Commissioner Curtiss – Were we adding public notice to the BCC action or is that just a given?

Commissioner Rye - I think that is a given.

Commissioner Rowley - That is what I assumed but we should be clear.

Commissioner Rye mad motion that rows one, three and four, preliminary plat extension, phasing plan creation and phasing plan extension have a process to include agency comment and Board of County Commissioner action including noticed Wednesday public meetings. Commissioner Curtiss seconds.

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Passed 3-0.

Commissioner Rowley - Now should we move onto the info box?

Commissioner Curtiss – So on this one I would like if Deb could please come up and give us some examples of when you have seen a necessity for this because I would think that the drainage for example, water usually runs downhill, so I have trouble figuring out why the drainage plan would change unless they changed where they were putting things.

Deborah Evison – We have had major subdivisions that were approved 20 some 30 years ago come through our office now in those phases looking to be platted. Grating and drainage, when they did the preliminary plats on those, the environment around them was different. Now 21 years later, it was a field inside a field, now it is a field inside of a neighborhood. The grating and drainage that affects this land is different. The site is different. What was proposed in the preliminary plan 20, 30 years ago is not necessarily adequate for what is out there today. So we would ask that you reserve that right to say, 'We need to readdress this, we need to look at, we have new information, there is new offsite influences, things that were once not in the floodplain are now in the floodplain, things like that.' We need the opportunity to look at those and address those. That is where that comes from.

Commissioner Rowley - I think my heartburn with it is, "reserves the right to void any and all approved plans." That is very sweeping language and it makes us nervous again that we could have something approved and then the entire thing could just be voided by Public Works. I agree with the concept, but don't like the language. I think that is what Christine was trying to work on with the alternative languages for it. You know if ADA, 21 years later, the laws have changed, why should they build to what was approved at the time? I have had heartburn with this in the past as well, that with these really long term extensions we are doing, that they are very old, two, three standards ago and that we can't put new conditions when we extend. This is a different way of putting new conditions or conditioning it that it has to be more up to current standards than 30 year old standards.

Deborah Evison - It is not necessarily a new condition it is just the construction method would be different. So if you needed to do a seven foot sidewalk you still need to do a seven foot sidewalk. only now you need to do truncated domes at the intersection whereas before you didn't in order to be ADA compliant.

Commissioner Rowley – Would this apply to if a standard before, when it was approved, said the sidewalk could be two feet and now the standard say five feet, would it have to be built at five feet or would the two feet be grandfathered still. Where does the line end?

Deborah Evison - That is for you to determine where do you want that standard to fall because I can honestly tell you that there are lots of preliminary plats out there that currently have sidewalks on both sides and things like that. Since we have changed our subdivision regulations, especially in minor subdivisions, you are no longer required to do sidewalks on both sides. So the question is which infrastructure standard does apply? I guess that is for you guys to decide what the big picture is supposed to look like. Our devil is in the details of how it is actually constructed. I understand, you want a softer version of this, we are fine with the softer version of it.

Commissioner Rowley - But you were referring only to construction standards, not infrastructure standards as far as streets and sidewalks and whatever else.

Deborah Evison - Correct.

Commissioner Rye – Would it work to have final approval of Missoula County Public Works updates approved by the Board of County Commissioners? In other words, the Public Works department would have the latitude to say that you need a truncated dome; I don't even know what that it is but I am dying to know.

Deborah Evison – The little bubbles when you come to an intersection and you are on a sidewalk and you've got those, for a lack of better word, little nipples in the sidewalk. That is called a truncated dome.

Commissioner Curtiss - That is how you know you are hitting an intersection if you don't have

Deborah Evison - Correct. It is an ADA compliance thing.

Commissioner Rye - If a truncated dome were thought necessary after a subdivision was approved 20 years ago, I could see totally having Public Works comment on that but maybe the final approval and authority could lie with the Board of County Commissioners?

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Commissioner Rowley - Do you have an example of anything other than and ADA that would change with construction plans. I guess I am not that familiar with.

Deborah Evison - Our road section has changed over the last 20 years where someone probably needed six inches of base, now you need eight inches of base. What was once approved as a local road has suddenly turned into a collector. When it was approved it was a five lot subdivision but in 21 years more subdivisions have grown up around it and it is now a collector. So your portion of that road construction needs to meet that new standard or your sidewalk. We have seen it in areas in the Miller Creek area we have seen that in areas west of town where things were approved in phases. Like Running W where you had these one acre or half acre subdivisions that have been approved and then they slowly and meticulously are being built out. But things change around it; nobody thought the armory would go in out there. No one thought half of the infrastructure that is out there today would be there in 21 years. It changes that situation. It changes the grating and drainage, it changes the road section. Running W, I think, is probably a really good example where we have had stuff come through and it is not the same requirement. It is totally different and the environment in which it is being built is completely changed.

