

MONDAY, JULY 3, 2000

The Board of County Commissioners did not meet in regular session. Commissioner Kennedy was on vacation the week of July 3, 2000 through July 7, 2000; and Chairman Carey and Commissioner Evans were out of the office all day.

TUESDAY, JULY 4, 2000

The Board of County Commissioners did not meet in regular session. The Courthouse was closed for the Independence Day holiday. In the afternoon, Chairman Carey gave the Welcome at the Historical Museum's 4th of July Celebration at Fort Missoula. In the evening, Commissioner Evans spoke at a Community July 4th Celebration at the Lincoln School Baptist Church.

WEDNESDAY, JULY 5, 2000

The Board of County Commissioners met in regular session; a quorum of members was present.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated June 30, 2000, batch number 737 (pages 1-2), with a grand total of \$60,724.68. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated July 5, 2000, batch number 739 (pages 1-5), with a grand total of \$66,184.30. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated July 5, 2000, batch number 742 (pages 1-4), with a grand total of \$32,522.88. The Claims List was returned to the Accounting Department.

Monthly Report - Chairman Carey examined, approved and ordered filed the Monthly Reconciliation Report for Justice Court 1, John E. Odlin, Justice of the Peace, for the month ending June 30, 2000.

Payroll Transmittal -- The Commissioners signed the following Payroll Transmittal Sheet:

- 1) Pay Period: 13 - Pay Date: June 30, 2000 - Total Missoula County Payroll: \$755,021.42.

The Transmittal Sheet was returned to the Auditor's Office.

Agreement -- Chairman Carey signed an Agreement for Retention of Funds between Endobiologics, Inc. ("Purchaser"), Missoula County ("Seller"), and Western Title and Escrow ("Closing Agent"), for the retention by Western Title and Escrow of a portion of the purchase price for Lot 1B, Block 4, Missoula Development Park Phase 1B. The Purchaser will create, over five years, more than 100 jobs paying \$25,000 or more per year. The Missoula County Airport Industrial District has agreed to a 20% reduction in the price of the lot conditioned on creation of such jobs. The Agreement was returned to Deputy County Attorney Mike Sehestedt, for further signatures and handling.

Agreement -- The Commissioners signed a Cooperative Work Experience Site Agreement between the Missoula Job Service ("Lead Agency") and Missoula County ("Sponsor"). The purpose of the Agreement is to provide close and continuing cooperation between the Lead Agency and the Sponsor in the assignment of Work Experience participants at specific worksites leading to the development of basic work habits related to training provided to improve skills, exploration of various occupational fields, and gaining knowledge of the "world of work". The trainee is not entitled to a job after training is completed, nor is the trainee paid, as per the items set forth in the Agreement. The document was returned to Marie Pruitt in Personnel for further handling.

PUBLIC MEETING – July 5, 2000

The Public Meeting was called to order at 1:30 p.m. by Chairman Bill Carey. Also present were Commissioner Barbara Evans, County Surveyor Horace Brown, County Clerk & Recorder Vickie Zeier and Deputy County Attorney Colleen Dowdall. Commissioner Michael Kennedy was on vacation.

Public Comment

None

Routine Administrative Actions

Commissioner Evans moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$269,073.74. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Consideration: Sandtner Addition (2 Lot Subdivision) – Potomac Area

Karen McElroy, Office of Planning and Grants, presented the staff report.

Edith Sandtner, represented by Territorial Engineering and Surveying, Inc., has requested to create Sandtner Addition, a 2 lot summary subdivision of 11.27 acres into one 5 acre lot and one 6.27 acre lot. The subject property is primarily comprised of forest land, with a substantial area having a slope of 25% or greater. A cattail marsh is located between the existing private road and Highway 200 and a Riparian Management Plan is included in the applicant's packet. The subject property is also located along a Primary Travel Corridor, which is addressed in the application packet. There is an existing home on proposed Lot 1 and proposed Lot 2 is currently vacant.

The property is located approximately 20 miles east of Missoula near Potomac, on the north side of Highway 200. It is accessed by an unnamed private road. The subject property slopes downward from north to south. The Bureau of Land Management owns the land to the north and east. The land across Highway 200 to the south is primarily used for agricultural purposes. The proposed subdivision will be served by Montana Power Company. Individual wells and septic systems will provide water and sewer services.

Staff recommends approval of the five variance requests and approval of the summary subdivision, subject to 11 Conditions of Approval.

The property is unzoned and the Comprehensive Plan designates it as Open and Resource Land with a recommended residential density of 1 dwelling unit per 40 acres. This designation was likely made because of wildlife habitat and scenic and non-scenic open space. Because of fragmentation of this resource in the area, and because the applicant has designated no-build zones over a good portion of the property, staff finds this proposal to be in substantial compliance with the goals of the Comprehensive Plan.

Most of the issues surrounding this proposal have to do with access. The property is located in the Potomac area. It is accessed via Highway 200 onto a private road which is about 1/2 mile past Bear Creek Road that crosses a neighboring tract, Tract C of COS 2290. From the point where it accesses Highway 200 to where the driveway for Lot 1 intersects with it is considered a private road because Lots 1 and 2 and Tract A have the opportunity to use this access easement. From the intersection with the driveway to Lot 1 going further east, the access is considered a driveway.

The applicant has requested a variance from road and right-of-way width for this road. It is currently 11-13 feet wide located within a 30 foot access. After a site visit with Darryl Mariucci, Greenough/Potomac FSA, he suggested widening the road to 20 feet to allow for adequate width for fire vehicles and to improve the surface to an all weather surface. He would also like turnouts in order for fire vehicles to access the property properly. Staff recommends those suggestions as a condition of approval.

The applicant has also requested a variance for this access easement to divide Lots 1 and 2. Because of the topography of the site, staff recommends approval of this request as well.

The driveway to Lot 1 exceeds 10% grade and a variance has been requested. Darryl Mariucci suggested that the lower portion of the driveway be widened to 20 feet and that there be an approved turnaround at the top of the driveway. This suggestion has been included in Condition 5. Staff recommends approval of the variance request for exceeding the 10% grade.

The driveway continues from the intersection of Lot 1 and branches off from the access easement to the proposed homesite on Lot 2. The fire department also recommended there be some pull outs available for fire vehicles, which is noted in the conditions of approval. The fire district will approve both the road and driveway design and the County Surveyors Office will approve the road design, prior to final plat approval.

Another variance request was from the installation of sidewalks or pedestrian walkways. This is a rural, isolated area and there are no sidewalk connections available. Staff recommends approval of the variance request.

Other conditions of approval address the \$100 per residential unit fire fee, weed control and upgrading the proposed development covenants with regard to minimizing human/wildlife conflicts. The riparian area identified should be enlarged to include all grassy marsh land surrounding the cattail marsh area.

Chairman Carey asked for public comment.

Tim Wolfe, Territorial Engineering and Surveying, developer's representative, was present. He stated that Karen McElroy had done a very thorough job on the proposal. The access issue is confusing on paper, but it does make sense when the property is viewed. The access easement from Highway 200 actually goes all the way across both lots and the neighboring tracts and rejoins Highway 200. Tract C does not use this access easement and if Tract A is ever developed, it is unlikely they would use this access either. That would leave only Lot 1 and Lot 2 using this existing access, but because it is available to the 4 lots, the variance had to be requested.

There were no further public comments.

Commissioner Evans moved that the Board of County Commissioners approve the variance request from Section 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways in the subdivision; and approve the variance request from Section 3-3(1)(D)(2) of the Missoula County Subdivision Regulations to allow the private access easement to divide Lots 1 and 2; and approve the variance request from Sections 3-2(3) and 3-2(2)(D) of the Missoula County Subdivision Regulations to allow the unnamed road to vary from the required 24 foot road and 60 foot right-of-way widths; and approve the variance request from Section 3-2(6) of the Missoula County Subdivision Regulations to allow the existing driveway for Lot 1 to exceed 10% grade; and approve the variance request from Section 3-2(1)(I)(1) to vary from the required 54 foot easement for the driveway for Lot 1 and Lot 2; all based on the findings of fact set forth in the staff report. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Commissioner Evans moved that the Board of County Commissioners approve the Sandtner Addition Summary Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Sandtner Addition Summary Subdivision Conditions of Approval:

Roads/Access

1. The 50 foot setback from the Highway 200 Primary Travel Corridor shall be shown on the plat, subject to review and approval by OPG, prior to final plat approval. *Subdivision Regulations Article 3-14(3)(B).*

2. The unnamed private road shall be improved to a minimum road width of 20 feet with an all weather surface and approved turnouts. Improvements shall be made, subject to Subdivision Regulations Article 3-13(5), which prohibits intentional sidecasting of road material into a wetland. Driveway plans shall be subject to review and approval by the Greenough/Potomac FSA and the County Surveyors Office prior to final plat approval. *Greenough/Potomac FSA recommendation, Subdivision Regulations Article 3-2(3)(C) and Article 3-13(5).*
3. The unnamed private road shall be named, subject to review and approval by the County Surveyor's office, prior to final plat approval. *Subdivision Regulations Article 5-2(3)(E).*
4. The following statement shall appear on the face of the final plat and in all instruments of conveyance:

"The purchaser and/or owner of the lot or parcel understands and agrees that private road construction, maintenance, and snow removal shall be the obligation of the owner or property owners association and that the County of Missoula is in no way obligated to perform such maintenance or upkeep until the roads are brought up to standards and accepted by the County of Missoula for maintenance." *Subdivision Regulations Article 5-2(5)(C).*
5. The first 100 feet of the driveway for Lot 1 from its intersection with the private road shall be widened to 20 feet; an approved turn around shall be installed at the top of this driveway. The driveway improvements for Lot 2 shall include approved turnouts. All driveway plans shall be made in compliance with Subdivision Regulations Article 3-13(5), which prohibits intentional sidecasting of road material. Driveway plans shall be reviewed and approved by the Greenough/Potomac FSA prior to final plat approval. *Greenough/Potomac FSA recommendation, staff recommendation and Subdivision Regulations Article 3-2(6) and 3-2(3).*

Fire

6. The developer shall contribute \$100.00 per new lot fire fee to help fund a source of water for fire protection, prior to final plat approval. *Potomac Rural Fire Department recommendation, Subdivision Regulations Article 3-7.*
7. The following statement shall appear on the face of the final plat and in all instruments of conveyance:

"Acceptance of a deed for a lot within this subdivision constitutes a waiver of the right to protest a future RSID/SID for public water system adequate for fire protection, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations Article 3-7(2).*

Natural Environment

8. All areas with greater than 25% slope shall be shown as no-build zones on the plat, subject to review and approval by OPG, prior to final plat approval.
9. Section III of the development covenants for this subdivision shall be amended to include the following items, subject to review and approval by OPG prior to final plat approval: *Staff recommendation, Subdivision Regulations Article 4-1(12).*
 - Permanent barbecue pits shall not be permitted due to potential wildlife/human conflict. Portable barbecue grills shall be cleaned regularly and stored indoors when not in use to prevent wildlife attraction.
 - Gardens should be enclosed with a fence one foot below ground level and at least 8 feet in height, with the top rail made of something other than wire to prevent wildlife entanglement.
 - The keeping of rabbits, chickens, turkeys, pigs, sheep and goats is discouraged. If such animals are kept, sturdy cages or fences should be built to protect domestic animals from wildlife. These domestic animals have no defense against predators and can be an attractive food source to many wildlife species.
 - Apiaries may attract wildlife species and should be avoided. Before an apiary is located on a lot, the owner of the bee hive(s) should first contact wildlife agencies to discuss their plans and how to best avoid wildlife conflicts.
10. The riparian area shown on the plat and in the Riparian Area Exhibit shall be enlarged to include all marshland, including the grassy marshland at the edge of the cattail marsh. All riparian areas shall be shown as a no-build zone on the plat, subject to review and approval by OPG, prior to final plat approval. *Staff recommendation and Subdivision Regulations Article 3-13.*
11. A Revegetation Plan for Disturbed Sites shall be approved by the Missoula County Weed Board prior to final plat approval. *Subdivision Regulations Article 3-1(1)(B) and Missoula County Weed Control recommendation.*

There being no further business to come before the Board, the Commissioners were in recess at 1:42 pm.

THURSDAY, JULY 6, 2000

The Board of County Commissioners met in regular session; a quorum of members was present. Chairman Carey, Commissioner Evans, and County Superintendent of Schools, Rachel Vielleux, conducted an Election Recount for the State (recounting the ballots for the State Superintendent of Schools race) all day.

Plat – The Commissioners signed the Plat for Maus Acres, a minor subdivision located in the W½ of Section 17, T 15 N, R 21 W, PMM, Missoula County, a total area of 10.12 acres, with the owners of record being Ronald E. and Barbara J. Maus.

Plat – The Commissioners signed the Summary Subdivision Plat of Starks addition, located in the SE¼ of Section 24, T 21 N, R 17 W, PMM, Missoula County, with the owner of record being Virginia Marie Starks.

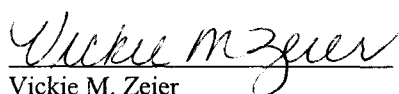
Resolution No. 2000-056 – The Commissioners signed Resolution No. 2000-056 entitled: “Annexation to the Seeley Lake Rural Fire District – A Parcel of Land Located in Missoula County (Correcting Resolution No. 2000-043)”. This Resolution states that the parcels of land described as Tracts A and B of Certificate of Survey No. 5027, located in Sections 25 and 25, Township 16 North, Range 15 West, Missoula County, Montana, be included within said Seeley Lake Rural Fire District, and are to be assessed for said annexation a fire district levy along with other property already a part of said Seeley Lake Rural Fire District.

Income Contract – The Commissioners signed a County Program Income Contract, dated July 1, 2000, between the Missoula Board of County Commissioners and Poverello Center, Inc., for basic needs assistance for indigent residents of Missoula County. Poverello Center has secured funding, approved on May 17, 2000, through the City of Missoula’s Community Development Block Grant (CDBG) Program. The total amount is not to exceed \$30,000, and the duration will be twelve months, commencing July 1, 2000, and terminating on June 30, 2001.

FRIDAY, JULY 7, 2000

The Board of County Commissioners did not meet in regular session; Commissioner Evans was out of the office all day.

Monthly Report - Chairman Carey examined, approved and ordered filed the Monthly Reconciliation Report for the Clerk of the District Court, Kathleen Breuer, for the month ending June 30, 2000.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chairman
Board of County Commissioners

MONDAY, JULY 10, 2000

The Board of County Commissioners met in regular session; all three members were present.

Resolution No. 2000-057 – The Commissioners signed Resolution No. 2000-057, dated July 10, 2000, formally adopting a Budget Amendment as part of the Fiscal Year 2000 Budget. The expenditures pertain to the Health Department, with the revenue being Tobacco money, as per the items and amounts listed therein.

Monthly Report - Chairman Carey examined, approved and ordered filed the Monthly Reconciliation Report for Justice Court 2, Justice of the Peace, Karen A. Orzech, for the month ending June 30, 2000.

Memorandum of Agreement – The Commissioners signed a Memorandum of Agreement, dated July 10, 2000, between the Missoula Office of Planning and Grants and The Missoula/Ravalli Transportation Management Association (“MR TMA”). The agreement represents the scope of work to be accomplished under the Scope of Work for Phase II Year 2 of the Missoula in Motion Transportation Demand Management Program. The total amount is \$81,800, and the duration will be approximately twelve months, effective July 10, 2000. MR TMA shall furnish services, including all labor, manpower, subcontractual services, materials, supplies, equipment, travel, transportation, professional services, and principal’s time to provide Transportation Demand Management services, as described in the scope of Work and the MR TMA cost summary as per the items set forth.

Plat – At the Missoula Office of Planning and Grants meeting on July 10, 2000, the Commissioners approved the Final Plat Approval for the Placid Lake South Shore Tracts, Phase 5, Lots 12 and 14. All applicable conditions specific to Phase 5 have been met.

Agreement – The Commissioners signed a Deed Restriction Agreement, HOME Investment Partnerships, HOME Investment in Affordable Housing Program, dated June 30, 2000, by and between Missoula County (“Grantee”) and Jonathan L. and Julie V. Blacketter (“Property Owner”), 803 Marshall Street, Missoula, Montana 59801. Grantee has loaned to the Property Owner HOME funds in the amount of \$1,748 for the purpose of providing assistance for downpayment, closing cost and, if necessary, mortgage reduction assistance for the property located at 803 Marshall Street, Missoula, Montana 59801 and legally described as Lot 23 in Block 65 of South Missoula, a platted subdivision in the City of Missoula, Missoula County, Montana, according to the official recorded plat thereof.

The Commissioners also signed a Subordinate Deed of Trust by and between Missoula County and Jonathan L. and Julie V. Blacketter (“Borrower”), 803 Marshall Street, Missoula, Montana 59801. The trustee is Michael W. Sehestedt, an attorney licensed to practice law in the State of Montana (“Trustee”). The beneficiary is Missoula County, organized and existing under the laws of Montana, and whose address is 200 West Broadway, Missoula, Montana 59802 (“Lender”). Borrower owes Lender the principal sum of \$1,748. This debt is evidenced by Borrower’s Deed Restriction Agreement dated the same date as the Security Instrument (“Note”), which provides for deferred payment if the Borrower complies with the terms of the Note and the Security Instrument. The Note provides that the full debt is due and payable if the property is sold or is no longer used by the Borrower as his or her primary residence

The documents were returned to Jennifer Blumberg in the Office of Planning and Grants for further handling.

TUESDAY, JULY 11, 2000

The Board of County Commissioners met in regular session; all three members were present in the forenoon. Commissioner Kennedy was out of the office all afternoon.

BOOK 001 PAGE 0045

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated July 11, 2000, batch numbers 743, 744, 745, and 746 (pages 1-10), with a grand total of \$98,272.35. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated July 11, 2000, batch number 748 (pages 1-2), with a grand total of \$1,618.29. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Professional Services Contract -- Chairman Carey signed a Professional Services Contract (MDA#00-30-007) between the Montana Department of Agriculture and Missoula County Weed District. The contract shall become effective upon the date of the last signature of the parties indicating acceptance and contract to the terms and conditions set forth therein. The completion date is December 31, 2000, unless otherwise terminated pursuant to Section XVI entitled "Termination". The purpose of the Contract is to set out the contractual arrangements for the Missoula County Weed District to administer the Weed Seed Free Forage Program. The Missoula County Weed District contracts with the Montana Department of Agriculture to act as an agent in conducting the field inspection and reporting for the Noxious Weed Seed Free Forage Program. Producers pay an inspection fee of \$1.50 per acre (\$15.00 minimum fee) and mileage cost of \$0.325. The Department of Agriculture receives \$0.25 per acre (\$2.50 minimum fee) with the County Weed District receiving the remaining funds. It is anticipated that the number of producers participating and the fees generated will be comparable to the 1998 NWSFF Season and the 1999 NWSFF Season, which are listed for reference in the Contract. The document was returned to the Missoula County Weed Department for further signatures and handling.

Memorandum of Agreement -- Chairman Carey and Commissioner Kennedy signed (Commissioner Evans abstained) a Memorandum of Agreement, dated July 11, 2000, between Missoula County and the Missoula/Ravalli Transportation Management Association ("MR TMA"). This Agreement approves a \$10,000 County Community Development Block Grant ("CDBG") to hire a specialized transportation coordinator, funded through the City CDBG Program, City Title I Program and County Program Income Fund, and represents the scope of work to be accomplished per the items set forth therein.

Other items included:

- 1) Chairman Carey signed a counter proposal to the Option to Purchase dated June 29, 2000 between Bigelow Development Company, LLC, Aerospace Division, d/b/a Bigelow Aerospace from Missoula County, d/b/a the Missoula Development Park. The Offer Review Committee, on July 5, 2000, recommended acceptance of the Option Agreement with four amendments (as per items set forth). The counter proposal suggests the following additional amendments to the Option Agreement: 1) Bigelow Development shall address on-site drainage requirements, subject to the approval of the County Surveyor, and 2) Seller and Buyer to agree on how the land is to be transferred within 30 days of agreement by both parties. The Counter Agreement was returned to Properties 2000 for further handling.
- 2) The Commissioners formally approved (signed July 6, 2000) an Extension of Option Period for the Option Agreement recorded at Book 564, Page 0230. pertaining to Reserve Parcel B in the Missoula Development Park. The extension was granted to March 30, 2001.
- 3) Chairman Carey signed two applications for new electric and gas service with Montana Power Company for Lots 1 and 1A, Block 4, and Lots 1 and 2, Block 6, Missoula Development Park, Phase 1. Cost estimates will be submitted to the County after Montana Power processes the requests. The applications were returned to Barbara Martens, Projects Coordinator, for further handling.
- 4) The Commissioners approved Employee Incentive: Fair Tickets for Fiscal Year 2001: 1 ticket for each "regular" County Employee, including Assessor's/Appraiser's Office.
- 5) The Commissioners reviewed and approved the July 2000 Audit of Juvenile Unit, Missoula County Detention Facility, as submitted by Susan Reed, Co-Auditor. The Audit was returned to the Clerk and Recorder's Office for filing.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, JULY 12, 2000

The Board of County Commissioners met in regular session; all three members were present in the afternoon. Commissioner Kennedy was out of the office until noon.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated July 12, 2000, batch number 749 (pages 1-2), with a grand total of \$115,284.02. The Claims List was returned to the Accounting Department.

Plat -- The Commissioners signed the Plat for Big Sky Lake Estates, Lot A-9, a subdivision located in the NE ¼ of Section 29, T 16 N, R 14 W, PMM, Missoula County, a total area of 4.43 acres, with the owner of record being Big Sky Lake Company.

Plat -- The Commissioners signed the Plat for Big Sky Lake Estates, Lots U3, U4, and U5, a minor subdivision located in the SE ¼ of Section 29, T 16 N, R 14 W, PMM, Missoula County, a total area of 4.76 acres gross and net, with the owner of record being Big Sky Lake Company.

Indemnity Bond – Chairman Carey examined, approved, and ordered filed an Indemnity Bond naming Natalie Billings as principal for Warrant #81908 issued June 16, 2000 on the Missoula County MCPS Payroll Fund 78-42 in the amount of \$892.40, now unable to be found.

Monthly Report - Chairman Carey examined, approved and ordered filed the Monthly Reconciliation Report of the Sheriff, Douglas W. Chase, for the month ending June 30, 2000.

Agreement – The Commissioners signed six (6) Law Enforcement Mutual Aid Agreements (dated either July 7 or July 12, 2000) between the City of Missoula and Missoula County, and the following law enforcement agencies: Illinois State Police; Provo City Police Department, Utah; Davis County Sheriff's Office, Farmington, Utah; Kootenai County Sheriff's Office, Coeur d'Alene, Idaho; Coeur d'Alene Police Department, Coeur d'Alene; and Brigham City Police Department, Utah. The purpose of the Agreements is to permit the parties hereto to provide mutual aid and assistance which transcends jurisdictional boundaries and which insures the prompt and effective delivery of law enforcement and emergency services to areas which, due to geographic remoteness, population sparsity, and economic and other facts, are in need of an increased law enforcement presence. The parties should voluntarily assist each other by the interchange of law enforcement services and facilities, to cope with the problems of the emergency protection of life and property, and as otherwise necessary for the public health, welfare, safety and well-being. With regards to financing, the City of Missoula agrees to pay ground travel expenses (including fuel, per diem, lodging). Assisting party will pay salaries, wages and benefits and maintain workers' compensation coverage. The Agreements were returned to Bob Reid at the City Police Department for further signatures and handling.

Letter – The Commissioners signed a letter to the Honorable David P. Boergers, Secretary of the Federal Energy Regulatory Commission ("FERC"), Washington, D.C., asking that the FERC rehear its June 16, 2000 Order extending the term of the license for Project No. 2543-045 (Application for License Amendment – Milltown Dam). Chairman Carey signed the Motion for Rehearing, which was enclosed with the letter. The letter was returned to Peter Nielsen in the Health Department for distribution.

PUBLIC MEETING – July 12, 2000

The Public Meeting was called to order at 1:30 p.m. by Chairman Bill Carey. Also present were Commissioner Barbara Evans, County Surveyor Horace Brown and Chief Civil Attorney Michael Sehestedt. Commissioner Michael Kennedy was out of the office

Public Comment

None

Routine Administrative Actions

Commissioner Evans moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$313,881.84. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

There being no further business to come before the Board, the Commissioners were in recess at 1:31 pm.

THURSDAY, JULY 13, 2000

The Board of County Commissioners met in regular session; all three members were present.

Warrant – Acting Chairman Evans examined, approved, and ordered filed an Application for Issuance Replacement Warrant naming Dorothy E. Hunton as principal for Warrant #82035, issued June 16, 2000, on the Missoula County MCPS Payroll Fund 78-42 as payment for wages in the amount of \$258.63, which was not received in the mail.

Warrant – Acting Chairman Evans examined, approved, and ordered filed an Application for Issuance Replacement Warrant naming Special Olympics Montana as principal for Warrant #24140, issued March 13, 2000, on the Missoula County Special Ed Fund as payment for registration for Special Olympics in the amount of \$350.00, due to a crime committed.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Agreement – The Commissioners signed a Memorandum of Agreement between the Missoula Board of County Commissioners and the Art Museum of Missoula, dated July 13, 2000. The mission statement, workplan, and budget submitted by the Art Museum of Missoula represent the scope of work to be accomplished under this Memorandum of Agreement, as per the items set forth. The total value is \$124,717.00 (One Hundred Twenty Four Thousand and Seven Hundred Seventeen and No/Hundredths Dollars). The duration of this Agreement will be twelve (12) months, commencing on July 1, 2000 and terminating on June 30, 2001).

Other items included:

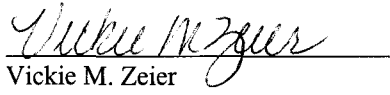
- 1) Chairman Carey signed a Montana State Revolving Fund ("WRF") Program Loan Disbursement Report for General Obligation Bonds for water system improvements for the Missoula County-Western Montana Fairgrounds, Project Number WRF-01063. The total loan amount is \$233,000. The document was forwarded to Marc Golz at the Montana Department of Environmental Quality, for further signatures and handling.

- 2) Discussion item: Discussion on the Clinton Rural Fire District Board Appointment was postponed until Chief Civil Attorney Michael Sehestedt could participate.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, JULY 14, 2000

The Board of County Commissioners did not meet in regular session; Commissioners Kennedy and Evans were out of the office all day, and Chairman Carey was out all afternoon.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chairman
Board of County Commissioners

MONDAY, JULY 17, 2000

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was out of the office the week of July 17, 2000 through July 21, 2000.

Emergency Proclamation – The Commissioners signed an Emergency Proclamation, Resolution Number 2000-058, proclaiming that an emergency exists as of July 17, 2000 due to the hazardous fire conditions throughout Missoula County, and that the following protective measures are necessary:

1. To follow the Major Fire response plan (Section 3.08) designated by the Missoula County Disaster plan;
2. To participate in cooperative response action with state and federal fire agencies;
3. Authorize Incident Commanders and law enforcement agencies to use extraordinary measures in order to protect citizens from imminent danger

TUESDAY, JULY 18, 2000

The Board of County Commissioners met in regular session; a quorum of members was present.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated July 17, 2000, batch numbers 750, 751, 752, and 753 (pages 1-11) with a grand total of \$63,052.40. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Account Approval – The Commissioners approved an account with Centralized Services for the Missoula Area Education Cooperative for printing for Fiscal Year 2001, at the same rate as that allowed the Superintendent of Schools' Office.

Amendment -- Chairman Carey signed an Amendment to Memorandum of Understanding dated July 17, 2000, amending an agreement between the Montana Department of State Lands and the County of Missoula ("Fire Cooperative Agreement") dated August 11, 1994. In the Amendment II, the Lolo National Forest agrees to reimburse the Missoula County Sheriff's Department for additional law enforcement services necessary due to suppression action required on wildfires on National Forest Lands or on other lands for which the Lolo National Forest has protection responsibility, and also changes the pay rate for reserve deputies and Search & Rescue members from \$15 to \$20 per hour. The Amendment was returned to Capt. Don Morman in the Sheriff's Department for further signatures and handling.

Addendum – The Commissioners signed an Addendum to Buy-Sell Agreement dated May 8, 2000 between Missoula County ("Seller") and Manookian Developers Inc. and/or assigns ("Buyer"), concerning the property described as 3085/3095 Stockyard Road (County Shops Property), extending the date from July 24, 2000 to August 30, 2000 for additional \$20,000 non-refundable earnest money payment and release of contingencies due to time requirements for zoning compliance approval. The Addendum was returned to Katie Ward at Properties 2000 for further signatures and handling.

Surveys -- Chairman Carey signed the following two wastewater surveys, dated June 29, 2000, to complete the Clean Water Needs Survey 2000 Report to Congress:

1. Missoula County – Golden West Subdivision. The current aerated lagoons should be lined to prevent potential impact to groundwater, and the land application storage cell and land application system should be re-established. The total cost is \$397,100.
2. El Mar Estates/New Meadows Subdivision – Missoula County. Construction is planned of system improvements that expand the facility to meet current flow and loading levels, meet current design standards, and provide better protection of human health and the environment. The total amount is \$3,151,000.

The Surveys were forwarded to Gwen Pozega at the Montana Department of Environmental Quality.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County, Missoula, Montana, and Philip Mahn of Electro Controls, Inc. for programming and graphic generation and on-site commissioning support for building automation control system. The Contract shall commence approximately July 1, 2000 and shall be completed by August 1, 2000. The total amount shall not exceed \$9,522.00.

BOOK 001 PAGE 0048

Resolution No. 2000-059 – The Commissioners signed Resolution No. 2000-059, “Setting Surveyor’s Fees”, dated July 18, 2000, adopting the schedule of fees for services of the County Surveyor. Fees for Certificates of Survey and Subdivision Plats will become \$50.00 plus \$10.00 per parcel or lot. The effective date is August 1, 2000.

Other items included:

- 1) A discussion was held regarding the reconsideration of Appointment to Clinton Rural Fire District Board of Trustees. Commissioner Evans moved to rescind the appointment of Mr. Sean Finley and solicit applications. Mr. Finley objected and asked for time to obtain representation. Commissioner Evans and Chairman Carey agreed to a one week delay. Following further discussion on the procedures, Mr. Finley withdrew his request for delay on action. Commissioner Evans’ motion to rescind and solicit applications was seconded by Chairman Carey and was approved on a vote of 2-0. (Commissioner Kennedy was absent). Mr. Finley was told that his earlier application would be considered.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

**Administrative Meeting
Board of County Commissioners
July 18, 2000
Room 201**

PRESENT: Barbara Evans and Bill Carey. Michael Kennedy was absent

ALSO PRESENT: Michael Sehestedt, Deputy County Attorney
Ann Mary Dussault, Chief Administrative Officer
Sean Finley and other interested parties with regard to the Clinton Rural Fire District Board of Trustees

After introductions, Deputy County Attorney Michael Sehestedt discussed the questions surrounding Mr. Finley’s appointment. He noted that a vacancy based on non-residency generally required judicial action and that a vacancy based on abandonment of office could be determined by the appropriate Board, which could be either the District Board or the Board of County Commissioners.

Following further discussion, it was established that Board member Sheila Hoffman had missed the April 13th Board Meeting but had completed, in her board capacity, the claims and minutes which were presented at that meeting.

Based on this information, Michael Sehestedt stated that, in his opinion, a vacancy for ceasing to discharge the duties of the office for three consecutive months could not be established as existing at the time the Commissioners acted to fill the vacancy.

Commissioner Barbara Evans moved to rescind the appointment of Mr. Finley and solicit applications.

Mr. Finley objected and asked for time to obtain representation. Commissioner Barbara Evans and Commissioner Bill Carey agreed to a one week delay.

Following further discussion on the procedures, Mr. Finley withdrew his request for delay on action.

Commissioner Barbara Evans’ motion to rescind and solicit applications was seconded by Commissioner Bill Carey and was approved on a vote of 2-0.

Mr. Finley was told that his earlier application would be considered.

WEDNESDAY, JULY 19, 2000

The Board of County Commissioners met in regular session; a quorum of members was present.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated July 19, 2000, batch numbers 755, 756, and 759 (pages 1-9), with a grand total of \$107,263.02. The Claims List was returned to the Accounting Department.

Certifications -- Chairman Carey signed three Missoula County Surveyor’s Office Certifications of Acceptance for County Maintenance, dated July 19, 2000, for the following:

Road Name	Road No.	Limits of Acceptance
Evan’s Ridge Road	L-0627	.219 Miles
Rams Horn Court	L-1293	.035
Rams Horn Lane	L-1293A	.195

The Certifications were returned to the Missoula County Surveyor’s Office for further handling.

PUBLIC MEETING – July 19, 2000

The Public Meeting was called to order at 1:30 p.m. by Chairman Bill Carey. Also present were Commissioner Barbara Evans, County Surveyor Horace Brown and Chief Civil Attorney Michael Sehestedt. Commissioner Michael Kennedy was out of the office

Public Comment

None

Routine Administrative Actions

Commissioner Evans moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$63,052.40. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Consideration: Sorrel Springs No. 41 (2 lot minor subdivision) – Frenchtown Area

Denise Alexander, Office of Planning and Grants, presented the staff report.

The applicants, Michael and Terreva Carr, represented by Greg Martinsen, are requesting approval to subdivide a 10.03 acre parcel into 2 lots, 4 acres and 6.03 acres in size. The property is located in Sorrel Springs Subdivision, which was approved in 1973, before the Comprehensive Plan was adopted in 1975. The subdivision, at that time, was not required to go through local review, but it did, and received approval. In that approval, the covenants addressed re-subdivision possibilities of those lots, down to a minimum size of 4 acres. In 1975, the Missoula County Comprehensive Plan was adopted which designated this property as Rural Low Density Residential, with a maximum recommended density of one dwelling unit per 10 acres. This intent of the designation was to protect environmentally sensitive lands, to preserve horticultural and agricultural lands if possible, and to maintain open land when possible. Staff finds substantial compliance with the Comprehensive Plan because it is a re-subdivision of an existing parcel where impacts have already occurred on the natural habitat. The resulting lots will still be semi-rural in nature and further subdivision is restricted by covenants and this development is occurring where services already exist. There are similar lot divisions surrounding this proposal.

The property is located on Sorrel Springs Lane, which is accessed by Interstate 90, the Frenchtown Frontage Road and Roman Creek Road. Roman Creek Road is a County-maintained road up to Sorrel Springs Lane, which is also a County-maintained road. Sorrel Springs Lane does not meet the 32 foot wide roadway surface standards for roads that serve 51 to 200 units. The applicants are asking for a variance from improving this section of Sorrel Springs Lane adjacent to the subdivision and have offered to include on the plat a waiver of the right to protest a future RSID for improvements to Sorrel Springs Lane. Staff is recommending approval of the variance request.

The subdivision of this lot is across the north and south access so that the 6 acre lot would be in the front where there is an existing home fronting on Sorrel Springs Lane and the 4 acre lot would be on the southern end of the property. There is adequate room for a second septic system and drain field on Lot 41B. Access to the home would be through a 54 foot wide private access and public utility easement from Sorrel Springs Lane to Lot 41B. A 14 foot gravel driveway would be included within the easement. The property is fairly flat with approximately a 3% slope overall. The driveway would be approximately 750 feet long. Frenchtown Rural Fire viewed the site and had no problems with accessing the rear lot. The plan includes a turnaround for emergency vehicles at the homesite. A condition of approval has been recommended that the final design of the driveway be approved by the fire department prior to final plat approval. The fire department also requested a \$100 fee be paid to their large diameter hose fund, which has also been included as a condition of approval.

There was some concern expressed by the County Surveyors Office about the proposed connection of the driveway to Sorrel Springs Lane, as it was too close to the intersection of Sorrel Springs Lane and Pinto Court. There was concern about site visibility and having the driveway intersect with Sorrel Springs Lane at a 90 degree angle. A condition of approval was included that the final design of the driveway intersection with Sorrel Springs Lane would need to be reviewed and approval by the County Surveyors Office before the final plat was approved. Mr. Martinsen has submitted a relocation of the driveway coming out further away from the intersection with Pinto Court and at a better angle for site visibility. The County Surveyor thinks this new design will work in accordance with the included condition of approval. If the new location is acceptable, the easement will be relocated as well.

A variance has been requested for sidewalks and walkways in the subdivision. Sorrel Springs Lane does not have sidewalks and the applicants have requested a variance from the requirement at this time and have offered to include a statement on the plat to waive the right to protest a future RSID for improvements to Sorrel Springs Lane and Roman Creek Road, including the installation of walkways or bikeways, based on benefit. Staff recommends approval of this variance request.

With regard to the effects on natural environment and wildlife and wildlife habitat, the applicants are bound by the Sorrel Springs covenants and are also proposing additional covenants on this subdivision. Included in those covenants are some reference to living with wildlife and maintenance and compliance with Missoula County noxious weed management plan. At the very southeast corner of this property there is a pond, which is a riparian vegetative area. During a site visit, riparian vegetation was noted around the pond. The applicant has proposed to designate the pond and a 15 foot buffer zone around the pond as a no development zone and has provided a Riparian Management Plan in the covenants. Staff has reviewed the plan and had recommended two conditions of approval regarding the plan. Condition 3 asks that the no development zone be extended to the east property line at the rear of the property because the outlet to the pond is against the property line and goes into the adjacent property. Staff has also asked that there be a more specific description in the covenants about what permitted recreational and agricultural uses are in the plan and what management tasks may require access by motorized vehicles. Mr. Martinsen requested those details be taken care of now rather than prior to final plat approval. A replacement Condition 4 has been suggested to reflect those details. They involve defining recreation uses as passive and agricultural uses as described in an existing section, which talks about livestock grazing. Included in the livestock grazing section is wording regarding watering points being minimized to prevent trampling of vegetation. The final sentence in replacement Condition 4 pertains to removing the fencing requirements from Section 20 and having them as a separate section to avoid confusion as to where fencing should be placed. Mr. Martinsen has reviewed these changes and is in agreement with them. Unforeseen circumstances may require the use of motorized vehicles in the area, however, the wording in the management plan is sufficient to educate people that the purpose is to preserve the riparian area.

Greg Martinsen, developer's representative, was present. The developers, Michael and Terreva Carr, were not present. Mr. Martinsen had no comments.

Chairman Carey asked what passive recreation meant.

Denise Alexander stated that the inherent meaning of passive recreation is understood, but she could not find an adequate definition.

Michael Sehestedt stated that it could be equated to an "outdoor couch potato."

Greg Martinsen stated that no one would be water-skiing on the pond.

There were no further public comments.

Commissioner Evans moved that the Board of County Commissioners approve the variance request from Section 3-2(5) of the Missoula County Subdivision Regulations to vary from the requirement to provide sidewalks or pedestrian walkways in the subdivision, based on the findings of fact set forth in the staff report; and approve the variance request from Article 3-2(3) of the Missoula County Subdivision Regulations for the public road to vary from the required 32 foot pavement width to the existing 23 foot width, based on the findings of fact set forth in the staff report. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Commissioner Evans moved that the Board of County Commissioners approve the Sorrel Springs No. 41 Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report and that the replacement Condition 4 as presented in the memo dated July 18, 2000 be used in place of Condition 4 included in the staff report. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Sorrel Springs No. 41 Subdivision Conditions of Approval:

1. The final design and location of the driveway approach for Lot 41B shall be reviewed and approved by the County Surveyor prior to final plat approval. *Subdivision Regulations Article 3-2(6) and County Surveyor recommendation.*
2. The developer shall contribute \$100.00 per new lot to the Frenchtown Rural Fire District. The final design of the driveway shall be reviewed and approved by the Frenchtown Fire District. Evidence of contribution and approval of the driveway design shall be presented to the Office of Planning and Grants at the time of final plat approval. *Subdivision Regulations Article 3-2(6) and OPG recommendation.*
3. The "Riparian Resource and No Development Zone" shall be extended to the east property line in the area of the outlet of the pond. This revision shall be subject to review and approval of the Office of Planning and Grants prior to final plat approval and shall be shown on the final plat. A site plan with the shaded area shall also be attached to the covenants. *Subdivision Regulations Article 3-13 and OPG recommendation.*
4. The Riparian Resource Management Plan shall be amended as follows and re-numbered as needed:

Section 20

"b) The following uses are expressly permitted in the riparian and protected zones: underground utilities, water wells, land rehabilitation, weed control, passive recreational uses, and agricultural uses as described in (g) below."

"g) Livestock grazing and watering shall be held to a minimum and managed to protect native grasses and vegetation and to not allow sites of bare, exposed soil to occur. The number of watering points should be minimized to prevent trampling of riparian vegetation. Winter feeding, which results in bare soils and accumulations of manure, is not allowed within the "Riparian Resource and No Development Zones."

And, Subsection (c) regarding fencing shall be removed from Section 20 and be listed as a separate section of the covenants.

Hearing: Intent to Create RSID No. 8842 (Maintenance of One Fire Hydrant – Invermere Subdivision – Phase I)

Chairman Carey opened the hearing on the intent to create RSID No. 8842.

Jesse Sattley, RSID Coordinator, presented the staff report.

This is a request to create RSID No. 8842 – Invermere Phase I Fire Hydrant, Missoula County, Montana.

A Resolution of Intention to Create RSID No. 8842 for a fire hydrant maintenance district to serve the area known as Invermere Phase I was adopted on June 22, 2000. The petition requesting the installation of one (1) hydrant was initiated by the owners of the properties within the District and supported 100%. Mountain Water Company will install the hydrant. Missoula Rural Fire District has reviewed the request and has approved the location.

The estimated cost of maintaining the hydrant is \$350.91 per year, including the County Administration fee of 5%. There are five (5) lots in the district which spread the annual cost to \$70.18 per lot.

No protest were received. Staff recommends creation of the RSID.

There being no further comments, the public hearing was closed.

Commissioner Evans moved that the Board of County Commissioners create RSID No. 8842 for a fire hydrant maintenance district for one hydrant to serve Invermere Subdivision Phase I. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Other Business

Horace Brown stated that the subdivision field checks will no longer be done, per the Commissioners resolution. A meeting with the surveying firms was held July 18, 2000 and no action was taken on the requirement of the governing body being responsible for the property pins. It was finally decided that the law needs to be repealed by the Legislature, that it is not really enforceable. The group recommended that some other County carry the repeal request to the Legislature.

Commissioner Evans asked about the monumentation, was that a different subject?

Horace Brown stated the field checks would not be done anymore.

Commissioner Evans asked if that was a field check of the monumentation?

Horace Brown stated that was correct.

Michael Sehestedt stated the check was done to see if the pin was there, physically in the ground, as stated in the plat. The field check was the way to establish that the submitted plat represented a reality on the ground.

Chairman Carey asked if the reasons to delete the field checks were that it was not required and it was not practical?

Horace Brown stated it was not practical because the monuments could be removed the next day by a utility company or contractor. The law would be too expensive to try and enforce. The County would have to determine who removed the monumentation and require them to replace it.

Michael Sehestedt stated that the law still remains. The check was optional. The law change will be to have the Legislature repeal or modify the requirement that says the governing body shall pursue those that destroy established surveying monuments and require those that destroy monuments to replace them. Without doing the field checks, the ability to pursue would be somewhat reduced.

Commissioner Evans asked Greg Martinsen if the monumentation check was what he was protesting?

Greg Martinsen stated that was what he had been told, the field checks would not be done anymore.

Horace Brown stated that was correct, but it did not take care of the other problem of enforcement by the governing body. After meeting with the surveying firms, no process could be developed that would work except to have the law repealed.

Greg Martinsen stated there were two separate issues. One was checking for monumentation through the plat review process. That law requiring that the governing body make sure all monuments were reset after construction was the other issue. The issue of checking monumentation as shown on the plat has been resolved by eliminating the field check. The other issue can only be resolved by having the Legislature repeal or change the law, or the Commissioners could adopt a resolution saying that if a contractor removes a monument, the contractor is responsible for replacing it.

Michael Sehestedt stated that often after the water and phone and cable companies and the contractors have completed work, it is discovered that the monument is missing. The only thing that can be proved is that it is missing, it cannot be determined who removed it or where it went.

Commissioner Evans stated that the action was to come up with a process that worked and it appears that the process that works is not to have a process at all.

Horace Brown stated that was correct.

There being no further business to come before the Board, the Commissioners were in recess at 1:55 pm.

THURSDAY, JULY 20, 2000

The Board of County Commissioners met in regular session; a quorum of members was present.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Agreement – The Commissioners signed a Settlement and Closing Agreement by and among the Montana Department of Revenue, Missoula County, the Treasurer of Missoula County and Stimson Lumber Company, Inland Operations, made and entered as a full, final, and comprehensive settlement and disposition of property taxes arising with respect to Taxpayer's manufacturing equipment located at Taxpayer's mill in Bonner, Montana, for the years 1997 through and including 2003. The parties agree to finally settle and compromise all controversies concerning the disputed Assessed Values for tax years 1997 through 2003, as per the items set forth. The Agreement shall become effective on the last date executed by a party. The document was returned to Gary Peterson of the Montana Department of Revenue for further handling.

Resolution No. 2000-060 – The Commissioners signed Resolution No. 2000-060, proclaiming an emergency as of July 25, 2000, and protective measures are needed due to civil unrest related to the Hell's Angels' presence in the Missoula area.

Agreement – Chairman Carey signed a Deed Restriction Agreement, HOME Investment Partnerships, HOME Investment in Affordable Housing Program, dated June 30, 2000, by and between Missoula County ("Grantee") and April M. and Joel Gregg ("Property Owner"), 325 River Drive, Lolo, Montana 59847. Grantee has loaned to the Property Owner HOME funds in the amount of \$2,200 for the purpose of providing assistance for downpayment, closing cost and, if necessary, mortgage reduction assistance for the property located at 325 River Drive, Lolo, Montana 59847 and legally described as Lot 9 in Block 9 Parcel B of Lake View Addition, a platted subdivision in Missoula County, Montana, according to the official recorded plat thereof.

Chairman Carey also signed a Subordinate Deed of Trust by and between Missoula County and April M. and Joel Gregg ("Borrower"), 325 River Drive, Lolo, Montana 59847. The trustee is Michael W. Sehestedt, an attorney licensed to practice law in the State of Montana ("Trustee"). The beneficiary is Missoula County, organized and existing under the laws of Montana, and whose address is 200 West Broadway, Missoula, Montana 59802 ("Lender").

Borrower owes Lender the principal sum of \$2,200. This debt is evidenced by Borrower's Deed Restriction Agreement dated the same date as the Security Instrument ("Note"), which provides for deferred payment if the Borrower complies with the terms of the Note and the Security Instrument. The Note provides that the full debt is due and payable if the property is sold or is no longer used by the Borrower as his or her primary residence.

The documents were returned to Cindy Wulfekuhle in the Office of Planning and Grants for further handling.

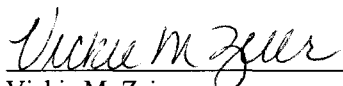
Other items included:

- 1) The Commissioners approved a Professional Services Contract Amendment with WGM Group for Water System Improvements at the Western Montana Fairgrounds. The scope of work has changed from their initial engineering cost proposal due to requirements from governing agencies and Mountain Water Company. Additional total costs are \$14,086.00. Costs are covered through project budget.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, JULY 21, 2000

The Board of County Commissioners did not meet in regular session. Chairman Carey was in Libby attending a Mental Health Board Meeting, and Commissioner Evans was out of the office all day.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chairman
Board of County Commissioners

MONDAY, JULY 24, 2000

The Board of County Commissioners met in regular session; all three members were present in the forenoon. Chairman Carey and Commissioner Kennedy were out of the office all afternoon.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated July 20, 2000, batch number 758 (pages 1-3), with a grand total of \$16,959.84. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated July 20, 2000, batch number 767 (pages 1-4), with a grand total of \$23,169.31. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated July 20, 2000, batch numbers 760, 762, and 763 (pages 1-9), with a grand total of \$93,188.90. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated July 20, 2000, batch number 764 (pages 1-2), with a grand total of \$16,631.15. The Claims List was returned to the Accounting Department.

Indemnity Bond -- Chairman Carey examined, approved, and ordered filed an Indemnity Bond naming Michael Schlueter as principal for Warrant #82665 issued June 30, 2000 on the Missoula County Public Schools Payroll Fund 78-42 in the amount of \$857.10 (payroll for employment), now unable to be found.

TUESDAY, JULY 25, 2000

The Board of County Commissioners met in regular session; all three members were present.

Plat -- The Commissioners signed the Plat and Subdivision Improvements Agreement and Guarantee for Deschamps Lane, Subdivision No. 2, located in the W½ of Section 28, T 14 N, R 20 W, PMM, Missoula County, a gross area of 69.29 acres, with the owner of record being Louis F. Kenney. The improvements remaining to be completed are paving a portion of Deschamps Lane from the northwest corner of the property to 20 feet south of and 20 west of the entrance to Moccasin Lane. The estimated cost is \$15,000.00, secured by a hold being placed upon property described as certificate of deposit #350020386305, in the amount of Fifteen Thousand Dollars (\$15,000), issued by US Bank, in Missoula County, Montana. The certificate of deposit is for a term of six months and is automatically renewable.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Resolution No. 2000-061 -- The Commissioners signed Resolution No. 2000-061, a resolution creating RSID No. 8842, for fire hydrant utility and maintenance of one hydrant for Invermere Phase 1 Subdivision, Missoula County, Missoula.

Letter -- The Commissioners signed a Transmittal Letter and Documentation for continuation funding for the Missoula County Domestic Violence Program (YWCA Shelter Grant). These are federal pass-through shelter funds from the Department of Health and Human Services. The total amount is \$40,000.00, which includes a local match of \$16,000 for the Jesuit Volunteers who provide 1.5 FTE staffing in the YWCA Shelter. The documents were returned to Leslie McClintock in the Office of Planning and Grants for further handling.

Other items included:

- 1) Chairman Carey signed an Acknowledgement and Approval of Agreement regarding El Mar Estates and Lolo RSID 901 Wastewater Facilities, EPA Federal Assistance Applications, Grant Application Engineering Services. Missoula County acknowledges and approves authorization of Task 3 of the Priority Improvements Contract between HDR Engineering, Inc. ("Engineer") and Missoula County ("Owner") for the Lolo RSID 901 Wastewater Facilities. Missoula County also acknowledges and approves completion of the El Mar Estates Federal Funding Assistance Application on a time and materials basis not to exceed \$2,108.80 without prior authorization from Missoula County.
- 2) Chairman Carey signed an amendment to a letter dated May 16, 2000, regarding the Missoula County Sheriff's Department Universal Hiring Program, Officer Retention Plan. The last paragraph of the letter was amended to read: "The Missoula County Sheriff's Department will retain the four full-time officers' positions after the 3 year grant period for at least one locally set budget cycle. The source of funding will be the general fund or the County Public Safety Levy. The amended letter was returned to Don Morman in the Sheriff's Department for further handling.
- 3) The Commissioners approved a request from Carol C. Juneau, Chairperson of the HB 412 Advisory Committee, and subsequently signed a letter of support for a name change of "Squaw Peak" in Missoula County to "Sleeping Woman Mountain." The approval letter was sent to D. Fred Matt, Chairman, Confederated Salish-Kootenai Tribal Council, with copies to Ms. Juneau and Doug Burrenson.

Discussion Items included:

- 1) An update on the Lolo Levee by Brian Maiorano. The Commissioners approved the submission of an application to Commodity Credit Corp.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, JULY 26, 2000

The Board of County Commissioners met in regular session; all three members were present.

Claims List – The Commissioners signed the Claims List, dated July 25, 2000, batch number 772 (pages 1-4), with a grand total of \$31,231.49. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated July 25, 2000, batch numbers 768, 770, 771, and 773 (pages 1-13), with a grand total of \$132,315.24. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated July 25, 2000, batch number 774 (pages 1-4), with a grand total of \$62,181.73. The Claims List was returned to the Accounting Department.

Agreement – The Commissioners signed a Multi-Party Tennis Court Limited Use Agreement for Local Government Public Tennis Courts, established for the purpose of implementing an agreement whereby certain entities shall provide resources to reconstruct tennis courts at Playfair Park and Fort Missoula Park under the terms as set forth therein. The parties to this agreement are: 1) City of Missoula, 2) Missoula County Public Schools, 3) Loyola Sacred Heart High School, 4) Valley Christian High School, 5) Garden City Tennis Association, and 6) Missoula County Park Board. The actual commitment to the tennis court project by the City is \$71,000 and by the County is \$34,000; the \$10,000 offered by both Loyola Sacred Heart and Valley Christian is \$1,000/year over 10 years. The additional \$9,000 by each the City and the County must be available to complete the project. All terms of the agreement are contingent on every party listed agreeing to all terms of the agreement, including the approval of the Missoula City Council. The agreement shall begin July 1, 2000 and end June 30, 2010, except where involving MCPS whose financial commitment is a prepayment of 14 years of use; therefore the agreement for MCPS extends to June 30, 2014. The agreement was returned to Deputy County Attorney Colleen Dowdall for further signatures and handling.

Letter – The Commissioners signed a letter of support addressed to Addrien Marx, Director, Seeley Lake Historical Museum and Visitors Center, applauding her efforts to pursue grant funding through Travel Montana to complete the historic Double Arrow Barn for visitors and residents alike.

Agreement – The Commissioners signed the At-Grade Railroad Crossing Closure Two Party Agreement, Huson, between the State of Montana, acting through its Department of Transportation ("State"), and Missoula County. The State is undertaking this project (STPRR 0002 (475), [3929]) to close an existing at-grade crossing, wherein the State will pay a lump sum of \$10,000 for the permanent closure of U.S. DOT 091 415G at railroad milepost 141.2, with State and Federal funds. This money will apply to the cost of the new crossing. The agreement was returned to County Surveyor Horace Brown for further signatures and handling.

PUBLIC MEETING – July 26, 2000

The Public Meeting was called to order at 1:30 p.m. by Chairman Bill Carey. Also present were Commissioner Barbara Evans, County Surveyor Horace Brown, County Clerk & Recorder/Treasurer Vickie Zeier, Deputy County Attorney Colleen Dowdall and Chief Civil Attorney Michael Sehestedt. Commissioner Michael Kennedy was out of the office

Public Comment

None

Routine Administrative Actions

Commissioner Evans moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$482,940.68. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Hearing: Change Hours of Operation in Treasurers Office

Chairman Carey opened the public hearing on the Change of Hours of Operation in the Treasurers Office.

Vickie Zeier, Clerk & Recorder/Treasurer, presented the report.

This is a request to change the office hours for the Treasurer's Office, Motor Vehicles.

The closure from 8:00 a.m. to 9:00 a.m. will allow staff time to process customer transactions received by mail. These transactions include tax payments, motor vehicle renewals, liens on motor vehicles and pre-entry title work received. With the closure, customers who must come to the Courthouse will have expedited service. Staff believes that each person in line will wait 5-10 minutes less per person.

The change is due to legislation passed by the Legislature in 1999. The legislation requires new plates to be issued every four years. As a result, the number of renewals processed each month has increase dramatically – 3,300 more renewals in May and June, 2000, compared to May and June, 1999. Yet Missoula County does not receive the revenue generated from the new plate fee, the money is sent to the State of Montana. Since Missoula County receives no additional revenue to hire additional staff, Motor Vehicles Customers are experiencing long lines.

As an example of the work load in Motor Vehicles currently, pre-entry work, title work received to be processed prior to the customer coming in, is not currently being done because there is not enough staff. That work is currently three basket behind. Every time a customer comes up to a window, the clerk has to go through these three baskets to find the paperwork.

The renewals have increased dramatically, and they take longer because a new plate has to be prepared for each one. The lien desk, where the paperwork is processed if there is a loan on your vehicle, is also behind in their paperwork. There are two employees that were hired in March, one has not been trained on title work because there is no staff available to train.

The current customer wait in line is approximately 45 minutes per title and 20 minutes per renewal.

DeMarois Olds complained to Commissioner Evans recently. Motor Vehicles received a request from them for stickers for 20 vehicles to be used as rentals. It was placed in the renewal basket which was already 2-3 weeks behind and the stickers for DeMarois Olds were not done in time. They lost a full day's rental on those 20 vehicles.

There were three different occasions just yesterday where customers waited over 20 minutes because the paper work could not be located. The clerk, the supervisor and the lead clerk all expended time to try to locate the paper work.

It is felt that this hour closed each morning could be used to streamline the paper work, get the back log cleaned up, get letters out to customers and get the pre-entry done prior to customers coming in.

There is some concern about the closing as well. It was requested that this change be heavily advertised so customers could be informed as to the change, including newspaper ads (not just legal ads), radio and television.

Commissioner Evans asked if Vickie Zeier had a preliminary cost for the advertising?

Vickie Zeier stated she did not have an estimate, it would depend on when this change would be effective, which was up to the Commissioners to decide. The effective date would govern the type and amount of advertising. If the change becomes effective in 2 weeks, the advertising would have to be more intense.

Commissioner Evans asked Vickie Zeier when she would like to change to be effective?

Vickie Zeier stated the change should be done soon, maybe in 2 weeks. The public is becoming more angry because of long waits and lost paper work. Staff is also under great stress and some have quit because of the pressure. Something has to be done soon. One problem with the two week timeframe is that she will be on vacation. Staff and the public need this relief. It will be an adjustment, but the sooner the better.

There being no further comments, the public hearing was closed.

Commissioner Evans moved that the Board of County Commissioners adopt the resolution changing office hours for the Treasurers Office and make the effective date August 14, 2000, and that advertising be allowed within the department's budget. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Consideration: Carlton Tracts #3 (2 lots) – South of Lolo

Lisa Moisey, Office of Planning and Grants, presented the staff report.

This is a proposal for a two lot subdivision of a 3.53 acre parcel of land located south of Lolo, approximately 1/2 mile north of the Missoula/Ravalli County line. One lot is proposed to be 2.39 acres and the other 1.14 acres. The applicant is Kent Olson, represented by Martinsen Surveys. Mr. Olson owns a home on proposed Lot 6A and he intends to subdivide to create a separate lot.

The property is unzoned. The 1975 Missoula County Comprehensive Plan designates it as Rural Medium Density, with a recommended density of one dwelling unit per 5 acres. However, the property is located within the Carlton Activity Circle which, according to the Comprehensive Plan, is an area designated for more intensive development.

The off site access to the property is from Old Highway 93, which is approximately 23 feet wide, County maintained, within an approximately 80 foot wide right-of-way. Old Highway 93 does not meet County standards for roadway width, which requires 32 feet. The applicant has requested a variance from this requirement and staff recommends approval of the variance. As mitigation, the applicant has placed a statement on the face of the plat waiving the right to protest creation of an RSID/SID for future improvements to Old Highway 93.

On site access will be provided by a gravel surfaced 54 foot wide private access driveway which will be shared by both lots. In conjunction with the subdivision, the applicant submitted a request for a boundary line relocation of the northern property line. The goal of the boundary line relocation was to insure the driveway is wholly contained within the Olson property. That boundary line relocation has been approved.

There are no pedestrian walkways along Old Highway 93 and the applicant has requested a variance from the requirement to provide walkways. As mitigation, a waiver statement has been placed on the face of the plat for the creation of an RSID/SID for future improvements to Old Highway 93, including walkways. Staff recommends approval of the variance request.

Water will be provided by a shared well. The applicant has placed a statement on the plat to waive the right to protest the creation of an RSID/SID for a public water system if one should ever be available in the area. The lots will be served by individual septic systems.

OPG staff is recommending approval of the subdivision with 2 conditions, which both relate to wording changes in the covenants.

Greg Martinsen, Martinsen Surveys, developer's representative, was present. The applicant, Kent Olson, was not present. Mr. Martinsen had no comments.

There were no further public comments.

Commissioner Evans moved that the Board of County Commissioners approve the variance request from Section 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways in the subdivision, based on the findings of fact set forth in the staff report; and approve the variance request to Section 3-3 of the Missoula County Subdivision Regulations for the requirement for increased right-of-way and street widths, based on the findings of fact set forth in the staff report. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Commissioner Evans moved that the Board of County Commissioners approve the Carlton Tracts, No. 3 Summary Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Carlton Tracts, No. 3 Summary Subdivision Conditions of Approval:

1. The covenants shall be amended to include a section that reads:

"Areas disturbed by the construction and installation of utilities shall be revegetated with beneficial vegetation at the earliest appropriate time." *Subdivision Regulations Article 3-1(1)(B) and Missoula County Weed Control recommendation.*

2. The covenants shall be amended to include a section that reads:

"No covenants or sections thereof relating to wildlife, weed control, and driveway standards may be changed without prior written consent of the governing body." *Subdivision Regulations Article 3-1(1) and OPG Staff recommendation.*

Consideration: Herbenson Tracts (2 lots) – Near Big Sky High School

Karen Hughes, Office of Planning and Grants, presented the staff report.

This is a request to divide a 2.42 acre parcel into two lots, one 1 acre lot and one 1.42 acre lot. The property is located about 125 feet east of Big Sky High School on Central Avenue. The applicant is Harold Herbenson, represented by Martinsen Surveys. The subdivision will leave a home on proposed Lot 1, the southerly lot. Proposed Lot 2 is currently vacant. Single family residential uses surround the property on three side and there is public land to the north.

The Office of Planning and Grants recommends approval of two variances, one for not providing sidewalks or pedestrian walkways on North Avenue and Central Avenue, and the other for not providing the required 54 foot wide right-of-way width for the private driveway within the North Avenue public right-of-way. In addition, OPG recommends approval of Herbenson Tracts Summary Subdivision, subject to four Conditions of Approval.

The proposed subdivision is located with Zoning District 12A which permits a density of two dwelling units per acre and the 1998 Missoula County Comprehensive Plan recommends the same level of density. The site complies with both the Comprehensive Plan and with the Zoning District and will be less than the recommended density. This property is also located within the Secondary Urban Growth Area and sewer is scheduled to be extended to this neighborhood by 2004. The property is located outside the newly created Target Range Sewer and Water District. There is a statement on the plat waiving the right to protest the creation of an RSID/SID for either public sewer or water systems in the future.

Proposed Lot 1 is accessed from Central Avenue and Lot 2 is proposed to be accessed via a driveway that would go through the North Avenue right-of-way. The driveway would be constructed to driveway standards and staff recommends that the Fire Department and Surveyors Office review and approve the driveway plans prior to final plat approval. The driveway will be fairly long and will go through a public right-of-way.

The applicant has requested a variance from installing sidewalks or pedestrian walkways and as a mitigation has provided an RSID/SID waiver for future improvements to both North Avenue and Central Avenue on the face of the plat. The City-County Health Department recommended that the waiver language include bicycles lanes and that has been included in the Conditions of Approval. There are few pedestrian facilities in the area. The only one in the near vicinity is the sidewalks by Big Sky High School on 31st Avenue. Staff recommends approval of the variance request.

Missoula County Weed Control recommended that property owners should file development covenants stating that they will comply with the Missoula County Noxious Weed Plan and the Montana Noxious Weed Act and that a revegetation plan should be filed with the Weed Board for sites that are disturbed during construction. That has been included in the Conditions of Approval.

Greg Martinsen, Martinsen Surveys, developer's representative, was present. The applicant, Harold Herbenson, was not present. Mr. Martinsen had no comments.

There were no further public comments.

Commissioner Evans moved that the Board of County Commissioners approve the variance request from Section 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways on North Avenue and Central Avenue, based on the findings of facts set forth in the staff report; and approve the variance request from Section 3-2(1)(I) of the Missoula County Subdivision Regulations to not provide the required 54 foot right-of-way width for the private driveway within the North Avenue right-of-way, based on the findings of fact set forth in the staff report. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Commissioner Evans moved that the Board of County Commissioners approve Herbenson Tracts Summary Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Herbenson Tracts Summary Subdivision Conditions of Approval:

Roads

1. Grading, drainage and driveway plans, including emergency vehicle turnaround, shall be reviewed and approved by the County Surveyor's Office prior to final plat approval. Emergency vehicle turnaround and driveway plans shall be reviewed and approved by Missoula Rural Fire District prior to final plat approval. *Subdivision Regulations Article 3-2(1)(E), staff recommendation and Missoula Rural Fire District recommendation.*
2. The RSID waiver statement on the plat for improvements to North Avenue and Central Avenue shall be amended to include bicycle lanes. *Subdivision Regulations Article 3-2(5) and Health Department recommendation.*

Weeds

3. A Revegetation Plan for Disturbed Sites shall be approved by the Missoula County Weed Board prior to final plat approval. Provision for implementation of the Plan and a statement that property owners shall comply with the Missoula County Noxious Weed Control Plan and the Montana Noxious Weed Control Act shall be included in a development covenant to be filed in the Clerk and Recorder's Office, subject to OPG and County Attorney Office review and approval, prior to final plat approval. *Subdivision Regulations Article 3-1(1)(B), Missoula County Weed Control recommendation, and staff recommendation.*

Sewer System

4. The RSID waiver statement on the plat for community sewer system shall be reworded to an RSID waiver statement for a public sewer system. *Subdivision Regulations 3-7 and comments from the County Health Department*

At the end of the Weekly Public Meeting, Commissioner Evans and Chairman Carey signed **Resolution 2000-062** Changing Office Hours for the Treasurers Office.

There being no further business to come before the Board, the Commissioners were in recess at 1:50 pm.

FISCAL YEAR 2001 BUDGET HEARING

PRELIMINARY HEARING

WEDNESDAY, JULY 26, 2000 – 2:30 P.M.

ROOM 201 – COURTHOUSE ANNEX

The Preliminary Hearing on the Fiscal Year 2001 Budget was opened at 2:30 p.m. by Chairman Bill Carey. Also present were Commissioner Barbara Evans, Commissioner Michael Kennedy, Chief Financial Officer Jane Ellis and Chief Administrative Officer Ann Mary Dussault.

Jane Ellis presented a summary of the budget. A handout with budget information for Fiscal Year 2001 was handed out to the audience.

The first page of the handout is a summarized form of the budget presented in the same format that has been traditionally used by the County. The numbers on the right-hand side of the page represent the resources available for the County, non-tax revenue, cash, motor vehicle, etc. The left-hand side represents the proposal of how those resources will be spent on a fund by fund basis – personnel, operations, capital, cash reserve.

One of the pieces of the puzzle that has not yet been determined is the real mill value for this year. The Department of Revenue should have the final figures by the end of the week. Currently, the County is

operating on the limited assumption that there will be approximately \$1,500 per mill growth. That is a conservative assumption, the actual figure may be somewhat better than that.

The total appropriations as currently proposed are slightly over \$52 million. It was noted that the total figures on the resource side were incorrect. The corrected numbers are: Non-tax Revenue - \$30,583,912; Cash Balance - \$5,386,118; 2% Motor Vehicle - \$1,204,201; 0.5% HB 312 - \$1,655,293; SB 184 - \$288,276; Amount to be Levied - \$15,772,380; and FY 2001 Mills - 115.08.

The \$52 million in appropriations is a significant number. The other piece of information that is significant is the sum of the 2% Motor Vehicle column, the 0.5% HB 312 column and the Amount to be Levied column. That is a reflection of the local property taxes that are being used to support this budget. That total is \$18,631,874. Less than half of the total \$52 million appropriations is being supported by local property tax dollars.

The second page in the handout is a department by department breakdown of what the proposals are in the General Fund.

The third page in the handout is a summary of the original General Fund budget issue and how it has been mostly solved. At the beginning of the budget process, the County's budget exceeded the available funds by about \$3 million. The solutions that have been tentatively identified are to make a 10% reduction in the tax reliance in all of the different functional areas of the County. That provided about \$1.3 million. The Detention Center's proposed tax reliance was reduced by about \$504,000. About \$152,000 from the old mill levies for parks and weeds have been transferred into the general fund. The actual ending cash balance for the General Fund has improved by about \$600,000. Over time the County has accumulated about \$450,000 in cash in the Jail Bond debt service fund which cannot be carried in that fund. That has been transferred to the General Fund as a one-time solution. That money will help rebuild the General Fund's cash balance. That leaves about \$66,000 of the original \$3 million shortfall that has not yet been resolved.

It was emphasized that this is still a proposed budget. It is a work in progress. Between now and the time the budget is adopted, these numbers will change some. Adoption of the budget is August 7, 2000.

The last two pages in the handout are a reflection of the personnel reductions that have been made in order to accomplish the 10% tax reliance reduction. Many different areas had to reduce staff by one or more full time employees or some portion thereof. What is more interesting to the public is what those reductions will mean as far as service is concerned, or how the reductions have been managed.

Within General Government, which includes Clerk & Recorder, Treasurer, the Commissioners Office and other internal support functions in the County, acquiring some new software will help mitigate the impacts in the Clerk & Recorder's Office and the Treasurer's Office. By spending money on technology, the County will be able to process on an ongoing basis more transactions with less personnel costs.

One place that will continue to see a problem within General Government will be Motor Vehicles. Because new plates are being issued this year, the lines at Motor Vehicles are back. If staff could be added, it is possible those lines could go away, but that will not happen this year. That is one of the major consequences of the budget cuts this year.

In the area of Criminal Justice, there will be more reliance on grants to support youth programs. There will also probably be an overall slowdown within the Criminal Justice system as a whole.

In Public Safety, the Sheriff's Office Downtown operations (everything except the Detention Center) have eliminated three sworn officer positions have been eliminated. They were not laid off, it was a function of attrition. This means there are fewer officers to work with currently. The department is actively pursuing a Federal grant that they hope will replace those three officers, but the grant has not been approved yet. The specific program that will be impacted by the staff reduction will be having officers in the schools and preventative measures with youth. The County is also exploring a Records Management System. The long term solution will be improved technology to process more information with less personnel.

At the Detention Center a retroactive phase in of the County side has been done. There are three units at the Detention Center, one was always intended to be State and one was always intended to be County. A way to rent half the third, smaller unit to the State has been devised which increases revenue. Staffing at the Detention Center has also been re-examined. A reduction in staffing levels can be accomplished by "power-shifting," which involves having less staff on duty during non-peak hours.

The Emergency Management departments, OEM and 9-1-1, have been reorganized to create more efficiency. 9-1-1 will also rely more heavily on State money.

In Public Works there will be reductions in local dollars for project funding and an increased reliance on grants for road construction. Another on-going concern that will probably get worse is the rolling stock of the Road Department will not be replaced as rapidly as it should be and the age of the fleet is increasing.

Special Funds, Planning and Human Services, will have more emphasis on regulatory processes in the Office and Planning and Grants and less emphasis on planning activities. There will also be decreased support for the Community Based Organizations.

Culture and Recreation, Western Montana Fair, will have increased reliance on non-tax revenue. The Historical Museum will have shortened hours and increased user fees. The Extension Office is looking at elimination of the Family and Consumer Sciences Program.

All County departments were given the opportunity to manage their reductions however best they could with the least impacts to the public. These were not Commissioner-imposed decisions. There is an opportunity for public comment to possibly change some of those decisions. It is also important to keep in mind that while

these cuts will be painful and some services will be reduced, there are no cuts that will cause the "world to come to an end."

Ann Mary Dussault, Chief Administrative Officer, pointed out that the third page of the handout reflects the percentage of change for each department. The percentages presented on this page are budgetary changes which are not necessarily the same as the 10% reduction in their tax funding reliance.

Chairman Carey asked for public comments. The following people spoke in support of:

Speaker's Name	In Support of
Vickie Zeier, Clerk & Recorder/Treasurer	Motor Vehicle Department
Karyn Collins	Partnership Health Center
Hal Braun	Partnership Health Center
Beryl Stover	Extension Office – Family and Consumer Science Program
Jan Hulme	Extension Office – Family and Consumer Science Program
Matt Gibsen	Missoula Food Bank
Kelly Rosenleaf	Child Care Resources
Jim Morton	SSIT and Displaced Homemaker
Kelly Slattery-Robinson	YWCA
Kate Jerrim	SSIT and Displaced Homemaker
Dave Tawney	Partnership Health Center
Debra Talbot-Transon (with letter from Grant Winn)	Partnership Health Center
Dr. John Klocek	Partnership Health Center
Laure Pengelly	Poverello Center
Ron Rockos (Rocky)	Partnership Health Center
Margaret Watson	Mental Health Center

There being no further comments, Chairman Carey continued the Public Hearing on the Fiscal Year 2001 Budget at 3:40 p.m. The hearing will reconvene on Thursday, July 27, 2000, at 7:00 p.m. at the Library.

THURSDAY, JULY 27, 2000

The Board of County Commissioners met in regular session; all three members were present in the forenoon. The Commissioners were out of the office all afternoon.

Plat – The Commissioners signed the plat for Ruthanna Addition, a subdivision of Missoula County, located in the SW¼ of Section 10 and NW¼ of Section 15, T 12 N, R 20 W, PMM, a total area of 7.95 acres, with the owner of record being Earl M. Pruyn.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, no items were signed.

Discussion items included:

- 1) Doug Chase and Mike McMeekin were in attendance to discuss the law enforcement plan during the time the Hell's Angels will be in the area of Missoula.
- 2) The availability of the County Commissioners during the month of August was discussed.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

FISCAL YEAR 2001 BUDGET HEARING

PRELIMINARY HEARING

THURSDAY, JULY 27, 2000 – 7:00 P.M.

MISSOULA PUBLIC LIBRARY – LOWER LEVEL MEETING ROOM

The Preliminary Hearing on the Fiscal Year 2001 Budget was reconvened at 7:00 p.m. by Chairman Bill Carey. Also present were Commissioner Barbara Evans, Commissioner Michael Kennedy, Chief Financial Officer Jane Ellis and Chief Administrative Officer Ann Mary Dussault.

Jane Ellis presented a summary of the budget. A handout with budget information for Fiscal Year 2001 was handed out to the audience.

The first page of the handout is a summarized form of the budget presented in the same format that has been traditionally used by the County. The numbers on the right-hand side of the page represent the resources available for the County, non-tax revenue, cash, motor vehicle, etc. The left-hand side represents the proposal of how those resources will be spent on a fund by fund basis – personnel, operations, capital, cash reserve.

One of the pieces of the puzzle that has not yet been determined is the real mill value for this year. The Department of Revenue should have the final figures by the end of the week. Currently, the County is operating on the limited assumption that there will be approximately \$1,500 per mill growth. That is a conservative assumption, the actual figure may be somewhat better than that.

The total appropriations as currently proposed are slightly over \$52 million. It was noted that the total figures on the resource side were incorrect. The \$52 million in appropriations is a significant number. The other piece

of information that is significant is the sum of the 2% Motor Vehicle column, the 0.5% HB 312 column and the Amount to be Levied column. That is a reflection of the local property taxes that are being used to support this budget. That total is \$18,631,874. Less than half of the total \$52 million appropriations is being supported by local property tax dollars.

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It was emphasized that this is still a proposed budget. It is a work in progress. Between now and the time the budget is adopted, these numbers will change some. Adoption of the budget is August 7, 2000.

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Within General Government, which includes Clerk & Recorder, Treasurer, the Commissioners Office and other internal support functions in the County, acquiring some new software will help mitigate the impacts in the Clerk & Recorder's Office and the Treasurer's Office. By spending money on technology, the County will be able to process on an ongoing basis more transactions with less personnel costs.

One place that will continue to see a problem within General Government will be Motor Vehicles. Because new plates are being issued this year, the lines at Motor Vehicles are back. If staff could be added, it is possible those lines could go away, but that will not happen this year. That is one of the major consequences of the budget cuts this year.

In the area of Criminal Justice, there will be more reliance on grants to support youth programs. There will also probably be an overall slowdown within the Criminal Justice system as a whole.

In Public Safety, the Sheriff's Office Downtown operations (everything except the Detention Center) have eliminated three sworn officer positions have been eliminated. They were not laid off, it was a function of attrition. This means there are fewer officers to work with currently. The department is actively pursuing a Federal grant that they hope will replace those three officers, but the grant has not been approved yet. The specific program that will be impacted by the staff reduction will be having officers in the schools and preventative measures with youth. The County is also exploring a Records Management System. The long term solution will be improved technology to process more information with less personnel.

At the Detention Center a retroactive phase in of the County side has been done. There are three units at the Detention Center, one was always intended to be State and one was always intended to be County. A way to rent half the third, smaller unit to the State has been devised which increases revenue. Staffing at the Detention Center has also been re-examined. A reduction in staffing levels can be accomplished by "power-shifting," which involves having less staff on duty during non-peak hours.

The Emergency Management departments, OEM and 9-1-1, have been reorganized to create more efficiency. 9-1-1 will also rely more heavily on State money.

In Public Works there will be reductions in local dollars for project funding and an increased reliance on grants for road construction. Another on-going concern that will probably get worse is the rolling stock of the Road Department will not be replaced as rapidly as it should be and the age of the fleet is increasing.

Special Funds, Planning and Human Services, will have more emphasis on regulatory processes in the Office and Planning and Grants and less emphasis on planning activities. There will also be decreased support for the Community Based Organizations.

Culture and Recreation, Western Montana Fair, will have increased reliance on non-tax revenue. The Historical Museum will have shortened hours and increased user fees. The Extension Office is looking at elimination of the Family and Consumer Sciences Program.

Chairman Carey asked for public comments. The following people spoke in support of:

Speaker's Name	In Support of
James Carkulis	Funding for a Lobbyist for the Legislative Session and the Community Based Organizations
Robert Brown	Restroom facilities at the Historical Museum
Merry Hutton	Partnership Health Center
Velma Cameron	Partnership Health Center
Tina Gottfried	Family Basics Rent and Security Deposit Program
Rita Uylaki	Sheriff's Department
Gene Durand	Mental Health Center and Services

Fran Maronick	Watson Children's Shelter
Michael Johnson	Salvation Army
Margaret Watson	Mental Health Center and Services

There being no further comments, Chairman Carey continued the Public Hearing on the Fiscal Year 2001 Budget at 7:45 p.m. The hearing will reconvene on Wednesday, August 2, 2000, at 2:30 p.m., in Room 201 of the Courthouse Annex.

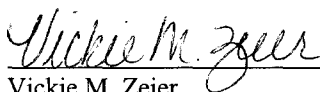
FRIDAY, JULY 28, 2000


The Board of County Commissioners met in regular session; a quorum of members was present in the forenoon. The Commissioners were out of the office all afternoon.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated July 27, 2000, batch numbers 775, 776, and 777 (pages 1-7), with a grand total of \$266,559.77. The Claims List was returned to the Accounting Department.

Indemnity Bond -- Chairman Carey examined, approved, and ordered filed an Indemnity Bond naming Technology Express as principal for Warrant #26635, issued April 26, 2000 on the Missoula County General & Technology Fund in the amount of \$1,152.88, now unable to be found.

Grant Applications -- Chairman Carey signed the EPA Federal Assistance Grant Application packets for the El Mar Estates and Lolo RSID 901 wastewater facilities. The packets were returned to Jim Boyter at the Environmental Protection Agency's (EPA) office in Helena, Montana.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chairman
Board of County Commissioners

MONDAY, JULY 31, 2000

The Board of County Commissioners met in regular session; all three members were present in the forenoon. Commissioner Kennedy was out of the office all afternoon.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated July 28, 2000, batch number 778 (pages 1-3), with a grand total of \$15,782.85. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated July 31, 2000, batch number 779 (pages 1-2), with a grand total of \$172.40. The Claims List was returned to the Accounting Department.

Budget Transfer -- The Commissioners signed Budget Transfer No. 00-020 for the Health Department transferring \$6,000 (\$3,000 from Capital-Contingency Fund and \$3,000 from Contracted Services) to Capital-Vehicle, in order to move budget to capital line.

Agreement -- Chairman Carey signed an agreement between Missoula County ("County") and the Montana Department of Environmental Quality ("DEQ"), the purpose being to delegate to the County, pursuant to Section 76-4-128, MCA, the authority to review certain water supply, wastewater, and stormwater systems in minor subdivisions (five or fewer parcels). The County will review minor subdivision applications for completeness and to determine whether certain systems, which are identified in Section IV, comply with the Sanitation in Subdivision Act, the Montana Water Quality Act, and applicable administrative rules and Circulars; and also to provide reimbursement to the County for performing site evaluations and related services for major and minor subdivisions. Performance shall begin on July 1, 2000, and shall continue through June 30, 2001. In consideration of services rendered, DEQ agrees to pay County, on a quarterly basis, the fees set out in the most current version of ARM 17.36.804 for the subdivisions that County reviews, and for site evaluations and related services. The agreement was returned to the Health Department for further handling.

Agreement -- Chairman Carey signed an agreement between Missoula County ("Missoula") and the Montana Department of Environmental Quality ("DEQ") for the purpose of assisting Missoula to conduct its own air pollution control program pursuant to Section 75-2-301, MCA. Performance shall begin on July 1, 2000 and must be completed by June 30, 2001. DEQ agrees to pay Missoula up to a maximum of \$89,324 by reimbursing Missoula for each quarter's reimbursable expenditures. The agreement was returned to the Health Department for further handling.

TUESDAY, AUGUST 1, 2000

The Board of County Commissioners met in regular session; a quorum of members was present.

Claims List -- Chairman Carey and Commissioner Kennedy signed the Claims List, dated August 1, 2000, batch number 780 (pages 1-3), with a grand total of \$41,787.14. The Claims List was returned to the Accounting Department.

Monthly Report - Chairman Carey examined, approved and ordered filed the Monthly Reconciliation Report for the Clerk of the District Court, Kathleen Breuer, for the month ending July 31, 2000.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Payroll Transmittal -- The Commissioners signed the following Payroll Transmittal Sheet: Pay Period: 15 - Pay Date: July 28, 2000 - Total Missoula County Payroll: \$734,845.55. The Transmittal Sheet was returned to the Auditor's Office.

Resolution No. 2000-063 -- The Commissioners signed Resolution No. 2000-063 (replacing Resolution No. 99-039), entitled: "Resolution Fixing Salaries of Certain Elected Officials." This Resolution, dated August 1, 2000, states that, effective on the first day of July, 2000, the annual salaries of certain elected County officials are fixed as follows:

Clerk of the District Court	\$43,241.47
County Auditor	\$43,241.47
County Surveyor	\$43,241.47
County Commissioner	\$45,241.47
Clerk & Recorder/Treasurer	\$51,889.77
County Superintendent of Schools	\$45,241.47
County Attorney	\$72,453.28 [includes longevity under 7-4-2503(3)(d)(ii)]
County Sheriff/Coroner	\$58,361.47 [includes longevity under 7-4-2503(2)(c)]

Resolution No. 2000-064 -- The Commissioners signed Resolution No. 2000-064 (replacing Resolution No. 99-040), entitled: "Resolution Fixing Salaries of County Justices of the Peace." This Resolution, dated August 1, 2000, states that, effective on the first day of July, 2000, the annual salaries of the Missoula County Justices of the Peace are fixed at \$43,691.47.

Agreement -- Chairman Carey signed a Construction Agreement dated July 31, 2000, between Montana Power Company and the Missoula County Airport Industrial District. This Agreement is proposed in order to install, operate, and maintain electric service and primary facilities to Lots 1 and 1A, Block 4, Missoula Development Park, Phase 1. The total cost for installation is \$7,730.00. The Agreement was returned to Barbara Martens in the Projects Office for further handling.

Agreement -- Chairman Carey signed a Construction Agreement dated July 31, 2000, between Montana Power Company and the Missoula County Airport Industrial District. This Agreement is proposed in order to install, operate, and maintain electric and gas service to Lots 1 and 2, Block 6, Missoula Development Park, Phase 1. The cost for the gas extension is \$968.00 and the electric extension is \$6,271.00, for a total installation cost of \$7,239.00. The Agreement was returned to Barbara Martens in the Projects Office for further handling.

Other items included:

- 1) The Commissioners approved and Chairman Carey signed Anton P. Hollinger's shoreline permit request, Permit No. 00-12, to construct a dock on Big Sky Lake. The property is at North Perimeter Road, legally described as Township 16, Range 14, Section 29, NW¼, Plat N9, 103.7 acres. The permit was returned to Brian Mairorano in the Office of Planning and Grants for further handling.
- 1) The Commissioners approved the payment of dues for Fiscal Year 2001 Montana Association of Counties ("MACo"). This payment, which totals \$7,000.00, is due within 45 days of the billing date (July 1, 2000), as set forth in the MACo By-Laws, Article II, Section 4.
- 2) The Commissioners approved a motion authorizing Chairman Carey or Acting Chairman to sign Declarations relative to fire emergencies.

Discussion items included:

- 1) Draft Employment Agreement with Greg Robertson, Director of Public Works; and
- 2) An update on the fire and drought conditions in Missoula County, presented by Bill Silverman.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, AUGUST 2, 2000

The Board of County Commissioners met in regular session; a quorum of members was present.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated August 2, 2000, batch number 784 (pages 1-2), with a grand total of \$94,430.20. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated August 2, 2000, batch number 785 (pages 1-2), with a grand total of \$272,500.00. The Claims List was returned to the Accounting Department.

Resolution No. 2000-065 -- The Commissioners signed Resolution No. 2000-065, dated August 2, 2000, entitled: "Emergency Resolution Prohibiting Open Burning", which states that any person who ignites any open fire without a written permit from the fire protection agency with jurisdiction over the area in which the fire is ignited is guilty of a misdemeanor.

PUBLIC MEETING – August 2, 2000

The Public Meeting was called to order at 1:30 p.m. by Chairman Bill Carey. Also present were Commissioner Barbara Evans, County Surveyor Horace Brown, Deputy County Attorney Colleen Dowdall and Chief Civil Attorney Michael Sehestedt. Commissioner Michael Kennedy was out of the office.

Public Comment

Jean Starr read the following statement:

"I would like to ask the following of the Commissioners. I want someone to please tell me (in writing) why Jane Ellis – the person that was in the finance office, where the County has a \$2 million deficit, and I want to make it clear that I am not making allegations of any sort to the reason for the deficit – has been given not less than 2 new positions within the County of Missoula as of September 1. The first is being that of 9-1-1 Director and the other as DES Coordinator. These two positions are both highly technical and demanding. Not to mention that these two positions cannot be conjoined because, in a crisis or in everyday situations, the two positions play separate roles. And as I see it, there is going to be an inadequate job done at both, because both require a full time dedication to the safety and planning for the public of Missoula County.

The person being taken out of DES, Bill Silverman, is highly qualified in the field and is able to put forward a full time effort in this position. With regard to the cost effectiveness of the DES position, his salary is costing the County a mere \$30,000 a year and \$15,000 of that money is subsidized through the State of Montana. So please explain the bizarre reasoning for this change.

I am requesting the following:

- The County budget for 1999-2000*
- The proposed budget for 2000-2001*
- Salaries for all Department Heads*
- A written explanation to the \$2 million deficit*
- A copy of all promotions and demotions within the County due to the budget deficit. Also their salary increases or decreases."*

Chairman Carey stated they would respond to her questions in writing.

Commissioner Evans explained that there was not a \$2 million deficit, the budget has been balanced. The items Ms. Starr requested are all a matter of public record and she will receive a copy of them.

Routine Administrative Actions

Commissioner Evans moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$324,302.16. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Hearing: Richard Anderson Family Transfer

Chairman Carey opened the hearing on the Richard Anderson Family Transfer.

Colleen Dowdall, Deputy County Attorney, presented the staff report.

This is a consideration of a request to create a family transfer parcel for Tract 6 of COS 3936, located in Section 25, Township 12 North, Range 20 West.

Richard Anderson has submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately twenty-one acres in size located off Oral Zumwalt Way. Mr. Anderson proposes to create two ten acre parcels for transfer to his son, Richard Todd Anderson.

The history of the parcel is as follows:

Parcel History	Year	Exemption Used	Owner	Result
Tract 6	1991	Parcels greater than 20 acres	McCullough Brothers	Creation of 6 parcels greater than 20 acres

According to the records kept by the Missoula County Surveyor, the applicant has not used the exemptions to the Subdivision and Platting Act as set forth.

Richard Anderson was present and came forward to answer any questions the Commissioners may have. He stated that the restrictive covenants of the area demanded that there be no tract smaller than 9 acres. The smallest tract he would create would be 10 acres.

Commissioner Evans stated the reason Mr. Anderson was present for this hearing was that, by law, the Commissioners have to determine whether this split is being done legitimately in order to give a piece of land to a family member, or if it is an attempt to evade the Subdivision Act.

Richard Anderson stated his son is his heir. He has owned this property for approximately 8-1/2 years. He is retiring and would like to move to Montana and build a house on this property. He wants his son to have half the property so he can build on it at sometime in the future. He asked if there was a restriction as to when this property had to be developed?

Commissioner Evans stated there were no restrictions. The Commissioners main purpose was to determine if this is a legitimate use of the exemption.

Richard Anderson asked what the next step in the procedure was? He has talked to a surveying firm who will handle the survey and filing with the County. Does the surveyor handle the filing? Then what happens?

Colleen Dowdall stated the surveyor can file the survey for him or he can file it himself, that is a matter to be discussed with the surveying firm. Once the letter of approval is received, the survey work can be done and the Certificate of Survey can be recorded. At that time, the property has to be deeded to his son as well.

Richard Anderson asked if a perc test was required on both pieces of property?

Colleen Dowdall stated that sanitary restrictions had to be lifted on both pieces of property.

Commissioner Evans stated that approval of the family transfer does not give automatic approval of septic systems. The health department makes that determination. The approval also does not mean the County will put in roads, maintain roads, etc. The approval letter will explain what has been granted and what may still be needed.

Richard Anderson asked if there was a cost to the County from him after approval, or would that be included in the recording fees?

Colleen Dowdall stated there is a filing cost for the Certificate of Survey and for the deed, but for the approval process there is no fee.

There being no further comments, the public hearing was closed.

Commissioner Evans moved that the Board of County Commissioners approve the request by Richard Anderson to create a new parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Hearing: Welty Family Transfer

Chairman Carey opened the public hearing on the Welty Family Transfer.

Colleen Dowdall, Deputy County Attorney, presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described in Tract 2, COS 4890, Sections 14 and 22, Township 13 North, Range 18 West.

Lynn and Connie Welty have submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is 7.218 acres in size located near Bonner, off Chaffey Lane. Lynn and Connie Welty propose to create a parcel of unknown size, south of Chaffey Lane, for transfer to their adult son, Charles Welty.

The history of the parcel is as follows:

Parcel History	Year	Exemption Used	Applicant	Resulting Parcel
Tract A, COS 3759	1990	Court Ordered	Deloris Lear	Created parcel around existing home
Tract 2, COS 4890	1998	Boundary Adjustment	Lynn & Connie Welty	Added land sold by Plum Creek
COS 4903	1999	Boundary Adjustment	Lynn & Connie Welty	Adjusted boundary to match occupation lines with brother

According to the records kept by the Missoula County Surveyor, the applicant has used the exemptions to the Subdivision and Platting Act as set forth.

Lynn Welty was present and came forward to answer any questions the Commissioners may have.

Chairman Carey explained the Family Transfer process and asked for assurance from Mr. Welty that this was indeed a transfer to a family member and not an attempt to evade the Subdivision Act.

Lynn Welty stated he did plan to give the land to his son. His son has even promised to pay him sometime, contingent on winning the lottery!

There being no further comments, the public hearing was closed.

Commissioner Evans moved that the Board of County Commissioners approve the request by Lynn and Connie Welty to create a new parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Consideration: Blixt Addition (2 lots) – Melody Lane (South of Kona Ranch Road)

Nancy Heil, Office of Planning and Grants, presented the staff report.

This is a request by Beverly Blixt, represented by Professional Consultants, Inc., to divide a 2.5 acre parcel into two lots, each 1.25 acres in size. It is located in the Big Flat area, south of Kona Ranch Road and west of the Clark Fork River, at the corner of Melody Lane and Jennifer Place.

The property is open grassland, it was formerly pasture land. There is one single family residence on the property now, with a well and a septic system. The centerline of the Big Flat Irrigation Ditch forms the eastern boundary of the property.

It is zoned C-RR1, which is a residential district with a density of one dwelling unit per acre. It is located outside of the building permit jurisdiction. The Comprehensive Plan designates the property as Rural Residential, with a density of one dwelling unit per 5-10 acres and parks and open space.

The new lot would be served by Melody Lane, a County maintained gravel road about 22 feet wide with a 36 foot diameter hammerhead. The applicant has requested a variance from improvements to County standards for this road. Staff is recommending approval of that variance with conditions. One is an RSID waiver for improvements to Melody Lane and the other is a condition that the new driveway serving Lot B be constructed to function as a hammerhead turnaround. That is based on the recommendation of the fire district.

The existing home is accessed from Jennifer Place, which is privately maintained. It is also a gravel road, about 14-16 wide, within a public right-of-way. There is a compacted shoulder on the west side of the road that provides additional driving surface. That road currently serves three residences, the existing residence on Lot 7A and two other residences and a tree farm. The fire district has stated that the driving surface and the existing driveway for that property are adequate for fire access. The road is maintained through a informal agreement among the owners that use that road. Condition 3 requires a road maintenance agreement for Jennifer Place be developed.

There are currently no walkways along Melody Lane or Jennifer Place and the applicant has requested a variance from the requirement to provide walkways. Staff is recommending approval of that variance request with the condition that RSID waivers be filed, should those be needed in the future.

The FEMA maps indicate that the northern portion of the property is within the 500 year floodplain of the Clark Fork River. Based on actual ground and flood elevations, the northeast portion of the property is located within the 100 year floodplain. There are two Conditions of Approval related to floodplain. One is that floodplain areas be shown on the plat and also that the lowest first floor, including basements, of all structures anywhere on the property be at least two feet above 100 year flood elevation. These recommendations are included in a Development Agreement or Covenant, because the property is located outside the Building Permit jurisdiction. That was the only mechanism available to regulate those recommendations.

A new individual well and septic system are proposed for the new lot. There is no easement shown on the plat along the irrigation ditch, so there is a condition that an easement be shown, subject to ditch company approval. Fifteen feet would be consistent with what the ditch company shows on their maps. The Clark Fork River is about 1,000 feet to the east of the property.

Fish, Wildlife and Parks recommended some covenants related to living with wildlife concerns, as noted in Condition 9. Due to some knapweed and the disturbance during construction on the property, staff has recommended that a revegetation plan for disturbed sites be filed, as noted in Condition 10.

Staff is recommending approval of the four variance requests and approval of the subdivision subject to 11 conditions as noted in the staff report.

Chairman Carey asked for public comment.

John Kellogg, Professional Consultants, Inc., developer's representative was present, as was the developer's son, Tony Blixt. Mr. Kellogg stated this process has been underway quite a long time. Ground water monitoring was started last year. Mr. Haaglund, a neighbor to the north, has a basement in his house and has never experienced ground water problems in the area. During the process of ground water testing and approval from the Commissioners and Health Department, Mr. Blixt passed away. His widow, Beverly Blixt, is completing the subdivision process. Her son, Tony Blixt, is present today to represent her. They are in agreement with the recommendations of staff and the floodplain administrator. Based on zoning and surrounding uses, the proposal is appropriate.

There were no further public comments.

Commissioner Evans moved that the Board of County Commissioners approve the variance request from Article 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways in the subdivision; approve the variance request from Article 3-2(3) of the Missoula County Subdivision Regulations for Melody Lane to vary from the 24 foot road width and the 35 foot radius turnaround requirement; approve the variance request from Article 3-2(3) of the Missoula County Subdivision Regulations for Jennifer Place to vary from the 24 foot road width and the 35 foot radius turnaround requirement; and approve the variance request from Article 3-2(10)(B)(1) of the Missoula County Subdivision Regulations for paving of Jennifer Place; all based on the findings of fact set forth in the staff report. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Commissioner Evans moved that the Board of County Commissioners approve the Blixt Addition Summary Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Blixt Addition Summary Subdivision Conditions of Approval:

1. The following statement shall appear on the face of the plat and in each instrument of conveyance

"Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for improvements to Melody Lane and Jennifer Place, including but not limited to paving, street widening, installation of pedestrian walkways or bikeways, drainage facilities, and curbs and gutters, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors, and assigns of the owners of the land." *Subdivision Regulations Article 3-2 and County Surveyor recommendation.*

2. The driveway location for Lot 7B shall be shown on the final plat. The driveway design and location for Lot 7B shall be approved by the Missoula Rural Fire District prior to final plat approval. The applicant shall file a development agreement prior to final plat approval, subject to County Attorney Office approval, that states the following:

"The new driveway for Lot 7B shall be constructed so that it can function as a turnaround for emergency vehicles on Melody Lane. Driveways longer than 150 feet long shall have an emergency turnaround for fire apparatus within 150 feet of the building. Driveways longer than 150 feet shall have a minimum unobstructed width of 20 feet and an unobstructed vertical clearance of 13 feet 6 inches. Failure to build and maintain the driveway turnaround for fire apparatus may result in the inability of the fire protection agencies to access the property for emergency services. The final design shall be approved by the Missoula Rural Fire District." *Subdivision Regulations Article 3-2(6) and Missoula Rural Fire District and staff recommendation.*

3. The applicant shall provide evidence of a road maintenance agreement for Jennifer Place, subject to County Attorney's Office approval, prior to plat filing. The agreement shall include provision for snow plowing and dust abatement. *Subdivision Regulations Article 3-2(1)(H) and staff recommendation.*

4. The County Surveyor shall approve drainage plans for the site prior to final plat approval. *Subdivision Regulations Article 3-4.*

5. The developer shall contribute \$100.00 per new lot to the Missoula Rural Fire District. Evidence of contribution shall be presented to the Office of Planning and Grants at the time of final plat approval. *Subdivision Regulations Article 3-7(2) and Missoula Rural Fire District recommendation.*

6. The following statement shall appear on the face of the plat and in each instrument of conveyance:

"Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for public water systems, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors, and assigns of the owners of the land." *Subdivision Regulations Article 3-7(2).*

7. The plat shall show the location of any areas within the 100 year and 500 year floodplains, subject to Floodplain Administrator approval. A licensed Surveyor shall certify that the elevations shown on the plat are tied to the same datum as the FEMA floodplain benchmarks. Areas below the 100 year flood elevation shall be designated as no-build zones on the plat. *Subdivision Regulations Articles 3-1(1)(B), 4-1(12) and Floodplain Administrator recommendation.*

8. A development covenant shall be filed prior to final plat approval, subject to OPG and County Attorney approval, which states the following:

"No structures or fill shall be placed in any areas within the 100 year floodplain. The lowest floor, including basements, of any structure anywhere on the property shall be at least 2 feet above the 100 year flood elevation. Crawlspace floors may be at or above the elevation of the 100 year flood if they do not contain mechanicals. The driveway for Lot 7B shall be constructed at the existing grade." *Subdivision Regulations Article 3-1(1)(B), 4-1(12) and Floodplain Administrator recommendation.*

9. A development covenant shall be filed prior to final plat approval, subject to OPG and County Attorney approval, which states that homeowners accept responsibility of living with wildlife and will be responsible for protection of their vegetation from damage, confinement of pets, and proper storage of garbage and other attractants. The development covenant shall include specific "Living with Wildlife" recommendations. *Subdivision Regulations Article 4-1(12) and Montana Fish, Wildlife, and Parks recommendation.*

10. A Revegetation Plan for Disturbed Sites shall be approved by the Missoula County Weed Board prior to final plat approval. *Subdivision Regulations Article 3-1(1)(B) and staff recommendation.*

11. The plat shall include a 15 foot wide easement for the irrigation ditch, subject to Big Flat Irrigation District approval. *Subdivision Regulations Article 3-6 and staff recommendation.*

There being no further business to come before the Board, the Commissioners were in recess at 1:53 p.m.

FISCAL YEAR 2001 BUDGET HEARING

FINAL HEARING

WEDNESDAY, AUGUST 2, 2000 – 2:30 P.M.

ROOM 201 – COURTHOUSE ANNEX

The Final Hearing on the Fiscal Year 2001 Budget was reconvened at 2:30 p.m. by Chairman Bill Carey. Also present were Commissioner Barbara Evans, Commissioner Michael Kennedy, Chief Financial Officer Jane Ellis and Chief Administrative Officer Ann Mary Dussault.