Commissioner Rye - I can definitely see the drainage being an issue.



Commissioner Curtiss – Could you go back to alternate one?

Deborah Evison - That is why we wanted to be very specific about the construction plans because when people have their preliminary plat typically, it has been our experience, that when people get their preliminary plat approved their engineer is all hot to trot, everybody knows what the rules and conditions are and they are ready to put all of that effort into it. Brent will approve them and then they will just sit until they actually go through the construction of them. We have construction plans that have been approved since 2003 but they don't meet today's standard.

Commissioner Curtiss – But I have also heard that sometimes someone has construction plans and they get on site and find out they have a different kind of dirt then they thought or whatever; then they have just as much trouble with you as you have with them. I mean, it needs to be a two way street. This alternative number one kind of gets there. The one thing I think we might want to add is the fact that changes in the neighborhood could impact it. Like you said, it could now be a collector road where it used to just be a two track. Compliance with rules, regulations, specifications in place of time and review and maybe add and use.

Deborah Evison - Use would probably be the best one because it was once a field and now it's...

(Group collaboration amongst the commissioners of the best word to be used)

Commissioner Curtiss made motion that the last sentence says, "Plan updates may be <u>r</u>equir ed

at the time the final plat is filed in order to maintain compliance and address infrastructure needs and us e." Commis s ioner Ry e s ec onds.

Passed 3-0.

Commissioner Rowley - Were there any other items to address in chapter five?

Commissioner Rye - There was an item that I can't remember if it was five or six that Jean was concerned about adjustments to plats being made by not the governing body but I think the director of planning or something like that. I don't remember what chapter that is in.

Christine Dascenzo - I believe that is chapter six. Planning Board made some adjustments to the language that involved the planning director's discretion on a host of items.

Commissioner Rye - Planning Board adjusted that?

Christine Dascenzo - Yes. So we will see that in the next one.

Commissioner Rowley – The question I had, about the configuration of lots, how we added the basic, I wasn't sure whether you could change the number of lots or not. Was that chapter five or chapter six?

Christine Dascenzo - That is the same section of chapter six.

Commissioner Rowley - Okay. So it sounds like maybe we don't have anything else on chapter five.

Commissioner Curtiss made a motion that the Board of County Commissioners adopt chapter five as staff presented today and as amended today, September 28, 2016. Commissioner Rye seconds.*

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Commissioner Rowley - Any further comments or questions on that section.

Mike Nugent, citizen - One question, when the board is reviewing things such as the phasing plan creation, phasing plan extension and preliminary plat extension, is it possible to put sidebars on that stating that the decision can only be made based on facts relevant to that request; when you were talking earlier about being concerned for the developer to have to come back and basically rehear the concerns over the subdivision. One thing that pops in my mind is the example of ag. Will it be an opportunity to re-debate the whole thing when really you are just extending phases? So is it possible to put a side bar on it, saying that we are only going to make our decision on extending phases or extending a plat based solely on criteria relevant to that decision. Does that make sense?

Commissioner Rowley – Yes, and I think it should be done that way and I am wondering do we have language or should we, that specifies that?

Christine Dascenzo - Right and we do have language in, so for the preliminary plats we have criteria outlined in section 5.7.15.3, page 5-22 and so this is the extension for of a preliminary plat and lists the criteria that would make an extension applicable in that case so it changed circumstances, the ability for the subdivider to meet the new extended deadline that all aspects of the commissioners decision are still relevant and conditions will be valid, no change has occurred in the area and that planning and provision of the facilities and services in the area won't be disrupted by the extension. So those are the criteria that would have to be met in order for an extension to continue and so that would sort of be the parameters the criteria would have to be met and the process would proceed addressing those.

Mike Nugent - With all due respect that seems pretty broad. I could come in and argue that the climate changed in the last three years, which could be a valid argument, I am just asking, I mean I know that it would give peace of mind to people who invest in these large projects. Speaking from the real estate development committee perspective, if we hadn't had large scale phased subdivision we would have no housing inventory whatsoever right now. We just worry about, in a regulatory environment through really no fault of anybody's, just with court systems and things like that where it is already becoming tougher and tougher to do large scale subdivisions that this could be a final scare. We would request, if at all possible, you put some sort of sidebar on. Our request is out there.