Jane Ellis presented a summary of the budget. A handout with budget information for Fiscal Year 2001 was handed out to the audience.

The first page of the handout is a summarized form of the budget presented in the same format that has been traditionally used by the County. The numbers on the right-hand side of the page represent the resources available for the County, non-tax revenue, cash, motor vehicle, etc. The left-hand side represents the proposal of how those resources will be spent on a fund by fund basis – personnel, operations, capital, cash reserve. The total proposed expenditures currently are \$52.1 million. In the General Fund alone, the proposed expenditures are \$19.7 million. The tax support for the entire \$52 million budget is about \$18.6 million. For the \$19.7 million General Fund proposed budget, the property tax support is \$10.6 million.

The second page in the handout is a department by department breakdown of what the proposals are in the General Fund.

The third page in the handout is a summary of the original General Fund budget issue and how it has been mostly solved. At the beginning of the budget process, the County's budget exceeded the available funds by about \$3 million. The solutions that have been tentatively identified are to make a 10% reduction in the tax reliance in all of the different functional areas of the County. That provided about \$1.3 million. The Detention Center's proposed tax reliance was reduced by about \$504,000. About \$152,000 from the old mill levies for parks and weeds have been transferred into the general fund. The actual ending cash balance for the General Fund has improved by about \$600,000. Over time the County has accumulated about \$450,000 in cash in the Jail Bond debt service fund which cannot be carried in that fund. That has been transferred to the General Fund as a one-time solution. That money will help rebuild the General Fund's cash balance. About \$35,000 in non-tax revenue has also been identified. That leaves about \$30,000 left to resolve. The departments are to be credited for their hard work and cooperation with the 10% reductions.

The remaining good news is that the information about property tax values for the upcoming fiscal year is better than anticipated. The value of newly taxable property is about \$5,300 per mill, greater than last year. This may allow the Commissioners to re-examine some of the reductions.

The last two pages in the handout are a reflection of the personnel reductions that have been made in order to accomplish the 10% tax reliance reduction. Many different areas had to reduce staff by one or more full time employees or some portion thereof. What is more interesting to the public is what those reductions will mean as far as service is concerned, or how the reductions have been managed.

Within General Government, which includes Clerk & Recorders/Treasurers, the Commissioners Office and other internal support functions in the County, acquiring some new software will help mitigate the impacts in the Clerk & Recorder's Office and the Treasurer's Office. By spending money on technology, the County will be able to process on an ongoing basis more transactions with less personnel costs.

One place that will continue to see a problem within General Government will be Motor Vehicles. Because new plates are being issued this year, the lines at Motor Vehicles are back. If staff could be added, it is possible those lines could go away, but that will not happen this year. That is one of the major consequences of the budget cuts this year. The hours for the Treasurer's Office have also been reduced by one hour to allow staff to work on incoming mail and title work prior to waiting on the public.

In the area of Criminal Justice, there will be more reliance on grants to support youth programs. There will also probably be an overall slowdown within the Criminal Justice system as a whole.

In Public Safety, the Sheriff's Office Downtown operations (everything except the Detention Center) have eliminated three sworn officer positions have been eliminated. The department is actively pursuing a Federal grant that they hope will replace those three officers, but the grant has not been approved yet. The specific program that will be impacted by the staff reduction will be having officers in the schools and working on preventative measures with youth. The County is also exploring a Records Management System. The long term solution will be improved technology to process more information with less personnel.

At the Detention Center a retroactive phase in of the County side has been done. There are three units at the Detention Center, one was always intended to be State and one was always intended to be County. A way to rent half the third, smaller unit to the State has been devised which increases revenue. Staffing at the Detention Center has also been re-examined. A reduction in staffing levels can be accomplished by "power-shifting," which involves having less staff on duty during non-peak hours.

The Emergency Management departments, OEM and 9-1-1, have been reorganized to create more efficiency. 9-1-1 will also rely more heavily on State money.

In Public Works there will be reductions in local dollars for project funding and an increased reliance on grants for road construction. Another on-going concern that will probably get worse is the rolling stock of the Road Department will not be replaced as rapidly as it should be and the age of the fleet is increasing.

Special Funds, Planning and Human Services, will have more emphasis on regulatory processes in the Office and Planning and Grants and less emphasis on planning activities. There may also be decreased support for the Community Based Organizations. That area is one that has been quickly evolving in the past week and some monies may be restored.

Culture and Recreation, Western Montana Fair, will have increased reliance on non-tax revenue. The Historical Museum will have shortened hours and increased user fees. The Extension Office is looking at elimination of the Family and Consumer Sciences Program.

Again, all departments are to be credited for working hard to find those numbers and figuring out the best way to make reductions with minimal impact on the public.

Chairman Carey asked for public comments. The following people spoke in support of:

Speaker's Name	In Support of
Phyllis Jamison	Cat control for City and County at Animal Control
Valerie Hedquist	4-H program at Extension Office
Tina Gottfried	Housing Counseling Program – Rent Stabilization and Security Deposit Program
Rita Uylaki	Sheriff's Department, lack of public participation and press coverage of the budget process, the perception that there was no room for significant changes in the budget and general comments about the public process.

Commissioner Evans responded to Ms. Uylaki's comments that the budget was not a done deal and the Commissioners would be working on finalizing the distribution of available funds over the next two days before the budget was adopted next Monday.

Rita Uylaki stated that her comment was that there was "no room for any significant changes" to the budget.

Ann Mary Dussault read a memo from Jim Morton, Human Resource Council (HRC), clarifying his position on the allocations to the SSIT and Displaced Homemaker programs. The budgeted amount were acceptable to HRC.

As there were no further comments, Chairman Carey closed the public hearing.

There being no further business to come before the Board, the Commissioners were in recess at 3.00 p.m.

THURSDAY, AUGUST 3, 2000

The Board of County Commissioners met in regular session; a quorum of members was present.

Claims List – The Commissioners signed the Claims List, dated August 3, 2000, batch numbers 790, 789, 788, 787, and 782 (pages 1-12), with a grand total of \$257,406.07. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Agreement – The Commissioners signed an Employment Agreement, dated August 3, 2000, by and between the Board of Missoula County Commissioners ("Employer") and Gregory H. Robertson ("Employee"). This Agreement appoints Mr. Robertson as County of Missoula Director of Public Works 10/99, performing professional work as a department head providing leadership and expertise in delivering public works services to Missoula County citizens, as per the duties set forth in the Agreement. Effective August 1, 2000, the starting salary will be set at \$64,000 per year, which will be increased to \$66,560 effective on February 4, 2001, provided Mr. Robertson's overall job performance is satisfactory to the Employer. The Employer agrees to pay Employee's moving company up to \$3,000 for moving expenses. Employee will make arrangements for Employee's moving company to bill the Employer directly.

Addendum – The Commissioners signed an Addendum to an Agreement, dated on or about February 22, 2000, between Missoula County ("Seller") and Pegasus Properties, LLC and Montana Regional Orthopedics, LLC ("Buyer"), concerning and involving the parcel of real property known as: Parcel 1 of Certificate of Survey No. 4884, the same being a parcel of property located in the S½ of Section 17, Township 13N, Range 19W, P.M.M., Missoula County, Montana, consisting of approximately 13.732 acres. The Agreement is amended in Section 4 ("Buyer's Contingencies") to provide that the 120 day contingency period afforded to the buyer is extended until 5:00 p.m., September 8, 2000; and Section 15 ("Closing") is amended to state that if the four acre parcel is not available for conveyance to Buyer by Seller by September 20, 2000, Buyer may, at its election, cancel the Agreement and terminate the transaction, receiving a full refund of the Buyer's earnest money.

Amendment – The Commissioners signed an Amendment to the Memorandum of Agreement Between The Missoula Board of County Commissioners and Missoula County Public Schools, dated July 1, 2000, amending the total value of the Agreement from \$82,860.00 to \$83,360.00. The duration will be twelve months, commencing on October 1, 2000, and terminating on September 30, 2001.

Other items included:


- 1) Chairman Carey signed Amendment Number One to Task Order Number 00-07-5-21-183-0, dated October 29, 1999, between the Montana Department of Public Health and Human Services and Missoula County. In Section 5 ("Compensation"), the maximum total amount payable as consideration for services performed is amended from \$348,349 to \$359,635. The amount of \$5,444 for state sponsored travel remains the same, with a new grand total of \$365,079 (vs. \$353,793). The Amendment was returned to the Health Department for further handling.
- 2) The Commissioners signed an Agreement between Missoula County/Opportunity Resources Inc. and HDG Architects, P.C., architects for The Pioneer Accessible Home Project, an accessible group home for Opportunity Resources Inc., consisting of two four-bedroom units with living, dining, and kitchen spaces in each unit. The design will also incorporate a common entry office and day room. This project will be built on Lot 38 of Dinsmore's Orchard Homes Addition No. 5 Southwest corner of 3rd and Howard Streets in Missoula, Montana. The parameters are: 4,600 square foot group home with two carports for Opportunity

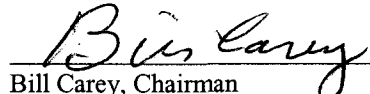
Resources Inc. based on parameters outlined in the grant proposal. Projected occupancy date is January of 2001. The compensation for the project is a lump sum of \$32,800.00. The Agreement was returned to Cindy Wulfekuhle in Office of Planning and Grants for further handling.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, AUGUST 4, 2000

The Board of County Commissioners met in regular session; a quorum of members was present in the forenoon. Commissioner Evans was out of the office all day; Chairman Carey and Commissioner Kennedy were out all afternoon.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chairman
Board of County Commissioners

MONDAY, AUGUST 7, 2000

The Board of County Commissioners met in regular session; a quorum of members was present.

Monthly Report - Chairman Carey examined, approved and ordered filed the Monthly Reconciliation Report for Justice Court 1, John E. Odlin, Justice of the Peace, for the month ending July 31, 2000.

ADMINISTRATIVE MEETING

At the administrative meeting held in the afternoon, the following items were signed:

Resolution No. 2000-066 – The Commissioners signed Resolution No. 2000-066, dated August 7, 2000, which authorizes the Chairman of the Board to execute the deeds, closing statements and other documents required to complete the sale of the Mullan Road property (jail remainder) and the Reserve Street Property (Old County Shops) in accordance with the contracts between Montana Regional Orthopedics (Mullan Road property) and North Reserve Business Center (Reserve Street property) and Missoula County.

Resolution No. 2000-067 – The Commissioners signed Resolution No. 2000-067, entitled: “Adopting a Budget for Missoula County for Fiscal Year 2000-2001.

**RESOLUTION NO. 2000-067
ADOPTING A BUDGET FOR MISSOULA COUNTY
FOR FISCAL YEAR 2000-2001**

WHEREAS, PURSUANT TO SECTION 7-6-2315, MCA, the Board of County Commissioners of Missoula County, Montana, has held public hearings on the proposed budget of Missoula County for Fiscal Year 2000-2001, as required by law; and

WHEREAS, PURSUANT TO SECTIONS 15-10-202 through 15-10-208 MCA, the Board of County Commissioners of Missoula County has held hearings and passed resolutions as applicable under the above section; and

WHEREAS, Sections 7-6-2317 through 7-6-2326, MCA, provide for the fixing of various tax levies to raise funds sufficient to meet said expenditures authorized in the budget; and

WHEREAS, THE DEPARTMENT OF REVENUE is required to certify to the County Commissioners the value of a mill for each taxing jurisdiction in the County under Sections 15-8-201 and 15-10-202 MCA; and

NOW, THEREFORE, BE IT RESOLVED, that the final County Budget for Fiscal Year 2000-2001 be as set out in Attachments A and B, and the same is hereby adopted as the final budget, subject to the conditions set forth below.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the levies as detailed below be fixed and adopted for Fiscal Year 2000-2001, based on the mill value of \$142,223 County-wide, and a value of \$65,534 outside the City limits of Missoula.

<u>MISSOULA COUNTY-WIDE FUNDS</u>	<u>MILLS</u>	<u>ATTACHMENT</u>
General Fund	60.79	A and B
Bridge Fund	4.04	
Poor Fund	3.64	
Fair Fund	0.30	
Museum Fund	1.46	
Extension Fund	1.30	

Weed Fund	2.00
Planning Fund	2.25
District Court Fund	6.56
Mental Health Fund	0.50
Aging Fund	1.09
Park/Recreation Fund	1.00
Risk Management	2.71
Child Daycare	0.25
Library	5.45
Technology	<u>1.14</u>

SUB-TOTAL	94.48
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MISSOULA COUNTY-WIDE DEBT SERVICE

Jail	<u>5.67</u>
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SUB-TOTAL	<u>5.67</u>
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TOTAL COUNTY-WIDE & DEBT SERVICE LEVIES 100.15

Road Fund	16.66
Health Fund	7.82
Animal Control	<u>0.93</u>

TOTAL COUNTY-ONLY LEVY 25.41

DATED THIS 7th DAY OF AUGUST, 2000

APPROVED AS TO FORM & CONTENT:

BOARD OF COUNTY COMMISSIONERS

Michael W. Sehestedt
Deputy County Attorney

Bill Carey, Chairman

ATTEST:

Michael Kennedy, Commissioner

Vickie M. Zeier, Clerk and Recorder

Barbara Evans, Commissioner

Attachments A and B to Resolution 2000-067 are on file in the Clerk and Records Office.

Resolution No. 2000-068 – The Commissioners signed Resolution No. 2000-068, dated August 7, 2000, entitled: “Budget Amendment,” which include the following expenditures in the Formal Fiscal Year 2000 Operating Budget and Fiscal Year 2000 Revenue Estimates for Missoula County, Montana:

DEPARTMENT: Health Fund 2270

<u>Description of Expenditure</u>	<u>Budget</u>
2270-612-447440-111 Perm Salaries	\$ 500
2270-612-447440-121 Overtime	700
2270-612-447440-141 Fringe Benefits	300
2270-612-447440-206 Office Supplies	150
2270-612-447440-311 Printing	250
2270-612-447440-327 Consultants	900
2270-612-447440-357 Meals, Lodge, Inc.	800
2270-612-447440-359 Mileage Private Vehicle	<u>400</u>
	\$4,000
<u>Description of Revenue</u>	<u>Revenue</u>
2270-612-333278 Injury Prevention	\$4,000

DPHHS Contract No. 00-07-3-11-269, Federal Catalog no. 93.127.

Resolution No. 2000-069 – The Commissioners signed Resolution No. 2000-069, dated August 7, 2000, entitled: “Budget Amendment,” which include the following expenditures in the Formal Fiscal Year 2000 Operating Budget and Fiscal Year 2000 Revenue Estimates for Missoula County, Montana:

DEPARTMENT: Health Fund 2270

<u>Description of Expenditure</u>	<u>Adopted</u>	<u>Change Budget</u>	<u>Amended</u>
2270-613-445602-111 Perm Salaries	\$ 3,621	\$ 1,935	\$ 5,556
2270-613-445602-141 Fringe	975	465	1,440
	4,596	2,400	6,996

<u>Description of Revenue</u>		<u>Revenue</u>	
2270-613-331416 Day Care – PHN	0	\$ 2,400	\$ 2,400

Agreement with Department of Public Health and Human Services.

Resolution No. 2000-070 – The Commissioners signed Resolution No. 2000-070, dated August 7, 2000, entitled: “Budget Amendment,” which include the following expenditures in the Formal Fiscal Year 2000 Operating Budget and Fiscal Year 2000 Revenue Estimates for Missoula County, Montana:

DEPARTMENT: Health Fund 2270

<u>Description of Expenditure</u>	<u>Adopted</u>	<u>Change Budget</u>	<u>Amended</u>
2270-613-447304-111 Perm Salaries	\$ 0	\$ 12,581	\$ 12,581
2270-613-447304-141 Fringe	0	6,970	6,970
2270-613-447304-206 Office Supplies	0	500	500
2270-613-447304-362 Curr Materials	0	1,000	1,000
2270-613-447304-359 Mileage – Private Vehicle	0	1,040	1,040
	0	22,091	22,091

<u>Description of Revenue</u>		<u>Revenue</u>	
2270-613-333172 Safe Schools	\$15,000	\$ 22,091	\$ 37,091

Contract with Missoula County Public Schools 1999-2000.

Resolution No. 2000-071 – The Commissioners signed Resolution No. 2000-071, dated August 7, 2000, entitled: “Budget Amendment,” which include the following expenditures in the Formal Fiscal Year 2000 Operating Budget and Fiscal Year 2000 Revenue Estimates for Missoula County, Montana:

DEPARTMENT: Health Fund 2270

<u>Description of Expenditure</u>	<u>Adopted</u>	<u>Change Budget</u>	<u>Amended</u>
2270-613-445610-111 Perm Salaries	\$ 6,161	\$ 27,146	\$ 33,307
2270-613-445610-141 Fringe	1,659	7,330	8,989
2270-613-445610-206 Office Supplies	0	50	50
2270-613-445610-321 LD Phone	0	50	50
2270-613-445610-359 Mileage – Private Vehicle	0	400	400
	\$ 7,820	\$ 34,976	\$ 42,796

<u>Description of Revenue</u>		<u>Revenue</u>	
2270-613-333019 TANF	\$ 8,000	\$ 34,976	\$ 42,796

Montana State Department of Public Health and Human Services contract no. 00-022-28022-0
CFDA no. 93.558

Budget Transfer – The Commissioners signed Budget Transfer No. 00-023 (Replacement for 00-017 lost in mail) for the Health Department transferring \$30,273 (\$15,000 from Contingency Fund and \$15,273 from Capital - Contingency Contracted Services) to Perm Salaries Fund and Capital – Tech Equipment Fund, respectively. The total operations budget loaded under contingency not sure this revenue would be received. Budget was moved to capital line item.

Budget Transfer – The Commissioners signed Budget Transfer No. 00-024 for the Health Department transferring \$18,434 from the Children’s Trust Fund to the Youth Court – FRP Fund, which moves the budget to proper BARS coding, as the old revenue code was used from a previous year.

Award Bid – The Commissioners approved an Award Bid, as per the recommendation of a committee of County Employees, to Black Mountain Software for an Integrated Software System for the Treasurer’s Office (Missoula County). The total amount is \$114,401.00. There is no fiscal impact or budget implications, as the amount does not exceed figures used for Technology Upgrade for Recording, Elections & Treasurers for this fiscal year.

Appointment – The Commissioners signed a letter to Robert L. Sears, dated August 7, 2000, appointing him as a member of the Clinton Rural Fire District Board of Trustees to fill a vacancy on the board. His term will commence immediately and run until the School Election is held in May of 2001.

Agreement – The Commissioners signed a Land Buy-Sell Agreement, dated August 3, 2000, between Missoula County (“Seller”) and Technical Sourcing International, Inc. (“Buyer”) and Properties 2000 (“Broker”), for the purchase of the real property legally described as Lot 3A, Missoula Development Park, Missoula County, Montana. The total purchase price is \$143,750.00. The Closing Date shall be October 1, 2000, and possession shall be on the date of

closing, when all required documents have been signed by all parties and delivered to the closing agent. The Agreement was returned to Barbara Martens in the Projects Office for further handling.

Release – The Commissioners signed a Release of Easement, dated August 7, 2000, pertaining to a certain Trust Indenture, dated August 7, 2000, wherein Missoula County is the beneficiary, Montana Regional Orthopedic, L.L.C., is the Grantor, and Western Title and Escrow is the Trustee. Missoula County releases from its interest under said trust indenture to Grantor, and its successors and assigns, a non-exclusive easement for public and private access and utilities on that part of the subject property described as: Parcel 1 of Certificate of Survey No. 4884, the same being a parcel of property located in the S½ of Section 17, Township 13N, Range 19W, P.M.M., Missoula County, Montana, consisting of approximately 13.732 acres ("Property"), also known as the Jail Remainder Property. The Commissioners also signed a Warranty Deed, dated August 7, 2000, between Missoula County ("Grantor") and Montana Regional Orthopedic, L.L.C. ("Grantee"), pertaining to said Trust Indenture.

Agreement – The Commissioners signed a Contract for Deed dated August 7, 2000, by and between Missoula County ("Seller") and the North Reserve Business Center, L.L.C. ("Buyer"), wherein Buyer agrees to buy, and Seller agrees to sell, the real property described as: Tracts 1, 2 and 3 of Certificate of Survey No. 4440, located in the W½ of Section 8, Township 13N, Range 19W, P.M.M., Missoula County, Montana. The total purchase price is \$2,047,500.00. Unless otherwise mutually agreed by the parties, this transaction shall close on or before August 23, 2000. The Commissioners also signed a Notice of Purchaser's Interest, and Warranty Deed, both documents dated August 7, 2000, pertaining to said Contract for Deed.

Other items included:

- 1) Chairman Carey signed a State of Montana Standard Lease Contract (Department of Administration General Services Division Lease Number 5870), and an Amendment and Supplement to said Lease, dated June 29, 2000, by and between the Department of Revenue ("Department") and the County Commissioners of Missoula County ("Contractor"). The original amount the Department has paid to the Contractor during this lease has been \$11,542.50, with monthly payments of \$1,282.50. The amended monthly payments, beginning on July 1, 2000, shall be \$1,342.50, and will be paid on a month to month basis until October, 2000. This Lease also contains the new ADA language approved by the Director of Administration and the Montana Association of Counties. The documents were returned to the Montana Department of Revenue in Helena, Montana.
- 2) Chairman Carey signed two Water Main Extension Contracts between Missoula County and Mountain Water Company, as follows:

Contract (#513) provides public utility water service to the certain property known as: Missoula Development Park, Phase 1, American Eagle Instrument, Inc., Mountain Water Company Job #3199A006. The effective date of the Contract was December 1999. The total amount advanced by Missoula County was \$64,802.01. Amount owed to Missoula County and reimbursed by Mountain Water Company was \$2.01.

Contract (#508) provides public utility water service to the certain property known as: Missoula Development Park, Phase 2, 12" (inch) Main Extension in East Harrier, Advance #3199A002, Project #31990107. The effective date of the Contract is February 23, 1999. The total amount advanced by Missoula County was \$32,183.00. Amount owed to Missoula County and reimbursed by Mountain Water Company was \$2,932.76.
- 3) Chairman Carey signed, upon authorization by the Commissioners' unanimous consent, an Overhead Guy-Wire Right of Way Easement granting Montana Wireless (dba Blackfoot Communications) a non-exclusive perpetual easement 10 feet in width upon which to construct, operate, maintain, replace and remove an overhead guy-wire and anchor, upon, over, under, and across the land described as Section 31, Township 13N, Range 19W, P.M.M.: a 10 foot wide strip of land approximately 230 feet in length across a portion of Parcel "A", Certificate of Survey #132, Missoula County, Montana. The document was filed and certified. A copy was sent to Ron Applegate at Blackfoot Communications.
- 4) Chairman Carey signed Task Order 01-07-4-11-004-0 to Missoula County Unified Government Master Contract That Covers the Period of September 1, 2000 through August 31, 2001, Epidemiology\CDC&P, between the Montana Department of Public Health and Human Services ("Department") and Missoula City-County Health Department ("Contractor"). This Task Order is provided for the purpose of committing the Contractor to provide the health and information technology-related services to promote the development and maintenance of the Health Alert Network (HAN). Effective date is September 1, 2000, and must be continued through August 31, 2001. The maximum total amount payable as consideration for services performed is \$15,000. The source of the funding for this task order is a federal grant from the U.S. Department of Health and Human Services. The Task Order was returned to the Health Department for further signatures and handling.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

TUESDAY, AUGUST 8, 2000

The Board of County Commissioners did not meet in regular session. Commissioners Evans was on vacation August 8 through August 11, 2000, and Commissioner Kennedy was out of the office all day.

Indemnity Bond -- Chairman Carey examined, approved, and ordered filed an Indemnity Bond naming Helen Atthowe as principal for Warrant #261332 issued July 14, 2000 on the Missoula County 7910 Fund in the amount of \$652.90 now unable to be found.

Monthly Report - Chair Carey examined, approved and ordered filed the Monthly Reconciliation Report for Justice Court 2, Justice of the Peace, Karen A. Orzech, for the month ending July 31, 2000.

Task Order -- Chairman Carey signed Task Order No. 01-07-5-01-030-0 to the Missoula County Master Contract that covers the period July 1, 1998 through June 30, 2005, between Missoula County ("Contractor") and the Montana Department of Public Health and Human Services ("Department"), wherein the Contractor agrees to continue to perform the services described in the Contractor's MCH Plan for SFY 1999-2001, and to comply with the requirements of ARM 16.24.1001 of the Administrative Rules of Montana, governing the Maternal and Child Health Block Grant. The effective date is July 1, 2000; and the services provided must be completed by June 30, 2001. The Department will pay the Contractor as per the scheduled set forth therein. The Task Order was returned to the Health Department for further signatures and handling.

Certification -- Chairman Carey signed a Missoula County Surveyor's Office Certifications of Acceptance (ACM. No. 2000-0007) for County Maintenance, dated August 7, 2000, for Lois Lane, Road No. L-0651A, Township 13N, Range 19W, Section 18. The limits of acceptance are .109 Miles. The Certification was returned to the County Surveyor's Office.

Grant Award -- Chairman Carey approved a Grant Award and Special Conditions Page allowing for the continuation of the Flagship Project in Rattlesnake Middle School and Hellgate High School. It will also allow the Missoula Forum for Children and Youth to educate the public about strategies to prevent youth drug and alcohol abuse and various ways it can become involved in Flagship Projects and other Forum activities. This is the third year of a five year grant project. The County will receive \$70,493.00, the majority of which will be disbursed to Turning Point for continuation of the Flagship Project. Some funds will be used to pay for the activities of the Missoula Forum for Children and Youth. The grant was returned to Peggy Seel in the Office of Planning and Grants for further handling.

WEDNESDAY, AUGUST 9, 2000

The Board of County Commissioners met in regular session; a quorum of members was present in the forenoon. Commissioner Kennedy was out of the office all afternoon.

Claims List -- Chairman Carey and Commissioner Kennedy signed the Claims List, dated August 8, 2000, batch numbers 781, 792, and 793 (pages 1-11), with a grand total of \$165,974.52. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Kennedy signed the Claims List, dated August 8, 2000, batch number 794 (pages 1-3), with a grand total of \$61,651.70. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Kennedy signed the Claims List, dated August 9, 2000, batch number 797 (pages 1-2), with a grand total of \$429.99. The Claims List was returned to the Accounting Department.

The Weekly Public Meeting scheduled for this date was canceled.

THURSDAY, AUGUST 10, 2000

The Board of County Commissioners met in regular session; a quorum of members was present in the morning. Chairman Carey left in the forenoon for Superior to attend a Human Resource Council Board Meeting.

Claims List -- Chairman Carey and Commissioner Kennedy signed the Claims List, dated August 10, 2000, batch number 801 (pages 1-2), with a grand total of \$16,597.21. The Claims List was returned to the Accounting Department.

Plat -- The Commissioners signed the plat for Loloview Acres No. 2, Lot 5, a minor subdivision located in the SW¼ of Section 35, T 12 N, R 21 W, PMM, Missoula County, a total gross area of 3.24 acres, with the owner of record being Harry N. Walker.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Amendment -- The Commissioners signed an Amendment to the Memorandum of Agreement Between the Missoula Board of County Commissioners (for Missoula County Public Schools) and Family Basics WORD, amending the total value of the Agreement from \$30,947.50 to \$32,447.50. The duration of the Agreement will be twelve (12) months, commencing on October 1, 2000 and terminating on September 30, 2001. The increase in funding comes from a decrease in funding to Missoula Youth Homes which will not be able to spend the money allocated to them as a result of staff vacancies. This change will have no impact on the overall budget of the project.

Other items included:

- 1) The Commissioners approved and Chairman Carey signed Glen Wohl's shoreline permit request to replace a dock at the property located at Lots 8 & 10, Seeley Lake Shores. The permit was returned to Brian Mairorano in the Office of Planning and Grants for further handling.
- 2) Chairman Carey signed a Construction Agreement, dated August 9, 2000, by and between The Montana Power Company ("Company") and Missoula County Airport Industrial ("Customer"). The Company agrees to install, operate and maintain natural gas service and main facilities to provide service at Missoula County Airport Industrial Block 4 Lots 1 & 1A, Missoula, Montana 59801. The Customer agrees to pay the Company \$1,900.00 as a Customer Advance for construction of these lines and facilities in accordance with MPSC Rule No. 6.2.


The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, AUGUST 11, 2000

The Board of County Commissioners met in regular session; a quorum of members was present in the forenoon. Chairman Carey and Commissioner Kennedy were out of the office all afternoon.

Claims List -- Chairman Carey and Commissioner Kennedy signed the Claims List, dated August 11, 2000, batch number 803 (pages 1-2), with a grand total of \$24,100.23. The Claims List was returned to the Accounting Department.

Resolution No. 2000-072 -- Chairman Carey signed Resolution No. 2000-072, dated August 11, 2000, entitled "Emergency Declaration", which allows Missoula County to levy up to two mills as authorized by MCA .§ 10-3-405 in Fiscal Year 2002 to meet the costs incurred in responding to the emergency created by wild land fires and the state-ordered closure of forest lands.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chairman
Board of County Commissioners

MONDAY, AUGUST 14, 2000

The Board of County Commissioners met in regular session; a quorum of members was present in the forenoon. Commissioner Evans was on vacation the week of August 14th through August 18th, and Commissioner Kennedy was out of the office all afternoon.

Claims List -- Chairman Carey and Commissioner Kennedy signed the Claims List, dated August 14, 2000, batch number 799 (pages 1-4), with a grand total of \$68,293.12. The Claims List was returned to the Accounting Department.

Plat and Agreement -- The Commissioners signed the plat for The Meadows, Phase 3, a residential/recreational development at the Double Arrow Ranch at Seeley Lake, Montana, located in Section 11 and 14, T 16 N, R 15 W, PMM, Missoula County, with the owner/developer of record being Double Arrow Enterprises, Inc. The Commissioners also signed a Subdivision Improvements Agreement and Guarantee, dated August 14, 2000, which states the improvements remaining to be completed, as per the items set forth therein. The estimated cost of completing the improvements is \$109,000. The improvements shall be completed no later than May 4, 2001.

TUESDAY, AUGUST 15, 2000

The Board of County Commissioners met in regular session; a quorum of members was present in the forenoon. Commissioner Kennedy was out of the office all afternoon.

Claims List -- Chairman Carey and Commissioner Kennedy signed the Claims List, dated August 15, 2000, batch numbers 800 and 802 (pages 1-8), with a grand total of \$127,027.62. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Kennedy signed the Claims List, dated August 15, 2000, batch number 804 (pages 1-3), with a grand total of \$8,425.69. The Claims List was returned to the Accounting Department.

Plat -- The Commissioners signed the plat for Marvin Gardens, a subdivision located in the NW¼ of Section 18, T 13 N, R 19 W, PMM, Missoula County, a total gross area of 4.441 acres, with the owners of record being Bill M. and Lois K.S. Jones.

Monthly Report - Chairman Carey examined, approved and ordered filed the Monthly Reconciliation Report for the Report of the Sheriff, Douglas W. Chase, for the month ending July 31, 2000.

Request -- The Commissioners denied a request by Bob Burns, Commercial Officer for First Interstate Bank, on behalf of Gary & Carol Nelson Gullard (SUID #1041102), that penalty and interest be waived for real estate tax bill 97025746. Missoula County contends that no errors were made with regards to this delinquency. The request was returned to Deputy County Attorney Michael Sehestedt, who will write a letter to Mr. Burns.

Request -- The Commissioners denied a request by Phil Dean of Clinton, Montana, for a \$31.70 refund of penalty and interest fees for delinquent taxes at his property located at 19480 Hiway 10 East. The request was returned to Deputy County Attorney Michael Sehestedt, who will write a letter to Mr. Dean.

WEDNESDAY, AUGUST 16, 2000

The Board of County Commissioners met in regular session; a quorum of members was present in the afternoon. Chairman Carey and Commissioner Kennedy were out of the office until noon.

Claims List -- Chairman Carey and Commissioner Kennedy signed the Claims List, dated August 15, 2000, batch numbers 795, 798, and 806 (pages 1-10), with a grand total of \$49,691.08. The Claims List was returned to the Accounting Department.

PUBLIC MEETING – August 16, 2000

The Public Meeting was called to order at 1:30 p.m. by Chairman Bill Carey. Also present were Commissioner Michael Kennedy, County Surveyor Horace Brown and Chief Civil Attorney Michael Sehestedt. Commissioner Barbara Evans was on vacation.

Public Comment

None

Routine Administrative Actions

Commissioner Kennedy moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$294,134.95. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Hearing: Petition to Alter and Abandon Portion of Kestrel Drive (Missoula Development Park)

Chairman Carey opened the hearing on the petition to alter and abandon portion of Kestrel Drive in Missoula Development Park..

Barb Martens, Projects Coordinator, presented the staff report.

This is a petition to "Vacate the road right-of-way southwest of Lots 8 and 9 of Block 4 of Missoula Development Park Phase I and construct a through route for Industrial Road southwest of Lot 7, Block 4 of Missoula Development Park Phase 1 and through Park 3 within the relocated right-of-way, all located in Section 35, Township 14 North, Range 20 West, P.M.M., Missoula County, Montana.

The reasons for the request are as follows:

1. It allows for the relocation of lot lines to accommodate the needs of the landowners.
2. The landowners will be better served by the new configuration.
3. The cost of the right-of-way has been paid and the cost of the relocation is being borne by the County.

The following landowners have been notified: Feist Limited Partnership and Missoula County Airport Industrial District.

Commissioner Kennedy asked what the need was for the 100 foot easement and where it abuts Industrial Road, what is the purpose of the easement that is basically 50 feet north of Industrial Road.

Horace Brown stated that the 100 feet is a requirement for the industrial park.

Commissioner Kennedy asked if the easement was of no use, should something different be considered. Industrial Road is 50 feet wide and the easement to abut to it is 100 feet wide, and 50 feet of that is north of Industrial Road. Why is that extra easement needed?

Horace Brown stated a minimum of 80 feet was needed for an industrial park, for industry. The easement could be reduced to 80 feet, but not less than that.

Commissioner Kennedy asked if the right-of-way cannot be used, then why should it be dedicated?

Horace Brown stated the subdivision regulations require 80 feet. The right-of-way could be used for utilities, for landscaping, etc.

Commissioner Kennedy suggested tapering it down so the north end of the easement is the same as Industrial Road.

Michael Sehestedt did not know if there was a possibility of obtaining any additional right-of-way on Industrial Road.

Commissioner Kennedy stated there was a building in the way that would prevent expanding the right-of-way.

Michael Sehestedt stated that Mr. Feist was willing to give the easement. It could always be abandoned later.

Ron McDonald, the attorney representing Mr. Feist, arrived at the meeting.

Commissioner Kennedy reiterated his concern about the need for the 100 foot easement.

Ron McDonald stated he had asked the same question when this was originally proposed. The reason was to insure that there was the right to expand the easement to be consistent with the right-of-way that is being reserved elsewhere and in addition to this being a roadway, some topographical surface flow ditching is being designed. The excess space is needed to insure there is room to carry surface water to the south, then run west along the right-of-way. The 100 feet that is being abandoned for the Feist property also includes an easement for ditching purposes.

Chairman Carey stated that the next step in the process was to conduct a site inspection with one Commissioner and the County Surveyor. That inspection would be scheduled. This matter would be continued for one week at which time a decision will be made based on the report from the site inspection.

There being no further business to come before the Board, the Commissioners were in recess at 1:45 p.m.

THURSDAY, AUGUST 17, 2000

The Board of County Commissioners met in regular session; a quorum of members was present in the afternoon. Chairman Carey and Commissioner Kennedy were out of the office all afternoon.

Claims List -- Chairman Carey and Commissioner Kennedy signed the Claims List, dated August 17, 2000, batch number 808 (pages 1-5), with a grand total of \$30,839.54. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Payroll Transmittal -- The Commissioners signed the following Payroll Transmittal Sheet: Pay Period: 16 - Pay Date: August 11, 2000 - Total Missoula County Payroll: \$789,026.36. The Transmittal Sheet was returned to the Auditor's Office.

Memorandum of Understanding -- The Commissioners approved a Memorandum of Understanding between Missoula County Personnel Office and Missoula County Aging Services, Missoula Senior Services Corps, Retired and Senior Volunteer Program (which provides retired and senior volunteers). The Memorandum was returned to Marie Pruitt in Personnel for further signatures and handling.

Memorandum of Agreement -- The Commissioners approved a Memorandum of Agreement for WIA (Workforce Investment Act) Work Experience between Missoula County and Human Resource Council. This Agreement provides a short-term work assignment to enhance the employability of persons who have never worked or have not recently worked by providing experience on a job, developing occupational skills, promoting good work habits, and developing specific occupational goals through job sampling. The effective dates are August 14, 2000 through June 30, 2001. The Memorandum was returned to Marie Pruitt in Personnel for further signatures and handling.

Contract -- The Commissioners signed a Professional Services Contract between Missoula County and Independent Contractor Barb's Best Cleaning for cleaning of public and non-detention areas of the Missoula County Detention Center Adult and Juvenile sides. The effective dates are July 1, 2000 through June 30, 2001. The total compensation shall not exceed \$600 per month.

Other items included:

- 1) Chairman Carey signed Contract Number 200123PART0011 between the Montana State Department of Public Health and Human Services and Missoula County Partnership to Strengthen Families, effective July 1, 2000 through June 30, 2001. This is a continuation of the project begun in January 1995. The County will receive \$134,000.00. \$113,303.00 is allocated to contracted services. The remainder (\$20,697.00) is used as operating costs in program administration. The Contract was returned to Peggy Seel in the Office of Planning and Grants for further handling.
- 2) Chairman Carey signed Amendment Number One to Task Order Number 00-07-5-21-106-0 between the Montana Department of Health and Human Services and Missoula County, dated October 7, 1999. Amended is the language relating to the childhood lead poisoning prevention program during SFY 2001, as per the items set forth therein. The Amendment was returned to the Health Department for further signatures and handling.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, AUGUST 18, 2000

The Board of County Commissioners met in regular session; a quorum of members was present in the morning. Chairman Carey attended a Mental Health Board Meeting held at Fort Missoula in the forenoon. Chairman Carey and Commissioner Kennedy were out of the office all afternoon.

Plat -- The Commissioners signed the Plat and Improvements Agreement and Guarantee for Invermere, Phase 1, a residential subdivision located in the SE¼ of Section 12, T 12 N, R 20 W, PMM, Missoula County, a total lotted area of 70,200 S.F., with the owner of record being Drake Lemm. The Improvements Agreement provides a) construction of DJ Drive, including sidewalks, curb and gutter and drainage improvements within the subdivision; and b) sanitary sewer mains and services. The estimated cost is \$115,053.00, and the improvements shall be completed on or before February 7, 2001, secured by an Irrevocable Standby Letter of Credit issued on behalf of Drake Lemm Construction, Inc. by Western Security Bank.

Plat -- The Commissioners signed the Plat and Improvements Agreement and Guarantee for Pleasant View Homes, Phase III, a subdivision located in the NW¼ of Section 7, T 13 N, R 19 W, PMM, Missoula County, a total gross area of 3.53 acres, with the owner of record being Pleasant View Homes, Inc. The Improvements Agreement provides a) park benches and play structure. The estimated cost is \$2,000.00, and the improvements shall be completed on or before July 1, 2001, guaranteed by a Letter of Credit from First Security Bank.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chairman
Board of County Commissioners

MONDAY, AUGUST 21, 2000

The Board of County Commissioners did not meet in regular session. Commissioner Evans was on vacation the week of August 21 through August 25, 2000, and Commissioner Kennedy was out of the office all day.

Site Inspection – In the afternoon, Chairman Carey accompanied County Surveyor Horace Brown on a site inspection for the petition to alter and abandon a portion of Kestrel Drive in the Missoula Development Park.

TUESDAY, AUGUST 22, 2000

The Board of County Commissioners met in regular session; a quorum of members was present in the forenoon. Commissioner Kennedy was out of the office all afternoon.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Replacement Warrant -- Chairman Carey examined, approved, and ordered filed a Replacement Warrant naming Wayde Cooperider as principal for Warrant #366499 issued July 5, 2000 by the Accounting Department on the Missoula County General Fund in the amount of \$179.50, which was not received in the mail.

Resolution No. 2000-073 -- Chairman Carey signed Resolution No. 2000-073, a Reimbursement Resolution related to proposed RSID #8470 – Expressway Road Construction. The purpose of having the Board of County Commissioners adopt the Reimbursement Resolution is to make it clear that even though the County is going to go ahead and construct a certain portion of the Expressway Improvements, it fully intends to reimburse itself to the costs of those improvements from the proceeds of the RSID bonds proposed to be issued once the RSID is created.

Contract – The Commissioners signed a Professional Services Contract between Missoula County and Independent Contractor, A.W.A.R.E., Inc. The Youth Drug Court/Department of Corrections will pay A.W.A.R.E. Independent Living Program \$81.38 per day for room/board and supervision of Steven Everheart from August 1, 2000 until March 31, 2001, or later if agreed upon by the parties. From July 19, 2000, through July 31, 2000, the payment will be \$61.87. The total compensation shall not exceed \$22,119.74.

Contract – The Commissioners signed a Professional Services Contract between Missoula County and Independent Contractor Missoula Youth Homes – Shirley Miller Attention Home. The Attention Home is the only resource the local Youth Court has for emergency placement out of the home for troubled youth, and their families, who must be removed but present no serious threat to others. The effective dates are July 1, 2000 through June 30, 2001. The total compensation shall not exceed \$31,280, and payment shall be made in three separate checks.

Contract – The Commissioners signed a Professional Services Contract between Missoula County and Independent Contractor Community Care, Inc. Proposed County funds will be used to help support Community Care's INSIGHT I Program. The program is a significant component of Community Care's overall strategy to impact illegal substance use amongst Missoula's youth. The effective dates are July 1, 2000 through June 30, 2001. The total compensation shall not exceed \$11,040, and payment shall be made in one payment.

Contract – The Commissioners signed a Professional Services Contract between Missoula County and Independent Contractor FBB Architects for drawing and plans for remodel of first floor annex, to include motor vehicle and attorneys area. All plans are to be on disk, drawn on CAD and are to be compatible with Auto CAD LT. The effective date is August 28, 2000, and performance is to be completed by October 1, 2000.

Contract – The Commissioners signed a Professional Services Contract between Missoula County and Independent Contractor Chem-Safe Environmental, Inc., to provide waste collection, bulking, transportation and disposal services associated with the Health Department's household hazardous waste collection event and its Conditionally Exempt Small Quantity Generator Waste Collection Event, to be held on September 15 and 16, 2000. The effective dates and compensation shall be as per the dates and amounts set forth therein.

Easement – The Commissioners signed a Waterline Easement, dated August 22, 2000, for the sum of One Dollar, between Missoula County and Mountain Water Company for the line for the back fire hydrant at the Missoula County Fairgrounds. The Easement was forwarded to Mountain Water Company for signature and handling.

Other items included:

- 1) The Commissioners (as recommended by the Offer Review Committee) approved a (Land) Buy-Sell Agreement (Counter Offer), dated August 18, 2000, for the purchase of Lot 3, Block 3, Missoula Development Park, by Talco Electrical Construction, Inc. The total purchase price is \$239,000. Receipt of earnest money in the amount of \$6,000 is acknowledged, leaving a balance of \$233,000. The Closing Date shall be October 13, 2000. This offer is contingent upon the Seller to warrant that all utilities, including sewer, water, power, and natural gas will be stubbed in to the property boundary. This to be at no cost to the buyer. The Agreement was returned to Barbara Martens in the Projects Office for further handling.

Discussion items included:

- 1) Bid Proposals were discussed for construction of sewer improvements and for construction of street, pathway, and drainage improvements with Phase I of the Missoula Development Park. Bids will be awarded at the August 23, 2000 Public Meeting.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, AUGUST 23, 2000

The Board of County Commissioners met in regular session; a quorum of members was present. In the evening, Chairman Carey and Commissioner Kennedy attended a hearing at the University of Montana Adams Center on the City's review of the Hells Angels gathering.

Claims List -- Chairman Carey and Commissioner Kennedy signed the Claims List, dated August 23, 2000, batch numbers 811, 809, and 810 (pages 1-6), with a grand total of \$39,771.35. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Kennedy signed the Claims List, dated August 23, 2000, batch numbers 812, 813, 815, and 816 (pages 1-11), with a grand total of \$226,666.99. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Kennedy signed the Claims List, dated August 23, 2000, batch number 814 (pages 1-3), with a grand total of \$12,709.05. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Kennedy signed the Claims List, dated August 23, 2000, batch number 820 (pages 1-2), with a grand total of \$1,601.92. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Contract -- The Commissioners signed a Professional Services Contract between Missoula County and Independent Contractor Tracey Pilquist for payroll reporting. This will include, but not be limited to, filing state and federal withholding reports, FICA quarterly reports, retirement reports, various union dues reports, and various insurance reports. The effective dates of the contract are August 8, 2000 through October 31, 2000. Rate for services is \$20.00 per hour, to be billed monthly by the contractor.

Agreement -- The Commissioners signed a Memorandum of Agreement between Missoula County and the Western Montana Mental Health Center, dated July 1, 2000, for the purchase of mental health crisis response and stabilization services for the residents of Missoula County through the Crisis Response Team and the Stephens House. The total value of the Agreement is \$165,000.00, and the duration will be twelve months, commencing July 1, 2000, and terminating on June 30, 2001.

Other items included:

- 1) The Commissioners approved an expenditure of \$1,000 as sponsorship for "Spirit, Commerce & Sustainability: Conference 2000", to be held September 22-24, 2000, at the Holiday Inn Parkside.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

PUBLIC MEETING – August 23, 2000

The Public Meeting was called to order at 1:30 p.m. by Chairman Bill Carey. Also present were Commissioner Michael Kennedy and Chief Civil Attorney Michael Sehestedt. Commissioner Barbara Evans was on vacation.

Public Comment

None

Routine Administrative Actions

Commissioner Kennedy moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$309,986.93. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Bid Award: Infrastructure for Phase 1 – Missoula Development Park

i. Sewer Project

Barb Martens, Projects Coordinator, presented the staff report.

Bids were opened on Thursday, August 17, 2000. Four bid proposals were received with the following results: Green Diamond Contracting, Inc. in the amount of \$95,314.57; Elbe Contracting, Inc. in the amount of \$108,239.00; Johnson Brothers Contracting, Inc. in the amount of \$109,965.00; and Keeney Construction Co., Inc. in the amount of \$119,877.20.

Green Diamond Contracting, Inc. submitted the low bid in the amount of \$95,314.57.

Greg Robertson, Public Works Director, has reviewed the proposals. Both Greg Robertson and the Projects staff recommend that the bid be awarded to Green Diamond Contracting, Inc. The proposal is within the amount budgeted for the work to be done.

Commissioner Kennedy moved that the Board of County Commissioners approve the award of the bid for sewer improvements within Phase 1, Missoula Development Park, to Green Diamond Contracting, Inc. in the amount of \$95,314.57. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Bid Award: Infrastructure for Phase 1 – Missoula Development Park
ii. Street/Pathway Paving Project

Chairman Carey announced that the award of the bid for the Street/Pathway Paving Project has been postponed to next Wednesday, August 30, 2000.

Barb Martens stated that she had talked to Doug Dahlgren from JTL and he was agreeable to the postponement.

Bid Award: Health Department Remodeling

Ellen Leahy, Health Department Director, presented the staff report.

Invitations to bid were advertised in the Missoulian on July 16, July 23 and July 30, 2000. Six qualified bids were timely submitted and opened on August 15, 2000 at 2:00 p.m. with the following results:

Bidder	Bid Total	Alt #1	Alt #2	Alt #3	Alt #4	Alt #5	Alt #6	Alt #7	Alt #8	Alt #9	Alt #10
Garden City Builders	\$318,000	\$3,552	\$3,110	\$14,800	\$3,700	\$2,700	\$415	\$600	\$6,300	\$1,000	\$550
Iroquois Industrial	\$368,380	\$4,061	\$3,483	\$9,801	\$1,740	\$2,606	\$411	\$554	\$504	\$504	\$504
Structural Systems	\$365,600	\$3,500	\$3,500	\$17,900	\$3,270	\$2,700	\$500	\$620	\$8,450	\$520	\$500
Sirius Construction	\$322,900	\$3,340	\$1,000	\$15,700	\$3,800	\$2,500	\$330	\$330	\$4,600	\$500	\$700
D. Lower Construction	\$317,000	\$4,400	\$4,500	\$15,000	\$3,600	\$2,500	\$1,000	\$2,000	\$6,000	\$500	\$500
Reynolds Construction	\$326,000	\$6,500	\$3,570	\$12,600	\$6,000	\$2,500	\$1,000	\$550	\$8,000	\$1,000	No Bid

D. Lower Construction had the lowest base bid of \$317,000 and continued to hold the lowest bid when adding selected alternates #3, #5 and #6, for a total of \$335,500. The next lowest bid was from Garden City Builders with \$318,000 base bid and a total of \$335,915 once the selected alternates were included.

D. Lower Construction is bonded. The two lowest base bids came within a few thousand dollars of the architect's cost analysis.

It is the recommendation of the Health Department to award the bid to D. Lower Construction.

The cost of the project based on the lowest bid will be \$335,500. The approved FY 2001 Health Department budget includes revenue of \$39,915 from MRA, up to \$100,000 InterCap loan, and cash loaded for capital remodeling to cover costs and contingencies up to a maximum cost of \$425,000. It is a goal, likely achievable, to keep the costs well below \$425,000 and closer to the \$335,500 bid, therefore lowering the amount of InterCap loan needed. There are costs not included in the bid package however, such as computer cabling, telephone and intercom changes and painting.

Commissioner Kennedy asked how D. Lower Construction's bid compared to the estimate and budget.

Ellen Leahy stated that the actual architect's cost analysis came in at \$313,000 and D. Lower Construction's basic bid came in at \$317,000. The next lowest bidder was \$318,000, so they were very close to the estimate.

Commissioner Kennedy asked if she was satisfied the amount can be covered under the department's budget.

Ellen Leahy stated the cost of the project has actually been budgeted to cost more than the bid, up to \$425,000. There were other things that could possibly use some of the excess money, including computer cabling, telephone changes and painting. Another complication that has come up involves the Radon monitoring system installed several years ago. The system is working fine but the pipe used on the system passes through the plenum, the ceiling and floor space. This is not to code. The original contractor for the Radon system has been contacted to discuss correction of the problem. Hal Luttschwager had asked to make sure D. Lower Construction has Workers Compensation coverage as the State plan was recently dropped. D. Lower Construction does have the required Workers Compensation coverage, validated by a current notice of insurance.

Chairman Carey asked if D. Lower Construction was a Missoula firm?

Ellen Leahy stated they were a local firm. They have previously done work at the Courthouse and at the Health Department.

Commissioner Kennedy asked if this was a prevailing wage job and if Davis Bacon applied.

Ellen Leahy stated she believed all of that was covered in the specifications.

Michael Sehestedt stated the work was for a government agency and the amount exceeded \$25,000. It was subject to Davis Bacon wages.

Ellen Leahy stated that she would like Michael Sehestedt to review the contract prior to signing.

Commissioner Kennedy stated the design work was covered under a previous contract, this was strictly for the capital amount.

Ellen Leahy stated that was correct.

Commissioner Kennedy moved that the Board of County Commissioners approved the award of the bid for remodeling of the Health Department at 301 West Alder to D. Lower Construction in the base amount of \$317,000, and with the addition of alternates #3, #5 and #6 for a total of \$335,500. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Decision: Petition to Alter and Abandon Portion of Kestrel Drive (Missoula Development Park)

Chairman Carey continued the hearing on the petition to alter and abandon a portion of Kestrel Drive in the Missoula Development Park.

This is a petition to "Vacate the road right-of-way southwest of Lots 8 and 9 of Block 4 of Missoula Development Park Phase I and construct a through route for Industrial Road southwest of Lot 7, Block 4 of Missoula Development Park Phase 1 and through Park 3 within the relocated right-of-way, all located in Section 35, Township 14 North, Range 20 West, P.M.M., Missoula County, Montana.

The reasons for the request are as follows:

1. It allows for the relocation of lot lines to accommodate the needs of the landowners.
2. The landowners will be better served by the new configuration.
3. The cost of the right-of-way has been paid and the cost of the relocation is being borne by the County.

The following landowners have been notified: Feist Limited Partnership and Missoula County Airport Industrial District.

A public hearing on this matter was held August 16, 2000. A site inspection by Commissioner Carey and County Surveyor Horace Brown took place on Monday, August 21, 2000.

Barb Martens, Projects Coordinator, stated that Montana Power has an existing utility line in the area where the alteration is proposed and requested a 20 foot easement be dedicated over the existing line shown on their exhibit. She recommended that be added as a condition to the abandonment and alteration of the right-of-way.

Chairman Carey stated that he and County Surveyor Horace Brown conducted a site visit. He recommended approval of the petition.

Horace Brown was unable to attend today's meeting but submitted the following in writing: "I would recommend the alteration of Kestrel Drive and the abandonment of the roadway and right-of-way that is not needed. I would also recommend that the right-of-way remain at 100 feet through the portion in Phase 1 in the Missoula Development Park even though the right-of-way is narrower within the Momont Subdivision."

There being no further comments, the public hearing was closed.

Commissioner Kennedy moved that the Board of County Commissioners approve the alteration and abandonment of Kestrel Drive in Missoula Development Park Phase 1 subject to an additional easement in favor of Montana Power for utilities, with the altered right-of-way remaining at 100 feet. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

There being no further business to come before the Board, the Commissioners were in recess at 1:40 p.m.

THURSDAY, AUGUST 24, 2000

The Board of County Commissioners did not meet in regular session. Chairman Carey attended a MACo District 10 and 11 Counties meeting held in Polson; Commissioner Kennedy was out of the office all day August 24 and August 25, 2000.

FRIDAY, AUGUST 25, 2000

The Board of County Commissioners did not meet in regular session. Chairman Carey traveled to Seeley Lake in the forenoon and met with residents of the Double Arrow regarding road issues.

Authorization -- Chairman Carey signed an Authorization, dated August 25, 2000, allowing Montana Regional Orthopedics, LLC, to enter Parcel 1, COS 4884, Missoula County, Montana, prior to closing for the purpose of beginning construction activities. The Authorization was returned to Deputy County Attorney Michael Sehestedt for delivery to Attorney Zane Sullivan.

Release -- Chairman Carey signed a Release and Request for Partial Reconveyance, dated August 25, 2000, for a portion of a property secured described as: Parcel 1A, a tract of land being a portion of Parcel 1 of Certificate of Survey No. 4884 on file in Missoula County, Montana, located in the S½ of Section 17, Township 13N, Range 19W, Principal Meridian Montana. Said release and reconveyance is for the purpose of allowing Montana Regional Orthopedics, LLC, to obtain construction financing and is made pursuant to the contract between Missoula County and Montana Regional Orthopedics, LLC. The document was returned to John Coffee of Lambros Realty for delivery to Western Title & Escrow.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chairman
Board of County Commissioners

00-000000

MONDAY, AUGUST 28, 2000

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was on vacation from August 28 through August 31, 2000.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated August 25, 2000, batch numbers 817, and 818 (pages 1-7), with a grand total of \$66,395.06. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated August 25, 2000, batch number 819 (pages 1-4), with a grand total of \$6,554.67. The Claims List was returned to the Accounting Department.

Resolution No. 2000-074 – The Commissioners signed Resolution No. 2000-074, dated August 28, 2000, which abandons a portion of Kestrel Drive and alters Industrial Road located in Missoula Development Park – Phase 1, Block 4, Lots 7-9 & Park 3, shown on Exhibit B attached to the Resolution. This Resolution allows for the relocation of lot lines to accommodate the needs of the landowners, and the landowners will be better served by the new configuration.

Resolution No. 2000-075 – The Commissioners signed Resolution No. 2000-075, which abandons portions of the County Road Right of Way along the former Clearwater Short Line Railway Company right of Way in Section 36, T12N, R22W.

Certificate of Survey – The Commissioners signed a Certificate of Survey for the County Shops Property, legally described as: Tracts of land being Tract 1, Tract 2, and Tract 3 of Certificate of Survey No. 4440, a filed survey in Missoula County, Montana, located in the NW¼ and the SW¼ of Section 8, Township 13N, Range 19W, Principal Meridian, Montana, Missoula County, Montana. The purpose of the survey is to relocate common boundaries between adjoining properties, and not to create additional parcels. This survey is exempt from review as a subdivision pursuant to Section 76-3-207(1)(a) M.C.A. The document was returned to Deputy County Attorney Michael Sehestedt for further signatures and handling.

TUESDAY, AUGUST 29, 2000

The Board of County Commissioners met in regular session; a quorum of members was present. In the forenoon, Chairman Carey and Commissioner Evans attended a MAEDC informal retreat/panel discussion held at the Grant Creek Inn.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated August 28, 2000, batch number 823 (pages 1-4), with a grand total of \$42,216.60. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated August 29, 2000, batch number 824 (pages 1-5), with a grand total of \$91,293.23. The Claims List was returned to the Accounting Department.

Warranty Deeds -- Chairman Carey, on behalf of Missoula County, signed three separate Warranty Deeds, dated August 29, 2000, which grant, bargain, sell and convey unto North Reserve Business Center, LLC, the following described premises (County Shops Property) in Missoula County:

Tracts 1, 2, and 3 of Certificate of Survey No. 5081, located in the NW¼ of Section 8, Township 13N, Range 19W, Principal Meridian, Montana, Missoula County, Montana. Being surveyed and monumented according to said Certificate of Survey No. 5081, and subject to any existing easements. Tract 1 contains 7.50 acres, more or less; Tract 2 contains 6.28 acres, more or less; and Tract 3 contains 7.70 acres, more or less;

The Deeds were returned to Deputy County Attorney Michael Sehestedt for further handling.

WEDNESDAY, AUGUST 30, 2000

The Board of County Commissioners met in regular session; a quorum of members was present.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated August 29, 2000, batch number 822 (pages 1-7), with a grand total of \$15,777.90. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated August 29, 2000, batch number 827 (pages 1-4), with a grand total of \$33,632.08. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Payroll Transmittal – The Commissioners signed the following Payroll Transmittal Sheet: Pay Period: 17 - Pay Date: August 25, 2000 - Total Missoula County Payroll: \$778,313.49. The Transmittal Sheet was returned to the Auditor's Office.

Contract – The Commissioners signed a Professional Services Contract between Missoula County and Independent Contractor Muth Consulting Engineers for an engineering report outlining findings resulting from visual inspection of the Van Buren Street Bridge. Specific requirements are described in the accompanying Exhibit B, as per the items set

forth. The effective dates are September 5, 2000 through October 5, 2000. The total compensation shall not exceed \$3,258.00.

Contract – The Commissioners signed a Professional Services Contract between Missoula County and Independent Contractor Abbey Carpets to replace the carpet at the Public Defenders' Office with #37401 Beethoven.. The effective dates are September 1, 2000 through October 1, 2000. The total compensation shall not exceed \$9,500.00.

Contract – The Commissioners signed a Professional Services Contract between Missoula County and Independent Contractor Grizzly Fence Company to install a fence and two 10' gates at the back of the maintenance shop. The effective dates are September 1, 2000 through September 15, 2001. The total compensation shall not exceed \$1,400.00.

Agreement – The Commissioners signed a Memorandum of Agreement between Missoula County and the Child and Family Resource Council, dated July 1, 2000, for the purchase of parenting education services for families interested in improving their parenting skills or who are court mandated to participate in parenting classes. The total value of the Agreement is \$5,000.00, and the duration will be twelve months, commencing July 1, 2000, and terminating on June 30, 2001.

Agreement – The Commissioners signed a Memorandum of Agreement between Missoula County and the Child and Family Resource Council, dated July 1, 2000, for the purchase of services of the Nurturing Program to benefit parents of 0-5 year olds who are at-risk of abuse and/or neglect and/or are referred by the Department of child and Family Services. The total value of the Agreement is \$24,491.00, and the duration will be approximately twelve months, commencing July 1, 2000, and terminating on June 30, 2001, contingent upon receipt of Montana Department of Public Health and Human Services Grant Funds by Missoula County.

Agreement – The Commissioners signed a Memorandum of Agreement between Missoula County and Partnership Health Center, dated July 1, 2000, for the purchase of primary medical, dental, pharmaceutical, mental health services and case management for the medically underserved who cannot purchase health insurance or health care elsewhere. The total value of the Agreement is \$180,000.00, and the duration will be twelve months, commencing July 1, 2000, and terminating on June 30, 2001.

Agreement – The Commissioners signed a Memorandum of Agreement between Missoula County and the Human Resource Council District XI, Supplemental Security Income Transition Program (SSIT), dated July 1, 2000. This program provides assistance for individuals applying for Social Security Disability Insurance and/or Supplemental Security Income. The total value of the Agreement is \$180,000.00, and the duration will be twelve months, commencing July 1, 2000, and terminating on June 30, 2001.

Agreement – The Commissioners signed a Memorandum of Agreement between Missoula County and the Human Resource Council District XI, dated July 1, 2000, which provides support services in terms of shelter, transportation and personnel items for displaced homemakers not eligible for AFDC. The total value of the Agreement is \$5,000.00, and the duration will be twelve months, commencing July 1, 2000, and terminating on June 30, 2001.

Agreement – The Commissioners signed a Memorandum of Agreement between Missoula County and the Poverello Center, dated July 1, 2000, to provide food, shelter and clothing to the homeless population. County money partially funds cook's salary, utilities and a day care project at Joseph Residence, as well as two staff positions at the Poverello Center. The total value of the Agreement is \$38,000.00, and the duration will be twelve months, commencing July 1, 2000, and terminating on June 30, 2001.

Agreement – The Commissioners signed a Memorandum of Agreement between Missoula County and CASA (Court Appointed Special Advocates) of Missoula, Inc., dated July 1, 2000. This organization recruits, trains, supervises and places community volunteers to be advocates for children who are involved in the Fourth Judicial District Court system. The total value of the Agreement is \$10,000.00, and the duration will be twelve months, commencing July 1, 2000, and terminating on June 30, 2001.

Agreement – The Commissioners signed an Agreement between Missoula County and the Missoula Parks and Recreation Department, Missoula, Montana, dated August 30, 2000, to perform general maintenance services on County grounds outside the county buildings at the locations listed therein, as well as the scope of maintenance set forth therein. The total value of the Agreement is \$22,470.00, and the duration will be twelve months, commencing July 1, 2000, and terminating on June 30, 2001. The Agreement was forwarded to the City for signatures.

Agreement and Escrow Instructions – The Commissioners signed an Agreement to Extend Certain Dates pertaining to an agreement entered into on November 10, 1999, between the County of Missoula and the Dobbins Plan. The parties agree that all July 15, 2000 dates and October 15, 2000 dates referenced are modified to read July 15, 2001 and October 15, 2001.

The Commissioners also signed Escrow Instructions regarding the sale referenced above of Lots 31-97, a/k/a Parcels One through Twenty-Five of Gleneagle at Grantland Addition, a part of a subdivision in Missoula County. The distributions are as per the items set forth therein.

The Agreement to Extend Certain Dates and Escrow Instructions were returned to Deputy County Attorney Michael Sehestedt for further handling.

Extension Request -- The Commissioners signed a one year Extension Request of the final plat approval deadline for Shipp addition, in accordance with the recommendation of the Office of Planning and Grants. The new filing deadline is September 1, 2001.

Other items included:

- 1) The Commissioners, via letter, appointed Melanie L. Miller of Lolo, Montana, as an "alternate member" of the Lolo Water and Sewer Board (RSID No. 901). Ms. Miller's term will commence immediately and run through June 30, 2003.
- 2) The Commissioners approved a 60-day extension request from Tim Ibey of Ibey Nursery and Landscape for Lot 1A, Block 4, Missoula Development Park, Phase 1, to allow additional time for site plan approval. The new deadline would be October 29, 2000. The Buyer also acknowledges that the MPC utility easement along the east boundary line is 35 feet. The request was returned to Barbara Martens in the Projects Office for further handling.
- 3) The Door Prize for the MACo Convention was discussed. The County will purchase materials, and Commissioner Evans will make a wreath.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

PUBLIC MEETING – August 30, 2000

The Public Meeting was called to order at 1:30 p.m. by Chairman Bill Carey. Also present were Commissioner Barbara Evans, County Surveyor Horace Brown, Deputy County Attorney Colleen Dowdall and Chief Civil Attorney Michael Sehestedt. Commissioner Michael Kennedy was on vacation.

Public Comment

None

Routine Administrative Actions

Commissioner Evans moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$215,254.86. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Bid Award: Infrastructure for Phase 1 – Missoula Development Park – Street/Pathway Paving Project (Postponed from 8/23/2000)

Barb Martens, Projects Coordinator, presented the staff report.

The action requested is to award the contract for construction of Street, Pathway and Drainage Improvements within Phase 1, Missoula Development Park, as recommended by the Missoula Development Authority.

Bids were opened on Thursday, August 17, 2000, with the following results:

Item	JTL Group, Inc.	L.S. Jensen Construction
Street, Pathway & Drainage Improvements – Total Base Bid	\$417,164.75	\$421,141.27
Bid Alternate 1 – Total	\$ 45,865.50	\$ 99,282.24
Bid Alternate 2 – Total	\$112,450.20	\$200,055.84
Bid Alternate 3 – Total	\$ 51,805.50	\$110,211.84
Bid Alternate 4 – Total	\$ 56,839.50	\$119,474.40
Bid Alternate 5 – Total	\$117,484.20	\$209,318.40
Bid Alternate 6 – Total	\$ 56,839.50	\$119,474.40

JTL Group, Inc. submitted the low bid. Six alternates were included in the bid package for the construction of pathways within Phase 1. Greg Robertson, Public Works Director, has reviewed the proposals and recommends that the bid be awarded to JTL Group, Inc.

The Missoula Development Authority held a special meeting on August 29, 2000 to review the bid package. The MDA recommends that the Board of County Commissioners accept the bid proposal for street and drainage improvements. The MDA recommends that 5 foot wide asphalt pathways be installed along both sides of Butler Creek Road to provide pedestrian access to the school. The MDA recommends that the remainder of Phase 1 sidewalks and pathways be deferred until such time as another phase is developed. This will allow the project to stay within the budgeted amount. Doug Dahlburg of JTL Group, Inc. stated this change is acceptable and the unit price will be kept at \$5.10.

It is the recommendation of the Projects Coordinator to award the bid to JTL Group, Inc. with the amendment recommended by the MDA. The total base bid is \$417,164.75. The total cost to install 5 foot wide sidewalks along both sides of Butler Creek Road is \$9,996.00.

Horace Brown stated there may be the possibility of an acceleration lane along the west side of Butler Creek Road. A sidewalk along that side would have to be removed if such an acceleration lane is included. He would like to see the sidewalk on the west side of Butler Creek Road deferred until the next construction project within the Development Park.

Chairman Carey asked how the determination for the acceleration lane will be made.

Horace Brown stated it depends on the outcome of the RSID for another road within the park.

Barb Martens recommended that the pathway still be installed on the east side of Butler Creek Road at this time for school safety purposes. It should reduce the cost by about half, around \$5,000 to install it.

Commissioner Evans moved that the Board of County Commissioners accept the recommendation of the Missoula Development Authority to award the bid for construction of Street, Pathway and Drainage Improvements within Phase 1, Missoula Development Park, to JTL Group, Inc., with the amendment recommended by MDA and with the sidewalk being installed only on the east side of Butler Creek Road until it is determined if the pathway will be needed on the west side. The base bid for Street, Pathway and Drainage Improvements is \$417,164.75. The cost for the pathways along both sides of Butler Creek Road is \$9,996.00, that amount should be reduced by about half for installation along the east side only. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Hearing: Dawn Acres No. 3 (2 Lot Subdivision) – Second Summary Plat – South of Kona Ranch Road

Chairman Carey opened the hearing on Dawn Acres No. 3 (2 Lot Subdivision) – Second Summary Plat – South of Kona Ranch Road.

Karen Hughes, Office of Planning and Grants, presented the staff report.

Anthony and Sally McDermott, represented by Martinsen Surveys, are proposing to create Dawn Acres No. 3, a 2 lot second summary subdivision.

The applicants are requesting approval to divide a 2.49 acre relatively level parcel into two lots of 1.0 acres and 1.49 acres each. Proposed Lot 3A is occupied by a single-family residence. The property is located in the Big Flat area just west of the Clark Fork River between Kona Ranch Road and Melody Lane.

The original Dawn Acres subdivision, approved by the Board of County Commissioners in 1975, created 4 lots. The current subdivision is to further divide Lot 3 of Dawn Acres. Second summary subdivisions require notification and review like major subdivision, including a hearing before the Planning Board.

The Missoula Consolidated Planning Board conducted a public hearing on this request on Tuesday, August 15, 2000 and recommended approval of the subdivision, subject to conditions with minor rewording as noted in the staff report.

The Office of Planning and Grants did receive two comment letters regarding this proposal. Staff also recommends approval of the subdivision and the two variances.

The property is zoned C-RR1 which permits a density of one dwelling unit per acre. The 1998 Update of the Missoula County Comprehensive Plan designates this parcel as Parks and Open Space, which was likely established to coincide with the 500 year floodplain of the Clark Fork River. Other environmental constraints include impacts on agricultural use and wildlife habitat. FEMA maps show this property within the 500 year floodplain. However, according to Brian Maiorano, Floodplain Administrator, only a small portion of this property is actually located within the 500 year floodplain.

The proposal does comply with zoning. It does not comply with the recommended land use designation of the Comprehensive Plan. Because the proposal does not bring this parcel into further non-compliance since very little of the property is actually located within the 500 year floodplain and impacts to wildlife and wildlife habitat can be mitigated, staff supports the proposal.

Access to the property is from Mullan Road to Kona Ranch Road, and from there west about 5-1/2 miles to the vacant end of the property, which is proposed Lot 3B. Kona Ranch Road is paved to approximately 33 feet in width within a 60 foot right-of-way and meets County road standards. Proposed Lot 3A accesses off Melody Lane, which does not meet road standards for surface width and cul-de-sac radius. The applicant has requested a variance from County road standards. The Missoula Rural Fire Department and Surveyor's Office support the variance with the condition that the driveway off Melody Lane be improved to meet driveway standards. It will function as a half-hammerhead turnaround, which is adequate for fire department use.

There appears to be a through driveway on this property, between Kona Ranch Road and Melody Lane. The applicant placed a one foot no access strip across the property line. It is not intended to be used as a through driveway. Lot 3A will access off Melody Lane and Lot 3B will access off Kona Ranch Road.

To mitigate the situation with Melody Lane, the application includes an RSID for this road, as well as Kona Ranch Road, based on the Surveyors Office and Health Department recommendation. Condition 1 requires a slight re-wording to include bicycle lanes in the RSID waiver.

The applicant has also requested a variance from the sidewalk requirement. Staff support this request. The RSID waiver will take care of sidewalk development at a future time.

The subject property is located near the Clark Fork River and the Inventory of Conservation Resources noted that this area may serve as winter range for white tail deer. Osprey and bald eagles nest along the river corridor. The application includes covenants that address property owners' responsibilities for living with wildlife, which have been enhanced in Condition 8, based on comments from Montana Fish, Wildlife and Parks.

Parts of the property are within the 500 year floodplain and the Floodplain Administrator has recommended that the lowest floor, including basements of all structures on the property, be built at least 2 feet above the 100 year floodplain elevations (which are only about 1 foot different from the 500 year floodplain elevation) as noted in Condition 7.

Planning Board recommended approval of the subdivision with a few minor changes to the wording of Condition 7 and Condition 8. The proposed changes reflect that the developer can't technically file the covenants prior to the final plat approval.

Greg Martinsen, Martinsen Surveys, developer's representative, was present. He was available to answer any questions the Commissioners may have.

Commissioner Evans asked if the developer had a problem with the basements being 2 feet above floodplain requirement?

Greg Martinsen stated they would prefer to have the latitude to build basements, however, they will not argue with the requirement as it is too time consuming and costly.

Commissioner Evans stated the requirements does not technically preclude basement. In light of the Mullan Trail situation, she wanted to make sure that problem did not repeat itself.

Greg Martinsen stated he was painfully aware of the Mullan Trail situation and felt it had shaded almost every subdivision within 10 miles of the floodplain and overshadows a lot of other considerations.

There being no further comments, the public hearing was closed.

Commissioner Evans moved that the Board of County Commissioners approve the variance request from Section 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways in the subdivision; and approve the variance request from Article 3-2(3) of the Missoula County Subdivision Regulations from the 24 foot road width and 35 foot turnaround radius requirements for Melody Lane, both based on the findings of fact set forth in the staff report and subject to conditions. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Commissioner Evans moved that the Board of County Commissioners approved Dawn Acres No. 3 Second Summary Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report, with the recommended rewording for Condition 7 and Condition 8. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Dawn Acres No. 3 Second Summary Subdivision Conditions of Approval:

1. The following statement shall appear on the face of the plat and in each instrument of conveyance:

"Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for improvements to Melody Lane and Kona Ranch Road, including but not limited to paving, street widening, installation of pedestrian walkways or bikeways, drainage facilities and curbs and gutters, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors, and assigns of the owners of the land." *Subdivision Regulations Article 3-2 and City-County Health Department recommendation.*

2. Driveways longer than 150 feet shall have an approved emergency turnaround for fire apparatus and a minimum unobstructed width of 20 feet and an unobstructed vertical clearance of 13 feet 6 inches. All driveways shall have a minimum width of 12 feet and the driveway for Lot 3A shall be improved to meet this standard. An approach permit shall be obtained for Lot 3A prior to final plat approval. The Missoula Rural Fire District shall approve the final driveway design for both lots prior to final plat approval. *Subdivision Regulations Articles 3-2(6), 4-1(14), County Surveyor, Missoula Rural Fire District and staff recommendation.*
3. The County Surveyor shall approve drainage plans for the site prior to final plat approval. *Subdivision Regulations Article 3-4.*
4. The developer shall contribute \$100.00 per new lot to the Missoula Rural Fire District. Evidence of contribution shall be presented to the Office of Planning and Grants at the time of final plat approval. *Subdivision Regulations Article 3-7(2) and Missoula Rural Fire District recommendation.*
5. The following statement shall appear on the face of the plat and in each instrument of conveyance:

"Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for public water systems, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors, and assigns of the owners of the land." *Subdivision Regulations Article 3-7(2).*

6. The plat shall show the location of any areas within the 500 year floodplain, subject to Floodplain Administrator approval and prior to final plat approval. A licensed Surveyor shall certify that the elevations shown on the plat are tied to the same datum as the FEMA floodplain benchmarks. *Subdivision Regulations Articles 3-1(1)(B), 4-1(12) and Floodplain Administrator recommendation.*
7. A development covenant shall be filed that states the following:

The lowest floor, including basements, of any structure anywhere on the property shall be at least 2 feet above the 100 year flood elevation. Crawlspace floors may be at or above the elevation of the 100 year flood if they do not contain mechanicals. *Subdivision Regulations Article 3-1(1)(B), 4-1(12) and Floodplain Administrator recommendation.*

The development covenant shall be reviewed and approved by OPG and the County Attorney's Office prior to final plat approval.

8. Section 13 of the proposed covenants shall be amended to include the following information, subject to review and approval by OPG, prior to final plat approval. *Subdivision Regulations Article 4-1(12) and Montana Fish, Wildlife, and Parks recommendation.*
 - That homeowners must accept the responsibility of living with wildlife and be responsible for protecting their vegetation from damage, confining pets and properly storing garbage and other attractants.

- That homeowners should be aware of potential problems associated with the occasional presence of bears, mountain lions, deer, etc.
- That artificial concentrations of game animals resulting from feeding can attract mountain lions and also result in additional damage to gardens, ornamental shrubs, etc.
- That birdfeeders and compost piles also attract bears and should be discouraged from being used in this area.
- That artificial feeding of wildlife is prohibited.

9. A Revegetation Plan for Disturbed Sites shall be approved by the Missoula County Weed Board prior to final plat approval. *Subdivision Regulations Article 3-1(1)(B) and staff recommendation.*

Hearing: Dawn Acres No. 4 (2 Lot Subdivision) – Second Summary Plat – South of Kona Ranch Road

Chairman Carey opened the hearing on Dawn Acres No. 4 (2 Lot Subdivision) – Second Summary Plat – South of Kona Ranch Road.

Karen Hughes, Office of Planning and Grants, presented the staff report.

James and Coe Risher, represented by Martinsen Surveys, are requesting approval of Dawn Acres No. 4, a 2 lot second summary subdivision.

The applicants are requesting approval to divide a 2.48 acre parcel of generally flat open grassland into two lots consisting of 1.24 acres each. Proposed Lot 4A is occupied by a single family residence. The property is located in the Big Flat area just west of the Clark Fork River between Kona Ranch Road and Melody Lane, adjacent on the east to Dawn Acres No. 3, just approved by the Commissioners.

The original Dawn Acres subdivision, approved by the Board of County Commissioners in 1975, created four lots. The current proposal is to further divide Lot 4 of Dawn Acres. Second summary subdivisions require notification and review like major subdivision, including a hearing before the Planning Board.

The Missoula Consolidated Planning Board conducted a public hearing on this request on Tuesday, August 15, 2000 and recommended approval of the subdivision, subject to conditions with minor rewording as noted in the staff report.

Staff recommends approval of the two variances for sidewalks and road standards for Melody Lane, and approval of the subdivision subject to conditions.

The zoning and Comprehensive Plan issues are the same for this proposal as for Dawn Acres No. 3. The only difference with this proposal is access. The driveway design is different, it doesn't appear to be a through driveway. The existing home is on Lot 4A. The driveway meets standards and the fire department requested that it be able to function as a half-hammerhead turnaround. The wording of Condition 2, which addresses driveway plans, is the only difference between this proposal and Dawn Acres No. 3.

This request has the same natural environment issues, the same public health and safety issues in regards to floodplains and has the same recommended changes in wording of Conditions 7 and 8 as Dawn Acres No. 3, just approved by the Commissioners.

Greg Martinsen, Martinsen Surveys, developer's representative, stated his response regarding basements was the same as with Dawn Acres No. 3.

There being no further comments, the public hearing was closed.

Commissioner Evans moved that the Board of County Commissioners approve the variance request from Section 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways in the subdivision; and approve the variance request from Article 3-2(3) of the Missoula County Subdivision Regulations from the 24 foot road width and 35 foot turnaround radius requirements for Melody Lane, both based on the findings of fact set forth in the staff report and subject to conditions. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Commissioner Evans moved that the Board of County Commissioners approved Dawn Acres No. 4 Second Summary Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report, with the recommended rewording for Condition 7 and Condition 8. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Dawn Acres No. 4 Second Summary Subdivision Conditions of Approval:

1. The following statement shall appear on the face of the plat and in each instrument of conveyance:

“Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for improvements to Melody Lane and Kona Ranch Road, including but not limited to paving, street widening, installation of pedestrian walkways or bikeways, drainage facilities and curbs and gutters, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors, and assigns of the owners of the land.” *Subdivision Regulations Article 3-2 and City-County Health Department recommendation.*
2. The Missoula Rural Fire District shall approve the final driveway designs for both lots prior to final plat approval. *Subdivision Regulations Articles 3-2(6), 4-1(14), Missoula Rural Fire District and staff recommendation.*
3. The County Surveyor shall approve drainage plans for the site prior to final plat approval. *Subdivision Regulations Article 3-4.*

4. The developer shall contribute \$100.00 per new lot to the Missoula Rural Fire District. Evidence of contribution shall be presented to the Office of Planning and Grants at the time of final plat approval. *Subdivision Regulations Article 3-7(2) and Missoula Rural Fire District recommendation.*
5. The following statement shall appear on the face of the plat and in each instrument of conveyance:

“Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for public water systems, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors, and assigns of the owners of the land.” *Subdivision Regulations Article 3-7(2).*
6. The plat shall show the location of any areas within the 500-year floodplain, subject to Floodplain Administrator approval and prior to final plat approval. A licensed Surveyor shall certify that the elevations shown on the plat are tied to the same datum as the FEMA floodplain benchmarks. *Subdivision Regulations Articles 3-1(1)(B), 4-1(12) and Floodplain Administrator recommendation.*
7. A development covenant shall be filed that states the following:

The lowest floor, including basements, of any structure anywhere on the property shall be at least 2 feet above the 100-year flood elevation. Crawlspace floors may be at or above the elevation of the 100-year flood if they do not contain mechanicals. *Subdivision Regulations Article 3-1(1)(B), 4-1(12) and Floodplain Administrator recommendation.*

The development covenant shall be reviewed and approved by OPG and the County Attorney’s Office prior to final plat approval.
8. Section 13 of the proposed covenants shall be amended to include the following information, subject to review and approval by OPG, prior to final plat approval. *Subdivision Regulations Article 4-1(12) and Montana Fish, Wildlife, and Parks recommendation.*
 - That homeowners must accept the responsibility of living with wildlife and be responsible for protecting their vegetation from damage, confining pets and properly storing garbage and other attractants.
 - That homeowners should be aware of potential problems associated with the occasional presence of bears, mountain lions, deer, etc.
 - That artificial concentrations of game animals resulting from feeding can attract mountain lions and also result in additional damage to gardens, ornamental shrubs, etc.
 - That birdfeeders and compost piles also attract bears and should be discouraged from being used in this area.
 - That artificial feeding of wildlife is prohibited.
9. A Revegetation Plan for Disturbed Sites shall be approved by the Missoula County Weed Board prior to final plat approval. *Subdivision Regulations Article 3-1(1)(B) and staff recommendation.*

Hearing: Zoning Variance (Zoning District 13) – Dayspring Cleaning Business

Chairman Carey opened the hearing on the Zoning Variance (Zoning District 13) – Dayspring Cleaning Business.

Karen Ward, Office of Planning and Grant, presented the staff report.

This is a hearing for a special exception for a home occupation in Zoning District 13. Zoning District 13 is a citizen-initiated zoning district started in 1959. In 1981, a resolution was passed giving certain guidelines for home occupations in these zoning districts. This was to provide greater flexibility for the types of things that could be home occupations, to set certain performance standards so that the character of the neighborhood would not be hurt and to establish more regulations and procedures for these home occupations. There were two types, the Customary Home Occupation and Special Exceptions. In this particular case, if the applicant simply wanted to have an office in the home, it would have been considered customary. Because there are two minivans for their cleaning business, it falls under the Special Exception. Additionally, they are adding on to their accessory building, which also put it in the Special Exception category.

To be clear, this is not a variance, it has more guidelines than a variance. A variance goes with the land and could be changed. In this case, it has to be exactly what is approved today. Should the applicant sell this property, only another home cleaning business with one employee could take over this Special Exception. It could not be a similar business, it has to be exactly the same as what is discussed today. Also, this business could not expand in any way beyond what they have requested. The exception is for two van, they are prohibited from adding another van. The exception is for one employee, they are prohibited from adding another employee. It has to be exactly as what is currently being proposed.

Under the 1981 resolution, there were certain guidelines for home occupations. Commercial uses are specifically prohibited in this zone. This means that if carpets were cleaned on site, that would not be allowed. Staff does recommend approval of the application with three conditions:

1. No more than one non-family member employee.
2. All business vehicles must be stored inside.
3. All cleaning material must be disposed of in a Missoula City-County Health Department approved location.

There are five different categories that must be met, including: 1) Structures and Alterations; 2) Storage; 3) Signs and Advertising; 4) Landscaping; and 5) General Standards.

- 1) Structures and Alterations: Any alterations to accessory building could not be more than half the square footage of the house. The proposal to add on to the accessory building would be less than half the square footage of the house.

- 2) Storage: No outside storage is proposed.
- 3) Signs and Advertising: No signs or advertising on site are proposed.
- 4) Landscaping: None is required.
- 5) General Standards: Hours of operation must be between 7:00 a.m. and 6:00 p.m. The hours proposed are Monday through Friday, 9:00 a.m. to 5:00 p.m., and all business is conducted off site at the customer's home. Their one full time employee is their son who does not live at this location. One additional parking spot will be required. No business that requires 2 parking spots would be allowed under this Special Exception.

There is a category of prohibited uses. The business does not fall under any of those prohibited uses. Parking demand is low. They are only allowed one delivery per week by trucks.

A lot of concern from the neighborhood has been received, which is one of the criteria of accepting a Special Exception. This property is a showpiece for the neighborhood, it is one of the most beautiful houses in the neighborhood. The neighbors do not want it to become a commercial property.

A specific concern was regarding pollution and chemical usage. The Springers have been in this business for over 10 years. The detergent used is Health Department approved and is biodegradable. All used cleaning solution is disposed of at Powerwash Car Wash in Missoula. The used solution will not be disposed of in their septic system. The Health Department has stated that the chemicals used in the solution and their method of disposing of the waste are acceptable.

Another concern expressed was increased traffic on Third Street. Third Street is a minor arterial and the traffic division stated the street is designed to carry traffic well in excess of the additional trips generated by this business. Having access on a minor arterial is preferred to a smaller residential street. The Springers would be making daily trips anyway, even if their trucks were in another location.

The third concern was regarding expansion of the business. Under the criteria of this Special Exception the business would not be allowed to expand at this location.

Bill Nerison stated he spoke to Karen Ward regarding this Special Exception. She was very helpful. She also did relate that she is personally acquainted with the applicants and has been for some time. She asked to be removed from making a decision in this case and her request was denied by her supervisor. He felt that the neighbors would welcome the Springers to the neighborhood. The problem is the growth of Missoula, for example, Third Street between Reserve and Russell. This area was designated by the residents as residential in 1959 and they want it to remain that way. By allowing one business, it sets a precedent. This lot is 5 acres and a very significant piece of property. This request is predicated on a pending sale. The Springers are not currently the owners of this property. He assumed the sale was conditional on this request being approved. He is familiar with the cleaning business having worked for one before. He was pleased to know that the waste would be disposed of off site. Products change and more effective products are developed, including anti-microbials. Having done some research on the subject, he was concerned about the toxicity of such products. He had no doubt disposal procedures would be followed, but he was concerned with what new and more effective products might be developed in the future. His basic objection was not with this one exception, but with overall comprehensive planning. Guidelines have been developed for what businesses are appropriate in certain areas. Those need to be adhered to. It is a matter of maintaining this neighborhood and the precedent this exception would set.

Fred Gerlach, 76 Marilyn Drive, stated his property was just 2 doors east of this property. He presented a letter to Karen Ward last week when asked for comments on this proposal. He has also spoken to several neighbors when he presented the objection petition. Of all those neighbors who were home, he found no one who was in favor of granting this exception. He is also opposed to the granting of this exception. He agreed with Bill Nerison that it is fundamentally an erosion of the neighborhood. It is also an erosion of this property which has been, for a long time, either agricultural or residential. It is now residential at the wishes of all those living in the area. He has owned his property since 1965. He believed that this process by the Office of Planning and Grants had them acting more like a facilitator for the real estate sale. He wanted to make it clear that he was very much opposed to this exception. It will create conditions down the line which are detrimental to this area.

Tori Dailey, Lambros Real Estate, stated she is the agent listing this property. When the Springers first expressed interest in the property they said they would like to keep their vans in the garage, not dump material in the area. She had another property listed across the street whose owner had cleaned cars in his garage. She witnessed him pouring potentially hazardous waste on the ground. She had never had any comments from the neighbors about this car cleaning business. Bob Jensen of Jensen Paving lived adjacent to this property and brought work vehicles home from time to time. He never had any complaints from the neighbors. The Springers were trying to be very up front about their intentions. She wondered if perhaps more time could be granted to allow the Springers to meet with the neighbors to discuss their concerns. The Springers don't want to move into a neighborhood where hostility already exist.

Chairman Carey asked if the Springers were present today?

Tori Dailey stated they were present.

Commissioner Evans stated the Springers could address those concerns raised today.

Tori Dailey asked if they could have a question and answer session today?

Chairman Carey stated the purpose of today's hearing was to take public testimony only. The Springers could also testify and respond to some of the concerns raised.

Don Hinton, 3220 South Third, stated his property was across the street from the proposed variance, special exception. He and his wife have lived there for over 30 years. He felt this special exception had all the possibilities of ruining their

residential area because once it has been established, others will follow in the coming years. Once a business has their foot in the door, others will follow. He hoped the Commissioners would take a long, hard look at this before making their decision. A petition was circulated around the neighborhood and was signed by 40 people who opposed the exception. Every neighbor who abuts the property is opposed. He did not believe granting this exception protected the neighborhood's interests. He is definitely against this variance.

Don Peterson, 202 Nancy Lou, stated his property was not far from this proposal. He was representing himself, 7 of his tenants and his next door neighbor. He grew up in this area, he has lived there for 48-1/2 years. As the population has grown, more houses have been built. The area has become a lot more dense. He missed the old, distinctive nature of "his" neighborhood. If he had known about the car cleaning business Tori Dailey mentioned, he would have done something about it. There are more little businesses in the area than are supposed to be there. They are already creeping in. He would not like to see this part of Orchard Homes change. He is against allowing any business.

Nancy Peterson, 3070 South 7th West, stated her property is right behind this proposal, the back yards are adjoining. The letter regarding this proposal she received stated that trucks may be coming and going in the night, not very often, but possibly. She would not like to see a business there because of what could happen. She has owned the property on Nancy Lou Drive since 1952. Right next to that is a house with a detached garage and the owners wanted to build another garage. They got a permit and built a huge garage with an apartment above it, and they is a business in the garage. Her son has been trying to get the business closed. They do painting of trucks and mechanical repair for Anderson Heating's vehicles. They can't get the business removed. They have been told to stop doing business but they are still doing so. It takes a long time to get a business out once it has started. When the Jensen's lived next door, they hardly ever saw one of their trucks. She owns another piece of property that borders this land at 3012 South 7th West. Her daughter wants to buy that property. Her daughter was working but also voiced her objection to this special exception. Because of the experience they have had with other businesses, they object to this exception. Once a business gets started, legally or otherwise, it can't be stopped. She objects to this special exception.

Ron Veilleux, 75 Marilyn Drive, stated his property is adjacent to the property the Springers are interested in. He hoped the Springers were seeing that this is a neighborhood where everyone is proud of their homes and are standing up for what they believe in. He wanted the Springers to know it was nothing personal from his point of view. He felt the structural integrity of the neighborhood was in jeopardy. A special exception should truly be special and not just that the requirements are met. It should mesh with the neighborhood and keep the integrity of the neighborhood intact. There is a different feel to the neighborhoods on the other side of Reserve, past Caras. They would like to keep it that way.

Treva Preston, 3144 South 7th, stated this proposal was adjacent to her land. She has had a dance studio at her home for years and has not had any complaints. She has lived at this location for over 50 years. There is a house on 7th Street below her that has trucks and hay and is a real fire trap. If any more like that are allowed in, it will be worse than ever. Something should be done about the place on 7th. It is a real mess. She wants no more business.

Larry Springer stated he owns Dayspring Cleaning and Restoration. He expressed his appreciation for the neighbors and their concerns. If he was in their position, he would raise the same concerns. He owns a piece of property that has a heavy industrial business next to it and they are not very good neighbors. He knows about bad neighbors and was very sympathetic to the concerns expressed. He is not like that. He is trying to go through the outlined process right from the start and be very honest with what they want to do. He did not want to paint a picture of what they are not. His boys work for him. The vans will be driving in and out. He believes it falls under this special exception. He has driven around the area and there are other businesses in the area that bring in a lot more traffic than they will generate. This will also be their home. There will not be a lot of traffic or a big sign, customers do not come to the house. The work is done at the customer's location. It would not be a big commercial process. He did not feel it would change the area in any way. There are a lot worse locations in the area. Regarding the chemicals, theirs are pre-mixed. In the industry today, the chemicals don't get stronger, they actually get safer. Their tank is dumped off site. They also do water extraction as well and sometimes that water is dumped, but it is clean. Anything else is dumped properly. That is the way they do business. Leslie Jensen lives closest to this property and has no problem with the business. He has requested the addition to the barn but it may not be needed. This is a small, family owned business. He just wanted to be completely honest in his application. As there is more growth, it may indeed cause the neighborhood to change but it is not his intention to bring a big commercial business into the neighborhood. He believes he will be a good neighbor and that most of the concerns the neighbors have raised would not be a problem. He felt the business falls under this special exception and it would not hurt the quality of life or the neighborhood. He hoped it would enhance it and that he would be a good neighbor.

Virginia Hinton stated she lived across from this property, her husband is Don Hinton. Caras Nursery is further away and this request just affects their neighborhood. If Jensen's had moved their business there, they would have objected. She was concerned about the unknown circumstances, "I think" or "approximately." Those are not absolute. Once the door has been opened, it cannot be shut. She wants to keep the area residential.

Lisa Springer, Dayspring Cleaning and Restoration, stated they were very specific in what their plans are.

Chairman Carey stated there would be no rebuttal at this public hearing.

Commissioner Evans stated that additional testimony could be given, but there would be no rebuttals.

Bill Nerison stated he was grateful the Springers were going through the process. That was testament they were honest, reputable business people. The same can be said about Tori Dailey for guiding them through the process. However, this will begin the gradual process of moving from a residential area to a commercial area. It goes back to overall comprehensive planning. He would like to see the area remain residential. He felt there was other property that was already suitable zoned for this type of use.

Graham Shaw stated he was one of the owners of the Century 21 office. He understood all the comments received. Recently he had returned from a trip to find a baseball stadium would be built near his house. That project would devalue his property. What the Springers are doing will not devalue anyone's property in the neighborhood. He felt the special exception should be granted. The Springers were honest about their plans, most people would have done this without

getting permission. He could vouch for the Springers integrity, he has known them and their family for a number of years. He could understand the concerns of the neighbors as well. This is a non-polluting, low impact business and the area is zoned for limited business use, it is not strictly residential. The business will not impact the neighborhood in a negative way. If he felt this would devalue the properties in the area, he would have suggested a different piece of property to the Springers.

Virginia Hinton stated she was a real estate agent at one time. She felt it would devalue the property on an intangible basis. It will affect the value when someone tries to sell their house. The full effect might not be known for a few years.

Chairman Carey stated the purpose of today's hearing was to take testimony, not get into a debate. He asked if there was anyone who had something new to add.

Fred Gerlach stated that he felt if someone was capable of buying this property, they would be able to operate their business from an office or shop in a commercial area.

There being no further comments, the public hearing was closed.

Chairman Carey asked if Karen Ward or Colleen Dowdall could address the question of this being a precedent.

Colleen Dowdall stated that in this zoning district, and in many citizen initiated districts, home occupations are permitted. Home occupations are currently permitted in this zone. They are classified in two different ways. One is customary and one requires special permission. A special exception, as being requested here, is not a special use or a special kind of business, it means special permission is needed. In this zoning district, that special permission is through the Board of County Commissioners. The Board of County Commissioners adopted some very detailed review criteria that the Office of Planning and Grants applies to any application. She has reviewed the report from OPG. It shows no bias, it simply applies those standards to this business. If this is approved as a special exception, it means that this business will be able to operate in this area with certain conditions. That is what the special exception adds to the home occupation. The County can allow the business but the business must adhere to certain requirements. In summary, home occupations are currently permitted in this neighborhood. This proposal falls into a category that requires a special exception based on the alterations to the outbuilding and the vehicles used.

Chairman Carey explained for the audience that Colleen Dowdall was a Deputy County Attorney specializing in land use issues.

Commissioner Evans stated she has never met the Springers so she has no bias in this matter. This special zoning district was initiated by the citizens themselves back in 1959. She did not recall anyone wanting to make any changes to the district in over 20 years. The special exception is clearly part of the zoning rules, it is not something made up to get around the rules. She has heard testimony about other uses in the neighborhood that residents are upset about. There is a decay ordinance in the County. If there are uses in the neighborhood that violate that ordinance, a complaint can be filed. If there is a violation of the decay ordinance, something can be done. If there are zoning violation, the zoning office can investigate. The Health Department can be notified if someone is dumping waste improperly. She would not base her decision on "what ifs?" There are probably ways to deal with all the things in their neighborhood that make them unhappy. She would make a motion to support this application. She did not think the Springers would be doing anything to make the neighborhood less desirable. If they do, they will have violated the conditions of approval and can be turned over to the County Attorneys Office.

Chairman Carey asked Colleen Dowdall to address the idea of this creating a cumulative effect over time.

Colleen Dowdall stated that the specific review criteria would require any business or home occupation that wanted to operate to undergo this same sort of review. Every piece of property is looked at individually. She has always reminded the Commissioners that just because one has been allowed, not all have to be allowed. Each one must be looked at on a case by case basis and apply the rules as they occur.

Commissioner Evans moved that the Board of County Commissioners approve the request for a Special Exception for a home occupation permit in Zoning District 13, with conditions based on the findings of fact as set forth in the staff report. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Commissioner Evans asked the Springers to please not make the Commissioners sorry they granted this exception.

Zoning District 13 Special Exception Conditions of Approval:

1. No more than one non-family member employee.
2. All business vehicles must be stored inside.
3. All cleaning material must be disposed in a Missoula City-County Health Department approved location.

There being no further business to come before the Board, the Commissioners were in recess at 2:40 p.m.

THURSDAY, AUGUST 31, 2000

The Board of County Commissioners met in regular session; a quorum of members was present.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated August 30, 2000, batch number 828 (pages 1-4), with a grand total of \$41,636.86. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated August 30, 2000, batch numbers 830, 831, and 833 (pages 1-6), with a grand total of \$37,759.70. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated August 30, 2000, batch number 832 (pages 1-3), with a grand total of \$16,986.61. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated August 31, 2000, batch number 834 (pages 1-2), with a grand total of \$50.00. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Resolution No. 2000-076 -- The Commissioners signed Resolution No. 2000-076, a Resolution of Intention to Create RSID #8465 -- Paving of Farm Lane, Lolo, Montana. The estimated cost is \$118,000.00 and consists of a 24' wide road with a 2' wide shoulder, a 6' wide marked walkway on one side and a 6' wide ditch section on each side. The hearing date was set for October 4, 2000, at 1:30 p.m.

Resolution No. 2000-077 -- The Commissioners signed Resolution No. 2000-077, "Adopting a Budget for Missoula County for Fiscal Year 2000-2001 (Correcting Animal Control Mill Levy Amount on Resolution 2000-067).

RESOLUTION NO. 2000-077

ADOPTING A BUDGET FOR MISSOULA COUNTY FOR FISCAL YEAR 2000-2001 (CORRECTING ANIMAL CONTROL MILL LEVY AMOUNT ON RESOLUTION 2000-067)

WHEREAS, PURSUANT TO SECTION 7-6-2315, MCA, the Board of County Commissioners of Missoula County, Montana, has held public hearings on the proposed budget of Missoula County for Fiscal Year 2000-2001, as required by law; and

WHEREAS, PURSUANT TO SECTIONS 15-10-202 through 15-10-208 MCA, the Board of County Commissioners of Missoula County has held hearings and passed resolutions as applicable under the above section; and

WHEREAS, Sections 7-6-2317 through 7-6-2326, MCA, provide for the fixing of various tax levies to raise funds sufficient to meet said expenditures authorized in the budget; and

WHEREAS, THE DEPARTMENT OF REVENUE is required to certify to the County Commissioners the value of a mill for each taxing jurisdiction in the County under Sections 15-8-201 and 15-10-202 MCA; and

NOW, THEREFORE, BE IT RESOLVED, that the final County Budget for Fiscal Year 2000-2001 be as set out in Attachments A and B, and the same is hereby adopted as the final budget, subject to the conditions set forth below.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the levies as detailed below be fixed and adopted for Fiscal Year 2000-2001, based on the mill value of \$142,223 County-wide, and a value of \$65,534 outside the City limits of Missoula.