Commissioner Curtiss - I think the intent is that but you are right in that if someone came in. So C says one of the criteria is that all of the findings of fact, conclusions of law and conditions that we imposed on the subdivision in the beginning are still valid. So you are right in the fact that people could continue to argue that they weren't valid because they didn't agree with them in the first place. Maybe if we had some language prior to that that states, I don't know how to do it but I know what we want to do is to say, we are just talking about extending deadlines; the conclusions of law and all that stuff, of course some of them could change I guess. It could be that all of the sudden Costco is next door and they put a big ol' street and a stop light. That would definitely change some finding of fact and conclusions of law if we didn't have access control in and out of the subdivision. It is our intent to try and focus and say, no those haven't changed.

Commissioner Rye - I would agree. I think the intent is there but I think we want to memorialize it because intent gets lost.

John Hart – In evaluating these criteria that Christine just talked about in the draft regulations you would have to do that and make your decision not in an arbitrary and capricious way. That provides a lot of sideboard there on the information that you would consider and the way you make your decision and the way you justify your decision under those criteria. The other thing I would add under 76-3-6.10 in granting these extensions you cannot impose additional conditions. Just as Deb was pointing out some of the concerns that Public Works have is on conditions that have already been imposed and you might be modifying those in some way to reflect changes in the law or regulations. But you are not going to be able to impose additional conditions in evaluating these criteria in granting or denying an extension.

Commissioner Rye – But John, I think one of my concerns would be that D, "No significant changes in the general area of subdivision have occurred or are expected to occur within the extension period that would change the evaluation of the preliminary plat plan." My concern would be you could have a governing body sometime in the future 50 years from now, if these regulations never have changed, that said we are only supposed to look at the timing of this subdivision and the dates of the requested extension but since the beginning of this subdivision approval happened six or nine or 12 years ago, we have declared furry marmots to be an endangered species and we think that they may have some in this field and we are not going to allow an extension. Is that legal

or not legal? I am looking for something a little bit more arbitrary and capricious then furry marmots, which could be considered cute, let's call them fire ants.

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John Hart – What I am going to say is that you would not want to deny an extension unless there are significant, multiple changes that have occurred over a long period of time that clearly make extending that subdivision out even longer something that is no longer in the public interest.

Commissioner Rye – I have an example. You have a large area, let's say it is between the Wye, Mullan Road and Reserve Street and development has happened and happened until you are down to this last little piece and this subdivision was approved nine or 12 years ago but it is this last little piece and all of a sudden maybe adjacent property owners or someone decides we need that for open space. Is that a significant thing in which to deny extension in hopes that the subdivision can be open space?

John Hart - I don't know. I don't know but that will be your decision to make.

Commissioner Rye - Sorry, I don't mean to muck it up.

Commissioner Rowley – Maybe we could add some language right in the beginning, extension of preliminary plats, suggesting that in the public process only these will be, you know somehow narrowing it. Then I had a question about the criteria A is changed circumstances and D is no change. Do those both need to be in there? Isn't it different sides of the same coin? Because we consider if there are changes or there aren't.

Commissioner Curtiss – A is things like the recession and D is they didn't build Costco next door to them. So we can approve it based on this or we could deny it based on this I guess.

Commissioner Rowley – It just seems weird to have changed and no change. Or it is changed circumstances and no physical change or I don't know, it just seems obvious that the opposite of change is no change and we would consider whichever one is happening, but that's okay.

Christine Dascenzo – I might just add that it is part of the intent for these extension requests and reviews of them of them to look back at the findings and see if any significant stagnation of the findings if they are no longer relevant we would review those at the time of the request to see if they are still relevant or if they aren't relevant.

Commissioner Rye - Like what?

Christine Dascenzo – You will see, and this is more of a condition, there are some subdivisions that have approved conditions for bus line improvements where bus lines no longer run and some of the findings of fact may be, I am failing to think of an example. If the zoning has changed in the area that finding would change. That may be a terrible example but that would just be looked at and reviewed for relevancy at the time.

Commissioner Rye – A development could come in for a preliminary plat extension and they could be down zoned?

Christine Dascenzo - In theory it is possible but Tim may have better insight on that.

Tim Worley – One example we are seeing is that it is very difficult for some of these subdivisions to actually build out their trails because of updated approaches by like Montana Department of Transportation, so just one example. That would be an example where if you go to the finding related to trials and requirements for trials the conditions have changed so much in ten or 15 years that it is hard to actually implement the requirements of ten or 15 years ago.

Deborah Evison – A good relevant example to that would be like Alexandria Subdivision where you had the requirement and condition was that they constructed Jug Handle for turnaround off of Highway 93. Only now we have the Missoula to Lolo trial that goes right through there so they are going to have to, when that comes up for review, someone is going to have to somehow modify that condition. You have conflicting infrastructure there.

Commissioner Rowley – I would like to clarify, I know when I talked about conditions earlier I misspoke. I was speaking of conditions in general not legal conditions, so I just wanted to clarify that I didn't mean to misspeak and I did, sorry.

Commissioner Curtiss – I can't think of any way to amend it to, the public record shows what our discussion was and we might think of some way to be more clear in that, maybe it is even in some form that we use when you apply that we could put something on the form saying, there is an assumption that the findings of fact, conclusions of law and conditions still are valid. But there are going to be some, like you just now said, there is going to be a new finding of fact that now there is a new Missoula to Lolo trail. I think our intent is there and like I said we can tweak this in a year if we figure out a better way to say that but I can't think of how to put it right now.

Commissioner Rowley – Yes, it is always hard on the spot, but what if in the last sentence we say, "Phasing schedules may be extended in accordance with this section and with public process focused only on the time extension." Or something like that and insert that into every section that has, you know section 5.7.15 & 5.7.16 because they both have, no they don't.

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Commissioner Curtiss – Well of course if they are going to ask for any changes that will be in a different process. This is only the timeline so that might be good.

Christine Dascenzo – There may also be an issue because that sentence is speaking to phasing schedules and the parent section is extensions of preliminary plats that haven't been phased so just the location...

Commissioner Rowley – Is there a place that we can put it in one place and it applies to all these timing things or is each one really (inaudible) like could we put it in 5.7.14.1, timing of decisions?

Commissioner Rye – It seems like it might work at the beginning of extension of preliminary plat and then phasing plan creation and phasing plan extension which are the three that it is kind of applying to, page 5-22 and then 5-23. Because phasing of preliminary plat would include creation or extension, right Christine?

Christine Dascenzo - Right.

Commissioner Rye – So the lower half of 5-22 and then 5-23. So just in the beginning of 5.7.15 and 5.7.16.

Commissioner Curtiss – Or, we could go to where it says decision, "the Board of County of Commissioners shall act upon a request for extension within 30 working days of the receipt of the written request and

Commissioner Rowley - and only consider facts pertinent to

Commissioner Curtiss - and only consider facts pertinent to extension at the time.

Christine Dascenzo - Could you repeat that language one more time?

Commissioner Rye - Does that get at your concern Mike?

Mike Nugent - I have no idea any more. I think so.

<u>Commis s ioner Cur tis s made the motion that it would read, "the Board of County Commis s ioners</u>

shall act upon a request for extension within in 30 working days of the receipt of a written request and only consider facts per tinent to the extension of time before a final plat is filed."

Commissioner Rye seconds.

Passed 3-0.

Mike Nugent – I think it does and it would even be fine if you felt you wanted to include like staff concerns of approved conditions or whatever. I just think something that kind of closes the door from people wanting to redo it helps us.

Commissioner Rowley – Okay, was there anymore public comment on that motion or further discussion from the commission?

Commissioner Curtiss - This was to amend so now we can vote on the whole.

Commissioner Rowley – Including this amendment. We had a motion and a second on that and then that was brought up by public comment.

Commissioner Curtiss - Yes.

Commissioner Rowley – So is there any further discussion or public comment on the entirety of the chapter?

*Passed 3-0.

b. Chapter 6 Subdivision Regulations Review

Christine Dascenzo, Planner – Community and Planning Services – Now we are looking back to chapter six, final plat and subdivision improvement guarantees. We saw this two weeks ago as well. It went through a similar public process:

Planning Board: August 2, 2016

Legal ad: August 28 & September 4, 2016

Board of County Commissioners: September 14, 2016

Effective Date: November 4, 2016

Last time we spoke about the more significant changes to a few sections I will run over those briefly. One of those sections was 6.2.3, sufficiency, so this is a new section on page two. It creates a new process prior to final plat where the packet would need to be deemed sufficient for review and distribution to the different departments prior to final plat. It is a 15 day process for that before it can be routed to the other departments. Then in section 6.2.4.4, review agencies, this is a slimmed down version from what was there previously. This is page 6-4. We refer to a resolution that holds of the information that was detailed out in the previous version and you will see all of the strikeout on page 6-8, where all of those review responsibilities are detailed but all of that content is in that resolution so we are recommending that we strike that from the regulations and rather refer to that resolution. Then in section 6.3.5, improvement guarantee alternatives, this lays out the multiple sources that can be used and incorporated for guaranteeing improvements on a subdivision including private and public escrow agreements, letters of credit, bonds, special improvement districts and real properties. The last major addition that we are recommending is section 6.6, adjustments. This is that adjustment process that would allow for a mid-level change to a filed plat. Actually those examples that we used in the previous chapter, with Caitlin's Estates, those were all filed plats and so that would be what we are looking at here with changes to filed plats. It is a new section because we get those requests and didn't have a process spelled out necessarily in the previous regulations. This provides that process and was in the chart that we saw las time as a final filed plat adjustment. Based on the amendments from that section these would go to Planning Board and get commissioner action.