<u>MISSOULA COUNTY-WIDE FUNDS</u>	<u>MILLS</u>	<u>ATTACHMENT</u>
General Fund	60.79	A and B
Bridge Fund	4.04	
Poor Fund	3.64	
Fair Fund	0.30	
Museum Fund	1.46	
Extension Fund	1.30	
Weed Fund	2.00	
Planning Fund	2.25	
District Court Fund	6.56	
Mental Health Fund	0.50	
Aging Fund	1.09	
Park/Recreation Fund	1.00	
Risk Management	2.71	
Child Daycare	0.25	
Library	5.45	
Technology	<u>1.14</u>	
SUB-TOTAL	94.48	

MISSOULA COUNTY-WIDE DEBT SERVICE

Jail 5.67

SUB-TOTAL 5.67

TOTAL COUNTY-WIDE & DEBT SERVICE LEVIES 100.15

Road Fund 16.66

Health Fund 7.82

Animal Control 1.04

TOTAL COUNTY-ONLY LEVY 25.52

DATED THIS 31st DAY OF AUGUST, 2000

APPROVED AS TO FORM & CONTENT:

BOARD OF COUNTY COMMISSIONERS

Michael W. Sehestedt
Deputy County Attorney

Bill Carey, Chairman

ATTEST:

Michael Kennedy, Commissioner

Vickie M. Zeier, Clerk and Recorder

Barbara Evans, Commissioner

Agreement – The Commissioners signed a Memorandum of Agreement, dated July 1, 2000, between Missoula County and Child Care Resources, to purchase technical assistance and training to child care providers to better meet the developmental needs of young children; and to protect, promote, maintain and improve the health of children in day care settings in Missoula County. The total value is \$50,000. The duration will be for twelve months, commencing on July 1, 2000 and terminating on June 30, 2001.

Agreement – The Commissioners signed a Memorandum of Agreement, dated July 1, 2000, between Missoula County and Friends to Youth, to purchase counseling and education services for non-SED youth and their families. The total value is \$12,000. The duration will be for twelve months, commencing on July 1, 2000 and terminating on June 30, 2001.

Agreement – The Commissioners signed a Memorandum of Agreement, dated July 1, 2000, between Missoula County and Missoula Youth Homes, Inc., to purchase shelter care services through the Attention Home for damaged and troubled children with legal, emotional, social, behavioral, and family problems in Missoula County. The total value is \$29,941.59. The duration will be for twelve months, commencing on July 1, 2000 and terminating on June 30, 2001.

Agreement – The Commissioners signed a Memorandum of Agreement, dated July 1, 2000, between Missoula County and Missoula Correctional Services, Inc. to purchase a Community Service Program in Missoula County. The total value is \$86,478.00. The duration will be for twelve months, commencing on July 1, 2000 and terminating on June 30, 2001.

Agreement – The Commissioners signed a Memorandum of Agreement, dated July 1, 2000, between Missoula County and Missoula Correctional Services, Inc. to purchase a Misdemeanor Supervision Program in Missoula County. The total value is \$154,348.00. The duration will be for twelve months, commencing on July 1, 2000 and terminating on June 30, 2001.

Easement – The Commissioners signed an Exclusive Access Easement, dated August 31, 2000, between Missoula County and Grant Creek Heights, Inc., granting to Grant Creek Heights, Inc. an easement on Lot 45 in Gleneagle at Grantland, Missoula County, Montana. The Easement was returned to Deputy County Attorney Michael Sehestedt for further signatures and handling.

Quit Claim Deeds – The Commissioners signed 25 Quit Claim Deeds, dated August 31, 2000, between Missoula County ("Grantor") and Grant Creek Heights, Inc. ("Grantee"). For the sum of \$10.00 per Deed, the Grantor conveys, remises, releases and forever quitclaims all right, title and interest in and to the following described real estate, situated in the County of Missoula, and State of Montana:

- 1) Lots 65, 66 of Gleneagle at Grantland Addition, a/k/a Parcel Twenty-Five;
- 2) Lots 62, 63, 64 of Gleneagle at Grantland Addition, a/k/a Parcel Twenty-Four;

- 3) Lots 81, 82, 83 of Gleneagle at Grantland Addition, a/k/a Parcel Twenty-Three;
- 4) Lots 89, 90 of Gleneagle at Grantland Addition, a/k/a Parcel Twenty-Two;
- 5) Lots 91, 92, 93, 84, 85, 86, 87, 88 of Gleneagle at Grantland Addition, a/k/a Parcel Twenty-One;
- 6) Lots 94 of Gleneagle at Grantland Addition, a/k/a Parcel Twenty;
- 7) Lots 95, 96 of Gleneagle at Grantland Addition, a/k/a Parcel Nineteen;
- 8) Lots 79, 80, 97 of Gleneagle at Grantland Addition, a/k/a Parcel Eighteen;
- 9) Lots 77, 78 of Gleneagle at Grantland Addition, a/k/a Parcel Seventeen;
- 10) Lots 76 of Gleneagle at Grantland Addition, a/k/a Parcel Sixteen;
- 11) Lots 75 of Gleneagle at Grantland Addition, a/k/a Parcel Fifteen;
- 12) Lots 73, 74 of Gleneagle at Grantland Addition.
- 13) Lots 71, 72 of Gleneagle at Grantland Addition, a/k/a Parcel Fourteen;
- 14) Lots 69, 70 of Gleneagle at Grantland Addition, a/k/a Parcel Thirteen;
- 15) Lots 67, 68 of Gleneagle at Grantland Addition, a/k/a Parcel Twelve;
- 16) Lots 58, 59, 60, 61 of Gleneagle at Grantland Addition, a/k/a Parcel Eleven;
- 17) Lots 56, 57 of Gleneagle at Grantland Addition, a/k/a Parcel Ten;
- 18) Lots 51, 52, 53, 54, 55 of Gleneagle at Grantland Addition, a/k/a Parcel Nine;
- 19) Lots 48, 49, 50 of Gleneagle at Grantland Addition, a/k/a Parcel Eight;
- 20) Lots 45, 46, 47 of Gleneagle at Grantland Addition, a/k/a Parcel Seven;
- 21) Lots 43, 44 of Gleneagle at Grantland Addition, a/k/a Parcel Five;
- 22) Lots 40, 41, 42 of Gleneagle at Grantland Addition, a/k/a Parcel Four;
- 23) Lots 37, 38, 39 of Gleneagle at Grantland Addition, a/k/a Parcel Three;
- 24) Lots 34, 35, 36 of Gleneagle at Grantland Addition, a/k/a Parcel Two;
- 25) Lots 31, 32, 33 of Gleneagle at Grantland Addition, a/k/a Parcel One;
and
- 26) (Between Missoula County, the Elmore & Associates, P.C. Profit Sharing Incentive Savings Plan and Turst, Cynthia Kelly, Turstee for the Dobbins, Deguire & Tucker, P.C. Employee's Profit Sharing Plan and Trust, Stephen S. Ellis, Trustee for the Stephen S. Ellis, M.D., Employee's Retirement Trust, Elmore & Associates, P.C., Roger W. Perschke, and Jack R. Dobbins, collectively, the Grantees) and Grant Creek Heights, Inc.). The common area of Gleneagle at Grantland Addition, a platted subdivision in Missoula County, according to the official recorded plat thereof.


Other items included:

- 1) The Commissioners approved a Counter Offer, as recommended by the Offer Review Committee, from Tony Delpiaz, owner of Crystal Sportswear, for Lot 2, Block 3, Missoula Development Park, Phase 1. Mr. Delpiaz made the full price offer of \$148,322 on August 24, 2000. The Counter Offer was returned to Barbara Martens in the Projects Office for further handling.
- 2) The Commissioners approved a Counter Offer, as recommended by the Offer Review Committee, from Fred J. Talarico, of Talco Electrical Construction, Inc. On August 18, 2000, Mr. Talarico made a full price offer (\$239,000) on Lot 3, Block 3, Missoula Development Park, Phase 1; and has made an additional full price offer (\$217,000) on Lot 3, Block 2, Missoula Development Park, Phase 1. The Counter Offer amends the original offer by adding the following contingency: "Buyer acknowledges he has received a copy of the Butler Creek Hydrology Study and understands the limitations imposed for Lot 3, Block 2, Missoula Development Park, Phase 1. The Counter Offer was returned to Barbara Martens in the Projects Office for further handling.
- 3) A discussion was held on a request by the National Museum of Forest Service History for support to establish a museum adjacent to the Missoula County Airport. Chief Administrative Officer Ann Mary Dussault will write a letter to the National Museum of Forest Service History.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, SEPTEMBER 1, 2000

The Board of County Commissioners did not meet in regular session. Commissioner Kennedy was on vacation, and Commissioner Evans was out of the office all day.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chair
Board of County Commissioners

MONDAY, SEPTEMBER 4, 2000

The Courthouse was closed for the Labor Day holiday.

TUESDAY, SEPTEMBER 5, 2000

The Board of County Commissioners met in regular session; a quorum was present. Commissioner Kennedy was out of the office all day.

Plat – The Commissioners signed the plat for Westre's Farm, a minor subdivision located in the SW¼ of Section 19, T 14 N, R 20 W, PMM, Missoula County, a gross and net area of 10.33 acres, with the owner of record being Jack C. Westre.

Monthly Report - Chairman Carey examined, approved and ordered filed the Monthly Reconciliation Report for the Clerk of the District Court, Kathleen Breuer, for the month ending August 31, 2000.

Indemnity Bond – Chairman Carey examined, approved, and ordered filed an Indemnity Bond naming Darlene Burtch as principal for Warrant #83748 issued August 18, 2000 on the Missoula County Payroll 78-42 Fund in the amount of \$494.39, now unable to be found.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Marilyn Marler to map leafy spurge on the Blackfoot River from River Junction to Corrick River Bend. Final products are hard copy maps, arc view shape files on disk, and summary report. The term will be August 17, 2000 through October 30, 2000. The total amount shall not exceed \$1,800.00, upon receipt of final product.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and the Psychology Department, University of Montana, in order to continue to have a graduate student intern therapist at the Partnership Health Center. The term will be July 1, 2000 through June 30, 2001. The total amount shall not exceed \$780.00. The document was returned to the Health Department for further signatures and handling.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Community Care, to provide one-hour developmentally appropriate tobacco prevention presentations to 80 Missoula County Public Schools classrooms (grades 5, 7 & 9) during the 2000-2001 academic year. The term will be September 15, 2000 through June 30, 2001. The total amount shall not exceed \$6,500.00, to be paid as set forth therein.

Agreement – The Commissioners signed a Memorandum of Agreement between Missoula County and Missoula City-County Health Department to purchase services to benefit parents of 0-5 year olds who are at risk of child abuse and neglect with neighborhood nurse home visiting services. The term will be July 1, 2000 through June 30, 2001, and is contingent upon receipt of Montana Department of Public Health and Human Services Grant Funds by Missoula County. The total amount shall not exceed \$60,860.00. The document was returned to the Health Department for further signatures and handling.

Agreement – The Commissioners signed a Memorandum of Agreement between Missoula County and Community Care, Inc. to provide drug and alcohol education classes (Insight I) for students cited for MIP (Minors in Possession) violations or who are at risk of substance abuse in Missoula County. The term will be July 1, 2000 through June 30, 2001. The total amount shall not exceed \$11,040.00.

Agreement – The Commissioners signed a Memorandum of Agreement between Missoula County and WORD (Women's Opportunity and Resource Development, Inc.) Family Basics for rent mediation to provide a one-time only rental assistance to families at-risk of losing their homes. County funds are used entirely for payments to landlords. The term will be July 1, 2000 through June 30, 2001. The total amount shall not exceed \$5,000.00.

Contract – The Commissioners signed a Service Contract between the Missoula County Detention Center and the Western Montana Mental Health Center to provide assessment, appropriate individual and group therapies, and 24-hour emergency response services for inmates of the Regional Prison. The total amount shall not exceed \$52,452.00, paid in monthly installments for the period of July 1, 2000 through June 30, 2001, the term of the Contract.

Other items included:

- 1) The Commissioners met with and reviewed a letter written by Larry Marx, of the Phase II Double Arrow Landowner's Association. Mr. Marx stated that the directors of the Landowner's Association accepted the Commissioners' offer to complete the paving of all the County roads on Phase II. He also stated that the following would appear in their fall Landowner's Association newsletter:

"COMMISSIONER'S INCREASE COMMITMENT TO ROAD PAVING PROJECT

At a meeting September 5, 2000, the Missoula County Commissioners increased their commitment to the paving project of Phase II County roads. Last year when the RSID (Special Improvement District) was formed for the funds to help complete this project, the Missoula Co. commitment was to do the engineering, subgrade, and labor to complete the base grade of gravel, along with half the gravel to complete the base grade. The Phase II Landowners were, with the RSID, to provide money for the other half of the gravel, and the money to buy the asphalt and labor for a private contractor to pave the roads. This past year the price of oil has gone up considerably, and the estimate for the amount of gravel for the base was inadequate. The only way to continue with the project was for the County to step up and do the labor with their equipment for the paving, but this still left us short enough to provide the gravel needed. The Commissioners offered to have the county crew do the paving if the Phase II Landowners could provide an additional \$10,000 to help pay for the extra gravel. With their generous support, the directors at their meeting the evening of September 5 agreed to meet this obligation. The money is due the county when the entire project is completed. We anticipate Morrell Creek Drive and all its cul-de-sacs to be paved yet this fall, and the rest of the roads on Phase II that are county roads to be finished next year along with the paving project from Clearwater Junction to Seeley. The money will be provided from our annual dues. We have extra money from this year as no dust coating was done, and similarly, by keeping the dues the same, we can accomplish the completion of the \$10,000 next year to have the money available when the project is complete."

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, SEPTEMBER 6, 2000

The Board of County Commissioners met in regular session; all three members were present.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated September 6, 2000, batch number 835 (pages 1-7), with a grand total of \$35,244.92. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated September 6, 2000, batch number 836 (pages 1-5), with a grand total of \$75,537.46. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated September 6, 2000, batch number 837 (pages 1-5), with a grand total of \$21,322.90. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated September 6, 2000, batch number 838, with a grand total of \$127,032.33. The Claims List was returned to the Accounting Department.

Plat and Agreement -- The Commissioners signed the plat for Bean Addition, a five-lot summary subdivision located in the NE¼ of Section 26, T 15 N, R 22 W, PMM, Missoula County, with the owners of record being Robert and Cynthia Bean. The Cash-in-Lieu of Parkland dedication was met with the filing of Fairfax Estates.

The Commissioners also signed a Subdivision Improvements Agreement and Guarantee relating to the Bean Addition, dated September 6, 2000, guaranteeing the full and satisfactory completion of all of the public improvements required by the approval of Bean Addition, as per the items set forth. The total amount shall not exceed \$11,000.00, and the improvements shall be completed on or before June 30, 2001.

Deed Restriction Agreement and Subordinate Deed of Trust

Chairman Carey signed a Deed Restriction Agreement and Subordinate Deed of Trust between Missoula County and Tracy J. and Alaina M. Moon in the amount of \$1,487, for the property located at 301 Tyler Way, Lolo, Montana 59847, for the purpose of providing HOME Investment Partnerships Program (HOME) funds to assist with down payment, closing cost and, if necessary, mortgage reduction assistance, as per the terms and conditions set forth. The documents were returned to Jennifer Blumberg in the Office of Planning and Grants for further handling.

PUBLIC MEETING -- September 6, 2000

The Public Meeting was called to order at 1:30 p.m. by Chairman Bill Carey. Also present were Commissioner Barbara Evans, County Surveyor Horace Brown, County Clerk & Recorder/Treasurer Vickie Zeier and Chief Civil Attorney Michael Sehestedt. Commissioner Michael Kennedy and Deputy County Attorney Colleen Dowdall arrived after the meeting was called to order.

Public Comment

None

Routine Administrative Actions

Commissioner Evans moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$178,970.63. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Bid Award: Recording Software (Clerk & Recorder/Treasurer)

Vickie Zeier, Clerk and Recorder/Treasurer, presented the staff report.

This is a request to award the bid for Indexing and Imaging Software for the Missoula County Recording Office.

The bids were opened on July 17, 2000 at 10:00 a.m., with the following results:

Company	Cost	Yearly Maintenance
Black Mountain Software*	\$ 30,200	\$ 7,095
Computer Software Associates	\$ 87,373	\$ 5,325
Eagle Computer Systems (includes all hardware costs)	\$207,136	\$13,520
Integra**	\$ 25,612	\$ 3,585

* Indexing Software Only

** Imaging Software Only

County personnel and local title companies viewed presentations on all of the above software.

It is the recommendation of the Clerk and Recorder/Treasurer to award the bid to Eagle Computer Systems because it is the only company that meets all bid specifications. The others do not have re-key verification for indexed documents. The bid price is within the amount budgeted for this project. Susan Reed, County Auditor, reviewed the software for security and auditing purposes and also recommended Eagle Computer Systems.

Commissioner Evans asked where Eagle Computer Systems was based, were they a local company?

Vickie Zeier stated they were from Driggs, Idaho. Their system is currently in use by Yellowstone County and Gallatin County. They have just been awarded the bid in Cascade County. Lewis and Clark County is currently looking at using their system as well.

Michael Sehestedt asked if the reports from Yellowstone and Gallatin Counties were favorable?

Vickie Zeier stated they were very favorable. Included in this bid is other imaging software that will benefit many County offices.

Michael Sehestedt asked how Computer Software Associates failed to meet bid specifications?

Vickie Zeier stated they did not have a re-key verification system. The system allows a document to be re-keyed after entry to look for and correct any typographical errors. The system currently in use allows re-key verification, which is a significant item.

Commissioner Kennedy asked what the budgeted amount was for this system.

Vickie Zeier stated the budgeted amount was \$228,000.

Commissioner Evans asked that County Auditor Susan Reed's memo be included in the record:

TO: Vickie Zeier, Clerk and Recorder/Treasurer
FROM: Susan Reed, Auditor
RE: Software for Clerk and Records Office
DATE: September 5, 2000

Thanks for the opportunity to review the software presentations for recording. From an internal control perspective, Eagle is the only choice.

I always have two questions for any software used for receipting: 1) How easy is the daily reconciliation? and 2) How easy is it to circumvent the system (i.e., can someone easily steal money)?

Eagle's software is easy and efficient to use for reconciliation. Errors are easy to detect and daily or monthly reconciliation should be straightforward.

Neither of the other software packages addresses the security necessary for good internal control. Eagle is the only software which protects data from change by unauthorized clerks.

From an auditing view, I would feel very uneasy about cash control with either of the other choices.

Commissioner Evans moved that the Board of County Commissioners award the bid for Indexing and Imaging Software for the Recording Office to Eagle Computer Systems in the amount of \$207,136, as it was the only bid to meet all specifications and was recommended by both the County Auditor and the County Clerk and Recorder/Treasurer. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Bid Award: Election Software (Clerk & Recorder/Treasurer)

000 0006

Vickie Zeier, Clerk and Recorder/Treasurer, presented the staff report.

This is a request to award the bid for Election Software for Missoula County.

Bids were opened on September 5, 2000 at 10:00 a.m., with the following results:

Company	Cost	Yearly Maintenance
Black Mountain Software	\$63,136	\$9,000
Election Systems & Software	\$59,680	\$6,962

Election Systems & Software is the only company that could meet all bid specs, with the exception of jury pool reports, which they will modify their software to accommodate. Missoula County owns Election Systems & Software voting tabulation scanners. Their service has been found to be excellent and very responsive.

It is the recommendation of the Clerk and Recorder/Treasurer to award the bid to Election Systems & Software as it is the lowest and best bid. The cost of the system is within the budgeted amount.

Commissioner Kennedy asked what the budgeted amount was for this software?

Vickie Zeier stated that the budgeted amount was \$110,000. Hardware is not included in this bid and will have to be purchased separately. The total amount for both hardware and software should be within the budgeted amount.

Commissioner Evans moved that the Board of County Commissioners award the bid for Election Software to Election Systems & Software in the amount of \$59,680, as they were the lowest and most responsive bidder. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Bid Award: Expressway Project Construction (Road Department)

Greg Robertson, Public Works Director, presented the staff report.

This is a request to award the bid for the Expressway Project between Butler Creek Road and Butler Creek.

The Missoula County Engineering Department was asked to design and oversee construction of Expressway between Butler Creek Road and Butler Creek to honor previous commitments to landowners adjacent to the new road. The road is to be completed by November 1, 2000. Two bids were received, one from JTL Group, Inc. in the amount of \$128,733, and one from Keeney Construction in the amount of \$141,189.50.

The Engineer's estimate for the project was \$159,000. JTL Group, Inc. was the low responsible bidder.

After evaluating the bid proposal package received from JTL Group, Inc., everything is in order. It is well below the Engineer's estimate and within the budget constraints that were adopted for the FY 2000-2001.

Commissioner Kennedy asked Greg Robertson about the hydraulics/drainage issue.

Greg Robertson stated that this project excludes the Butler Creek drainage. The project will stop on the east side of the drainage. The concern about drainage is important and needs to be addressed with the next phase. Butler Creek does have a 4 foot diameter pipe constriction underneath the Interstate. The water backs up behind it because the pipe has inadequate capacity. The backed up flow does head in the direction of Butler Creek Road, works it way around the Interstate and spreads out into the flat area just south of the Interstate. Correction of the drainage deficiency should be done upstream. The improvements that are planned will not have any impact on the drainage issue. The drainage issue should be addressed with the next phase.

Commissioner Kennedy stated the question still persists about the adequacy of the drainage structure under the Interstate, about which the County can do nothing.

Greg Robertson stated that was correct.

Commissioner Kennedy stated if a flood is greater than can be carried by that, there will be flooding down the road. The question remains as to what can be done with that drainage so that this new road doesn't create a dam to flood the property on the north side of the road.

Greg Robertson stated there were a couple of options. One is doing some upstream detention as part of the next phase. The other option is to do some regarding of the area. The area is very flat and water has a tendency to spread out and find its way to the original channel. His understanding is that the water stays further up and never makes its way down to the area of this construction.

Commissioner Kennedy stated that was true, but a 100 year flood that is being designed for, hasn't been experienced. No one knows what will happen in that event. His concern is there, not knowing when Phase 2 may happen. The question remains as to what happens if there is a significant event this year.

Greg Robertson stated the road improvements that are being proposed will have little or no impact because the area is so flat and nothing is being done to the natural channel. He has no problem in committing that prior to the next phase this issue be addressed. The problem is the culvert under the Interstate. There are two options, either something is done with Butler Creek Road or something is done upstream.

Barbara Martens, Projects Coordinator, stated that the Development Authority has in its budget this year approximately \$30,000 for restoration work for Butler Creek within the Development Park itself.

Commissioner Evans asked what was happening with Phase 2, extending Butler Creek Road to the west.

Greg Robertson stated he did not know what the plans were at this point. There has been some discussion about proceeding with the RSID or not. The situation will continue to be investigated until an answer can be found.

Michael Sehestedt stated the County is trying to get this built to address immediate needs and to also create a situation in which if the RSID is created, it may allow some of the cost of this improvement to be recouped. There is \$150,000 in State and railroad money if the railroad crossing is closed. This part of the improvement must be done immediately and discussions will continue with the property owner.

Commissioner Kennedy stated he understood all that but his question still remains unanswered. The drainage problem that is being created by the construction of this new road must be provided for. The County is creating a potential drainage problem by construction of this new road. What is being done to address that potential problem?

Commissioner Evans stated that the drainage problem was north of the Interstate. How could this project be creating it since it is south of the Interstate?

Commissioner Kennedy stated that no one seems to know whether or not the drainage structure that the Interstate project put in is adequate to handle a 100 year flood. If it will handle that flow, then there is a Butler Creek problem that can be dealt with. If it will not handle that flow, then flooding will occur down Butler Creek Road and will flow onto this property. If that is the case, what does this project have in its drainage plan to address that? It can't be ignored that this construction will create a dam there.

Horace Brown stated that is not part of this project. He has said before the County will look at the matter and take care of it as a separate project. It is not part of this road project.

Commissioner Kennedy asked when this will be looked at? What if there is a significant flood this year? Damage could be done to existing properties and undeveloped properties.

Horace Brown stated most of the flooding has been taken care of by the road. The flooding has been on the east side of the road near the school. A study needs to be done of how to get water into the creek near the Interstate rather than letting it flow onto the properties. That will be done. Possibly some of the money from the Development Park can be used for that study. He did not have the money in his department to do a study.

Commissioner Kennedy stated this project was deficient until that analysis is made.

Greg Robertson stated some analysis has been done on the Butler Creek drainage. The culvert is what controls the flow and it is undersized. The culvert under the Interstate does indeed cause a backup of flow and routes it around to Butler Creek Road. The runoff should be encouraged back into the natural channel. The problem really is upstream of the Interstate where it needs to be dealt with. For future development of this part of the Park, it has to be addressed, one way or the other. It could involve working with the Department of Transportation, as they originally created the deficiency. This small piece of road that is being constructed is not going to exacerbate the problem that is presently being experienced. The most prudent way to deal with it would be upstream.

Commissioner Evans stated that Greg Robertson should schedule a meeting with Loren Frasier of MDT to discuss the situation.

Commissioner Evans moved that the Board of County Commissioners award the contract for the Expressway Project between Butler Creek Road and Butler Creek to JTL Group, Inc. in the amount of \$128,733.00, as the lowest and best bidder.

Commissioner Kennedy stated it was premature and could not second the motion.

Chairman Carey seconded the motion. The motion carried on a vote of 2-1 (Commissioner Kennedy opposed).

Consideration: Alpine Addition (3 Lot Subdivision) – Highway 10 West (West of Airport)

Lisa Moisey, Office of Planning and Grants, presented the staff report.

This is a request from Alpine Construction Company, represented by Professional Consultants, to divide a 30 acre parcel into three lots for industrial uses. Lot B2 is proposed as Alpine Construction's new office site. Lot B3 is proposed to offered for sale and Lot B1 will be held for future development.

The property is located on the north side of Highway 10, about 2 miles west of the entrance to the Airport. It is located within the Airport Influence Area. Highway 10 is identified as a primary travel corridor and Primary Travel Corridor Standards as required by Missoula County Subdivision Regulations are required for this site. The applicant has provided a mechanism to trigger Primary Travel Corridor Standards landscaping requirements along Lot B1, as that is the only part that fronts on Highway 10.

The subject property is primarily open, agricultural land that has been used to grow hay. It is relative flat. The northwestern boundary is defined by a drainage easement that follows a gully where slopes exceed 25%. There is no development proposed in or around this gully. The gully contains vegetation that is indicative of a riparian area.

The property is zoned C-II (Industrial) and the 1998 Missoula Urban Area Comprehensive Plan Update designates this area for light industrial uses which is consistent and compatible with the proposed uses in the subdivision.

Access to the property is from Highway 10, which is maintained by the Montana Department of Transportation. On-site access to the lots will be from Old 10 Road, a proposed private cul-de-sac roadway located on the former roadbed of Old Highway 10 West. Old Highway 10 West was formerly a County road but has been vacated. The access point for Old 10 Road is directly across from Rollercoaster Road. Old 10 Road is proposed to be paved to 22 feet wide and be located within an 80 foot private road and utility easement. The subdivision regulations require a roadway surface of 32 feet in commercial industrial subdivision. The applicant has asked for a variance from this requirement and staff is recommending approval of the variance request to a County standard approved by the County Surveyor. In discussions with the County Surveyor, the standard calls for a minimum paved roadway width of 24 feet with 2 foot wide shoulders on both sides and 2 foot wide ditches on both sides, with a maximum slope of 3 to 1.

The proposed Old 10 Road cul-de-sac is to be 1,700 feet long, extending from the end of the cul-de-sac to the eastern property line. The plat shows an 80 foot wide roadway easement for future connection to the property to the east. The proposed cul-de-sac exceeds the requirement of a 600 foot maximum cul-de-sac length and the applicant has asked for a variance from this requirement. Staff is recommending approval of the variance with two requirements, one that the developer dedicate a 40 foot wide roadway easement along the eastern boundary of the property connecting the 80 foot easement down to Highway 10 and, secondly, that fire turnaround be installed along the proposed cul-de-sac road, as requested and approved by the rural fire district.

Sidewalks are not proposed to be installed along Highway 10 or along the interior roadway and the applicant has asked for a variance from this requirement. Staff is recommending approval of this variance request. As mitigation for not providing walkways along the frontage of Highway 10 and Old 10 Road, staff recommends the applicant place a statement on the face of the plat waiving the right to protest the creation of an RSID for future installation of pedestrian walkways or sidewalks.

A designated drainfield area is located on the northeast portion of Lot B2 to serve all of the lots within the subdivision. Each lot has been provided an easement to pipe effluent to their designated drainfield area on Lot B2. The property is mostly flat with a drainage easement following a gully on the back of the property. The gully contains riparian resources and the applicant has prepared a riparian management plan. OPG has asked the applicant to modify the plan slightly to give more specific language as to which kinds of activities would be allowed or disallowed in the riparian area. OPG is also recommending a condition that would extend the area identified by the applicant as areas of riparian resources to encompass more riparian vegetation noticed during site visits.

OPG recommends approval of the subdivision and the three variance requests. There are 15 Conditions of Approval as noted in the staff report.

John Kellogg, Professional Consultants Inc., developer's representative, was present, as was Jeff Hollenbeck, the applicant. He thanked staff for their work on this proposal. The applicant is agreeable with the conditions. Staff's effort in initiating the contact with MDT about additional access was appreciated. Alpine is willing to work, along with the adjoining property owner to the east, to see what can be done. He was available to answer any questions.

Commissioner Kennedy stated that Old 10 Road was to be designated as a public road but was less than public roadway standards for width and cul-de-sac length. Why was this not being maintained as a private road?

John Kellogg stated that initially it had been proposed as a private road. As staff began looking into it, they felt there would be advantages to the new property owners to have this a public road. Lisa Moisey contacted MDT about the additional access to Highway 10 at the east boundary of the subdivision. This lessens some of the reliance on the old highway for access. The old highway would still be 24 feet wide. This was discussed with Surveyor Horace Brown as to what would be acceptable for a three lot minor subdivision.

Lisa Moisey stated the applicant was showing the 80 foot wide easement extending from the end of the cul-de-sac. OPG felt it would make more sense to set up the opportunity to make a shared access with the property to the east and create the loop street. If there is one piece of the road that is private and a public access easement is asked for on the portions not built yet, it would make it very cumbersome and difficult in the future to figure out who is responsible for which piece of the road, where the maintenance starts and ends, etc. To make it a cleaner situation for now and the future, it seemed important to ask the applicant to dedicate all of it to the public.

John Kellogg stated that Alpine had initially proposed to resurface the old highway. There is an existing approximately 24 foot paved surface on the old highway through the property. If Alpine were not going to use the old roadway, it would have made more economic sense to put in a separate access possibly at the east boundary. A 32 foot wide surface on the old highway would remove a lot of old asphalt and the cost and effort would be high. That was the reasoning behind the initial proposal.

Commissioner Kennedy stated the Road Department's budget was slim and adding roads for operation and maintenance purposes for roads that are substandard and dead-ended don't make much sense. He understood the argument about future plans if those plans were within a reasonable timeframe. A private road seems more appropriate and if the other property to the east is developed, it can be petitioned to be made public.

Colleen Dowdall stated that if the right-of-way is not acquired now as public and someone who is not the property owner petitions to have it made public, the County would have to pay for it.

Commissioner Kennedy stated that was if it is agreed to do so. There is no reason a public right-of-way is needed out there at all.

Colleen Dowdall stated that another part of the rationale was that this roadway serves businesses, not residences. It would have more use by the public. This was done to insure that a public road serves a road that is being used by the public.

Commissioner Kennedy stated there are all kinds of private roads that are used by the general public.

Commissioner Evans stated she appreciated the fact that the applicant was willing to work with MDT to try and provide access in the future to Highway 10. That is very desirable. Staff has done a good job and the fire department has made their requirements know. She was willing to accept the staff's recommendation.

Commissioner Kennedy asked Horace Brown if he planned to maintain this road?

Horace Brown stated if the County accepts the road and requires maintenance, he will do so.

Commissioner Kennedy asked Horace Brown about making this a non-maintained County road?

Horace Brown stated that was up to the developer. It made no difference to him to maintain it or not. It should be a public right-of-way.

Commissioner Kennedy stated there would be a cost to the Road Department.

Horace Brown stated there was a cost to everything, but it was not prohibitive. This is a commercial development, there would be more tax base than from a residential development.

Commissioner Kennedy asked John Kellogg if his client would accept responsibility for maintenance?

John Kellogg stated that if that was the decision of the County, he believed Alpine would be willing to go along with it. They felt that the alternate access would alleviate the traffic and one of the major purposes of Old 10 Road would be a connection for emergency and alternate access to the businesses on either side of the gully. They would prefer County maintenance.

Commissioner Evans stated that given the location of this property in relationship to the Development Park and Butler Creek, she hoped it would at some point be a follow through from Expressway. She was not willing to not maintain the roads if they are designed properly.

Colleen Dowdall reminded the Board that if they choose to not maintain it, there needs to be a mechanism in place to assure that it will be maintained. This is an area too small for a road improvement district or an RSID, but if there is no mechanism in place, then there are liability issues.

Chairman Carey asked if Horace Brown had any sense of what it would cost to maintain the road?

Horace Brown stated he didn't have any idea off hand, but it usually cost around \$4,500 per year to maintain a mile of paved highway. That includes plowing, sweeping, sanding, patching, etc.

Lisa Moisey stated the cul-de-sac portion was 1,700 feet long.

Commissioner Kennedy stated the point he was making was the Road Department didn't have the money to maintain the roads they already have. This is an opportunity to avoid that expense and still accept it as a County right-of-way until such time as it connects with other roads. Until that time, it is more of a private driveway. Under the financial circumstances, accepting it as a public road with maintenance did not seem appropriate.

Chairman Carey asked how to address Colleen Dowdall's point about some maintenance provision?

Colleen Dowdall stated she was at a loss. This was not something that the County has developed a policy on. This would be developing policy on a subdivision by subdivision basis and it was difficult for her to create a mechanism such as that at this meeting.

Commissioner Evans stated it has also not been through the public process of adopting it as a policy.

Chairman Carey stated that Horace Brown did not seemed concerned about the cost of accepting this.

Horace Brown stated the road is reasonably close to the County Shops and it would not be a hardship on the Road Department to maintain it.

Commissioner Evans stated that this would create more of a tax base. She agreed that the budget was in dire straights, but at the same time, this was not a policy that should be made on a subdivision by subdivision basis. Policies of this type should go through the public process and decisions made based on the information received.

Commissioner Kennedy stated the other alternative was to make this a private road until such time as more development in the area is known. He did not feel anyone would object to making the road public at that time.

Horace Brown stated that unless the road is volunteered to the County, it would have to be paid for.

Commissioner Kennedy disagreed with Horace Brown's statement. The advantage of having a public right-of-way accrues to the adjacent property owners. The likelihood of having to pay for the right-of-way is low.

Colleen Dowdall stated that in order to make this connection for adjacent property owners, a future Board may say this has to be a public road. That future Board may ask for the right-of-way, but there may be developers in that location who don't want the adjoining property developed for whatever reason. They would not give the County the right-of-way. The County could condemn it but a future Board may say they don't condemn roads for developers. If this is wanted as a County right-of-way at any point, now or in the future, extracting it from the developer now is the way to do it without any cost to the County. If the decision is made now that this is not wanted as a County road, then the decision should be made that it will be a private road and the possibility of a connection is not done.

Commissioner Kennedy stated a scenario opposite of this one could be drawn as well. Recently the County was asked, begged really, to accept a private road as a public right-of-way without maintenance for the purpose of a paving RSID. It did not make sense to approve and maintain a road at County expense right now unless there is some future plan in place. This is a 1,700 foot long cul-de-sac that does not meet width or length standards.

Colleen Dowdall stated that the Board had the option to make this a private road without the connection. That was the proposal the developer brought in. OPG was trying to develop some broader planning efforts in the ways allowed under Montana law.

Chairman Carey stated because of those broader planning efforts, he would support a motion to approve this. At no cost to the County they could oversee future road development in the area. He did not see the opportunity for an RSID in the future in that area.

Commissioner Evans moved that the Board of County Commissioners approve the variance request from Section 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways in the subdivision; approve the variance request to Section 3-2(3) of the Missoula County Subdivision Regulations for the requirement for a 32 foot roadway surface width for commercial/industrial subdivisions; and approve the variance request to Section 3-2(3)(A) of the Missoula County Subdivision Regulations which allows a maximum cul-de-sac length of 600 feet in urban/suburban subdivisions, all based on the findings of fact set forth in the staff report.

Commissioner Kennedy asked Commissioner Evans to revise her motion to include just the first two variance requests for sidewalks and roadway surface width. He could support those but could not support the maximum cul-de-sac length variance.

Commissioner Evans moved that the Board of County Commissioners approve the variance request from Section 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways in the subdivision and approve the variance request to Section 3-2(3) of the Missoula County Subdivision Regulations for the requirement for a 32 foot roadway surface width for commercial/industrial subdivisions, both based on the findings of fact set forth in the staff report. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Commissioner Evans moved that the Board of County Commissioners approve the variance request to Section 3-2(3)(A) of the Missoula County Subdivision Regulations which allows a maximum cul-de-sac length of 600 feet in urban/suburban subdivisions, based on the findings of fact set forth in the staff report. Chairman Carey seconded the motion. The motion carried on a vote of 2-1 (Commissioner Kennedy opposed).

Commissioner Evans moved that the Board of County Commissioners approve the Alpine Addition Summary Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report. Chairman Carey seconded the motion. The motion carried on a vote of 3-0.

Alpine Addition Summary Subdivision Conditions of Approval:

Airport

1. The following statement shall appear on the face of the plat:

“This property is within the Airport Influence Area and subject to the requirements of the Airport Influence Area Resolution.”

The Development Covenants shall include information about airport impacts and required mitigations, subject to Airport Authority approval, prior to final plat approval. *Subdivision Regulations Article 3-1(2), 4-1(12) and Airport Authority request.*

2. An aviation easement shall be obtained for the property in compliance with the Airport Influence Area Resolution, prior to final plat approval. *Subdivision Regulations Article 3-1(2) and Airport Authority request.*

Roads

3. The developer shall dedicate, and show on the face of the plat, a 40 foot public road and utility easement along the eastern boundary of the property, extending from Highway 10 north to the 80 foot easement located at the end of the Old 10 Road cul-de-sac. *Subdivision Regulations Article 3-2(1), recommendation of Montana Department of Transportation and Missoula Rural Fire District, and supported by 1998 Missoula Urban Area Comprehensive Plan Update.*
4. The roadway easement extending from the end of the cul-de-sac shall also be dedicated as a public roadway and utility easement. *Subdivision Regulations Article 3-2(H) and recommendation of OPG and County Surveyor.*
5. The reference to US Highway 93 shall be removed from the plat, prior to final plat approval. *Subdivision Regulations Article 5-2(3)(E) and recommendations from MDT.*
6. The on-site access road, Old 10 Road, shall be built to County standards (a minimum 24 feet paved width, with 2 foot shoulders on both sides) and shall be dedicated as a public right-of-way, subject to review and approval by the County Surveyor prior to final plat approval. *Subdivision Regulations Article 3-2(1), and recommendation of County Surveyor and OPG.*

Pedestrian Walkways

7. The following statement shall appear on the face of the plat:

“Acceptance of a deed for a lot within this subdivision constitutes the assent of the lot owner to waive their rights to protest a future RSID/SID for future improvements to Highway 10 and Old 10 Road, including construction of pedestrian walkways and bikeways, based on benefit, and may be used in lieu of their signature on an RSID/SID

petition. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land depicted herein." *Subdivision Regulations Article 3-2(5).*

Water and Sewer

8. The following statement shall appear on the face of the final plat:

"Acceptance of a deed for a lot within this subdivision constitutes a waiver of the right to protest a future RSID/SID for public sewer and water systems, based on benefit. The lot owner shall connect to public sewer within 180 days of when the public sewer main is available to the subdivision. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations Articles 3-1(1)(D), 3-7(2) and Health Department recommendation.*

Fire

9. The developer shall show proof of contribution to the Missoula Rural Fire District's large diameter hose fund at the rate of \$100.00 per lot, prior to final plat approval. *Subdivision Regulations Article 3-7(1) and Missoula Rural Fire District recommendation.*
10. The developer shall provide turnouts along the cul-de-sac road serving this subdivision at 400 foot intervals, with the distance between the last turn out and the terminus being 500 feet. Plans for turn outs shall be approved by the Missoula Rural Fire District prior to final plat approval. If the developer provides a drivable surface on Old 10 Road and the looping roadway easement connection to Highway 10, as approved by the Fire Marshall, the Rural Fire District has the option to waive the requirement for the turn-outs.

Natural Resources

11. The area of riparian resources, as shown on the plat, shall be extended to adequately protect the riparian resources on this property. The areas shall be extended as shown on Attachment "A." Revisions shall be approved by OPG prior to final plat approval. *Subdivision Regulations Article 3-13(2).*
12. The Riparian Management Plan shall define more clearly and specifically the proposed low-impact uses planned for the area. The applicant shall address whether the area will be fenced, if storage will be allowed in the Riparian Area, and the types of uses and access that will be permitted. *Subdivision Regulations Article 3-13(3)(B).*
13. The Revegetation Plan for Disturbed Sites shall be amended to include the following:
- A. The seeding rate shall be as follows:
 - Revenue Slender Wheatgrass – 2 pounds PLS per acre
 - Durar Hard Fescue – 2 pounds PLS per acre
 - Ephriam Crested Wheatgrass – 8 pounds PLS per acre
 - B. All construction equipment or personal vehicles working in or around the Whitetop infestation shall be power washed to remove any seed from the equipment before it leaves the site. In the spring, the Whitetop shall be treated with the herbicide Escort at a rate of one ounce per acre.

The revised Revegetation Plan shall be approved by the Missoula County Weed Supervisor prior to final plat approval. *Subdivision Regulation Article 3-1(1)(B) and recommendation of Missoula County Weed District.*

14. The Revegetation Plan for Disturbed Sites shall be included in the Development Covenants proposed for this subdivision. Additional language shall be added to the Development Covenants to require all future lot purchasers comply with the provision of the Montana Noxious Weed Act and the Missoula County Noxious Weed Plan. *Subdivision Regulation Article 3-1(1)(B) and recommendation of Missoula County Weed District.*
15. Prior to issuance of a building permit on Lot B-1, all Primary Travel Corridor Standards shall be met, including a landscaping plan. Landscaping shall be installed within 180 days of Building Permit approval or by the next growing season. *Subdivision Regulation Article 3-14.*

There being no further business to come before the Board, the Commissioners were in recess at 2:15 p.m.

THURSDAY, SEPTEMBER 7, 2000

The Board of County Commissioners met in regular session; a quorum of members was present. Chairman Carey was in Helena attending a Montana Growth Policy Forum held at the MACo Office.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated September 7, 2000, batch numbers 839 and 841 (pages 1-8), with a grand total of \$26,469.92. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated September 7, 2000, batch number 840 (pages 1-4), with a grand total of \$11,997.76. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated September 7, 2000, batch number 842 (pages 1-4), with a grand total of \$32,436.76. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated September 7, 2000, batch number 844 (pages 1-2), with a grand total of \$1,950.00. The Claims List was returned to the Accounting Department.

Monthly Report - Chairman Carey examined, approved and ordered filed the Monthly Reconciliation Report for Justice Court 1, John E. Odlin, Justice of the Peace, for the month ending August 31, 2000.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Agreement - The Commissioners signed a Memorandum of Agreement between Missoula County and WORD/Futures (Women's Opportunity and Resource Development, Inc.) for home visiting services to teen parents involved in the Partnership to Strengthen Families and in some cases with the Department of Child and Family Services. The term will be July 1, 2000 through June 30, 2001. The total amount shall not exceed \$18,238.00.

Agreement - The Commissioners signed a Memorandum of Agreement between Missoula County and the YWCA of Missoula for participation in DPHHS Domestic Violence Program and Rural Domestic Violence Program, a Jesuit Volunteer Program, which provides staffing in the Battered Women's Shelter. The term will be July 1, 2000 through June 30, 2001. The total amount shall not exceed \$16,000.00.

Agreement -- The Commissioners signed an Agreement for Maintenance between Missoula County and the City of Missoula Parks and Recreation Department for general maintenance service of the Fort Missoula Park Complex grounds. The term will be July 1, 2000 through June 30, 2001. The total amount shall not exceed \$45,375.00. The document was forwarded to the City for further signatures and handling.

Contract -- The Commissioners signed a Contract between Missoula County and Central Pre-Mix Prestress Company for the supply and installation of four each precast, steel reinforced, concrete deck panels, each measuring 1' by 7' by 15', for Crystal Creek Bridge CF-08. The total amount shall not exceed \$10,726.00. The work will commence within ten calendar days following mailing of the "Notice to Proceed," and Contractor will fully complete all the work within a period of 45 consecutive days from the fifth day following the mailing of the Notice to Proceed.

Other items included:

- 1) Per the recommendation of the Projects Office, the Commissioners signed a Bid Award and Contract, dated August 25, 2000, with Johnson Brothers Contracting, for construction and installation of four water service connections within Phase 1, Missoula Development Park (Lots 7, 10 and 11, Block 4 and Lots 4 and 5, Block 2). The total amount shall not exceed \$10,840.00. The work will commence on a date set forth by the Owner in a written "Notice to Proceed" and shall be completed within thirty consecutive calendar days. If the work is not completed within the time specified, the Owner may withhold liquidated damages in the amount of \$200.00 per day.

The Commissioners also signed two Tap Application Agreements with Mountain Water Company to install water taps to the following locations (Lots 10 and 11, Block 4, Missoula Development Park, Phase 1): 6772 and 6900 Kestrel Drive; Tap Numbers 1824 & 1825; and 6400 Industrial Road; 6" Tap in existence.

The Bid Award, Contract, and two Tap Applications were returned to Barb Martens in the Projects Office for further handling.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, SEPTEMBER 8, 2000

The Board of County Commissioners did not meet in regular session. Commissioners Evans and Kennedy were out of the office all day, and Chairman Carey was out all afternoon.

Task Order -- Chairman Carey signed Task Order No. 01-07-5-01-030-0 to the Missoula County Master Contract that covers the period July 1, 1998 through June 30, 2005. The Task Order is between the Montana Department of Public Health and Human Services and Missoula County, and provides the health-related services required as set forth therein. The term will be July 1, 2000 through June 30, 2001. The compensation and source of funding shall be paid pursuant to the terms set forth therein. The document was returned to the Health Department for further signatures and handling.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chair
Board of County Commissioners

MONDAY, SEPTEMBER 11, 2000

The Board of County Commissioners met in regular session; all three members were present.

Payroll Transmittal - The Commissioners signed the following Payroll Transmittal Sheet: Pay Period: 18 - Pay Date: September 8, 2000. Total Missoula County Payroll: \$910,661.13. The Transmittal Sheet was returned to the Auditor's Office.

Claims List - The Commissioners signed the Claims List, dated September 8, 2000, batch number 843 (pages 1-5), with a grand total of \$67,270.30. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated September 8, 2000, batch numbers 845 and 847 (pages 1-7), with a grand total of \$31,378.28. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated September 8, 2000, batch number 848 (pages 1-2), with a grand total of \$4,097.89. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated September 8, 2000, batch number 850 (pages 1-4), with a grand total of \$14,442.07. The Claims List was returned to the Accounting Department.

Monthly Report - Chairman Carey examined, approved and ordered filed the Monthly Reconciliation Report for the Report of the Sheriff, Douglas W. Chase, for the month ending August 31, 2000.

Monthly Report - Chairman Carey examined, approved and ordered filed the Monthly Reconciliation Report for Justice Court 2, Justice of the Peace, Karen A. Orzech, for the month ending August 31, 2000.

Contract – The Commissioners signed a Contract, dated September 11, 2000, between Missoula County and Green Diamond Contracting, the lowest and best bidder for the construction of sewer improvements within the Phase 1, Missoula Development Park. The Contractor will commence work within ten calendar days following mailing of the "Notice to Proceed." The total amount shall not exceed \$95,314.57.

Award -- Chairman Carey signed award documentation for continuation of a Rural Domestic Violence grant. This is the third Rural D.V. continuation grant award. It's an 18-month grant that funds a significant portion of outreach to rural areas like Seeley Lake and Condon and specialized populations like the Hmong, Native Americans, and Russian communities in the areas of domestic and sexual violence. It supports part of the Crime Victim's Advocate Program. It provides the CVA program and other providers like the YWCA and the Asian American Center with significant levels of training and technical support. The project period is October 1, 1996 to January 1, 2002. The Budget period is October 1, 1996 to January 1, 2002. The award date is July 27, 2000, and the amount of this award is \$269,591.00. The document was returned to Leslie McClintock in the Office of Planning and Grants for further handling.

TUESDAY, SEPTEMBER 12, 2000

The Board of County Commissioners met in regular session; all three members were present in the forenoon. Commissioner Kennedy was out of the office all afternoon.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Agreement – The Commissioners signed a Memorandum of Agreement between Missoula County and The Salvation Army for the purchase of basic needs assistance for indigent residents of Missoula County. The term will be July 1, 2000 through June 30, 2001. The total amount shall not exceed \$12,000.00.

Agreement – The Commissioners signed a Public Road Agreement between Missoula County and the Montana Fish, Wildlife and Parks for the completion of the road project providing access to Beavertail Hill State Park. The term will be August 30, 2000 through May 30, 2001. The total amount shall not exceed \$12,000.00.

Agreement -- Chairman Carey signed a Letter of Agreement between the Missoula County Board of Trustees for Museums and the United Peoples Foundation ("UPF") for the purpose of conducting the "First Annual Native American Day Celebration" ("Powwow") to be held on September 22, 2000 on the grounds of the Historical Museum at Fort Missoula. In return for permission to use the Museum grounds as a site for the Powwow, the UPF agrees to make a monetary donation of \$300.00 to the Friends of the Historical Museum at Fort Missoula, due no later than October 15, 2000.