Those are the larger changes and then we will get to the Planning Board recommended changes that is on section 6.2.4.1, page 6-3. These are the minor deviations where the planning director has the discretion to approve without going through that adjustment process. That includes changes to the configuration of lots and waste water plans and that list that you see there. The Planning Board on August 2, 2016 recommended the changes you see on the slide and also in grey highlight on the tract changes copy. They added the sentence to the minor deviations paragraph that would say, "The planning director may give consideration to minor changes that encourage environmental and public health and safety improvements." They also added basic to point A and C so that they say, "Maintain the basic configuration and number of lots." And C

"Maintain the basic plans for water and wastewater." And then point B was changed from "Maintain road and pathway layouts;" to "Maintain overall traffic patterns for pedestrian and vehicular travel". That is was the Planning Board recommended changing. That received the bulk of the comment and staff is recommending approval of the amended changes to chapter six.

Commissioner Curtiss – Could we get a little bit of the rationale or discussion planning board had for why they added in those amendments. What was the thinking of Planning Board to add the words basic and what were their amendments about?

Christine Dascenzo – They were looking for increased flexibility at the discretion of the Planning Board for maintaining the basic configuration and number of lots. I believe their intent there was the basic configuration of lots rather than the number of lots. And then in E, maintain overall patterns for pedestrian and vehicular travel, the goal was to allow for changes internal to the subdivision that would not affect the road layout and traffic outside of that subdivision. There may be some exposure to liability with that phrasing it is flexible enough that it could be, down the line, interpreted more broadly or too broadly and would prevent, if it is at the discretion of the planning director, prevent that public input on that proposal. They are generally looking for increased flexibility around the discretion of the planning director.

Commissioner Rye - Could you give some examples of what those minor deviations might be?

Christine Dascenzo - The example they used a lot at Planning Board pertains to see if it meets DEQ approval let them move a water main from one side of the road to the other side of the road, if it turns out that makes more sense. That was the main example for that. The example for changing the overall patterns for pedestrian vehicular travel they were looking to isolate the subdivision within itself. It is the idea that the connections to roads outside of the subdivision would be maintained or at least the number of those connections would be maintained but they could sort of shift a road segment slightly to the left or right.

Commissioner Curtiss - But didn't we just, in the previous chapter, where we allowed some flexibility in being able to amend their plat that could happen anyway, right?

Christine Dascenzo - Yes, it would go through the process to amend the plat whereas these would be administrative approval of it.

Commissioner Rowley - But it looks like he couldn't decide that moving a road was immaterial?

Christine Dascenzo - That could be interpreted down the line and that would be significant. If that is a concern we could revert back to that original language of maintain the road and pathway layouts

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Commissioner Curtiss - I think A could read better and meet their goals if it said, "Maintain the number of lots and basic configuration." So then it is not saying the basic number of lots which could be read that way.

Commissioner Curtiss made a motion that the Board of County Commissioners changes it to read, "Maintain the number and basic configuration of lots." Commissioner Rye sec onds .

Passed 3-0.

Commissioner Curtiss - And then on C, I think that we should take the word basic out of there. Plans for wastewater and water can vary. It would depend on whether they had public facilities or not but if you have well, septic, well, septic, well, septic you don't want people monkeying with them because now I can't put my well anywhere. So I would move to strike the word basic in C.

Commissioner Rowley – I could see moving a water main though or changing the...

Commissioner Curtiss - Can they do that up here if we leave this, to encourage environmental public health and safety improvements, don't you think?

Commissioner Rowley - As long as they can still do that minor of something. Can they decide to go two houses on one septic system? It would still have to go through the health department process but would we care if they were going from individual septics to two houses on one?

Christine Dascenzo – Septics are often depicted on the plat so it would likely, would that require a public process for the plat adjustment to go from two septics to one septic?

Tim Worley – If it affected easements or something like that then you would probably have to go back through a planning process but you might be able to do it just through DEQ if it didn't affect easements and things that end up on the final plat.

Commissioner Rowley - Any thoughts. You are right, certain things would be a problem and other things wouldn't. Should we leave that at the discretion of the planning director?

Commissioner Curtiss - What do you think about B should we just put it back to where it was?

Commissioner Rowley - I think so, having that sweeping of a language could be misinterpreted or over interpreted. This is the discretion of the planning director anyways to determine what does and does not trigger it. I think that is flexibility in itself.

Commissioner Curtiss - Right, because if they are monkeying with it too much it is going to have to come to a plat adjustment.