Other items included:

- 1) The Commissioners approved and authorized the filing of the application for Fiscal Year 2000 Local Law Enforcement Block Grant, including all understandings and assurances contained therein, and directed and authorized Captain Don Morman as the official representative of the applicant.
- 2) Via letter dated September 13, 2000, the Commissioners appointed William R. Englert of Seeley Lake, Montana, as a member of the Seeley Lake Solid Waste Management District Board. Mr. Englert will fill an unexpired term through December 31, 2001, at which time he will be eligible for reappointment to a three-year term.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, SEPTEMBER 13, 2000

The Board of County Commissioners met in regular session; all three members were present in the afternoon. Commissioner Kennedy was out of the office until noon.

Plat – The Commissioners signed the plat for Hellgate Pines, Addition No. 1, Lot 15, a subdivision located in the SE¼ of Section 12, T 12 N, R 18 W, PMM, Missoula County, a total area of 2.55 acres gross and net, with the owners of record being Kelvin and Patricia Nordwick.

Agreement – The Commissioners signed a Multi-Party Tennis Court Limited Use Agreement for Local Government Public Tennis Courts, dated September 5, 2000, whereby certain entities shall provide resources to reconstruct tennis

courts at Playfair Park and Fort Missoula Park under the terms of the agreement. The parties to this agreement are: 1) City of Missoula, 2) Missoula County Public Schools ("MCPS"), 3) Loyola Sacred Heart High School, 4) Valley Christian High School, 5) Garden City Tennis Association, and 6) Missoula County Park Board. The Monetary Funding Package to reconstruct up to 20 tennis courts, 12 at Playfair Park and 8 at Fort Missoula Park, is hereby agreed to by each party. The actual commitment to the tennis court project by the City is \$71,000 and by the County is \$34,000 as the \$10,000 offered by both Loyola Sacred Heart and Valley Christian is \$1,000/year over 10 years. Thus, the additional \$9,000 by each the City and the County must be available to complete the project. Participation in this agreement by MCPS is expressly contingent upon MCPS obtaining an intercap loan of \$90,000 to partially fund this payment.

"August 31, 2000 Agreement Update:

Court bids exceeded \$300,000. Garden City Tennis Association has agreed to secure a loan and increase their contribution by \$40,000, to \$70,000. The City agreed to provide sub-excavation services. The Tennis Advisory Group met August 25 and agreed to reduce the project by eliminating the basketball court at Fort Missoula, and if necessary reducing the drainage system at Fort Missoula, lowering the side court fencing to 5 feet at all sites, eliminating the seating apron at Playfair Park. The City was directed to negotiate with the low bidder to reduce the project to \$340,000. All members of this agreement agree to all terms itemized in this agreement with the exception listed in XI Agreement Update."

The document was returned to Donna Gaukler at City Parks and Recreation for further signatures and handling.

Audit Contract -- Chairman Carey signed an addendum to a Standard Audit Contract Form SAC01 Appendix A, Year Ended June 30, 2000, between Missoula County, Montana, and Public Accounting Firm Elmore & Associates, P.C. Certain items are incorporated into Appendix A (Subsequent Audit Under This Contract), as per the items set forth therein. The document was forwarded to Montana Department of Commerce, Bureau of Local Government Services, in Helena, Montana, for further signatures and handling.

PUBLIC MEETING – September 13, 2000

The Public Meeting was called to order at 1:30 p.m. by Chairman Bill Carey. Also present were Commissioner Barbara Evans, Commissioner Michael Kennedy, County Surveyor Horace Brown, Deputy County Attorney Colleen Dowdall and Chief Civil Attorney Michael Sehestedt.

Public Comment

None

Routine Administrative Actions

Commissioner Kennedy moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$373,643.13. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Hearing: Hansen Family Transfer

Chairman Carey opened the hearing on the Hansen Family Transfer.

Colleen Dowdall, Deputy County Attorney, presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described as Parcel 29 of COS 351.

Charles Edward Hansen has submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 10 acres in size located near Huson off Wahupa Lane. Mr. Hansen proposes to create an approximately 5 acre parcel for transfer to his wife, Phyllis I. Hansen, leaving a remainder parcel of approximately the same size. Mr. Hansen has owned the property since 1983.

The history of the parcel is as follows:

Parcel History	Year	Exemption Used	Applicant	Intended Recipient
Created as Parcel 29 of COS 351	1974	Parcel greater than 10 acres	Not Shown	N/A

According to the records kept by the Missoula County Surveyor, the applicant has not used the exemptions to the Subdivision and Platting Act.

Charles "Chuck" Hansen was present and came forward to answer any questions the Commissioners may have.

Chairman Carey stated that as part of the criteria for this exemption, the Board needed to determine if this was indeed a transfer to a family member and not an attempt to evade subdivision review. He asked Mr. Hansen if he did indeed intend to transfer this property to his wife, Phyllis I. Hansen?

Chuck Hansen stated that was his intention.

There being no further comments, the public hearing was closed.

Commissioner Evans moved that the Board of County Commissioners approve the request by Charles Hansen to create a new parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Hearing: Clinton Family Transfer

Chairman Carey opened the hearing on the Clinton Family Transfer.

Colleen Dowdall, Deputy County Attorney, presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described as Parcel B-1 of COS 3467, in the SE 1/4 Section 32, Township 12 North, Range 20 West.

Paul B. Clinton has submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately ten acres in size located near Lolo off Balsam Root Road. Mr. Clinton proposes to create an approximately six acre parcel for transfer to his son, Michael B. Clinton, leaving a remainder parcel of approximately 4 acres.

The history of the parcel is as follows:

Parcel History	Year	Exemption Used	Applicant	Intended Recipient
Tract 5 of COS 1807	1979	Creating parcel greater than 20 acres	Ramona Holt	N/A
Parcel B, COS 3246	1985	Occasional Sale	Purchio	N/A
Parcel B-1, COS 3467	1987	Boundary Relocation	Purchio	N/A

According to the records kept by the Missoula County Surveyor, the applicant has not used the exemptions to the Subdivision and Platting Act.

Paul Clinton was present and came forward to answer any questions the Commissioners may have.

Chairman Carey stated that as part of the criteria for this exemption, the Board needed to determine if this was indeed a transfer to a family member and not an attempt to evade subdivision review. He asked Mr. Clinton if he did indeed intend to transfer this property to his son, Michael B. Clinton?

Paul Clinton stated that was his intention.

Commissioner Kennedy asked what the purpose of the Boundary Relocation was?

Paul Clinton stated he had no idea.

Colleen Dowdall stated the Boundary Relocation was done by a prior owner. This is a long narrow parcel. When it was divided, it was split down the middle, creating two long narrow parcels, one shorter than the other. The Boundary Relocation essentially corrected the shortage of the smaller parcel.

There being no further comments, the public hearing was closed.

Commissioner Evans moved that the Board of County Commissioners approve the request by Paul B. Clinton to create a new parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Consideration and Approval: Proposed Changes to Missoula City-County Air Pollution Control Program and Missoula’s Portion of the State Implementation Plan

Shannon Therriault, Missoula City-County Health Department, presented the staff report.

This is a request to adopt a resolution to approve changes to the Missoula City-County Air Pollution Control Program and Missoula’s portion of the State Implementation Plan.

The Missoula City-County Air Pollution Control Board, after four public hearings, extensive written public comment and three drafts, approved and passed the attached amendments to the Missoula City-County Air Pollution Control Program. These changes reflect reorganizing and editing, adopting rules to ensure Missoula’s program is at least as stringent as the state’s (as required by the Clean Air Act), making some rules less bureaucratic for sources, further protecting or maintaining Missoula County’s air quality, and responding to extensive public comment. In addition to improving the program, these revisions are necessary to set the stage for redesignation.

The Air Pollution Control Program provides that the County Commissioners may approve or veto the Control Board’s amendments and revisions by resolution at a public meeting. It does not provide amendatory power. These rules were approved by the Missoula City Council on September 11, 2000, and must be approved by the Montana Board of Environmental Review before they become effective.

The Environmental Health Department of the Missoula City-County Health Department recommends that the Commissioners approve these amendments and recommend to the Governor of Montana that the entire program, including appendices, but not including Rules 6.505, 6.506, 6.507, Chapter 12 or Chapter 13, entirely replace any portions of the Missoula City-County Air Pollution Control Program currently in the Montana State Implementation Plan.

None of these revisions will require additional personnel.

Public hearings were held on April 20, 2000, May 3, 2000, June 15, 2000 and July 25, 2000. During that time there were three drafts prepared, each consecutive draft based on public comment. Extensive public comment and agency comment were received during the hearing process. The majority of comments were incorporated into the rules.

The Air Pollution Control Board unanimously approved the regulations on July 25, 2000. The City Council unanimously approved the changes on September 11, 2000. The changes now need to be approved by the County Commissioners before they can be forwarded to the Board of Environmental Review (BER) for final approval. The rules become effective when the BER approves them.

Chairman Carey asked for public comment.

Leif Griffin, Senior Environmental Engineer at Stone Container's Missoula Mill, stated the Mill has provided testimony on the proposed changes and provided written comments on the three drafts prepared. They appreciated that the public comment period was extended to obtain comments on these complex regulations. They also appreciated the time both Shannon Therriault and Jim Carlson took to review and discuss the comments from the Missoula Mill. Some comments were able to be resolved, however, there are still some unresolved comments that are important to the Mill. Without resolution of those comments, they felt they could not support the rules as submitted. He provided the Board with a copy of their previous testimony. He summarized the remaining concerns.

- 1) Chapter 2 – The definitions of “incinerator,” “permit modification” and “solid waste.” Generally the current definitions differ from the State rules. The Mill feels the City Council definitions should be the same as the State's definitions. Air regulations are complex enough without adding uncertainties due to differences between the basic definitions used by State and local agencies.
- 2) Chapter 4 – Air stagnation emergency episode plans. The rules should more clearly distinguish between trigger levels and controls that are intended to maintain compliance with the particular ambient air quality standards and those that address emergency episodes. The emergency episodes are limited by Montana statute. They are not intended for the general purpose of maintaining or improving air quality.
- 3) Chapter 14 – Credible evidence. The Mill has concerns with the proposal to define the data or observations that are known as credible evidence that can be used to determine whether a source is in compliance with its permits, limits and conditions. They felt the rules addressing credible evidence be postponed until the BER has acted in order to avoid confusion, inconsistency and possible legal issues if there are differences between the State and local rules.

The Mill also continues to recommend that the membership on the Air Pollution Control Board be increased to include members from facilities that are regulated by these rules.

Jim Carlson, Director of Environmental Health at the City-County Health Department, stated that a procedure of responding in writing to all of the comments submitted had been adopted. All those who commented during the public process received a written response from the Environmental Health Department. There have been a number of agreements with testimony provided by Stone and other industrial sources. Those changes have been incorporated in these regulations. The only areas of disagreement with Stone were those just presented. Other than the credible evidence comments, the language pre-existed in the regulations. If these changes are not passed, all of those items fixed will continue to be in the regulations. These changes need to be approved to address all of the other concerns and comments received during the public process.

Commissioner Kennedy stated that as a member of the Health Board he was witness to the testimony from staff and those who will be affected by these changes. The Health Board wisely continued the public process to accommodate those concerns in a way that would not compromise the rule making. He believed that had been accomplished. He was comfortable with the activity of staff and the Health Board. This will be an uncomplicated set of rules and regulations that better address air quality in the community. It will remove a lot of ambiguity and make it clearer to both the regulators and the regulated. He was strongly in support of these changes.

Commissioner Kennedy moved that the Board of County Commissioners adopt the resolution to approve changes to the Missoula City-County Air Pollution Control Program and Missoula's portion of the State Implementation Plan.

Commissioner Evans asked Leif Griffin if there was anything in the Mill's concerns with these changes that would negatively impact the employment of personnel at the Mill?

Leif Griffin stated these rules require, under emergency episode conditions, the implementation of the Mill's abatement plan. Under emergency conditions, it is required that the Mill curtail operations.

Commissioner Evans asked if these regulations are passed in spite of the Mill's concerns, will it cause layoffs?

Leif Griffin stated, to his knowledge, it would not cause layoffs.

Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Commissioner Evans stated that if there were changes that would affect employment, she would be adverse to adopting the resolution. There were no comments that were of such a serious nature as to not support the changes. The Board only has the power to approve or veto the whole package.

Commissioner Kennedy stated that this project had been assigned to Shannon Therriault. In her review she noticed that the entire section needed to be reviewed and simplified. The work that has been done has been remarkable and he appreciated her hard work. He appreciated Jim Carlson's support as well. These changes go a long way in protecting Missoula's air quality. They have done an outstanding job and he offered his congratulations.

There being no further business to come before the Board, the Commissioners were in recess at 1:50 p.m.

Resolution No. 2000-078 – Following the Public Meeting, the Commissioners signed Resolution No. 2000-078, dated September 13, 2000, approving and adopting the proposed revisions and amendments to the Missoula City-County Air Pollution Control Program, as per the items set forth.

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THURSDAY, SEPTEMBER 14, 2000

The Board of County Commissioners met in regular session; all three members were present in the forenoon. Chairman Carey was out of the office all afternoon.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Resolution No. 2000-079 – The Commissioners signed Resolution No. 2000-079, which rescinds Resolution No. 2000-65, Prohibiting Open Burning, dated August 2, 2000. The new resolution allows open burning with the appropriate permit issued by the fire protection agency having jurisdiction in that area.

Agreement – The Commissioners signed a Memorandum of Agreement between Missoula County and Watson Children's Shelter to provide shelter care for abused, neglected or abandoned children, age 0-14. Placements are made predominantly by Child and Family Services, and the Police and Sheriff's Department. The term will be July 1, 2000 through June 30, 2001. The total amount shall not exceed \$22,500.00.


Agreement – The Commissioners signed a Memorandum of Agreement between Missoula County and Montana Legal Services - The Family Law Advice Clinic to assist low income individuals in Missoula County who cannot afford to hire a private attorney and would not otherwise have access to the civil legal system in representing themselves in uncontested divorce and parenting cases. The term will be July 1, 2000 through June 30, 2001. The total amount shall not exceed \$4,000.00

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and MSC Environmental, Inc., to provide a limited asbestos inspection of the Missoula County Health Department building in Missoula, Montana. The term will be September 11, 2000 through September 29, 2001. The total amount shall not exceed \$1,283.00.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, SEPTEMBER 15, 2000

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was out of the office all day. In the afternoon, Chairman Carey attended a Mental Health Board Meeting held at the Best Inn in Missoula.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chair
Board of County Commissioners

MONDAY, SEPTEMBER 18, 2000

The Board of County Commissioners met in regular session; all three members were present.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated September 18, 2000, batch number 853 (pages 1-4), with a grand total of \$14,227.02. The Claims List was returned to the Accounting Department.

Replacement Warrant – Chairman Carey examined, approved, and ordered filed an Application for Issuance Replacement Warrant naming Katie Zachariasen as principal for Warrant #261952 issued [DATE?] on the Missoula County Payroll Accounting Fund for fire camp payroll in the amount of \$364.00. No bond of indemnity is required.

TUESDAY, SEPTEMBER 19, 2000

The Board of County Commissioners met in regular session; all three members were present in the afternoon. Commissioner Kennedy was out of the office until noon.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Resolution No. 2000-081 – The Commissioners signed Resolution No. 2000-081 (Rescinding Resolution No. 2000-58, an Emergency Fire Proclamation), proclaiming that a fire emergency no longer exists in Missoula County as of September 19, 2000.

Agreement – The Commissioners signed a Memorandum of Agreement between Missoula County and Child Care Resources, Inc. to coordinate and pay for respite child care for families in the Partnership to Strengthen Families Project. The term will be July 1, 2000 through June 30, 2001. The total amount shall not exceed \$8,214.00.

Agreement – The Commissioners signed a Memorandum of Agreement between Missoula County and Western Montana Mental Health Center to purchase alcohol and other substance abuse prevention, intervention and treatment services for prioritized populations in accordance with the Missoula County Alcohol and Other Drug Treatment and

Prevention Services Plan for 2000-2003 in Missoula County. The services will be provided at Turning Point. The term will be July 1, 2000 through June 30, 2001. The total amount shall not exceed \$78,925.00.

Agreements – The Commissioners signed two (2) identical Agreements for Provision of Professional Security Services between the Missoula County Sheriff's Department ("Contractor") and (1) the Frenchtown School District and (2) Seeley/Swan High School ("Requestors"), to provide services as described in sub-paragraph 9 as follows:

"That the Contractor agrees to provide the following services at the location and during the times specified unless amended by mutual agreement of the Requestor(s) and Sheriff Chase (or his designee): uniformed officers to perform security at school functions. The number of officers, dates and times will vary depending on the event."

The term of the Agreements will be for the period of the 2000/01 school year, unless amended by mutual agreement of both parties. The total compensation shall be \$15 per hour plus 12.8% of the total for work performed by reserve deputies. The two documents were returned to the Sheriff's Department for further signatures and handling.

Agreement – The Commissioners signed an Assistance Agreement between the Bureau of Land Management and the Missoula County Weed District in order to facilitate noxious weed management among federal, private, state and corporate landowners and land managers in the Blackfoot River watershed. The project is coordinated through the Blackfoot Challenge, and has been authorized to receive Federal funding through the Bureau of Land Management. The Missoula Weed District provides education, assists landowners in developing weed management plans, and coordinates biological weed control and leafy spurge grazing projects. The Assistance Agreement enables the Bureau of Land Management to provide funding to the Weed District and the landowners to accomplish the following:

1. Assist landowners in developing a cooperative weed management project in the Potomac area.
2. Gather data on leafy spurge in the Blackfoot River Corridor.
3. Assist landowners in existing cooperative weed management projects, to wit, the Greenough and Woodworth projects.
4. Coordinate releases of biological control agents in the Blackfoot area and aid landowners in exploring the possibility of using sheep and goats to graze leafy spurge.

Work is to begin on the date the agreement is approved and continue until the specified items are completed. All items are to be completed no later than March 31, 2002. Funds have been approved in the Weed District's Budget. The Weed District is not obligated to continue projects once funds have been expended.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, SEPTEMBER 20, 2000

The Board of County Commissioners met in regular session; all three members were present in the forenoon. Chairman Carey was out of the office all afternoon. In the evening, Commissioner Evans attended the Chamber Banquet.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated September 19, 2000, batch number 852 (pages 1-3), with a grand total of \$7,448.80. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated September 19, 2000, batch number 857 (pages 1-6), with a grand total of \$59,531.88. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated September 19, 2000, batch numbers 854 and 861 (pages 1-4), with a grand total of \$79,463.38. The Claims List was returned to the Accounting Department.

Contract – The Commissioners signed a Contract, dated September 20, 2000, between Missoula County and JTL Group, Inc. ("Contractor"), the lowest and best bidder, for the construction of Street, Pathway, and Drainage improvements within Phase I, Missoula County Development Park. The total amount shall not exceed \$417,164.75. The Contract was returned to Doreen Culver, Bidding Officer, for further handling.

Agreement – The Commissioners an Agreement, dated September 20, 2000, between Missoula County and JTL Group, Inc. ("Contractor"), for the improvement consisting of constructing 1,002 feet of roadway from Butler Creek Road west to Butler Creek. The project extends the length of Expressway and includes the construction of the subgrade; application of sub-base rock and base rock; application of asphalt surfacing; installation of corrugated metal pipe; and removal of excess excavation from the project site. The total amount shall not exceed \$128,733.00. It is imperative that this project be completed no later than November 1, 2000. The Agreement was returned to Doreen Culver, Bidding Officer, for further handling.

PUBLIC MEETING – September 20, 2000

The Public Meeting was called to order at 1:30 p.m. by Acting Chairman Barbara Evans. Also present were Commissioner Michael Kennedy, Deputy County Attorney Colleen Dowdall and Chief Civil Attorney Michael Sehestedt. Chuck Wright, Surveyors Office, attended the meeting for County Surveyor Horace Brown, who was on vacation. Commissioner Chairman Bill Carey was out of the office.

Public Comment

None

Routine Administrative Actions

Commissioner Kennedy moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$160,671.08. Acting Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Hearing: Alteration of Right-of-Way Easement at Mullan Road and McDowell Drive

This is a petition to alter "a portion of the Mullan Road right-of-way at McDowell Drive within Tract C-2A of Certificate of Survey No. 4221, located in the NE 1/4 of Section 18, Township 13 North, Range 18 West, Missoula County, Montana."

The reasons for the request are as follows: 1) Missoula County no longer needs the current right-of-way.

The following landowners have been notified: Timothy R. and Sylva H. Stone.

Chuck Wright, Surveyors Office, stated it was to the advantage of the County and the landowner to alter this right-of-way. It is a very small triangle shaped piece of right-of-way at the corner of Mullan Road and McDowell Drive. It is a rather straightforward proposal.

Acting Chairman Evans opened the public hearing.

Sylva Stone stated she was the landowner in question. When they purchased the land they assumed it was all unencumbered. They subsequently found out part of it was a County right-of-way. Most of their property is a steep hill and they have little flat land. This will allow them to have a front yard and driveway.

Chuck Wright stated the County was in favor of this alteration. It was not a problem.

There being no further comments, the public hearing was closed.

Acting Chairman Evans stated the Commissioners are required by law to do a site inspection before a decision can be made. The inspection will be scheduled and the Board will render their decision at the Public Meeting next Wednesday, September 27, 2000.

Hearing: Elk Watch Estates (10 Lot Subdivision) – Off Mill Creek Road near Frenchtown

Nancy Heil, Office of Planning and Grants, presented the staff report.

The applicants, Marlen and Wendy Savik, are proposing to split a 31.03 acre parcel into 9 residential lots and one non-residential lot. The residential lots vary in size from 1.11 acres to 3.02 acres. The non-residential lot (Lot 10) is 13.78 acres in size and is proposed for agricultural or open space use. The property is located off Mill Creek Road in Frenchtown.

The property slopes up to the east and exceeds 25% in some places on Lot 10, which has been designated as a no-build area. The property is currently vacant and has been used for grazing.

The property is unzoned. The 1975 Comprehensive Plan recommends low density residential land use with a density of one dwelling unit per 10 acres. The property is also within the Frenchtown Activity Circle and the proposed density of the proposal is approximately 1 dwelling unit per 3.5 acres. Condition 1 requires a no-build zone on the upper portions of Lots 7, 8 and 9, which will result in somewhat more clustering of residences.

Access is proposed via Mill Creek Road to Savik Lane to private driveways. Mill Creek Road is about 22 feet wide within a 60 foot public right-of-way. It is County maintained. It is paved for about 1/2 mile and becomes gravel about 1/4 mile before the access to the property. The applicants have requested a variance for improvements to the width of that road. Staff is recommending approval of that variance with the condition that the plat include a waiver of the right to protest an RSID for future improvements to Mill Creek Road.

The new lots would be served by Savik Lane. There is an existing driveway from Mill Creek Road that serves two homes on properties adjacent to the subdivision. The new road would be constructed in generally the same place as this driveway. Savik Lane would be paved to a 24 foot width. There is a variance request for the Savik Lane cul-de-sac length, which staff is recommending approval of, based on a condition that a secondary access to adjacent State land remain unblocked. This would be another way for the fire department to get in or out of the property. The State land is administered by the Department of Natural Resources and Conservation (DNRC). There is an existing dirt road that crosses the property.

There is a conceptual driveway layout shown in the application packet. There is a condition that requires that the covenants address grade requirements for those driveways. Savik Lane will have a drainage swale on one side of the property and there is a condition of approval that requires County Surveyor approval of drainage plans. Also, there is a swale that is located on Lot 6. There is a condition of approval that this swale on Lot 6 be designated a no-build zone.

There are no walkways along Mill Creek Road at the present time and there are none proposed on Savik Lane. The applicants have requested a variance from that requirement and staff is recommending approval of the variance request with the condition that there be a waiver of the right to protest a future RSID for Mill Creek Road.

There is also a pedestrian easement that is shown from the adjacent property to Lot 10. Mr. Savik owns the adjacent property and intends to retain ownership of Lot 10. This easement would allow access to that lot.

The property is within a Wildland/Residential Interface and has been reviewed by the Frenchtown Fire District using "Firewise Community" standards. There is a proposal for a 10,000 gallon water tank on Lot 10, and two fire hydrants along Savik Lane. There is a condition related to Fire District approval of tank plans and hydrant locations.

The Fire District will also require fire safety permits. This is a relatively new requirement and the permits will require physical inspection and written approval from the Fire District of the landscaping plan for each lot. Conditions 12 and 13 require that this be shown on the plat and in the covenants.

There is a community water system proposed with a well located in the common area. It is an existing well. Individual septic systems are proposed for the lots. The park area requirement for the proposal would be 0.62 acres. The applicants have proposed a 3.5 acre common area that is located between Lots 2 and 3 and is split by Savik Lane. There is a condition that the developer maintain the common area until the Homeowners Association takes responsibility for it. On one side of the common area there is more vegetation which provides somewhat of a buffer to the adjacent property. There is also a requirement that the covenants include a statement that this vegetation will not be disturbed.

There have been elk seen in the area. Fish, Wildlife and Parks stated that the most important elk habitat is on State land. There is also habitat for white tail deer and other mammals that are typical of the area. Covenants have been proposed to address measures to minimize human-wildlife impacts.

A revegetation plan will be required for weed disturbance on the site. There is also a utility easement shown in the common area that is for a drainfield located on adjacent property. It is not shown as connecting all the way through but there is a condition of approval that requires that be shown accurately. Showing the accurate size of the drainfield is also a required condition.

OPG had received four letters from neighborhood residents commenting on the proposal. In one letter, adjacent landowners expressed concern about dimensions of the utility easement just mentioned, the crossing of drainfield pipes by Savik Lane, the density of the proposal, and the timing of road construction with respect to fire danger and dust control until Savik Lane is paved. There were other letters that raised concerns about Mill Creek Road's condition and its capacity for additional traffic, dust control on Mill Creek Road, the number of homes using one well, the number of new septic systems and the impact of the septic systems on a nearby well.

Another neighbor raised the concern about the possibility of well drawn-down on his property on Spring Hill Drive. OPG had some discussions about what permits would be required and how this concern would be addressed. County and State Department of Environmental Quality review is required for the well and septic systems on the site. Additionally, for wells that have a capacity of more than 35 gallons per minute, there is a requirement that a permit from DNRC be obtained. There is a recommended new condition that will require the developer to obtain the DNRC permit, pursuant to State law, for the well before the plat is filed. That permit process would address the water quantity issues for the neighboring wells.

Another neighbor also raised concerns about water quantity and the impact of building on water and septic systems in the areas. Also concerns were expressed about Mill Creek Road, its existing condition and the existing maintenance and that if there were no RSID on Mill Creek Road the road would get worse.

The Planning Board held a hearing on September 5, 2000 and recommended approval of the variances and the subdivision with 17 conditions as recommended by staff. Staff's recommendation now includes additional Condition 18 which relates to the DNRC permit.

Acting Chairman Evans asked for an explanation of the DNRC permit.

Colleen Dowdall stated her concern was whether this particular permit had a mechanism for determining whether this well would impact other wells in the area. One of the first criteria in the process for the permit is the availability of water, and, as a part of that, the impact of the well on other systems. The process to measure that impact was described. There is also a public hearing included in the process in which individuals are given notice. Neighbors can come and give testimony in protest of issuance of the permit if they have evidence this well would impact other wells in the area. The DNRC representative has spoken with the developer and given them an application packet to apply for the permit. The process as described to her was very thorough and not quick.

Commissioner Kennedy asked if the threshold for the DNRC permit was 35 gallons per minutes.

Colleen Dowdall stated that was correct.

Commissioner Kennedy stated that unless the other wells in the area were at that threshold, they would not have a permit and DNRC may have no record of them.

Colleen Dowdall stated the permit is not the same as obtaining a water right. It is a permit that is based on the fact that the well will presumably serve additional people and have a significant draw down. The other wells in the area have well logs which should provide information about capacity.

Commissioner Kennedy was wondering if the information about the other wells was available to DNRC in order for them to make their decision.

Michael Sehestedt stated that individuals with wells should have filed their water right. Their priority to water from the aquifer is based on their date of completion and filing for their water right. Since the well logs are of record, the permit system recognizes their existence. If these were all individual domestic wells, there would be no permit required from DNRC. The other individual wells in the area were not required to get a DNRC permit. However, if this large well adversely affects the ability of the prior water rights to the water, then DNRC can and will step in to regulate those later appropriators, either domestic or larger. The rule is first in time, first in right. DNRC will look at all prior completed wells. The most recent experience with the DNRC permit process was for the Sunset West community water system.

DNRC required monitoring of all wells within a certain distance from the proposal to determine any draw down impact on the surrounding wells. If there is an adverse impact, the permit from DNRC would be subject to limitations.

Nancy Heil stated that the condition is written so that the DNRC permit has to be obtained prior to plat filing. Before the applicant could file the plat or sell any lots, the permit has to be in place.

Acting Chairman Evans asked for an explanation of the waiver of the right to protest an RSID.

Nancy Heil stated that if there were an RSID initiated for improvements to Mill Creek Road, there is a protest provision in the creation process, and these lots waive their right to protest. It would add essentially more votes in favor of the RSID.

Ron Ewart, Eli and Associates, developer's representative, was present, as was the applicant, Marlen Savik. He gave the Commissioners the application and instructions for the DNRC permit. Anytime they begin work on a subdivision, the first thing they do is look at water availability. The ground water in this area appears to be fairly plentiful from looking at the well logs in this area. They are in agreement with the condition to apply for the DNRC permit. They are also in agreement with all the other conditions. The conditions are quite thorough. The design philosophy of this proposal is to develop a subdivision that looks really nice. There are covenants that address a whole host of issues, especially about living in this type of environment. There will be a property owners association and there will also be an architectural control committee to make sure all the buildings are nice looking. The design, colors and other factors will be controlled. He did not feel the subdivision would be overly noticeable. There is a hill south of the property which will help hide the subdivision. Lot 10 is a no-build zone and OPG has recommended adding an additional 150 feet, so that is as high as the buildings could go. The slope in the area is between 10% and 20%, but the homes will be built into the hillside. They have met with Scott Waldron a number of times. The architectural design will control the amount of slope on the driveways. The slope is also south facing, so it gets better sun exposure during the summer. Individual septic systems are being proposed. There are two types of soils on the property. They have done percolation tests and soil profile analysis in the area. The water tank will be up on the hill, partially submerged with trees around it and painted to match the hillside. The filling of this tank will be done during non-peak hours, during the night. The feel at the site is as if you are way out in the country, but Frenchtown is only a few miles away. Mill Creek Road is a County road and it is paved to within 1/4 mile of this proposal. Frenchtown is growing and has most services available. The exit to Interstate 90 is also just a few miles away. The area around this proposal is very beautiful and the goal of the subdivision is to keep it that way.

Acting Chairman Evans opened the public hearing.

Marlen Savik stated he was the developer of this property. He appreciated his neighbors being present today. He felt they have tried to look at all the different adverse effects this might have on neighbors. He is in agreement with the DNRC permit process and if there are any adverse effects on neighbors, this subdivision won't be done. He felt there was plenty of water. The well currently pumps 75 gallons per minute. The biggest issue is probably the water. The other issue would be the drainfields. The soils up high percolate very well. The two lots down below did not percolate as well, but were still acceptable. He knew there was a lot of concern from the neighbors. They are good people and he enjoys living in the area. If there is something that is adverse and will affect the neighbors, this subdivision will not happen. One of the positive things that may come from this would be the paving of Mill Creek Road. With so few people on Mill Creek Road it is not cost effective to pay for paving. With the RSID waivers included on this proposal, it could make it more cost effective to have Mill Creek Road paved.

Commissioner Kennedy asked about the capacity of the well on this property and the current usage.

Marlen Savik stated the well tested out at 75 gallons per minute. The current usage was that for a normal household. It currently supplies both houses with some incidental irrigation and stock watering.

Tom Orr stated he was representing Gilbert Richards and some other individuals who live in this area. The major concern they have expressed is the water. He checked Mr. Savik's water rights on the well which was obtained in 1992. It allows him to use up to 20 gallons per minute, providing for up to one acre feet for domestic use, up to 3.75 acre feet for lawn and garden and .08 acre feet for stock over a 1.5 acre area. The DNRC indicated if he wishes to use more than that, he will have to get a new permit. The DNRC indicated they will estimate the average usage at 1.63 acre feet per household. With nine households in the subdivision, that adds up to 14.67 acre feet. The neighbors would ask that this subdivision not be approved until this permit from DNRC has been issued. The other concern the neighbors have is about safety. The entrance to Elk Watch Estates off Mill Creek Road is very steep. The topography shows a rise of over 600 feet from the entrance to the lots within the subdivision. The concern is that during the winter in icy conditions there is not enough flat area at the junction with Mill Creek Road for traffic to slow down before entering Mill Creek Road. Kids will be waiting for the school bus at this intersection. To sum up, the neighbors ask that if this subdivision is to be approved, that be done only after the DNRC permit is obtained, and to also consider the safety issue from the approach road.

Dennis Bowman stated he lived across from Mr. Savik on the other side of the canyon. His main concern is the water issue. He is also concerned about the safety of the kids on the road. Another concern was the installation of septic systems, because of the percolation of the soils in the area. Would any monitoring be done after installation to check the condition of the water in the local wells.

David Hunter stated he had a real concern about the well. He lives in the area and knows what his well log says as to gallons per minute but he has run out of water before. The pump can only be dropped so many times. His is already sitting pretty much on the floor of the well. If this new well starts pumping 75 gallons per minute and filling a 10,000 gallon tank, he could be in trouble.

Commissioner Kennedy asked how far Mr. Hunter was from this well?

David Hunter stated it was about 1/4 of a mile away.

Gilbert Richards stated he lived on the west side of Mill Creek, a little more than 1/4 mile from this proposal. His well was drilled in 1972 and at that time he had 18-1/2 feet of static water. In 1995, he was running out of water and moved his

pump to the bottom. He now has only three feet of static water. In checking some of the other wells in area, all of them are within 10 feet of the same depth so they are all pumping from the same aquifer. On the west side of the aquifer, all the wells are running basically 20 gallons per minute to 10 gallons per minute. Mr. Savik is on the east side. Prior wells to his are running at 50 gallons per minutes. He believes the west side is the lesser part of the aquifer with the east side being the major portion of the aquifer. He believes Mr. Savik's well will affect the west side of the aquifer first. His well has dropped since 1972.

Commissioner Kennedy asked Mr. Richards how he accounted for the decrease.

Gilbert Richards stated there were almost 20 wells drilled in that aquifer since his was drilled in 1972. His was the first well drilled on the west side.

Commissioner Kennedy asked Mr. Richards if he was saying the additional wells have caused the draw down?

Gilbert Richards stated that is what he believes has happened.

Clarence Miller stated he too has run out of water for about three or four weeks about three or four years ago. He has been in the area for about 12 years. There have been a number of new wells drilled in that time. To increase this well's capacity scares him. He felt the water would run out. He wants to be assured this will not affect his water supply.

Fred Deschamps stated he was Mr. Savik's neighbor. His concern is the road. He did a four lot subdivision on Deschamps Lane and the County required him to pave 1/2 mile of the road and pay for it themselves. He did not know why Mr. Savik could not pave that part of Mill Creek Road and add the cost to the sale of the lots. He also had a question about the additional access through State land.

Nancy Heil stated that OPG was told there was a dirt road that went through the State land.

Commissioner Kennedy stated that he would have some questions about that access after the public testimony.

Jim Richardson stated he has lived in this valley all his life. He felt the County left the big hills for others to fix. He moved to this property in 1972 and nothing has been done on the road during that time. The bridge toward the bottom has had some repair but further up a grader only comes when people complain. There are a lot of people living off that road now and the County allows more to keep coming in. He knows Mr. Savik has the right to divide his land. His problem was with the County, they keep letting more and more people move in. They promised to pave the road but only paved the bottom part. Now the County wants the residents to form more RSIDs. That is a "bunch of baloney" and RSIDs are a joke. Residents are already paying taxes. This is small valley and he did not blame people for wanting to live in the area. But the County has a responsibility to start doing some of the things that have been promised in the past. Get the road paved. The school system is also full right now. More people don't help tax wise. Schools are being closed in town because more people are moving out to this area. He did not know what the answers were. The people who live on the road suffer the dust and the mud and all the problems. The more traffic, the more problems.

There being no further comments, the public hearing was closed.

Acting Chairman Evans stated she did not know if all of Mr. Richardson's concerns could be answered. She asked if Mill Creek Road was done through the COS process.

Chuck Wright stated Mill Creek Road was an old petition road. When the work began on the lower portion of the road, they were quite a few problems in determining right-of-way location. Spring Hill Drive is trying to establish an RSID for paving. There have also been problems with money, as the Board well knows, which have prevented getting this road paved.

Acting Chairman Evans stated that many years ago, the law allowed land splits through Certificates of Survey. That can still be done, but the law is much more stringent. In the past, prior to 1993, the land could be split and government had noting to say about it. There was no ability to levy roads or RSIDs or anything else. The land was simply split.

Colleen Dowdall stated that the law now allows land to be divided without going through subdivision review if the parcel is greater than 160 acres. It used to be 20 acres.

Acting Chairman Evans stated that until 1993, the County had very limited powers over what to tell people they could or could not do when land was split. There is a lot of land all over the County that was done this way. Many roads were done with these land splits and, again, the County had no say in the matter. But now the County is left with trying to fix these roads after the fact. The money is limited. Every time the City annexes property, part of the County road mills are lost. The Road Department's money does not stretch far enough. The further out in the County the roads are, the less money there is to fix them. That may not be satisfying, but those are the facts.

Commissioner Kennedy stated his questions were in two groups, water and access. He would start with the water first. In reading the DNRC permit, he noticed it was fairly detailed. The instructions alone are 30 pages long. One of the questions has to do with the area of concern surrounding the well. The list of users must include all of those rights existing within 1/2 mile of the proposed well. If there are concerns, that distance may be expanded. He felt it was a fairly substantial process for the applicant. He hoped the process would disclose information that would be useful to everyone. He also responded to Mr. Orr's request. What is before the Board is a recommendation for approval that includes a condition that the DNRC permit application be granted prior to plat filing. That has the same effect of what Mr. Orr is asking. This cannot be developed if the permit is not issued. The drainfield wastewater concerns will be addressed somewhat by the Health Department and also by the hydrologic analysis that has to be done. He asked Ron Ewart about the detailed soil analyses done on the site. He asked for more description of the tests and who they were done by. Was this person a geological engineer, a geologist, soils expert, a hydrologist, a geohydrologist?

Ron Ewart stated that within the packet there was a summary of the tests, a soils report for each site. He also had in his information the method that was used that comes from the DEQ and the Health Department detailing exactly how to analyze each horizon in the soils. The tests were done by an Eli & Associates staff member, Evan Vernon. Mr. Vernon has been on staff for a long time and his specialty is Health Department review. He is an expert in that capacity. He also had all percolation test data.

Commissioner Kennedy asked is Mr. Vernon was a registered professional engineer?

Ron Ewart stated he was not a registered professional but has had years of experience in conducting this research.

Chuck Wright stated he thought Mr. Vernon had to be certified to conduct this research, but not necessarily licensed.

Commissioner Kennedy just wanted to know what the qualifications were of the person who conducted the study. That could not be determined from the information provided in the packet. Another concern was the wastewater and the drainfield pipes that the road would be built over. He believed the reason the drainfield was in this location was because of percolation rates. There was even testimony to that effect. The percolation on the lower lots is of concern. He asked about the increased traffic load on the drainfield pipes. What assurance could be given to the safety of those pipes?

Ron Ewart stated that the developer will do what is necessary to protect the pipes under the road. That might involve another casing or something, but all precautions will be made.

Nancy Heil stated the concern of the road crossing the easement had been discussed. Colleen Dowdall had pointed out that because the easement exists, the landowner cannot do anything that would interfere with the use of the easement, therefore there is also some legal protection.

Commissioner Kennedy stated if a problem develops, he wanted to avoid an argument as to who caused the problem. He felt Ron Ewart's answer would avoid that argument.

Ron Ewart stated all the engineering necessary would be done to protect that pipe within that easement.

Commissioner Kennedy felt that Nancy Heil's presentation indicated that recommended approval for the lengthy cul-de-sac had partially to do with emergency access through State land, on the easement between Lots 6 and 7. Was that true?

Ron Ewart stated there was an existing entrance to State property at that location.

Commissioner Kennedy stated he was asking about an ingress/egress opportunity for safety purposes from this subdivision?

Ron Ewart stated there may be an emergency access that way.

Scott Waldron, Frenchtown Fire, stated that access had been evaluated and it was not considered a real ingress/egress for emergency traffic. It could be used as an escape route to a safety zone. The intent with the subdivision was to make it so that was not a requirement. The requirement is a 24 foot wide paved roadway as part of the fire safety permits. The road will serve as a safety zone and should provide more than adequate access even in the event of fire. The requirements on this subdivision are the most significant as to fire safety in Missoula County. He hoped they would set a standard for future development.

Commissioner Kennedy stated that the first variance was to allow the road to be 22 feet wide instead of 24 feet wide.

Scott Waldron stated that was on the County road, that variance was not allowed within the subdivision.

Nancy Heil stated the variance pertained to Mill Creek Road, for the existing width. Savik Lane would be 24 feet wide.

Commissioner Kennedy stated the next concern had to do with the grade of the road and the bus service at the entrance to the subdivision. There are certain entrance requirements off of Mill Creek Road. Is there room for the required storage capacity off Mill Creek Road?

Nancy Heil stated that no comments were received from the Surveyors Office on that issue. She assumed that during the review of the road plans for Savik Lane, the questions about site distance and storage capacity will be addressed.

Chuck Wright stated that when there is a bus turnaround, the requirement is for a 50 foot radius cul-de-sac. He thought perhaps the developer was planning on a bus pull off.

Commissioner Kennedy asked Mr. Ewart about a bus pull off or turnaround.

Ron Ewart stated that a bus pull out had not been planned, but there will be a landing area. The road is steeper further up but closer to Mill Creek Road is not that bad. There will be a landing. The final engineering drawing will meet requirements. He felt the developer could certainly install a bus turnout. The plans currently are more like the other existing bus stops in the area.

Commissioner Kennedy stated that widening that area would solve the problem. Since a landing was planned, they could incorporate a bus turnout as well.

Ron Ewart stated that could certainly be done.

Commissioner Kennedy asked what the length of the cul-de-sac was?

Ron Ewart stated it was approximately 1,700 feet. On their first drawing, it was shorter, around 1,000 feet, but Scott Waldron stated that he wanted it all the way up to the last lot. The drawing was revised to meet his recommendation. This way all lots have frontage either to the road or to the cul-de-sac bulb and would not be served by a long private driveways.

Commissioner Kennedy asked what the grade of the road was?

Ron Ewart stated it was up to 10%.

Commissioner Kennedy asked Scott Waldron if that was acceptable to him?

Scott Waldron stated the road will be fully paved and maintained and was comfortable with that. It is difficult to require any better standard than that when certain County roads, such as Houle Creek Road, don't meet any better standard.

Acting Chairman Evans stated that Houle Creek Road was done through the Certificate of Survey process.

Scott Waldron stated this would be one of the best roads in Frenchtown and felt the fire department could access it.

Commissioner Kennedy stated he had no doubt it would be a good road, but there is statistical data that some fire vehicle manufacturers do not recommend using roads over a 7% grade.

Scott Waldron stated there are a lot of 10% grade roads in Frenchtown that the fire department deals with regularly.

Colleen Dowdall stated there would also be fire hydrants along this road.

Commissioner Kennedy stated that other than the pedestrian easement and public utility easement, there was no vehicular access to Lot 10. Was that correct?

Ron Ewart stated that was correct.

Nancy Heil stated there is a variance request for Lot 10 from the requirement to provide that type of access. There is also a condition of approval that requires the pedestrian easement to Lot 10 specify who may use the easement. There are conditions that more specifically address who and how those easement may be used.

Acting Chairman Evans stated there was a question from Mr. Deschamps about road paving and his requirement to pave Deschamps Lane. She asked that someone explain that requirement for Mr. Deschamps benefit.

Ron Ewart stated that paved access was within 500 feet of Mr. Deschamps subdivision, thus requiring him to also pave the road to his access point.

Colleen Dowdall stated that the requirement for paving off site access roads is if they are less than 500 feet from paving or if the road is uniquely attributable to the subdivision. The philosophy behind that is no one should be required, at their expense, to do a great deal of paving that is going to serve an entire community. The RSID waiver is intended to impose upon the subdivision the requirement that they pay their fair share of the paving of Mill Creek Road.

Acting Chairman Evans stated that an RSID for paving of Spring Hill Drive was in progress. She asked how far Spring Hill Drive was from Mill Creek Road and could these waivers be added to that RSID and get paving up to the entrance of this subdivision.

Nancy Heil stated that Spring Hill Drive was the first main road to the northwest off Mill Creek Road. It was approximately 1/2 mile beyond the entrance to this subdivision.

Commissioner Kennedy stated that the benefit issue would prevent combining the RSIDs. He asked why the subdivider did not just pave the 1/4 mile to the entrance to his subdivision.

Larry Exe, 14825 Spring Hill Drive, stated he has lived there since the early 1970's. He had a real concern about the water in the area. Because Spring Hill Drive is not a County road and cannot be improved to standards, the Frenchtown School District refused to allow their buses on it. That is one of the reasons they are pushing for the RSID. At school time, the children are waiting on Mill Creek Road, which has lots of problems. A considerable amount of time and effort has been spent trying to get this RSID created. Even if it is approved, the County still does not have the money to do it. The RSID process has sort of stalled, but something has to be done with Mill Creek Road and Spring Hill Drive. He did not want to pay any more taxes, as well as everyone else. They are paying their share and feel they are not getting the kind of service from the County they would like to receive.

Acting Chairman Evans stated she would not argue with that, but to look at their tax bill and see how much of it actually went to the roads. Most of it goes to the schools. The question remained if an RSID for Spring Hill Drive could be combined with an RSID for Mill Creek Road.

Colleen Dowdall stated it was legally possible to do that. The assessments would have to vary based on benefit so the people who live in this subdivision are not paying for that 1/2 mile of road between the subdivision and Spring Hill Drive and are also not paying for Spring Hill Drive paving. The greater burden would be on the residents of Spring Hill Drive as they would be gaining the benefit of paving of the entire length of Mill Creek Road to their entrance, and also paying for their own road.

Acting Chairman Evans asked if the RSID Mr. Exe mentioned included any part of Mill Creek Road.

Larry Exe stated it did not include any of Mill Creek Road at this time.

Acting Chairman Evans asked if the developer of this subdivision and the residents of Spring Hill Drive could get together and agree to cooperate on the paving of Mill Creek Road?

Larry Exe stated that most of the residents of Spring Hill Drive have agreed to the RSID. To bring in Mill Creek Road would require discussion with the developer.

David Hunter stated that it has been a tough battle to get the RSID for Spring Hill Drive created. A lot of work has gone in to it. It was tried a few years ago and failed, then there was this renewed attempt. He did not think it would be feasible to blend the two because there are a lot of issues with the bridge and vacant lots, etc. The more people added, the more difficult to get a consensus. He didn't think it would be possible.

Commissioner Kennedy asked again why didn't the developer just pave that 1/4 mile section of Mill Creek Road?

Ron Ewart stated it came down to a matter of cost. It is expensive to do so. It would cost in excess of \$15,000.

Colleen Dowdall stated that the Board cannot legally require Mr. Savik to pave Mill Creek Road.

Jim Richardson stated that to form an RSID to pave the road would cost the residents twice as much as the County to do so. The RSID would require an engineering study and to incorporate everything the County would want would cost the residents twice as much as what the County could do it for. Nobody would be in favor of it. There is a real problem with the dust on the road, it costs every year to oil the road and in two weeks it is gone and the road can't be graded. He felt it wouldn't be very long before the County would have to pave these roads because of the environmental problem of dust. More homes and cars will increase the dust problem. The children are being exposed to that dust. After all, it is the County's road.

Acting Chairman Evans stated that the hearing had been closed, but she would allow one more comment.

Leslie Aims stated she lived on the corner of Spring Hill Road and Mill Creek Road. The children's health standards will be jeopardized with the increase in dust. She worried about the intersection of Savik Lane and Mill Creek Road in the winter. It seemed to be more of a blind driveway than others in the valley. When it ices up, she worried about the children waiting for the school bus or neighbors on Mill Creek Road and the inability of vehicles to stop on the 10% grade of Savik Lane. Other driveways that have steep grades in the area usually serve just one home, but this will serve several homes with more traffic.

Acting Chairman Evans asked Commissioner Kennedy if he was prepared to make a motion.

Commissioner Kennedy stated he would not make the motion. He would end up having to vote in favor of the subdivision, but he did not like it, he felt it was not a good subdivision and did not support the road length variance.

Acting Chairman Evans stated there were certain laws that guided the Board's decision. Years ago the legislature removed the criteria of expressed public opinion to be used in making a decision. Public testimony is taken into consideration but it is not one of the criteria on which, by law, they make their decision. If the Board decides there is something about the subdivision they cannot support, the developer must be given an opportunity to mitigate.

Colleen Dowdall stated that State law says that if any conditions are imposed or any problems identified, the Board must give the developer the opportunity to mitigate those impacts. The conditions in the staff report are designed to mitigate any problems that have been raised during the review process. If there are other issues the Board raised today, the developer would have to be given the opportunity to mitigate those particular problems. The Subdivision Law also states that in determining what the mitigation is, the expressed desires of the developer must be taken into account.

Acting Chairman Evans moved that the Board of County Commissioners approve the variance request from Article 3-2(3) of the Missoula County Subdivision Regulations for Mill Creek Road to vary from the required 24 foot width to the existing 22 foot width; approve the variance request from Article 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways in the subdivision; approve the variance request from Article 3-2(3)(A) of the Missoula County Subdivision Regulations for maximum cul-de-sac length for Savik Lane; and approve the variance request from Article 3-1(4) of the Missoula County Subdivision Regulations for Lot 10 to vary from the requirement that all lots have legal and physical access; all based on the findings of fact set forth in the staff report.