Commissioner Curtiss made a motion to strike, on B, the Planning Board's amendment and go

back to maintain road and pathway layouts. Commissioner Rye seconds.

Passed 3-0

Commissioner Curtiss - Were there some other things that we mentioned earlier?

Commissioner Rowley - Mine was the number thing so we did that and then you brought up something else.

Commissioner Rye - It was the planning director thing and then we had a public comment on a discrepancy about providing a bond for private roads verses public roads, Christine?

Christine Dascenzo – Right, there was a discussion from PCI in an email, Dale McCormick, wanted clarity on whether private and public easements are treated the same and can be bounded for improvements.

Commissioner Rye - Page 6-14, section 6.3.4, subdivision improvements agreement.

Christine Dascenzo - And we have used improvement guarantees on private road before for a number of subdivisions. We are recommending that we keep it. There was some discussion about a current subdivision that is a private road and wasn't built to code or to stay to code. So being able to apply that improvement guarantee to a private road, we are recommending that it stay in there and be used throughout the improvement guarantee process and apply to private roads.

Commissioner Curtiss – And the difference with the one that just came before us was that it ended up being kind of a contractor and developer fight that we were getting sucked into. But it got resolved. So that is all good. It has got them both in here. Anything else?

Commissioner Rye made a motion that the Board of County Commissioners approve the subdivision regulations to chapter six and said amendments already passed. Commissioner Curtiss seconds.

Passed 3-0.

c. Chapter 7 Subdivision Regulations Review

Tim Worley, Planner – Community and Planning Services – This is the last chapter of our subdivision regulations coming forward as part of the re-write process. We went public on this in July and brought it to Planning Board in the middle of August and like the rest of the chapters of the subdivision regulation we want to go live with this chapter on November 4, 2016.

What does chapter seven do in essence? It essentially spells out submittal requirements between preliminary plat all the way through to the final plat process. Our basic goals for this project were to simplify the review and approval process at both preliminary and a final plat; to relocate submittal requirements to chapter seven whenever possible and to distinguish between types of submittal documents. An example of something where we imported a section from another chapter, in 2015 we imported the pre-application submittal requirements piece from chapter five to chapter seven and this a continuation of that effort with chapter seven that is before you today.

Some other goals of course we want to make sure that chapter seven squares up with state law and also the state administrative rolls particularly for the surveying of final plats. Beginning at about 2013 we began to plug in tables so that we could contrast what is required to be submitted at preliminary plat verses what is submitted at a final plat. In 2015 we heard from the surveyor's office that there is probably a better way of setting up the tables in chapter seven. That the categories should be different and that the preliminary and final plat comparison can be improved upon and also we heard from surveyors that the final plat and related documents, sheets should be distinguished from one another. So we actually revised fairly significantly and this is that full size 11 x 17 handout I have for you. We significantly revised the preliminary plat table and we actually pulled it apart from the final plat table. The final plat table we ended up whitling down to a single page, it basically has three categories. Simplified content to have five items required basically for every preliminary plat. We distinguish between supplemental documents and supplemental sheets. There was a question that arose, when a developer goes through the preliminary plat process do they have to check all the boxes in this table and the answer to that is no. Everything is contextual as far as what each individual subdivision is required to submit. So an example of a supplemental sheet might be like a floodplain map. An example of a supplemental document would be development covenants. So onto that single page final plat table we kept the final plat content fairly basic so at the very top of that table you will see just a few items. We have a second portion of that table that includes documents that supplement the final plat. Finally, at the bottom of the table you have what is known as the condition of approval sheet requirement. Here is that table again broken up into three basic categories, it fits on one page. Here is an example of conditions of approval sheet. If the commissioners require a condition of approval that requires basically any type of graphic depiction it ends up on a separate sheet and not on the final plat itself.

One question that arose in the public process, is there new content in this chapter? Basically there is very little new content. We imported the Zone A floodplain information that is in chapter three into chapter seven. We brought the fire protection plan requirement from chapter three into chapter seven. These are things that have existed since 2015 and also an irrigation disclosure statement that was in chapter three and in state law we brought that also into chapter seven. Also, there was a brand new piece, a requirement for an operating budget for Homeowners Associations which was recommended for deletion by Planning Board. We concur with that recommendation from Planning Board after our second look at that. There is also an allowance for city infrastructure standards that applies only to annexing subdivisions. That is a brand new piece that we plugged into chapter seven. We have generally simplified content at preliminary plat, facilitating more conceptual material submittal and less engineering-grade materials that are submitted.

Planning Board deleted the requirement for Home Owners Associations to set up a budget in 7.6.6. They did have a question about importing the Zone A floodplain analysis language but again that is something that's been required for a year in chapter three. Planning Board also recommended the addition of an information box, recommending consultation with the conservation district whenever a project involves an area of riparian resource. You will notice a memo showing updates to the tables and the texts since Planning Board. It only includes the tables in their entirety it doesn't include the text of all of chapter seven in its entirety. And the new language should be in red, the language that has been added since Planning Board.

We also were able to simplify references to mobile home parks, RV parks and condos since that language was significantly simplified in chapter four. We were able to delete any references to

cluster subdivision as cluster subdivisions were essentially deleted from chapter four. Again, we had comment from the conservation district recommending that they be contacted if any development is near an area of riparian resource. We think that should be in the form of an information box in chapter seven. We also got a comment from the surveyor's office on our final plat submittal table. Steve Niday just had some recommendations basically for moving things around. He recommended the text you see in blue be bumped under the final plat category as opposed to being in the supplemental document category. The green text was just text that he flagged as being in the administrative roles of Montana. He didn't have any particular recommendations for that green text. Some of it could probably drop down to that bottom condition of approval sheet category, but we thought it was important to flag in the supplemental document section.

We feel that these changes are supported by our growth policy, state law and the state administrative rules and that argumentation is in your staff report. In conclusion, we recommend adoption of chapter seven as amended.

Commissioner Rye – I was looking at 7.6.6 HOA documents on the marked up version which is page 7-17 and it took me awhile to find that so I missed everything that you said after that. If you look at this page is everything, because it is the marked up version there is blue and purple, is everything in blue newly proposed documents that have to be submitted or previously proposed documents that had to be submitted and the purple is new? I guess my related question would be, are we really expanded what had to be submitted or not, in chapter seven?

Tim Worley – We think we have actually kind of reduced the volume of chapter seven and the things that need to be submitted. We have simplified significantly what is in chapter seven. What gets a little bit confusing is we have basically stricken the old tables and we are saying bring in these new tables and so it looks like a lot when you look at the marked up version.

Commissioner Rowley – So can you just answer about the HOA documents? The staff had put in budget and the Planning Board had deleted it and that was the only addition to the HOA document section?

Tim Worley – Right, so 7-17 in the marked up version, blue and purple. These are the recommendations that planning board saw but this doesn't actually show their recommendation to strike 7.6.6.6.6.

Commissioner Rowley – No, the HOA document 7.6.6, the blue, those were always requirements to be submitted anyway.

Tim Worley - They were requirements before and budget was an addition.

Commissioner Rowley – And that was the only addition you were adding but it got taken out?

Tim Worley - Yes.

Commissioner Rye - I would agree on that.

Tim Worley – Yes. Our consultants added that. I think that is more of a convention in other places to have budget be kind of spelled out. We concur with Planning Board that preliminary plat it is just really not needed.

Commissioner Rye – And did you receive any comment or did you work with the building association and planning firms to rework the submittal requirements for preliminary and final plats? Since they are not here.

Tim Worley – Each one of these chapters kind of had its own tract as far as public process. The one thing that we wanted to gain with chapter seven is the significant simplification of content. Deb and the surveyor's office pointed out that our old chapter seven didn't really square up with the administrative rules of Montana when it came to surveying a final plat. So that is one big gain we got with this new chapter seven. We didn't work as closely probably with chapter seven as we did with chapters eight and five which had significant public process. This is more nuts and bolts, the pieces of paper that you have to submit.

Commissioner Rowley – There is not much new, it is that the requirements were kind of scattered throughout chapter three and chapter seven and this consolidates everything to be more clear and puts it in one place, but there is very little new or changed material, right?

Tim Worley - There is very little new.

Commissioner Rowley – I had a question about city standards, when something is going to be annexed, does that replace, we kind of had an agreement of with a dozen or so that it replaces that agreement.

Tim Worley – This is basically that policy in action. Where when Lloyd Twite brings his plats that are county plats but everybody knows that those roads are going to be in the city within a month or two months, it gives Greg, at Public Works, the flexibility of signing off on the final plat even though that road doesn't necessarily meet a county road section.

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Commissioner Rowley – Great thanks, I think it is great to formularize it here instead of just having that agreement with us and the city.

Tim Worley - Right.

Commissioner Rowley – Any public comment on chapter seven? Seeing none, we can close that hearing.

Commissioner Curtiss – Should our motion be to adopt with Planning Board's recommendations or was there one that got changed? Their only recommendation was the HOA thing, right? And Steve Niday's comment. So as presented today I guess.

Tim Worley – Yes, I think as presented today you could keep it pretty generic, if that is your intent to grab all the changes up to this point.

Commissioner Rowley - We didn't have any amendments of our own on this one.