Commissioner Kennedy stated that the variances would have to be separated out individually as he was not sure he could support all of them.

Acting Chairman Evans moved that the Board of County Commissioners approve the variance request from Article 3-2(3) of the Missoula County Subdivision Regulations for Mill Creek Road to vary from the required 24 foot width to the existing 22 foot width, based on the findings of fact set forth in the staff report. Commissioner Kennedy seconded the motion. The motion carried on a vote of 2-0.

Acting Chairman Evans moved that the Board of County Commissioners approve the variance request from Article 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways in the subdivision, based on the findings of fact set forth in the staff report. Commissioner Kennedy seconded the motion. The motion carried on a vote of 2-0.

Acting Chairman Evans moved that the Board of County Commissioners approve the variance request from Article 3-2(3)(A) of the Missoula County Subdivision Regulations for maximum cul-de-sac length for Savik Lane, based on the findings of fact set forth in the staff report.

Commissioner Kennedy stated he had difficulty with this variance, even though the Fire District believes it is acceptable. His information from the manufacturers of fire engines says the steepness of the grade is unacceptable and the length is

clearly beyond the regulations. The combined steepness and length tells him this is a cul-de-sac that cannot be approved. He could not second the motion.

Acting Chairman Evans asked counsel if this issue could be dealt with administratively tomorrow, or ask the developer to grant a one week extension. She supports this variance and wanted to allow Commissioner Carey the opportunity to review the matter before a decision was made.

Colleen Dowdall stated that Mr. Ewart should be consulted as to how he would like to proceed. The standard for the cul-de-sac length is 1,000 feet. He can explain how far that would take the road and whether that provides access to all the lots.

Scott Waldron stated the Fire District requested the cul-de-sac be extended so all lots had access to the 24 foot wide paved road and private driveways were kept short, and the additional length provided a fire break to the top of the subdivision. If the cul-de-sac is reduced to 1,000, it won't affect the homes being built but will make the fire department have to deal with long private driveways instead of a paved road.

Colleen Dowdall stated it would be possible to access beyond the 1,000 foot length with private driveways, an individual one would need to be constructed for each lot to meet the standard. A private drive could serve two lots. The private driveways have problems from a fire standpoint because the standards are less and there are less enforcement capabilities.

Acting Chairman Evans stated she supported this variance because she trusts the Frenchtown Rural Fire Department and their expertise in these situations. They know what their trucks can handle and what they need and she was not willing to second guess them.

Commissioner Kennedy asked where the 1,000 foot location would be on the subdivision.

Ron Ewart stated that 1,000 feet would take the cul-de-sac to approximately between Lots 6 and 7. Private driveways could come off the road from there, with two lots possibly sharing a common driveway. One lot might have to be removed, or a separate driveway could be done.

Acting Chairman Evans stated she did not want to continue the discussion as to what could or could not be done until Commissioner Carey has the opportunity to look at this subdivision. She did not intend to support changing the recommendation of the fire department. She felt this issue should be put off until the other Commissioner had the opportunity to vote, rather than guess what should be done.

Commissioner Kennedy stated that was fine with him. He felt this was a mistake, from a wildland and safety aspect. Five years have been spent on Growth Management to determine that long cul-de-sacs are a mistake and he would not support the variance.

Acting Chairman Evans asked counsel how to proceed. There is a specific time frame in which the Board must act on subdivisions. That period ends Friday, unless the developer asks for an extension. She asked Mr. Ewart what his wishes were?

Ron Ewart stated they would be willing to work with whatever the Commissioners schedule allows.

Acting Chairman Evans suggested delaying this variance request.

Colleen Dowdall stated that Commissioner Carey would be out of the office next week.

Acting Chairman Evans stated this matter would be dealt with either tomorrow or Friday.

Commissioner Kennedy stated it would have to be noticed.

Colleen Dowdall stated that if the Commissioners announce at the Public Meeting that the decision has been continued to a date, time and place certain, that would meet the public notice requirement.

Acting Chairman Evans moved that the Board of County Commissioners approve the variance request from Article 3-1(4) of the Missoula County Subdivision Regulations for Lot 10 to vary from the requirement that all lots have legal and physical access, based on the findings of fact set forth in the staff report. Commissioner Kennedy seconded the motion. The motion carried on a vote of 2-0.

Acting Chairman Evans stated that their schedule could accommodate a meeting tomorrow, September 13, 2000, at 1:30 p.m. in Room 204 in the Commissioners Office. She had another condition that she would like added that provides for a bus turnout of some sort which would also extend the visibility factor. She also pointed out that the current conditions require that the drainage plans and the engineering for Savik Lane be approved by the County Surveyors Office, so the grade of the road and the satisfaction of the ability to use that road will be determined by the Surveyors Office and Public Works Department. There was a question raised about the utility easement and that has also been addressed by the current conditions of approval. Most of the concerns expressed have been taken care of in the conditions of approval in the staff report and the addition of Condition 18.

Nancy Heil stated that the language for the bus turnout could be added to Condition 3, which addresses engineering and drainage plans for Savik Lane.

Colleen Dowdall suggested that the vote on the entire subdivision be delayed until tomorrow. That will allow time to draft amended language for Condition 3 addressing the bus turnout.

Acting Chairman Evans stated she would make a motion tomorrow to approve the subdivision based on the findings of fact in the staff report and subject to the conditions in the staff report. She hoped this would address all the concerns

raised by the neighbors. The condition to require the DNRC permit had never been asked for on a subdivision before. This was a clear indication of responding to neighbor concerns. She did not believe the Commissioners had the same power as the DNRC to deny this subdivision.

Colleen Dowdall stated there were other special circumstances that make this condition work this time that would not make it work on other occasions. She was comfortable imposing the condition.

Acting Chairman Evans stated this matter would be continued to Thursday, September 13, 2000, at 1:30 p.m. in Room 204 in the Commissioners Office. She would make a motion to support the subdivision and the cul-de-sac length variance request at that time.

Commissioner Kennedy moved that the Board of County Commissioners continue the Public Meeting for the decision on Elk Watch Estates to Thursday, September 13, 2000, at 1:30 p.m. in Room 204 in the Commissioners Office. Acting Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Commissioner Kennedy left the meeting at this time.

Acting Chairman Evans stated that she would allow one more additional public comment.

Gary Sebin stated that his driveway was next to the Saviks. He had a chimney fire two years ago and the Frenchtown Fire Department could not get up his driveway, they had to park at the bottom. His driveway is also a 10% grade. He has been up Savik's driveway and it is about the same grade as his.

Colleen Dowdall asked if Mr. Sebin's driveway was paved.

Gary Sebin stated it was not paved. He keeps the driveway cleaned and sanded and they still could not get up it. It is approximately 14-16 feet wide.

Acting Chairman Evans stated that matter should be discussed with the fire department.

Scott Waldron stated he believed there were times in Montana that the fire department could not get to a lot of places. They have taken every reasonable precaution by requiring this road to be wider than the County road and paved. There are times when the fire trucks cannot get up Houle Creek. Under certain conditions, it is Mother Nature and the owners of the property that have control.

Colleen Dowdall asked if the presence of fire hydrants helped as well, as tankers would not be needed.

Scott Waldron stated that did help. Everything has been done from a fire safety standpoint to make this road safe and accessible. The cul-de-sac length was desirable so there was good road to all the lots without having to deal with private driveways. There are times when the fire department can't get to lots of places.

There being no further business to come before the Board, the Commissioners were in recess at 3:15 p.m.

THURSDAY, SEPTEMBER 21, 2000

The Board of County Commissioners met in regular session; all three members were present.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated September 21, 2000, batch number 855 (pages 1-5, with a grand total of \$88,334.41. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated September 21, 2000, batch number 858 (pages 1-4), with a grand total of \$4,652.74. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated September 21, 2000, batch number 860 (pages 1-5), with a grand total of \$60,545.74. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated September 21, 2000, batch number 862 (pages 1-5), with a grand total of \$45,595.00. The Claims List was returned to the Accounting Department.

Indemnity Bond -- Chairman Carey examined, approved, and ordered filed an Indemnity Bond naming Technology Express as principal for Warrant #26831 issued April 27, 2000 on the Missoula County General Fund (MCPS -- High School) in the amount of \$805.68, now unable to be found.

Indemnity Bond -- Chairman Carey examined, approved, and ordered filed an Indemnity Bond naming Dark Room as principal for Warrant #13450 issued August 4, 2000 on the Missoula County Student Activity Fund (MCPS -- High School) in the amount of \$95.30, now unable to be found.

Indemnity Bond -- Chairman Carey examined, approved, and ordered filed an Indemnity Bond naming Dark Room as principal for Warrant #30556 issued June 30, 2000 on the Missoula County Student Activity Fund (MCPS -- High School) in the amount of \$1,611.54, now unable to be found.

Indemnity Bond -- Chairman Carey examined, approved, and ordered filed an Indemnity Bond naming Dark Room as principal for Warrant #13451 issued August 4, 2000 on the Missoula County Student Activity Fund (MCPS -- High School) in the amount of \$177.56, now unable to be found.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Agreement – The Commissioners signed an Agreement, dated September 19, 2000, between Missoula County and Montana Materials, Inc. d/b/a LS Jensen Construction & Paving for the Bonita Station Road Paving project (Missoula County Project No. 98-3820). The total amount shall not exceed \$31,054.00. It is desirable that this project be completed no later than October 15, 2000.

Agreement – The Commissioners signed an Agreement, dated September 1, 2000, between the Missoula City-County Health Department and the Montana Highway Patrol, Department of Justice, State of Montana. The purpose of this agreement is for the State to perform special DUI enforcement activity within the County with the goal of making an average of one DUI arrest per each five hours of overtime enforcement. The total amount shall not exceed \$31,054.00. It is desirable that this project be completed no later than October 15, 2000. The County agrees to pay the State the sum of up to \$5,000.00 in total compensation. The term shall be September 1, 2000 through June 30, 2001. The Agreement was returned to the Health Department for further signatures and handling.

Agreement – The Commissioners signed an Agreement for Provision of Professional Security Services between the Missoula County Sheriff's Department ("Contractor") and the University of Montana ("Requestor"), to provide law enforcement, crowd control, and general security at University events or events conducted in University facilities. The compensation shall be \$20.00 per hour for services rendered for concerts and similar events, and \$18.00 per hour for other events, plus 12.8% of the total for work performed by reserve deputies. The term shall be September 5, 2000 through June 30, 2001.

Grant Agreements – Chairman Carey signed two (2) U.S. Environmental Protection Agency Grant Agreements awarded to Missoula County, dated September 11, 2000, as follows:

1. Project #XP-98823601-D: Water Infrastructure Project for El Mar Estates wastewater facility improvements, in the amount of \$237,550.
2. Project #XP-98823701-O: Water Infrastructure Project for Lolo wastewater treatment plant improvements, in the amount of \$475,100.

The project period for both Awards is October 1, 2000 through January 14, 2003. The documents were returned to the Environmental Protection Agency in Helena.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

CONTINUATION OF PUBLIC MEETING – September 21, 2000Elk Watch Estates (10 Lot Subdivision) – Off Mill Creek Road near Frenchtown

The Public Meeting was reconvened at 1:30 p.m. by Chairman Bill Carey. Also present were Commissioner Barbara Evans, Deputy County Attorney Colleen Dowdall, Frenchtown Fire Chief Scott Waldron, the applicant Marlen Savik, developer's representative Ron Ewart of Eli & Associates, Nancy Heil from the Office of Planning and Grants, neighbors Gilbert and Sharon Richards and their attorney Tom Orr. Commissioner Michael Kennedy was not at the meeting.

Nancy Heil stated there was a request yesterday to add a condition for a bus turnout and/or storage area at the intersection of Savik Lane and Mill Creek Road. She provided amended language to Condition 3 to meet that request.

Commissioner Evans stated that three of the four variances for Elk Watch Subdivision had been approved at the Public Meeting yesterday. The variance request for the length of the cul-de-sac and the subdivision itself had not been approved.

Ron Ewart showed Chairman Carey the application and instructions for the Department of Natural Resources and Conservation (DNRC) permit process.

Colleen Dowdall stated it would be appropriate for Scott Waldron to explain his role in the cul-de-sac, since that was the variance that caused the problem.

Scott Waldron stated the cul-de-sac was originally planned to end approximately between Lots 6 and 7, then have private driveways to the remaining lots. There are no restrictions on the length of private driveways. He asked the developer to continue the road at the 24 foot paved width to allow for access to all the lots and keep driveways short. It would improve emergency access and would serve as another fire break in keeping with making this a "Firewise Subdivision." It would also allow more strategic placement of fire hydrants to serve all the residences. Keeping the cul-de-sac shorter would not change the number of homes, but it would allow for narrow dirt driveways instead of a 24 foot wide paved road. This was his idea and his request.

Ron Ewart circulated photos of the site to the parties present.

Gilbert Richards stated his big concern was the safety factor of the drive coming into Mill Creek Road. They will use the existing driveway which is narrow and has about a 10% grade. He had a close call last winter with someone on the driveway not being able to stop at the intersection with Mill Creek Road because of icy conditions and the steepness of the driveway. The subdivision will dramatically increase the traffic on this road. The road is shaded in the winter and the road will be icy. Cars will be sliding off the road and possibly into Mill Creek Road. There will be children waiting at the intersection waiting for the school bus. He felt someone could get killed. That would be a liability to the developer and the County. If there were more room to make the road longer and safer, he wouldn't object. The amended wording of Condition 3 would not make any difference. Savik Lane will go through about 21 feet of County right-of-way to get to Mill Creek Road. Even if this portion is 6% to 8% grade, it is coming from a 10% grade and on icy roads it will still be hard to stop. A Homeowners Association is no better than the people who maintain it. If it was a County road, it would be

sanded when the County came up and would probably be okay. The Association will probably not sand it unless they are required to do so and who would enforce that requirement.

Colleen Dowdall stated the Surveyors Office has certain standards for how long and how steep a landing can be. In the amended language to Condition 3, the length and grade of the road have to be approved by the Surveyors Office, even though this is a private road. The jurisdiction for imposing that condition is that most landings are in the County right-of-way. County road right-of-way is not owned by the County, the County has an easement across it. That land is the Saviks and is encumbered by the easement. For the Saviks to access and cross the easement it must be improved to the County's specifications. In addition to that, a bus turnout is required in that area so the bus won't be in the middle of the road, nor will the children who are waiting for the bus. That location will also have to be approved by the Surveyors Office.

Gilbert Richards stated another concern he had was that there were no sidewalks planned. That would force the children to walk down an icy road to get to the bus turnout. There would be no place for them to get off the road and could create a hazard with traffic sliding on icy roads. The children themselves could fall because of the ice. Spring Hill Drive has a lesser grade than Savik Lane and sometimes the kids can't walk on the road. He also has a big problem with the water but the safety issue also concerns him. He knew of others coming down Mill Creek Road who had to stop in the road because someone coming out of the Savik's driveway could not stop.

Commissioner Evans asked if there were sidewalks on Spring Hill Drive?

Gilbert Richards stated there were not.

Commissioner Evans asked if their RSID included sidewalks.

Gilbert Richards stated sidewalks were not included in the RSID.

Commissioner Evans stated she had a problem with requiring this subdivision to do something that wasn't included on other subdivisions.

Gilbert Richards stated his was a safety concern. Spring Hill Drive has been in existence since the 1960's. This is a brand new road being proposed without sidewalks. Spring Hill Drive is not as steep as Savik Lane.

Ron Ewart stated this road would be paved 24 feet wide with 2 foot shoulders on each side, a full 28 feet wide. The full width of pavement was requested on this road, plus the shoulders, which gives room for pedestrians.

Chairman Carey asked if the road was fairly level until it gets closer to Mill Creek Road?

Ron Ewart stated the average grade on the entire road was 10%. Nearer the road the grade is slightly less and the entire intersection area will be reconstructed.

Gilbert Richards stated it would still follow the existing driveway and there was not enough room to allow for a less steep road.

Commissioner Evans asked what the maximum grade allowed was in the Subdivision Regulations.

Nancy Heil stated it was 10%.

Colleen Dowdall stated the landing area would have to be less than 10%. If excavation has to occur to meet that requirement, then that is what will happen. On this subdivision there is the added benefit of the Fire Department monitoring this private road because of the fire safety issues. The County has very little enforcement control on a private road. She was quite comfortable with the fire department's involvement.

Scott Waldron stated the fire department would ensure the road remains in good condition and maintained. By using the permit process, they will be able to make sure the road is maintained.

Chairman Carey stated he felt the extended length of the cul-de-sac was a good idea but he was concerned about children walking down this steep road.

Colleen Dowdall stated that County road standards take that into account. The standards required are a 24 foot paved width with 2 foot shoulders. It is hard to protect against every contingency. The road standards should be relied on to provide the necessary level of safety. There is no guarantee that a child will not be hit, but that guarantee also can't be made on many other County roads.

Commissioner Evans asked Mr. Savik who would be doing maintenance of the road?

Marlen Savik stated that initially he would until the Association is formed and up and running.

Commissioner Evans asked if the road could be plowed wide enough in the winter to allow for pedestrians?

Marlen Savik assumed that could be done, depending on the amount of snow. In a normal winter, the snow could be plowed onto the shoulders allowing the full 24 foot width to be available.

Commissioner Evans asked that Mr. Savik plow and keep the maximum width of the road clear.

Chairman Carey asked if it was feasible to do some sort of walkway outside the road?

Nancy Heil stated there had been discussions about a separate walkway. One of the questions was how that walkway would get maintained and shoveled in the winter, when a significant portion of it went through the common area. OPG had no way to ensure the walkway was maintained and useful during the winter.

Tom Orr stated it could be ensured the walkway was useful by putting it in the covenants. Homeowners could be charged a monthly fee for maintenance and hire it out. Given the steepness of this road, that would be the minimum that should be required to show safety concerns are being addressed. The elevation change from Mill Creek Road to the end of the cul-de-sac is almost 600 feet. The kids will need a place to walk. He was surprised that was not included.

Chairman Carey asked what the staff's rationale was for not requiring sidewalks?

Colleen Dowdall stated that the Commissioners did grant this variance yesterday.

Commissioner Evans stated the only variance not approved was regarding the length of the cul-de-sac. The Planning Board voted 5 to 1 to approve the variance on the walkways.

Nancy Heil stated that if in the future, there was a need for a sidewalk, there is plenty of right-of-way to construct one. The homeowners could add that at a later date.

Commissioner Evans pointed out to Mr. Orr that the County does not have the option of levying money for a homeowners association to pay.

Tom Orr stated the condition could be built into the covenants.

Ron Ewart stated road maintenance was already covered in the covenants.

Tom Orr stated that maintenance of the walkway could also be covered in the covenants.

Colleen Dowdall stated that was not something the County could enforce after the subdivision was filed.

Gilbert Richards stated that was his contention, it can't be enforced so it won't get done.

Ron Ewart stated Mr. Richards was correct in most situations that a homeowners association was only as good as the people who lived there. He knows some homeowners associations that are mostly non-existent but there are others that are quite active. The vision for this subdivision, with architectural control and very strict covenants, will hopefully create an active and caring homeowners association.

Commissioner Evans stated that some homeowners associations do die out over time unless there is an issue that someone really cares about.

Colleen Dowdall stated that homeowners associations that manage water systems typically remain active.

Chairman Carey stated that he hoped the homeowners association would also remain motivated to maintain and sand the road as well.

Scott Waldron stated that was another reason why the fire department asked for the 24 foot wide roadway. There was only one other subdivision he could think of where that requirement was imposed, also in Frenchtown. The County has fairly consistently granted variances to a 22 foot width but the Frenchtown Fire Department is not willing to allow that anymore.

Commissioner Evans stated the variance on the length of the cul-de-sac was the only outstanding issue. If the extended length is not approved, the developer would be happy, he would not have to pave as much road. But the fire department would not get as good a road to travel on.

Commissioner Evans moved that the Board of County Commissioners approve the variance request from Article 3-2(3)(A) of the Missoula County Subdivision Regulations for maximum cul-de-sac length for Savik Lane, based on the findings of fact set forth in the staff report. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Commissioner Evans moved that the Board of County Commissioners approve the Elk Watch Estates Subdivision, based on the findings of fact in the staff report and testimony received and subject to the conditions in the staff report, and with the addition of Condition 18 regarding the DNRC permit and the amended language for Condition 3 regarding a bus turnout. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Tom Orr stated he would like to receive a copy of the Subdivision Approval letter and provided his address. He also advised the Board that on behalf of his clients, he would most likely be filing a petition with District Court on this.

Elk Watch Estates Subdivision Conditions of Approval:

Lot Configuration
1. The final plat shall include a 150 foot no-build zone on the eastern portion of Lots 7, 8 and 9. *Subdivision Regulations Article 3-1(1)(C) and staff recommendation.*

Roads/Access/ Drainage
2. The following statement shall appear on the face of the plat and in each instrument of conveyance:

“Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for improvements to Mill Creek Road, including installation of pedestrian walkways or bikeways, based

on benefit. The waiver shall run with the land and shall be binding on the transferees, successors, and assigns of the owners of the land." *Subdivision Regulations Article 3-2 and County Surveyor recommendation.*

3. Engineering and drainage plans for Savik Lane shall be approved by the County Surveyor's Office prior to final plat approval. The developer shall construct a bus turnout at the intersection of Savik Lane and Mill Creek Road in a location and in a design approved by the Road Department of the County Surveyor's Office. The intersection shall provide adequate site distance and storage space for cars exiting Savik Lane onto Mill Creek Road. The road shall be constructed or guaranteed prior to final plat approval. A professional engineer shall certify that the road has been constructed per the approved plans. A road sign shall be placed at the intersection of Savik Lane and Mill Creek Road prior to final plat approval. *Subdivision Regulations Article 3-2, County Surveyor recommendation and Frenchtown Rural Fire District recommendation.*
4. The Savik Lane road maintenance agreement shall be approved by the County Attorney's Office prior to final plat approval. *Subdivision Regulations Article 3-2(1)(H) and staff recommendation.*
5. The final plat shall show the Savik Lane right-of-way extended to the southern property boundary of Lots 6 and 7. Prior to final plat approval, the developer shall determine the State's right of access across the property and include that on the plat, subject to DNRC and County Attorney's Office approval. The covenants shall be amended to state that the gate to State land between Lots 6 and 7 shall remain clear for emergency access. *Subdivision Regulations Article 3-6 and staff recommendation.*
6. The final plat shall clearly specify, subject to County Attorney's Office approval, that the pedestrian easement from Tract 5A, COS 3645 to Lot 10 is for the benefit of the owner of Lot 10. The final plat shall clearly specify that the private access easement extending from the Savik Lane cul-de-sac is for the purpose of utility maintenance. *Subdivision Regulations Article 3-6 and staff recommendation.*
7. The final plat shall show the utility easement through the common area extending to Tract A, COS 3483, as shown on previous certificates of survey. The easement shall include the dimensions indicated on previous certificates of survey or deed exhibits, subject to County Attorney Office approval. *Subdivision Regulations Article 3-6 and staff recommendation.*
8. The covenants shall be amended to address driveway grade requirements prior to final plat approval, subject to OPG approval. *Subdivision Regulations Article 3-2 and staff recommendation.*
9. Drainage plans for the site shall be approved by the County Surveyor prior to final plat approval. *Subdivision Regulations Article 3-4.*

Firefighting Water

10. The following statement shall appear on the face of the plat and in each instrument of conveyance:

"Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for public water systems, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations Article 3-7(2).*
11. The size and location of the water tank and the location of 2 fire hydrants shall be approved by the Frenchtown Rural Fire District prior to final plat approval. The tank and hydrants shall be installed or guaranteed prior to final plat approval. *Subdivision Regulations Article 3-7(1) and Frenchtown Rural Fire District recommendation.*
12. The covenants shall be amended to include the following statement:

"The property is located within a Wildland Residential Interface. The Frenchtown Rural Fire District requires a fire safety permit prior to home construction on each lot."

The covenants shall also include requirements for lot owners to maintain lots so that vegetation/fuels remain cleared and for lot owners not to block access to State land. Sections of the covenants related to fire safety shall be approved by the Frenchtown Rural Fire District prior to final plat approval. Covenants related to weeds, wildlife or fire standards shall not be amended without governing body approval. *Subdivision Regulations Article 3-1(2) and Frenchtown Rural Fire District recommendation.*
13. The following statement shall appear on the face of the plat and in each instrument of conveyance:

"The property is located within a Wildland Residential Interface. The Frenchtown Rural Fire District requires a fire safety permit prior to home construction on each lot." *Subdivision Regulations Article 3-1(2) and Frenchtown Rural Fire District recommendation.*

Weeds/Wildlife

14. A Revegetation Plan for Disturbed Sites shall be approved by the Missoula County Weed Board prior to final plat approval. *Subdivision Regulations Article 3-1(1)(B) and Weed District recommendation.*
15. The swale on Lot 6 shall be designated a no-build zone on the final plat. *Subdivision Regulations Article 4-1(12) and staff recommendation.*

Parks

16. A development agreement shall state that the developer shall provide noxious weed control and litter removal in the common area until the homeowners association accepts maintenance responsibility. The development agreement shall be filed prior to final plat approval, subject to County Attorney's Office approval. *Subdivision Regulations Article 3-8 and staff recommendation.*

17. The covenants shall be amended to state that vegetation clearing in the common area north of Savik Lane shall be limited to that necessary for safety, noxious weed control or fire safety. *Subdivision Regulations Article 4-1(12) and staff recommendation.*
18. The developer shall obtain a permit from the Department of Natural Resources and Conservation pursuant to MCA 85-2-311 for the well serving the subdivision, prior to final plat filing. *Subdivision Regulations 4-1(12), County Attorney's Office recommendation and staff recommendation.*

There being no further business to come before the Board, the Commissioners were in recess at 2:00 p.m.

FRIDAY, SEPTEMBER 22, 2000

The Board of County Commissioners met in regular session; a quorum of members was present in the forenoon. In the forenoon, Commissioner Evans attended a Judicial Standards Commission meeting held in Room 201. At noon, Chairman Carey attended St. Patrick Hospital's "Survivor - Saved by the Belt" luncheon held at the Grant Creek Inn. In the afternoon and on Saturday, September 23rd, Chairman Carey and Commissioner Kennedy attended the "Spirit, Commerce, and Sustainability" Conference held at the Holiday Inn.

Payroll Transmittal - The Commissioners signed the following Payroll Transmittal Sheet: Pay Period: 19 - Pay Date: September 22, 2000. Total Missoula County Payroll: \$818,125.70. The Transmittal Sheet was returned to the Auditor's Office.

Resolution No. 2000-080 - The Commissioners signed Resolution No. 2000-080, dated September 22, 2000, wherein Missoula County supports the MonTEC (Montana Technology Enterprise Center) project and requests that the Economic Development Administration grant final approval to the application for funding from that agency, and that the MonTEC project is consistent with the economic goals of Missoula County and was developed with the cooperation of the County.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chair
Board of County Commissioners

MONDAY, SEPTEMBER 25, 2000

The Board of County Commissioners met in regular session; a quorum of members was present. Chairman Carey was in Havre where he attended the MACo Convention through Wednesday, September 27th.

TUESDAY, SEPTEMBER 26, 2000

The Board of County Commissioners met in regular session; a quorum of members was present in the forenoon. Commissioner Kennedy was out of the office all afternoon.

Claims List -- Commissioners Evans and Kennedy signed the Claims List, dated September 25, 2000, batch number 859 (pages 1-3), with a grand total of \$17,543.76. The Claims List was returned to the Accounting Department.

Claims List -- Commissioners Evans and Kennedy signed the Claims List, dated September 25, 2000, batch number 863 (pages 1-4), with a grand total of \$7,553.94. The Claims List was returned to the Accounting Department.

Claims List -- Commissioners Evans and Kennedy signed the Claims List, dated September 25, 2000, batch number 864 (pages 1-6), with a grand total of \$32,578.80. The Claims List was returned to the Accounting Department.

Claims List -- Commissioners Evans and Kennedy signed the Claims List, dated September 25, 2000, batch number 866 (pages 1-4), with a grand total of \$62,565.32. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Agreement - The Commissioners signed a Memorandum of Agreement between Missoula County and the Missoula YWCA to purchase services from the YWCA as set forth in the Rural Domestic Violence Program, which was awarded supplemental funding by the STOP VAWA Office of the Office of Justice Programs for the period October 1, 1996 to January 2, 2002. The duration of this Agreement will be 18 months, commencing July 1, 2000, and terminating January 2, 2002, and is contingent upon Missoula County's receipt of Rural Domestic Violence Enforcement Grant Program funds from the Violence Against Women Grants Office. The total amount shall not exceed \$112,732.10

Agreement - Acting Chairman Michael Kennedy signed an Agreement, dated August 21, 2000, between Missoula County and D. Lower Construction, Inc., for the Missoula City-County Health Department Remodeling Project. The date of commencement of the work shall be: Phase 1: September 1, 2000; Phase 2: February 16, 2001; and Phase 3: April 27, 2001. The Contract Sum shall be \$335,500.00, subject to additions and deductions as provided in the Contract Documents. The document was returned to Doreen Culver, Bidding Officer, for further handling.

Easement - The Commissioners signed an Easement, dated September 26, 2000, on behalf of Missoula County Airport Industrial District, in order to install, operate and maintain electric and gas service to Park 12 and Lots 1, 1A, 1B, 2, 3, 10 and 11, Block 4, Missoula Development Park. This utility easement grants the right to the joint use for the

construction, maintenance, repair, and removal of their lines and other facilities, in over, under, and across each area designated on the Exhibits attached thereto.

Other items included:

- 1) The Commissioners approved the reduced price on Lots 3, 4, 8 and 9, Block 9, and Lots 1&2, Block 10, Missoula Development Park. At the September 19, 2000 meeting of the Missoula Development Park Authority it was approved to reduce the price on six commercial lots to reflect a price of 15% above the May 1999 appraisal price. These lots are listed below:

Lot	Block	Appraisal Price	New Listing Price
3	9	\$3.00	\$3.45
4	9	\$3.35	\$3.85
8	9	\$3.50	\$4.03
9	9	\$2.80	\$3.22
1	10	\$3.00	\$3.45
2	10	\$2.50	\$2.80

In addition, it was approved to withdraw from the market Lots 1-4, Block 11. The recommended price change equals \$300,501 more than the appraised price and \$701,126 less than current asking price for these lots. The document was returned to Barbara Martens in the Projects Office for further handling.

- 2) The Commissioners approved the appointment by the Sheriff's Office of newly appointed Lt. Of Detectives, Richard Maricelli, to a vacant deputy coroner position due to the retirement of Capt. Gerald Crego.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, SEPTEMBER 27, 2000

The Board of County Commissioners met in regular session; a quorum of members was present in the forenoon. Commissioner Kennedy was out of the office all afternoon.

Claims List -- Commissioners Evans and Kennedy signed the Claims List, dated September 26, 2000, batch numbers 867 and 869 (pages 1-5), with a grand total of \$42,590.97. The Claims List was returned to the Accounting Department.

The Weekly Public Meeting scheduled for this date was canceled.

THURSDAY, SEPTEMBER 28, 2000

The Board of County Commissioners did not meet in regular session. Chairman Carey was enroute from Havre to Yellowstone Park to attend a conference there. Commissioner Kennedy was in briefly in the forenoon for signatures, and Commissioner Evans was out of the office all afternoon.

Claims List -- Commissioners Evans and Kennedy signed the Claims List, dated September 27, 2000, batch number 871 (pages 1-5), with a grand total of \$23,402.70. The Claims List was returned to the Accounting Department.

Claims List -- Commissioners Evans and Kennedy signed the Claims List, dated September 27, 2000, batch number 873 (pages 1-2), with a grand total of \$996.87. The Claims List was returned to the Accounting Department.

Claims List -- Commissioners Evans and Kennedy signed the Claims List, dated September 28, 2000, batch number 870 (pages 1-4), with a grand total of \$24,427.55. The Claims List was returned to the Accounting Department.

Claims List -- Commissioners Evans and Kennedy signed the Claims List, dated September 28, 2000, batch number 875 (pages 1-2), with a grand total of \$2,301.03. The Claims List was returned to the Accounting Department.

Indemnity Bond -- Chairman Carey examined, approved, and ordered filed an Indemnity Bond naming Montana School of the Deaf as principal for Warrant #16739 issued November 12, 1999, on the Missoula County Student Activity Fund (MCPS -- High School) in the amount of \$100.00, now unable to be found.

FRIDAY, SEPTEMBER 29, 2000

The Board of County Commissioners did not meet in regular session. Chairman Carey was in Yellowstone Park attending the "Greater Yellowstone Coalition Conference" held at the Mammoth Hotel. Commissioners Evans and Kennedy were out of the office all day, but were available for signatures.

Claims List -- Commissioners Evans and Kennedy signed the Claims List, dated September 28, 2000, batch number 876 (pages 1-4), with a grand total of \$55,115.67. The Claims List was returned to the Accounting Department.

Vickie M. Zeier
Vickie M. Zeier
Clerk & Recorder

Bob Carey
Bill Carey, Chair
Board of County Commissioners

MONDAY, OCTOBER 2, 2000

The Board of County Commissioners met in regular session; a quorum of members was present in the forenoon. Commissioner Evans was out of the office all day; and Commissioner Kennedy was out all afternoon.

TUESDAY, OCTOBER 3, 2000

The Board of County Commissioners did not meet in regular session. Commissioners Evans and Kennedy were out of the office all day, but were available for signatures.

Site Inspection – In the forenoon, Chairman Carey accompanied County Surveyor Horace Brown on a site inspection for the request to alter the right-of-way easement at Mullan Road and McDowell Drive.

Plat – The Commissioners signed the Plat for Scott Meadows, a two-lot summary subdivision of Tract D-1, Certificate of Survey No. 4326, located in the SW¼ of Section 35, T 11 N, R 20 W, PMM, Missoula County, with the owners of record being Bruce and Gayle Scott.

Monthly Report - Chairman Carey examined, approved and ordered filed the Monthly Reconciliation Report for the Clerk of the District Court, Kathleen Breuer, for the month ending September 29, 2000.

Monthly Report - Chairman Carey examined, approved and ordered filed the Monthly Reconciliation Report for Justice Court 1, John E. Odlin, Justice of the Peace, for the month ending September 29, 2000.

No Administrative Meeting was held; however, the following items were signed:

Agreement – The Commissioners signed a Memorandum of Agreement between Missoula County and Missoula Food Bank for basic food needs assistance for indigent residents of Missoula County. County money partially funds Director's salary. The term will be July 1, 2000 through June 30, 2001. The total amount shall not exceed \$15,000.00.

Agreement – The Commissioners signed a Memorandum of Agreement between Missoula County and Missoula City-County Health Department for continuation of providing services to Forum for Children and Youth. This is supported by the Juvenile Justice grant. The term will be October 1, 2000 through September 30, 2001. The total amount shall not exceed \$7,125.00. The document was returned to the Health Department for further signatures and handling.

Task Order -- Chairman Carey signed Task Order No. 01-07-5-21-021-0 to the Missoula City-County Health Department Master Contract that covers the period July 1, 1998 through June 30, 2005. The Task Order is between the Montana Department of Public Health and Human Services and Missoula City-County Health Department, and provides the services of the U.S. Department of Agriculture's Special Supplemental Nutrition Program for Women, Infants and Children (WIC) to the residents of Missoula County and possibly residents of surrounding areas. The term will be October 1, 2000 through September 30, 2001. The maximum total amount payable is \$355,583.00, and \$3,547.00 for state sponsored travel as outlined in Section 2 therein. The document was returned to the Health Department for further signatures and handling.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Terry Kendrick to provide facilitation for the Region V-South Regional Advisory Committee on HIV Prevention prioritization meetings. The term will be October 1, 2000 through December 31, 2001. The total amount shall not exceed \$750.00.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Big Brothers Big Sisters of Missoula, Inc. to provide mentoring services as set forth in the grant submitted and awarded by the Montana Board of Crime Control entitled: "Connections: An Early Intervention Mentoring Program." The term will be July 1, 2000 through June 30, 2001. The total amount shall not exceed \$31,200.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Western Cultural, Inc. to conduct historical and archaeological investigations to determine location of Travelers' Rest National Historic Landmark. The term will be through November 31, 2001. The total amount shall not exceed \$96,137.08.

Other items included:

- 1) Chairman Carey signed Amendment Number 1 to Contract Number 00-341-74402-0 between the State of Montana, Department of Public Health and Human Services, Addictive and Mental Disorders Division, and Missoula County Office of Planning and Grants. Its purpose is to reduce the age of on-set of substance abuse. Activities include the integration of substance abuse prevention curricula into the schools, the establishment of tutoring/mentoring programs in the schools, and the creation of parent education programs. The Amendment continues the Contract beyond the expiration date (September 30, 2000) for a period of 12 months and pays the contractor an additional amount of \$277,125.60. Most of these funds will be awarded to Turning Point, Missoula County Public Schools, Missoula Youth Homes, WORD, and The U of M. The Amendment was returned to Peggy Seel in the Office of Planning and Grants for further handling.

WEDNESDAY, OCTOBER 4, 2000

The Board of County Commissioners met in regular session; all three members were present in the afternoon. Commissioner Evans was out of the office until noon.

Claims List -- Chairman Carey and Commissioner Kennedy signed the Claims List, dated October 3, 2000, batch number 877 (pages 1-4), with a grand total of \$34,541.75. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Kennedy signed the Claims List, dated October 3, 2000, batch numbers 879 and 880 (pages 1-5), with a grand total of \$22,792.69. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Kennedy signed the Claims List, dated October 3, 2000, batch number 881 (pages 1-4), with a grand total of \$24,016.12. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Kennedy signed the Claims List, dated October 4, 2000, batch number 882 (pages 1-2), with a grand total of \$8,843.09. The Claims List was returned to the Accounting Department.

Monthly Report - Chairman Carey examined, approved and ordered filed the Monthly Reconciliation Report for Justice Court 2, Justice of the Peace, Karen A. Orzech, for the month ending September 29, 2000.

Indemnity Bond – Chairman Carey examined, approved, and ordered filed an Indemnity Bond naming Missoula Area Education Cooperative as principal for Warrant #23102463 issued June 20, 2000 on the Seeley Lake School District #34 Claims Clearing Account in the amount of \$13,471.84, now unable to be found.

Contract and License Agreement – The Commissioners signed a Contract, dated October 4, 2000, between Missoula County and Black Mountain Software (“Contractor”) for an Integrated Software Solution for the County Treasurer’s Office at Missoula County Treasurer’s Office. The bid was awarded at the September 6, 2000 Public Meeting. The Contractor shall fully complete all the work contemplated by the Contract within a period of 365 consecutive calendar days from the date of the Contract. The compensation will be \$94,000 with yearly maintenance fee of \$16,800, for a grand total of \$110,800.

The Commissioners also signed a License Agreement between Missoula County (“Licensor”) and Black Mountain Software (“Licensee”), wherein Licensor grants Licensee a nontransferable, non-exclusive License to use an executable copy of each of the software products identified in Table 1 therein. The software products include software, associated files, and documentation that together constitute a computerized system for Licensee. Licensee agrees to purchase each of the software products for the specified purchase prices which include all options, installation, training, and annual maintenance for the first year. Licensee also agrees to pay for data conversion, as specified in Table 1.

PUBLIC MEETING – October 4, 2000

The Public Meeting was called to order at 1:30 p.m. by Chairman Bill Carey. Also present were Commissioner Michael Kennedy, Commissioner Barbara Evans, County Surveyor Horace Brown, Deputy County Attorney Colleen Dowdall and Chief Civil Attorney Michael Sehestedt.

Public Comment

None

Routine Administrative Actions

Commissioner Evans moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$558,398.75. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Hearing: Bertoltt Family Transfer

Chairman Carey opened the hearing on the Bertoltt Family Transfer.

Colleen Dowdall, Deputy County Attorney, presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described as Tract 1 and the remainder of COS 4575.

Frank and Cheryl Bertoltt have submitted a request to create four parcels using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is divided into two parcels of approximately 10 acres each, located off Touchette Lane. The Bertoltt propose to create 4 parcels, each approximately five acres in size, for transfer to their son Bryon Rory Bertoltt, their daughter Alicia Lynn Bertoltt, and to Frank’s mother Lillian Bertoltt. The fourth parcel would be a remainder parcel.

The history of the parcel is as follows:

Parcel History	Year	Exemption Used	Applicant	Intended Recipient
COS 122 creating 9 tracts	1972	To create parcels of land	Unknown	N/A
COS 4575 creating one parcel and a remainder	1996	Mortgage Exemption	Bertoltt	Property not transferred

According to the records kept by the Missoula County Surveyor, the applicant has used the mortgage exemption to the Subdivision and Platting Act, dividing the original 20 acres into two 10 acre parcels. The parcels are still in the ownership of the Bertoltt and this division would result in the creation of two additional parcels.

Frank Bertolt was present and came forward to answer any questions the Commissioners may have.

Commissioner Kennedy stated that the original parcel was 20 acres, divided once to two 10 acre parcels and now again to four 5 acre parcels. He asked who would own the 20 acres should this be approved?

Frank Bertolt stated his son would have five acres, his daughter would have five acres and his mother would have five acres. He would retain five acres.

Commissioner Kennedy asked what was the purpose of the transfer?

Frank Bertolt stated that maintaining 20 acres was getting to be a lot of work. He and his wife don't spend a lot of time there anymore. He and his wife want to purchase a sailboat and do some sailing after retirement. They wanted to maintain just a small home in town. This would leave his son and daughter with some property.

Commissioner Kennedy asked if the intent was for the beneficiaries to build and live on the property?

Frank Bertolt stated that was possible, it was up to each of the beneficiaries to make that decision in the future.

Commissioner Kennedy asked if there was any reason he did not go through subdivision review for this?

Frank Bertolt stated it had to do with the cost. It was less expensive to do the Family Transfer and his son and daughter would end up with the land.

Commissioner Kennedy stated that a fair question then would be if this was an attempt to evade the subdivision regulations?

Frank Bertolt stated it was not an attempt to evade the regulations. It was done to afford him peace of mind so he and his wife can sail the globe. It also limited his cash outlay.

Commissioner Evans asked Mr. Bertolt if this process was explained to him.

Frank Bertolt stated that Colleen Dowdall had explained the process to him.

Commissioner Evans stated the Board had to make a determination if there was any attempt to evade the subdivision regulations with each Family Transfer request, which is why he was being asked these questions.

Frank Bertolt stated he understood that, the same questions were asked when he did the Mortgage Exemption.

Commissioner Evans stated that the law allows him to give a piece of property to each of his children in a County, once in a lifetime. It appears he is doing exactly what the law allows.

There being no further comments, the Public Hearing was closed.

Commissioner Evans moved that the Board of County Commissioners approve the request by Frank and Cheryl Bertolt to create two additional parcels by use of the Family Transfer Exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Kennedy seconded the motion.

Commissioner Kennedy stated an adjacent parcel of similar size who might want to subdivide the property for sale would have to go through subdivision review with its related expense and requirements. This division has the same effect without any review or protection for the common good. It shows the wrong-headedness of this law which he felt was a bad law. He then called the question.

The motion carried on a vote of 3-0.

Colleen Dowdall stated for the record that the property on one side of this had already divided by use of exemptions offered.

Decision: Alteration of Right-of-Way Easement on Mullan Road and McDowell Drive

This is a petition to alter "a portion of the Mullan Road right-of-way at McDowell Drive within Tract C-2A of Certificate of Survey No. 4221, located in the NE 1/4 of Section 18, Township 13 North, Range 18 West, Missoula County, Montana."

The reasons for the request are as follows: 1) Missoula County no longer needs the current right-of-way. The following landowners have been notified: Timothy R. and Sylva H. Stone.

The hearing on this matter was held Wednesday, September 20, 2000. The site inspection was conducted by County Surveyor Horace Brown and Commissioner Bill Carey on Tuesday, October 3, 2000.

Horace Brown stated that this is a reduction of the amount of right-of-way that the County has on the roadway. The line is being changed to reduce the amount of right-of-way as it is not needed for roadway. This will bring that piece of property back on to the tax rolls.

Chairman Carey stated he and Horace Brown had inspected the site and recommended approval of the petition.

Commissioner Evans moved that the Board of County Commissioners approve the petition to alter "a portion of the Mullan Road right-of-way at McDowell Drive within Tract C-2A of Certificate of Survey No. 4221, located in the NE 1/4

of Section 18, Township 13 North, Range 18 West, Missoula County, Montana." Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Hearing: Twogood Subdivision for Lease or Rent (2 units on one lot) – 1505 Marie Drive, off Mullan Road

Chairman Carey opened the hearing on the Twogood Subdivision for Lease or Rent.

Zoe Mohesky, Office of Planning and Grants, presented the staff report.

Marvin and Florence Twogood, represented by their daughter, Gail Arlint, are requesting approval of the Twogood Second Summary Subdivision for Lease or Rent. The property is part of an existing subdivision, Lot 3 of Riggs Addition No. 2. The property is approximately 6.98 acres. One home already exists on the property and the applicants are proposing to place a doublewide manufactured home on the property as a second unit. A site plan is included in the application packet.

The property is located on Marie Drive, approximately 1.5 miles west of Reserve Street and south of Mullan Road. The new homesite would be served by Marie Drive, a County maintained road with a 60 foot right-of-way. The existing home is also accessed from Marie Drive. The property is zoned C-RR1 "Residential" which permits one dwelling unit per acre. The 1998 Update of the Missoula Urban Comprehensive Plan designates the property as Parks and Open Space.

FEMA maps indicate that the entire property is located within the 100 year floodplain of the Clark Fork River. Based on actual ground and flood elevations completed by a licensed surveyor, only 2 swales on the property have been found to actually be within the 100 year floodplain. The property is also located within the Airport Influence Area but is not located within the 65 decibel noise level.

Both homes would be served by individual wells and septic systems.

No negative comments were received from any of the reviewing agencies on this proposal. Staff is recommending approval of the subdivision subject to 9 conditions. These conditions address compliance with the Subdivision Regulations or are in response to comments received during review. Conditions 6 through 9 address floodplains concerns, including placing the home outside the 100 year floodplain, designation of the 100 year floodplain on the final plan and that those areas be no build zones, access by emergency responders and filing of development covenants.

There is a variance request for the maximum length of rural cul-de-sacs. The property is near the end of Marie Drive. The existing homesite is 25 feet beyond the maximum length. The new driveway and homesite would be about 225 feet over the maximum length. No negative comments were received regarding the length or access. Staff is recommending approval of the variance request.

Gail Arlint stated she was representing her parents, Marvin and Florence Twogood. She was available to answer any questions the Commissioners may have.

Commissioner Evans asked if sump pumps were allowed within the parameters of Condition 9.

Colleen Dowdall stated that the electricity for the sump pump would have to be elevated above the 100 year floodplain level.

Commissioner Evans wanted it on the record that sump pumps would be allowed in a crawlspace.

There being no further comments, the Public Hearing was closed.

Commissioner Evans moved that the Board of County Commissioners approve the variance request from Article 3-2(1)(I) of the Missoula County Subdivision Regulations for Marie Drive to vary from the 1,000 foot maximum length for a rural cul-de-sac road, based on the findings of fact in the staff report. Chairman Carey seconded the motion. The motion carried on a vote of 2-1 (Commissioner Kennedy opposed).

Commissioner Evans moved that the Board of County Commissioners approve the Twogood Second Summary Subdivision for Lease or Rent, based on the findings of fact in the staff report and subject to the conditions contained in the staff report. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Twogood Second Summary Subdivision for Lease or Rent Conditions of Approval:

1. The lot owner shall file a document of record with Missoula County waiving the right to protest creation of an RSID/SID for improvements to Marie Drive, including but not limited to paving, street widening, installation of pedestrian walkways or bikeways, drainage facilities and curbs and gutters, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land. Such document shall be filed prior to final plan approval. *Subdivision Regulations Article 3-2 and staff recommendation.*
2. The lot owner shall file a document of record prior to plan filing waiving the right to protest a future RSID/SID for public sewer and water systems, based on benefit. The lot owner shall connect to public sewer within 180 days of when the public sewer main is available to the subdivision. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land depicted herein. *Subdivision Regulations Article 3-7(2) and staff recommendation.*
3. An approach permit must be obtained from the County Surveyor's Office before home construction/placement begins. *County Surveyor recommendation.*
4. An avigational easement shall be obtained for the property in compliance with the Airport Influence Area Resolution prior to final plan approval. *Subdivision Regulations Article 3-1(2).*

Chairman Carey asked for public comments.

Ron Ewart, developer's representative, was present, as was the applicant, Terri Pennington. He stated they were in agreement with the recommended conditions of approval. Ms. Pennington explained her reason for dividing the property was to build a house for her father. She investigated the Family Transfer exemption but it is not an option on a filed subdivision. The 2 lot subdivision was designed to have a minimal impact on the area and natural resources. The building site was located closer to the road to shorten the length of the driveway. There is an old shed currently on the building site. A minimum of trees would have to be removed. The existing driveway will be shared so a new access to Hampton Drive would not be created. The existing driveway has good site distance in each direction. There are existing covenants on the property that were filed in 1976. The covenants require single family residential use only, and requires that all lots be at least one acre in size, with setbacks. The proposal meets those covenants. There are other one acre lots in the area. Additional covenants have been proposed which address single family residential use, universal building codes, external maintenance of the home and yard, driveway maintenance, Wildland/Residential Interface Standards and guidelines for fire protection. Hampton Drive is in good condition and slightly less than 24 feet. There is a natural gas home distribution line located along the north side of the road, as well as electric, phone and power. The property is not far from the town of Turah and the exit from Interstate 90, it only about 10 minutes from Missoula.

Terri Pennington stated she needs a place for her father, who is elderly and almost blind.

Lee Tangedahl stated he was a lot owner immediately adjacent to Lot 12. He is in opposition to the subdivision. Being in opposition is extremely difficult for him however. He is respectful of his neighbor and the family situation that is causing the consideration of this subdivision, which makes this even harder. He is in opposition because of the long run benefit of the neighborhood. His focus was on three issues: 1) comprehensive plan compliance, 2) effect on wildlife habitat, and 3) the configuration of the proposed lots.