<u>Commissioner Curtiss made a motion that the Board of County Commissioners adopt the</u> <u>amendments proposed for chapter seven as presented today. Commissioner Rye seconds.</u>

Commissioner Rowley – Is that including the adoption of the whole document or just the amendments?

Commissioner Curtiss - All of it.

Commissioner Rowley - So move to adopt as amended, correct?

Commissioner Curtiss - Yes.

Passed 3-0.

7. OTHER BUSINESS

None

8. RECESS

Commissioner Rowley - Called the meeting to recess at 3:44 p.m.

<u>Resolution No. 2016-143</u> – BCC signed, dated September 28, 2016. Amending Missoula County Subdivision Regulations Pertaining to Procedures for Subdivision Review, Preliminary Pat, Variances, and Appeals (Chapter 5). Approved at September 28, 2016 public meeting.

Resolution No. 2016-137 – BCC signed, dated September 28, 2016. Amending Missoula County Subdivision Regulations Pertaining to Procedures for Final Plat and Subdivision Improvement Guarantees (Chapter 6). Approved at September 28, 2016 public meeting.

Resolution No. 2016-136 - BCC signed, dated September 28, 2016. Amending Missoula County Subdivision Regulations General Submittal Requirements (Chapter 7). Approved at September 28, 2016 public meeting.

THURSDAY, SEPTEMBER 29, 2016

BCC met in regular session; all three present.

ADMINISTRATIVE MEETING

<u>Contracts</u> – BCC approved, NR signed. Microsoft 365 contracts providing licenses for email, Sharepoint, Skype for Business, OneDrive, and other supplemental products. To Jason Emery/Technology Department.

Resolution No. 2016-130 – BCC signed, dated September 29, 2016. Proclamation to End Wildfire Season 2016 State of Emergency. To Adriane Beck/Emergency Management.

Resolution No. 2016-129 – BCC signed, dated September 29, 2016. Resolution Relating to Financing of a Certain Proposed Open Space Project; Establishing Compliance with Reimbursement Bond Regulations Under the Internal Revenue Code. Qualifying the Deschamps Open Space Bond Project for purchase and transaction costs for a conservation easement on approximately 545 acres. Amount/\$525,500.00 if project approved. To Kali Becher/Parks, Trails, and Open Lands.

Resolution No. 2016-128 – BCC signed, dated September 29, 2016. Budget Amendment for purchase of laptop computer. Formally adopted as part of FY17 budget. To Pattijo Sherwood/Risks & Benefits.

<u>Contract Amendment</u> – BCC approved, NR signed. Amendment No. 2 to Agreement with Morrison Maierle, Inc. for Mill Creek Restoration Project. Adds additional engineer's onsite observation for longer project schedule. Amount/\$3,850.00 Term/December, 2016-December 2018. To Erik Dickson/Public Works.

<u>Grant Renewal</u> – BCC approved, NR signed. Standard Agreement State Highway Traffic Safety Section to renew State Highway Traffic Safety grant. Funds used for overtime patrol for DUI and seatbelt violations. Amount/\$12,800.00 Term/October 1, 2016-September 30, 2017. To Bill Burt/Sheriff's Office.

Memorandum of Understanding – BCC signed renewed Memorandum of Understanding between Missoula County Sheriff's Office and U.S. Forest Service for mutual assistance. Term/September 29, 2016-September 29, 2021. To Bill Burt/Sheriff's Office.

<u>Agreement</u> – BCC signed Agreement between Missoula County Employee Benefits Plan and Missoula City-County Health Department (MCCHD) for Immunization and Laboratory Services. Term/October 1, 2016-September 30, 2017. To Ellen Leahy/MCCHD.

Additional discussion item(s): 1) Missoula County Fairgrounds Advisory Committee letter received September 7, 2016; 2) Fairgrounds Concept Plan Adoption meeting date.

FRIDAY, SEPTEMBER 30, 2016

BCC met in regular session; all three present.

<u>Letter</u> – BCC signed, dated September 30, 2016. To Seeley Lake Sewer District Board Members. Reminding of ethics and law surrounding education versus advocacy on ballot issues.

Replacement Warrant - NR signed. Watson Furniture Group, Poulsbo, Washington, Principal for Office of Emergency Management Warrant #30244893, issued October 21, 2013 on County 1000 fund. Amount/\$3,684.40 (for invoice). Warrant not received in mail.

Indemnity Bond – NR signed. Missoula Youth Fencing Association, Missoula, Principal for Library Warrant #30282339, issued October 7, 2015 on County 2220.000.000.460160.333 fund. Amount/\$190.44 (for presentation). Warrant lost.

-DocuSigned by

Tyler Gernant

Tyler Gernant Clerk & Recorder -- DocuSigned by

Nicole "Cola" Rowley, Chair

BC