This lot does not comply with the Comprehensive Plan, but was created as part of Hellgate Pines subdivision, prior to the adoption of the plan. Hellgate Pines Addition No. 2 was created in 1972 with 34 lots. Of those, five lots are one acre in size. In 1975, the Comprehensive Plan was created and this area was designated as Rural Medium Density, one dwelling per 5 acres. The existing subdivision did, however, have lots smaller than that. The plan makes special reference to the Turah area and states it should "encourage large lot residential development and maintain rural atmosphere and open space." There have been two subdivisions which have been created immediately adjacent to Hellgate Pines since the Comprehensive Plan was adopted. In 1976 the Pinewood Subdivision plus two adjacent lots was created immediately to the north. This included six lots on 16 acres for an average lot size of 2.67 acres. The covenants state that the minimum lot size in this subdivision be two acres. This subdivision was annexed to Hellgate Pines with the stipulation that these lots could not be smaller than 2 acres. The second subdivision immediately adjacent to Hellgate Pines is the Turah Estates Subdivision created to the east and south. This is a 4 lot subdivision on 26 acres for an average lot size of 6.5 acres. Their covenants state that the minimum lot size shall not be less than 5 acres. From 1972 to the present, Hellgate Pines No. 2 has had no lot subdivisions, there are still 34 lots that existed at creation. This proposal would be the first division of an existing lot. Since 1972, the three items cited (2 adjacent subdivisions and the creation of the Comprehensive Plan), lend themselves to less, not more, density; to larger lot sizes rather than the creation of one acre lots. This did not happen by accident. In 1976 before the Pinewood Subdivision was created, Harold Polson of Great Falls requested that this land be transferred to him in the form of 15 one-acre lots. The homeowners of Hellgate Pines No. 2 had that declared an illegal subdivision. The homeowners do not want additional one acre lots in the area. Pinewood was created with the stipulation that no lot should be less than 2 acres, which was agreeable to the residents of Hellgate Pines No. 2. Pinewood has been annexed to Hellgate Pines No. 2, but the 2 acre stipulation remains in effect. The proposed subdivision within Hellgate Pines No. 2 does not violate its governing covenants, however.

Commissioner Kennedy asked Mr. Tangedahl about the existing one acre lots within Hellgate Pines.

Lee Tangedahl stated that the one acre lots were created at that size, they were not subdivided from larger parcels. He continued with his concerns for the wildlife and wildlife habitat.

This subdivision is immediately adjacent to wildland. The Turah Estates Subdivision is also immediately adjacent to wildland. There are deer, bear and other animals moving through the area. Adding one acre lots is not conducive to an area immediately adjacent to wildlands. These new lots will have covenants for the benefit of wildlife, but covenants are just a piece of paper. The result of dividing into one acre lots increases traffic. Additional activity on that lot will inhibit the use of that land by deer. Creating one acre lots is not conducive to protecting wildlife.

The configuration of the new lot causes some concern. The current house is essentially in the middle of the two acre parcel, nothing but trees can be seen out the windows. That is the way the residents like it there. According to the diagram provided, the new house would be right next to Gene Wingo's property. He would look out his window and see this new house. The new one acre lot that is being created also has an 80 foot utility corridor going through it. The new house would be right next to that utility corridor. It also has a 30 foot driveway easement. This limits where the house could be built, which is another reason why one acre lots are a problem. The drainfield is platted within 5 or 6 feet of the fence, dangerously close to Mr. Wingo's well. This would be considered by the Health Department, but by creating one acre lots, it creates people problems.

This lot by itself probably does not create a problem but it is creating a precedent. There are several more lots that could follow suit and pretty soon, it could greatly increase the density in this area. It could create more traffic and perhaps the road should be the full 24 feet and perhaps sidewalks should be included. This would change the character of the subdivision. He is uneasy about opposing this subdivision and does not like to speak against his neighbor, but he felt this would open the door to creating something different than the area currently is.

Gene Wingo stated he lived directly beside Ms. Pennington. On the potential lot layout, there are numerous mistakes. His well is shown in the wrong location. He is opposed to this subdivision. The drainfield is shown almost up to his property line. There is another well on his property for irrigation and it is shown as being under the powerline, which is incorrect. Lot 12A also contains several mistakes. The drainfield is not in front of the house, it is along the west side. The well is

not behind the house, it is behind the garage. His well is not shown at all, but it is quite close to where the proposed new drainfield is shown. He suggested moving the drainfield and house. A previous owner of this property had cleared a spot where a new house should be located. He is opposed to having it right next to his property line. It is also shown as being within 20 feet of the powerline. There is research about the hazards of living under a powerline. He is opposed to that for the sake of Ms. Pennington's father. He did not want the house 20 feet from his property line. He felt Ms. Pennington did not want to ruin her view, so placed the house in a location that would ruin his view. He is opposed to the location of the house and drainfield. The drainfield is about 6 feet from his fence.

Karen Hughes pointed out that the site plan is conceptual. It is not what would be platted when the final plat is filed. The review is done from a general perspective as to where it would be possible to put a house. The well and septic system review is taken care of by the Health Department under a separate process.

Commissioner Kennedy stated that testimony given was that this home was for the benefit of an elderly, near blind parent. It might be appropriate to consider an Auxiliary Living Unit rather than a subdivision. Had that been considered? If it is possible to have an ALU without subdividing the property, it offers some protection and erases the appearance of this setting a precedent.

Karen Hughes asked if Commissioner Kennedy was suggesting a Lease or Rent.

Commissioner Kennedy wondered if the covenants allowed an Auxiliary Unit on that lot.

Commissioner Evans asked if this was similar to the Auxiliary Dwelling Unit concept in the City. That is not allowed in the County.

Colleen Dowdall stated the County does not allow the Additional Dwelling Unit unless the property goes through Subdivision for Lease or Rent review. The reason is that the County can't police when it is being occupied by a member of the family as opposed to it being rented to someone else. The Lease or Rent process started about 7 years ago. The old process allowed someone to live on site in another house if it was an immediate family member. When the family member passed away, the County was threatened with legal action because the house was not removed. An additional housing unit was defined as one that has a plumbed kitchen. If that type of additional housing unit is requested, the property must go through Lease or Rent Subdivision review.

Commissioner Kennedy stated that Lease or Rent was possible in this situation and wouldn't establish a precedent for subdividing the property.

Colleen Dowdall stated that Lease or Rent is possible. She did not worry about a precedent being set, because each subdivision is reviewed based upon the law in existence and the regulations in existence, and the decision is not based on what has been done in the past.

Commissioner Kennedy stated that often times there are statements made about lot sizes being similar to what is being proposed as a basis for allowing a new proposal.

Colleen Dowdall stated that lot size is also not regulated, density is regulated. The density would be increased whether or not a new lot line was drawn.

Ron Ewart stated this option had been discussed with his client. Ms. Pennington would rather file this subdivision as proposed.

Commissioner Evans asked Mr. Ewart about the concerns of the proposed location of the house and septic system.

Ron Ewart stated that the lot layout is labeled as potential. He just drew potential sites without a lot of research because later the engineer will determine the actual location of the homesite. The location of Ms. Pennington's drainfield was based on the Health Department inspection permit. He was unsure of why the neighbor's well was shown in the wrong location. That will be checked into and corrected. The proposed drainfield can certainly be moved. The proposed home is where an old shed is currently located. This will be a small house, probably not much bigger than the shed. It too could certainly be moved. Again, the drawing was only a potential layout. Regarding land use, there is an analysis in the staff report and submittal that shows this does meet the Comprehensive Plan. The designation is not strictly met, but it does meet the goals and objectives. It is within the Turah Activity Circle. A subdivision in Hellgate Pines No. 1 was recently completed and that area is designated as 2 dwelling units per acre. Hellgate Pines No. 2 is designated as one per five. He did not understand the difference, it is all mostly the same type of area. As far as the wildlife is concerned, this is not a wildlife corridor and not important wildlife habitat. There are covenants that address wildlife which are a good educational tool. They would like to encourage deer to stay away from homes. The powerline is a 3-wire, 161 kilovolt Montana Power Company line. Montana Power indicated it was not a high voltage line. There is another BPA powerline to the north that is much bigger than this one. He felt covenants can be a very strong tool, especially for property owners that are a party to the covenants. They are a legal tool and can be enforced in District Court. The property owners of Hellgate Pines No. 2 could change their covenants so this wouldn't be opening the door to further lot splits.

Commissioner Kennedy asked which lot was subdivided in Hellgate Pines No. 1?

Ron Ewart stated it was Lots 15A and 15B. There were several subdivision done in Hellgate Pines No. 1, but this is the first subdivision in Hellgate Pines No. 2.

Commissioner Evans asked Ms. Pennington about the different locations for the home for her father?

Terri Pennington stated she would be happy to move the house location over. As Mr. Ewart had stated, the shed already exists which is why the house was placed in that location.

Lee Tangedahl stated there was a significant difference between Hellgate Pines No. 1 and No. 2. The original lot sizes in Hellgate Pines No. 1 were larger, leaving more to subdivide. It is also not as heavily treed and does not offer as much wildlife habitat. That is also what those homeowners wish to do with their property. The two subdivisions do not impose back and forth although they share covenants. In-between the two Hellgate Pines is the new subdivision Pinewood, which does share more the environment and lot size with Hellgate Pines No. 2. That is a big difference between the two subdivisions. The statement that they wanted to push the deer up the hill also alarmed him. With one acre lots, that may be desirable, but when one chooses to live with the deer, that is not what they want.

There were no further public comments.

Commissioner Evans stated she would be making a motion to approve this subdivision. She told Mr. Tangedahl that where she lived near Highlands Golf Course, she had up to nine deer in her yard at once. The wildlife will not leave, they cannot be pushed out. The Health Department controls the location of the septic system. It must be a specific distance from existing wells and property lines.

Commissioner Evans moved that the Board of County Commissioners approve the variance request from Article 3-2(3) of the Missoula County Subdivision Regulations to allow Hampton Drive to vary from the required 24 foot road and 60 foot right-of-way widths to 22-24 foot road and 54 foot right-of-way widths; approve the variance request from Article 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways in the subdivision; and approve the variance request from Article 3-2(1)(I) of the Missoula County Subdivision Regulations to allow the driveway easement width to vary from 54 feet to 30 feet, all based on the findings of fact set forth in the staff report. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Commissioner Evans moved that the Board of County Commissioners approve the Hellgate Pines Addition No. 2, Lot 12, Block 1, Summary Subdivision, based on the findings of fact in the staff report and subject to the conditions listed in the staff report.

Commissioner Kennedy stated he could not second the motion. He had driven out there recently and it was a very heavily treed area. He was looking at the area not because of the subdivision, but because of the high fire danger that exists. A fire out there would be a catastrophe. He also saw a conflict in Comprehensive Plan compliance. The Supreme Court even agrees that zoning does not always overcome comprehensive planning. Hellgate Pines No. 1 is a separate situation altogether. Hellgate Pines No. 2 has not had any subdivisions, this would be the first in the area. He disagreed with counsel and felt this would set a precedent. Adjacent lots of similar size always have weight in subsequent reviews. He believed this does open the door to further subdivision in the area. The facts argue against approval of the subdivision.

Commissioner Evans asked if there were any regulations regarding the Wildland Residential Interface?

Ron Ewart stated that was correct. The WRI standards are addressed in the covenants.

Commissioner Evans asked if there was any additional language that could be added to allow Rural Fire to check and approve the area around the house to help prevent loss due to fire.

Karen Hughes stated she was not aware of that option. Staff has recommended that Rural Fire review and approve driveway plans to insure that access is sufficient.

Michael Sehestedt stated this was new ground the County is exploring with some of the rural fire departments. He suggested it would be possible to impose as a condition of subdivision approval that the building site be brought to these fire protection standards, removal of fuels and thinning of trees, prior to final subdivision plat approval. It would be the responsibility of the developer to get certification from the fire agency that the proposed building site meets those standards.

Commissioner Evans stated she had mixed emotions. She agreed that needs to be done but it goes against what the neighbors want, to look at the trees.

Michael Sehestedt stated this is a standard conflict, it was encountered when the fire were raging. Fire officials told residents if they wanted to save their houses, they needed to clear the brush. Residents responded they would rather take their chances, they did not want to cut their trees. The building site location would also be governed by the contours of the land. The enforcement of the fire standards is also in question. It must be an ongoing maintenance obligation. The County can only guarantee that at some point in time the standard is met.

Chairman Carey asked about the Conclusion of Law that the proposed lot size was consistent with the lot sizes within Hellgate Pines No. 2. He thought there were only 5 one acre lots within the subdivision. Was that correct?

Karen Hughes stated it was judged as consistent as it is within the range of lot sizes from one to four acres. The average lot size is estimated to be 1.86 acres.

Colleen Dowdall stated that it should be emphasized that this is also located within the Turah Activity Circle. The language for activity circles states that a density of up to 2 per acre is permitted, regardless of what the underlying designation is, if there are no constraints to development. The analysis for constraints to development are the presence of wildlife species of special concern, steep slopes, inadequate infrastructure, floodplain, riparian vegetation, etc.

Chairman Carey stated the proposal does exceed the land use designation of the Comprehensive Plan, but the incremental use is allowed to gain the upper hand.

Colleen Dowdall disagreed with that, it is not because of the incremental notion, it is because it is within the activity circle. It exceeds the underlying designation but when the activity circles were drawn, the intent as stated was that more dense development would occur within those activity circles, regardless of the underlying designation. She did not know why the designation within the activity circles was not made 2 per acre.

Karen Hughes stated that was included in Finding 8.

Chairman Carey stated the fire standards suggestion was very useful and would like to see it added.

Commissioner Evans amended her motion to include a condition regarding fire standards.

Chairman Carey seconded the motion. The motion carried on a vote of 2-1 (Commissioner Kennedy opposed).

Commissioner Evans requested that the new home be located so as to minimally impact the neighbors.

Hellgate Pines Addition No. 2, Lot 12, Block 1, Summary Subdivision Conditions of Approval:

Access

1. The subdivider shall submit driveway plans for review and approval by the Missoula Rural Fire District and the County Surveyor's Office, prior to final plat approval. *Subdivision Regulations Article 3-2(6)(A), 3-2(6)(E) and OPG recommendation.*
2. The subdivider shall provide proof that a driveway approach permit has been secured for the shared driveway prior to final plat approval, subject to review and approval by OPG. *Subdivision Regulations Article 4-1(14) and County Surveyor recommendation.*

Fire

3. The developer shall show proof of contribution to the Missoula Rural Fire District's large diameter hose fund at the rate of \$100.00 per new lot, prior to final plat approval, subject to review and approval by OPG. *Subdivision Regulations Article 3-7 and Missoula Rural Fire District recommendation.*
4. The RSID waiver for connection to a public water system on the plat shall be deleted and the following statement shall be included on the face of the final plat and in all instruments of conveyance:

"Acceptance of a deed for a lot within this subdivision constitutes a waiver of the right to protest a future RSID/SID for public water system adequate for fire protection, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations Article 3-7(2).*
5. The new building site and existing home site shall be cleared and brought to Wildland Residential Interface standards for vegetative reduction including removal of fuel, removal of trees and pruning to remove ladder fuels, prior to final plat approval, subject to review and approval by the Missoula Rural Fire District. *Subdivision Regulations Article 3-1(2).*

Covenants

6. Article II, Section 2 of the proposed covenants shall be amended to require consent of the governing body for any changes made to the following sections of the covenants: driveway maintenance, wildlife, fire standards, and weed control and revegetation of disturbed sites. *Subdivision Regulations Articles 1-3, 3-1(1), 3-1(2), 3-2(6) and OPG recommendation.*

Hearing: Resolution of Intent to Create RSID No. 8465 – Paving of Farm Lane in Lolo

Chairman Carey opened the hearing on the Resolution of Intent to Create RSID No. 8465 – Paving of Farm Lane in Lolo

Jesse Sattley, Public Works Department, presented the staff report.

This is an intent to create RSID No. 8465, paving of Farm Lane in Lolo. The paving of Farm Lane in Lolo is estimated to have an RSID cost of \$118,000 and consists of a 24 foot wide road with a 2 foot wide shoulder, a 6 foot wide marked walkway on one side and a 6 foot wide ditch section on each side. There 125 properties included in the district. The RSID will be assessed over a period of 15 years, or can be paid in lump sum at the time of construction completion. The assessments will use a combination of methods based on assessable area square footage. Missoula County, Bond Counsel and the Engineer have determined that all properties in the District benefit from the improvements, but that all properties are not benefited to the same degree, taking into consideration the proximity of the properties to the improvements, the availability of access other than Farm Lane and the extent of access off of Farm Lane. For assessment purposes, the District shall consist of four assessment subdistricts: A, B, C and D.

The recent subdivisions in the area represent approximately 96% waiver of protest within the district to pave Farm Lane specifically. Six letters of protest were received with four of those having protest rights waivers.

It is the recommendation of the Public Works Department to proceed with the creation of RSID #8465.

Commissioner Kennedy asked if the RSID proposed includes all of the improvements that were required by approval of the Orchard Park Subdivision.

Jesse Sattley stated he did not know.

Commissioner Kennedy stated that one of the conditions of approval for Orchard Park was that it was the obligation of the developer to build the improvements on Farm Lane and other areas and could first go through the RSID process. If the RSID succeeded, it could be used to build those improvements. If the RSID failed, then the developer was obligated to build the improvements. The developer must construct according to the conditions of subdivision approval. It seems that the RSID needs to include all of the improvements the developer was required to build. Who proposed the improvements?

Jesse Sattley stated he did not review subdivisions. The residents in the area proposed the improvements.

Commissioner Evans stated the paving of Farm Lane was not a new issue. She felt this had already been approved.

Colleen Dowdall stated the RSID was specifically anticipated as a part of this subdivision for the paving of Farm Lane. This has been addressed at least three times already. When the approval letter for Orchard Park went out, it had incorrect language. The Planning Board had recommended particular language for the RSID and essentially took out all of the standards for the improvements to Farm Lane. When it came to the Commissioners, they had before them staff's original recommendation and Planning Board's recommendation. The Board of County Commissioners approved the Planning Board's recommendation. When the Office of Planning and Grants provided the staff report recommendations of conditions to the Commissioners Office to send out the approval letter, it gave the conditions that were in the staff report, not the Planning Board's recommendation that the Board had approved. The letter went out with standards that the Board had not required. This was brought to the attention of the Commissioners Office and the tapes and minutes of the hearing were reviewed and the attorney's file was also reconstructed. It was concluded that what was provided electronically by the Office of Planning and Grants for inclusion in the approval letter was incorrect, it was the staff's recommendation, not the Planning Board's recommendations as approved by the Commissioners. The Farm Lane RSID language does not have specific standards required as a part of the improvements.

Commissioner Kennedy stated there were conditions imposed on the developer for approval of that subdivision that had to do with Farm Lane. He asked if this RSID includes those requirements.

Colleen Dowdall stated the requirements were not included with the approval. Planning Board took out all references to the width of the sidewalk, the width of the road, etc. What was required was that the applicant "initiate and create an RSID to pave Farm Lane from the unpaved portion of Farm Lane located on the west side of railroad tracks to the intersection with Lakeside Drive, to a County road standard of 24 feet, prior to the filing of Phase 1. If the RSID fails, the applicant shall waive the right to protest the creation of an RSID to pave Farm Lane from the unpaved portion of Farm Lane to the intersection with Lakeside Drive to a County standard of 24 feet, prior to the filing of Phase 1." A corrected letter was sent to the developer in July, 1999, with the conditions of approval as recommended by the Planning Board that were approved by the Commissioners. The reason an RSID was contemplated for paving Farm Lane was because Rossignol was approved with a waiver of the right to protest an RSID. It was contemplated that an RSID someday would be appropriate and there were numerous waivers in Rossignol. The proposal would be that when this was developed and these folks were required to initiate the RSID, both sides of the road would pay for the improvements to the road they were all using.

Commissioner Kennedy stated he understood that. With the Orchard Park waivers, there appeared to be sufficient waivers to perfect the RSID over the protests. His question is still does the RSID proposed include everything required as a condition of approval of Orchard Park.

Colleen Dowdall stated the Board deleted that as a requirement for the RSID.

Commissioner Kennedy asked if the developer had to construct the walkway separate from the RSID?

Colleen Dowdall stated Condition 2 as proposed by staff had requirements for a 7 foot wide grassy boulevard on both side of the road, etc., for the internal roads. That was taken out by Planning Board and the Commissioners adopted what was recommended by the Planning Board. That requirement is no longer part of that condition. To understand what was approved for Orchard Park, the corrected letter and conditions of July 15, 1999 must be looked at.

Michael Sehestedt stated the corrected conditions of approval call for a 24 foot road section as the requirement. The RSID includes a 24 foot road, 2 foot shoulders, a 6 foot marked walkway and 6 foot wide ditch sections. This is more than what was required by the subdivision approval.

Commissioner Kennedy stated that in looking at other conditions of approval, it assumes there will be a grassy boulevard for homeowners to maintain.

Colleen Dowdall stated that in issuing the corrected conditions of approval, this part may have not been fixed. She would need to review the original conditions in the staff report.

Commissioner Kennedy stated that in his mind, this is what was approved.

Colleen Dowdall stated the Planning Board specifically took out those requirements for installing certain improvements, except on certain other streets within the subdivision.

Duane Roy stated he owned property off of Storage Lane, which has been in existence for at least 90 years. His lot was never adjusted and not included in these new 125 lots. There was an existing subdivision in this area in 1910. When Ken Allen took his 20 acres, his property was never changed. He has the lease on the railroad and uses this property. There is a well and septic system. Montana Power has access to their transformer. In 1976, Montana Power had the easement expanded and moved the transformer and put in gas services. His property is not within any of the newer subdivision. He maintain his access on the railroad right-of-way. He will not have any benefit from the improvements on Farm Lane. He felt that the new subdivisions should contribute to this RSID but he should not be involved. Mrs. Mills has three acres and she is being asked to pay three times what everyone else is. The people who are using the road and reap the benefits should be assessed for this RSID, and leave him alone. He has enough burden, he maintains his road. He felt that those that put in the developments should pay for these improvements. He had nothing to do with it and should be left out of the assessment.

Colleen Dowdall had not been a party to the RSID, so she could not address whether or not Mr. Roy was appropriately within the assessment district.

Michael Sehestedt stated that the people who front on the road clearly benefit from paving. He did not have an opinion on Mr. Roy's property, but on Mrs. Mills three acres, the assessment was entirely appropriate.

Woody Germany, WGM Group, stated that both subdivisions required the developers to propose an RSID. When Mr. Allen did his, the RSID did not pass. When Orchard Park was approved, it was a requirement to initiate this RSID. As it has been mentioned, it was confusing as to what was being required. The records were reviewed and it was clarified as to what was required. There were also some neighborhood meetings. The reason for the walkway on one side were a result of discussions with the neighborhood groups. Those were discussed with the board prior to drafting the Resolution of Intention to Create. He felt there was good consensus on what was proposed to be built. Also during the neighborhood meetings the allocation of assessment was discussed. In the subdivision north of Farm Lane, those lots can be accessed by Lakeside Drive. There was discussion with Bond Counsel, staff and citizens that those lots on that upper street should have their assessment reduced, as it was reasonable that they would not use Farm Lane as much. That is reason that Area A has less of an assessment. All the single family tracts were to be assessed equally. Mr. Roy is correct, his property was never included in any of these subdivision. He does have a direct access to Farm Lane and the Board has to make the determination if his assessment is equitable. He was included because typically when an RSID is formed, everyone who benefits is included. The railroad crossing is part of this RSID and Mr. Roy uses that crossing. Mrs. Mills property is three acres. In doing these kinds of RSIDs, it is generally looked at, and Bond Counsel agrees, that the parcel could easily be converted to three single family one acre parcels that would front on Farm Lane. That could occur within the near future, certainly within the 15 year time frame of this RSID, so it should be considered as three single family assessments. The church and apartments, in Area D, are being assessed about \$1,300 per lot, not \$700 as the single family parcels are. They are larger parcels, have a higher density and more traffic. The area further to the east, mostly larger 5 to 10 acre tracts, were not included. That is how the assessment subdistricts were determined. There is a 60 foot right-of-way that has been dedicated for this improvement. There was some question with Mr. Allen's property but that has been cleared up and there is 60 feet of right-of-way dedicated to the public.

Commissioner Kennedy still has a difference with the language in the RSID proposal and Condition 10. It is still unclear. The RSID request is for a 24 foot wide road, 2 foot wide shoulders and a 6 foot marked walkway on one side and a 6 foot ditch section on the other. Condition 10 says the applicant shall install a 5 foot wide concrete boulevard sidewalk with a 7 foot wide grassy boulevard on the south side of Farm Lane. The two don't say the same thing and he wondered why. If there is going to be an RSID out there, then all of the improvements along Farm Lane ought to be included that are requirements of the subdivision. Where is the walkway going to be adjacent to the 24 foot wide roadway on Farm Lane.

Woody Germany stated there will be a 6 foot wide continuous blacktop walking surface, there is no boulevard.

Commissioner Kennedy stated that this RSID was overcoming Condition 10 that was imposed on the subdivision. That was not okay with him. A sidewalk and boulevard was agreed to, not a walkway.

Commissioner Evans stated that they have had this discussion before. The County maintains these roads and Horace Brown does not want boulevard sidewalks.

Horace Brown stated that was correct.

Colleen Dowdall stated it is even more complicated in terms of maintaining a boulevard sidewalk. The County does not have the same authority the City has to require landowners to do that kind of maintenance. Phases 1 and 2 of this subdivision have already been filed.

Horace Brown stated that at both public meetings, the people who testified did not want boulevard sidewalks. They wanted a widening of the road.

Chairman Carey stated Commissioner Kennedy had a valid point. If there were certain conditions of approval that were somehow subverted by this RSID process, that is a problem.

Colleen Dowdall stated the RSID process is not subverting that condition. They are separate issues. The RSID could be created that provides for the improvements proposed. That does not take away the condition that boulevard sidewalks be installed.

Commissioner Kennedy disagreed with that, because if this RSID passes, the opportunity to build the boulevard and sidewalk required under the condition has been foreclosed.

Colleen Dowdall stated she disagreed that this foreclosed the condition. She would have to do some research to see how Condition 10 was addressed.

Woody Germany stated the condition read, in part: "The applicant shall install a 5 foot wide concrete boulevard sidewalk with a 7 foot wide grassy boulevard on the south side of Farm Lane, adjacent to the subdivision." That would mean only the two lots that front Farm Lane, about 500 feet.

Colleen Dowdall stated that is exactly what is required.

Chairman Carey asked why the RSID assessment language did not reflect the condition of approval language?

Colleen Dowdall stated the RSID language was in question because of the RSID language for the Rossignol Subdivision. It was more important to match that language. The RSID can put in everything else, but the developer still is required to put in the boulevard sidewalk on the development, he doesn't have to use the RSID to do it.

Commissioner Evans asked what the developer's time frame was for completion of that work.

Colleen Dowdall stated that typically the deadline is 2 years from the date of the filing of the plat. She may already have an improvements guarantee for it.

Woody Germany stated he believed Ms. Dowdall did have an improvements guarantee. This is platted, Phases 1 and 2 have been filed. Improvements have been installed in Phase 1. Work has begun in Phase 2.

Colleen Dowdall stated that would result in the grassy boulevard and concrete sidewalks for the two lots of Orchard Park that are adjacent to Farm Lane.

Commissioner Kennedy stated the interpretation of the language was interesting. In prior discussions, it seemed that this improvement was for the entire length of Farm Lane. Having the boulevard sidewalks for the two lots only does not make sense. He felt no one ever agreed to do that, it was for the entire length. He felt the interpretation was made for the benefit of the developer on this subdivision.

Colleen Dowdall stated if that was included in the RSID, it would be for the benefit of the developer because the whole neighborhood would have to pay for the sidewalk that he must provide.

Commissioner Kennedy stated that if this RSID goes forward, there will not be room for, nor will anyone force, the developer's required boulevard sidewalks and grassy boulevard.

Colleen Dowdall stated the developer has to include that.

Commissioner Evans stated there is an improvements guarantee.

Commissioner Kennedy stated then why not stop the RSID without the walkway on the south side at all and require the developer to comply with the condition of putting the boulevard and sidewalk in.

Colleen Dowdall stated the developer is only required to put the boulevard on their own subdivision. Because of the maintenance issues and the covenants, the County cannot require the developer to install these improvements on other people's property. The boulevard sidewalk could not be installed on Mrs. Mills 3 acres and then require her to maintain it, the County does not have the legal jurisdiction to do that. It is only through subdivision review that the County can gain some jurisdiction to require maintenance.

Commissioner Kennedy stated there is adequate right-of-way all the way through on Farm Lane to do these improvements.

Colleen Dowdall stated that if a boulevard sidewalk is installed on Mrs. Mills property, the County cannot require that it be maintained, nor the boulevard be maintained. The City requires it because State law specifically authorized them to do so.

Commissioner Kennedy stated that they have had this discussion before and he fully understands it. In spite of that discussion and in spite of the testimony from Horace Brown, the Board approved a boulevard and sidewalk anyway. One of the reason it was done was for snow storage in the winter and to keep separation between school children and traffic. Those were two valid reasons why it overcame the inability of requiring sidewalk maintenance.

Colleen Dowdall stated the condition specifically required improvements "on the south side of Farm Lane, adjacent to the subdivision."

Commissioner Kennedy stated it was supposed to be for the entire length of Farm Lane.

Colleen Dowdall stated she recalled the conversation as dealing with that very issue, the County could not require the boulevard sidewalk on the entire length. The condition is identical to what staff originally proposed as well. It is typical of what would be required. It is not typical to require developers to put boulevard sidewalks on adjoining property.

Commissioner Kennedy stated he understood that, it is fairly new but it has been imposed before.

Colleen Dowdall stated that would be improvements on adjoining property. Pedestrian improvements by a subdivider on adjoining property are not typically required.

Scott Boege stated he and his mother and father live in one of the houses on Farm Lane. There are many people beginning to move into this subdivision. This subdivision requires immediate construction after the purchase of the lot. Many of his neighbors are very confused about this whole process. They do want paved roads in this subdivision. The problem is that they are not sure how to get this RSID formed, to get all the people together and work it out among themselves. So far, they have failed to even get to square one. There is a real problem with the road, both for the safety of the children and because the dust is a health issue. There is standing water which breeds mosquitoes, there are weeds, etc. The poor road surface is also causing damage to vehicles, his included. They have a corner lot and have done some improvements. As a homeowner, they were told the road would be improved, but now there is a big issue with it.

Commissioner Evans asked if RSID assessment methods could be mixed within an RSID. She wanted to know if there was some way to help Mrs. Mills.

Michael Sehestedt stated that would not be possible without going back and recreating the assessment methods for the entire district. A single appraisal could probably not be modified. He would think about it, but he doubted it could be possible.

Commissioner Evans asked what could be done to have the boulevard put in the entire length of Farm Lane. Could it be included in the RSID. Could the developer be involved. Could the County maintain it. She did not want the boulevard sidewalks on just one small piece fronting Farm Lane. That did not make sense.

Commissioner Kennedy stated that the primary access for Orchard Park is on Farm Lane, which gave rise to the condition of approval, it had to be improved. Part of that was a boulevard sidewalk for separation of the children from traffic and for snow storage.

Michael Sehestedt stated the condition of approval only involved Farm Lane adjacent to the subdivision. As the notice for this RSID has gone out with the description of improvements, he did not feel it could be amended at this point. It is a big enough change to require re-notification. Also, there is probably not the dollar value in the RSID to do that improvement in addition to what has already been noticed. Clearly there is an obligation on the developer to do the boulevard sidewalk on Orchard Park Lots 1 and 26. To do the sidewalk for the entire length of Farm Lane is clearly beyond the scope of the RSID. Another issue involved in going back to the beginning for this RSID to include boulevard sidewalks would be the waiver language for the subdivision to the north and south. He did not know if the waiver language for the Rossignol subdivision would extend to a project that included both paving and a boulevard sidewalk. Even if the boulevard sidewalks would be on the south side of Farm Lane, if this were done through the RSID process, it would require adequate RSID language for the subdivision to the north.

Colleen Dowdall stated that in reading the verbatim minutes from the Planning Board meeting, this was also addressed. It was specifically anticipated that the boulevard sidewalks would only be on the interior streets and on the lots that front Farm Lane.

Duane Roy stated it was refreshing to know that these subdivisions have left 125 people wondering about this road. It has taken 90 years for the County to address this road. No one ever asked for paved roads and sidewalks until these developments went in. He felt some consideration be given to the property owners who have been out there for many years. He is asking for justice on his behalf, on his lot. The other 124 people who reap the benefits of this can be charged, they created the problem. But leave him out of it. The County allows new developments and then asks existing property owners to share in the cost. He felt abandoned in this process. He has been told that this is for the benefit of all but it is not for the benefit of him. The money was not the issue, it was a matter of principle.

Commissioner Evans told Mr. Roy that if he felt he was paying taxes on land that was not usable, he should talk to the Tax Appeal Board.

Commissioner Kennedy told Mr. Roy that the assessment was separate from his taxes. He was asserting there was no value that would accrue to him as a result of this RSID because his land is not developable. If there is potential for development, that is one of the tests used to determine benefit.

Duane Roy stated that the County should have fixed this road some time ago. If that had been done, this RSID discussion would not even be taking place.

Horace Brown stated that at the time when the millings were available, there was not enough right-of-way on this road.

Randy Parker stated that he worked with BNA Corporation who are developing the south portion of Farm Lane. It was his understand that this RSID was developed.

Commissioner Evans stated the RSID has been determined but the Commissioners have not voted to approve it, that is what is being discussed today. The boundaries and assessments have been determined.

Michael Sehestedt stated that the notice of intention to create the RSID has been given. The purpose of today's meeting is to hear protests and make the final determination of whether or not it is in the public interest to proceed with the RSID. The Ken Allen subdivision is included in the RSID assessment.

Randy Parker stated that the south side has also been assessed and that has been figured into the price. He understood the dilemma of those who have had property in the area for a long time, especially the three acre parcel of Mrs. Mills. Was there some type of language that could allow her to wait to pay until she sold the property.

Michael Sehestedt stated there was not that kind of flexibility in the RSID process.

Randy Parker asked if this RSID was approved today, how long will it take before they get a road.

Michael Sehestedt stated it would not be until Spring, whenever the weather allowed for paving.

Randy Parker stated that if this was denied, what should he tell people who are buying lots.

Michael Sehestedt stated the project would still be pending. If this was not approved today, the whole process would be reviewed again.

Randy Parker stated that it would be nice to have the Commissioners drive on Farm Lane a couple of times to see how bad it is, maybe get the road graded.

Commissioner Evans asked Horace Brown if the road could be graded.

Horace Brown stated it could, but it may be a little bit before they could get out there, the Road Department is grading roads all over the County right now.

Randy Parker asked if he could get some kind of tentative date.

Chairman Carey stated the Road Department would do the best they can.

There being no further comments, the public hearing was closed.

Commissioner Evans asked if it was possible to take out Mrs. Mills or Mr. Roy from this RSID and still proceed.

Michael Sehestedt stated that he would need to look at it. If it is determined that there is no benefit, it may be possible to delete an assessment, in response to Mr. Roy's questions. He did not believe it would be possible to remove Mrs. Mills, it is not possible to show that she has no benefit.

Scott Boege stated that he felt that everyone included, even Mr. Roy, does benefit from this RSID. Mr. Roy's property and Mrs. Mills property both benefit from this RSID. He asked the Commissioners to take a drive on this road to see how bad it is.

Commissioner Evans moved that the Board of County Commissioners approve the creation of RSID 8465, Paving of Farm Lane in Lolo, as submitted and recommended.

Commissioner Kennedy stated he could not second the motion. Michael Sehestedt said he was not sure if the RSID waiver could include certain improvements. It seems that this RSID includes a walkway on the south side for the entire length of Farm Lane. He asserts that if the RSID waiver is sufficient to cover the sidewalk on the south side of Farm Lane, it is also sufficient to cover the sidewalk that is proposed as a condition, which he believed was for the entire length of Farm Lane. Until that can be resolved, a better course of action would be to delay the matter to a time certain so these concerns can be addressed and answered.

Commissioner Evans stated she was not willing to delay action. She receives many phone calls from concerned citizens about the dust problem out there.

Chairman Carey asked how long it would take to clear up this matter.

Michael Sehestedt stated he felt he had the answer already. He read from Rossignol's conditions of approval: "Rossignol Orchard Tracts, the developer shall initiate an RSID to pave Farm Lane along with a 5 foot walkway from Lewis and Clark Drive to the east property line of the subdivision. If the RSID fails, the developer shall waive the right to protest a future RSID for paving and a walkway. Street and sidewalk plans shall be approved by the County Surveyor and the railroad crossing by Montana Rail Link." The RSID waiver for Rossignol included a walkway, which is what is being proposed in this current RSID. He felt it might be helpful to look at the entire file. The Commissioners could legally postpone the decision for one week and that would also allow time to look at the issues raised on Mr. Roy's and Mrs. Mills' parcels. A week's delay would not be critical to a construction schedule on the project.

Commissioner Evans withdrew her motion to create RSID No. 8465.

Commissioner Evans moved that the Board of County Commissioners postpone the decision on the question of whether or not to create RSID No. 8465, Paving of Farm Lane in Lolo, for one week to Wednesday, October 11, 2000. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

There being no further business to come before the Board, the Commissioners were in recess at 3:55 p.m.

THURSDAY, OCTOBER 5, 2000

The Board of County Commissioners met in regular session; all three members were present.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated October 5, 2000, batch number 883 (pages 1-4), with a grand total of \$30,741.86. The Claims List was returned to the Accounting Department.

Claims List -- Commissioners Evans and Kennedy signed the Claims List, dated October 5, 2000, batch number 884 (pages 1-4), with a grand total of \$58,565.82. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated October 5, 2000, batch number 885 (pages 1-4), with a grand total of \$16,270.51. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated October 5, 2000, batch numbers 889 and 886 (pages 1-3), with a grand total of \$10,904.00. The Claims List was returned to the Accounting Department.

Claims List -- Commissioners Evans and Kennedy signed the Claims List, dated October 5, 2000, batch number 887 (pages 1-4), with a grand total of \$8,265.16. The Claims List was returned to the Accounting Department.

Claims List -- Commissioners Evans and Kennedy signed the Claims List, dated October 5, 2000, batch number 891 (pages 1-2), with a grand total of \$11,254.62. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Payroll Transmittal -- The Commissioners signed the following Payroll Transmittal Sheet: Pay Period: 20 - Pay Date: October 6, 2000. Total Missoula County Payroll: \$760,601.50. The Transmittal Sheet was returned to the Auditor's Office.

Easement -- The Commissioners signed an Easement, dated October 5, 2000, from the Missoula County Historical Museum at Fort Missoula to the Missoula Chapter of the Society of American Foresters, for the placement, storage, and removal of a time capsule within an earth mound which currently supports a wooden fire lookout structure. The easement includes the right to place a large rock on the mound surface directly above the capsule, suitable to mount a

metal plaque to identify the location of the capsule and the intended duration of its burial. The duration of the easement shall be for a period of approximately 100 years, expiring on December 31, 2100.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Roadtech, Inc. to provide in-place road rock crushing for Petty Creek Road (up to four miles), in accordance with the quote attached therein. The term will be October 9, 2000 through October 18, 2000. The total amount shall not exceed \$30,000.00.

Request for Extension – The Commissioners signed a Removal of Contingencies in reference to the Purchase Agreement dated August 18 and August 23, 2000, regarding the real property known as Lot 3, Block 2, and Lot 3, Block 3, Missoula Development Park, between Talarico ("Buyer") and Missoula County ("Seller"). Following property investigations on both Lots, (1) Buyer requests until October 5, 2000 to approve of Title Reports on both Lots; and (2) Seller is to continue to remove easements on Lot 3, Block 2, prior to closing. The document was returned to Barbara Martens in the Projects Office for further handling.

Deed Restriction Agreement and Subordinate Deed of Trust – Chairman Carey signed Deed Restriction Agreement and Subordinate Deed of Trust between Missoula County and Kimberly L. and Kurt R. Feilzer for the purpose of providing HOME Investment Partnerships Program (HOME) funds to assist with downpayment, closing cost and, if necessary, mortgage reduction assistance, as per the terms and conditions set forth. The loan amount is \$4,087, for the property located at 2225 Quail, Missoula, Montana 59808. The Agreement and Deed of Trust were returned to Jennifer Blumberg in the Office of Planning and Grants for further handling.


Other items included:

- 1) The Commissioners authorized Chairman Carey to sign a Property Exchange for the Jail Remainder property when the sale of the property occurs.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, OCTOBER 6, 2000

The Board of County Commissioners met in regular session; all three members were present. In the forenoon, the Commissioners and representatives of Animal Control, the Human Society, MDA, et al., toured the Development Park.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chairman
Board of County Commissioners

MONDAY, OCTOBER 9, 2000

The Courthouse was closed for the Columbus Day Observed holiday.

TUESDAY, OCTOBER 10, 2000

The Board of County Commissioners met in regular session; all three members were present in the afternoon. Commissioner Evans was out of the office until noon.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Resolution No. 2000-082 – The Commissioners signed Resolution No. 2000-082, dated October 10, 2000, adopting the following as part of the Fiscal Year 01 Operating Budget and Fiscal Year 01 Revenue Estimates for Missoula County, Montana:

Department: County Attorney

Description of Expenditure	Budget
Connections Grant – BMCC (Early Intervention) 1000-090-447446-328	\$30,150.00
Description of Revenue	Revenue
Early Intervention Revenue 1000-090-331018	\$30,150.00

Proclamation – The Commissioners and Mike Kadas, Mayor of the City of Missoula, signed a Proclamation proclaiming October 2000 as "Domestic Violence Awareness Month", urging all citizens to actively participate in the scheduled activities and programs sponsored by the Missoula Family Violence Council and the YWCA to work toward the elimination of violence against women and children.

Agreement – The Commissioners signed a Memorandum of Agreement between Missoula County and United Way of Missoula County to employ a part-time staff member to coordinate activities for the Missoula Forum for Children and Youth. The funding will also be used to educate the public about strategies to prevent youth drug and alcohol abuse and various ways it can become involved in Flagship Projects and other Forum activities. The term will be October 1, 2000 through December 31, 2000. The total amount shall not exceed \$4,850.00, and is contingent upon receipt of Juvenile Justice Grant Funds by Missoula County.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

Extension – At the Office of Planning and Grants Meeting, Chairman Carey signed an Amendment to Agreement No. RRG-96-1041, dated October 10, 2000, between the Department of Natural Resources and Conservation, Conservation and Resource Development Division, and Missoula County. The Amendment allows an extension of time to December 31, 2000 to complete the Riparian Areas Grant. The document was returned to Tim Hall in the Office of Planning and Grants for further signatures and handling.

WEDNESDAY, OCTOBER 11, 2000

The Board of County Commissioners met in regular session; all three members were present in the afternoon. Commissioner Kennedy was out of the office until noon. At noon, Chairman Carey participated in the "Domestic Violence Awareness Month Proclamation" press conference held in the Courthouse rotunda.

Agreement – Chairman Carey signed a Request for Reconveyance and Agreement to Substitute Collateral in the matter of Missoula County, Montana Regional Orthopedics, LLC, and John R. Daily, Inc. The documents were returned to Attorney John Tabaracci for further signatures and handling.

Amendment – Chairman Carey signed Amendment Number Two to Task Order Number 00-07-5-21-183-0 between the Montana Department of Public Health and Human Services and Missoula County, dated October 29, 1999. The total amount payable for state sponsored travel is amended from \$362,774 to \$368,218. The Amendment was returned to the Health Department for further signatures and handling.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Rashell Jeffrey, MSW, of Missoula Psychological Medicine, to continue leading Missoula County's tobacco cessation classes ("Quit for Life"), providing up to 12 sessions at least one each of 10 months. The term will be October 2, 2000 through June 30, 2001. The total amount shall not exceed \$6,000. Funding is supported by a tobacco prevention contract with state DPHHS.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Beth Thompson, M.D., to serve as Health Services Division Medical Advisor, acting as the Missoula City-County Health Department's liaison with health care providers in the community. The term will be July 1, 2000 through June 30, 2001. The total amount shall not exceed \$6,000.00. The Contract was returned to the Health Department for further signatures and handling.

Amendment – The Commissioners approved an amendment allowing Missoula Area Economic Development Corporation to participate in the Missoula County Benefits Plan.

CHIEF ADMINISTRATIVE OFFICER ADMINISTRATIVE MEETING

At the CAO administrative meeting held in the forenoon, the following items were signed:

Counter Offer – The Commissioners approved a Counter Offer proposed by the Offer Review Committee of the Missoula Development Authority for Lots 1-5, Block 12, Missoula Development Park, Phase 5. The Counter Offer, made by E-Local in the amount of \$589,000, pertains to an Option Agreement dated October 5, 2000. The Offer Review Committee recommended two amendments: 1) Line 4: change to read eLocal.com, the State of Montana and/or assigns (see lines 184-186 of the Buy/Sell Agreement); and 2) delete "Seller agrees to rename East Harrier to eLocal Way". The Counter Offer was returned to Barbara Martens in the Projects Office for further handling.

Addendum to Agreement – The Commissioners signed an Addendum to an Option Agreement dated September 28, 1998 between Missoula County and Wesmont Builders/Developers, Inc., increasing the amount of land being purchased by Wesmont Builders/Developers, Inc. by 3,821 square feet as indicated in the drawing attached thereto. Wesmont Builders will pay an additional \$5,732 (\$1.50/sq. ft.) at closing. The Addendum was returned to Barbara Martens in the Projects Office for further handling.

Counter Offer – The Commissioners approved a Counter Offer proposed by the Offer Review Committee of the Missoula Development Authority for Lot 13, Block 3, Missoula Development Park, Phase 4. The Counter Offer, made by B&J Properties in the amount of \$230,475.00, pertains to an Option Agreement dated September 26, 2000. The Offer Review Committee recommended one amendment: that the closing date shall be within five days of final plat filing or by July 1, 2001, whichever comes first. The Counter Offer was returned to Barbara Martens in the Projects Office for further handling.

Discussion items included:

- 1) The Commissioners approved the Nurture Agreement in concept. The Agreement will be discussed with MDA Executive and Finance Committee.

PUBLIC MEETING – October 11, 2000

The Public Meeting was called to order at 1:30 p.m. by Chairman Bill Carey. Also present were Commissioner Michael Kennedy, Commissioner Barbara Evans, County Surveyor Horace Brown, Deputy County Attorney Colleen Dowdall and Chief Civil Attorney Michael Sehestedt.

Public Comment

None

Routine Administrative Actions

way to access his parcel. Mr. Roy acquired his property subsequent to the creation of the subdivisions. Mr. Roy is benefiting to the same degree as any other of the lots within that subdistrict.

Commissioner Evans stated it would be foolish to require boulevard sidewalks and grassy boulevards for two lots.

Michael Sehestedt stated that was a separate issue not included in this RSID discussion. It is a requirement of subdivision approval for Orchard Park. Through proper procedure, the subdivision condition could be revised. This RSID is based on the waivers of protest from all the subdivisions in the area. The language on the RSID waivers simply uses the term walkway and does not refer to boulevard sidewalks.

Commissioner Evans asked what would be done on the two lots of Orchard Park if this RSID is approved?

Michael Sehestedt stated the RSID would pave the road to its 24 foot width. The condition of approval would not undo anything that would be installed as part of this RSID.

Commissioner Evans asked about the hardship on Mrs. Mills?

Michael Sehestedt stated that given the assessment method that has been chosen, Mrs. Mills will pay based on the property's area that benefits. The property is subdividable. The proper method of measuring benefit is the idea of benefit to the property. That is a hard rule based on this actual situation. To provide her with relief would require redoing the assessment roll for the entire project.

Commissioner Evans asked what different methods of assessment are allowed by law?

Michael Sehestedt stated the methods used are: area, front footage, assessed valuation per unit or hookup basis, or a combination of those methods. There is some flexibility with each method, especially with area, which may go only 100 feet deep on some parcels and deeper on others. The idea is to try to balance benefit with cost.

Commissioner Kennedy asked where the ditch called for in this RSID would be placed.

Michael Sehestedt stated there would be a 24 foot paved section and immediately adjacent to that would be a 6 foot wide marked asphalt walkway, not separated, along the north side. Outside the walkway on the north side will be a 7 foot ditch section. On the south side, which has the boulevard sidewalk requirement, there will be the 24 foot pavement section, then as part of this project, just the 7 foot wide ditch. He assumed the developer would put the boulevard sidewalk outside the ditch.

Commissioner Kennedy stated he felt the purposes for having the separation were to provide separation from traffic for pedestrian, particularly children, and snow storage. Safety dictates that separation is needed and there is the opportunity to do that. It seems there is room in the waiver language to do that. He hoped it would be considered to put the walkway outside the ditch section on the north side.

Horace Brown stated the problem with that configuration is that the sidewalk would be plowed full of snow. By leaving the sidewalk adjacent to the road, there is the option of plowing the sidewalk when the road is plowed. The snow would be plowed into the ditch beyond the sidewalk. The big snowplows throw the snow far enough that it would indeed go beyond the ditch and onto the sidewalk.

Commissioner Kennedy stated that this was a safety issue to keep separation between the road and the pedestrians.

Colleen Dowdall reminded the Board that there was a legal difference with requiring maintenance between the City and County. The City can order a resident to shovel sidewalks. The County does not have the same power to require that. If the sidewalk is separated from the roadway and the resident does not shovel the sidewalk, the result will force children to walk in the street. This may create an even more dangerous situation. If the sidewalk is adjacent to the road, then it allows the Road Department to plow both the road and the sidewalk and use the ditch for snow storage.

Horace Brown stated the Road Department did not plow sidewalks that are separated from roadways. If the sidewalk is adjacent to the roadway, it does get plowed.

Chairman Carey stated he felt if the sidewalk was separated from the road, it would not get plowed and children would be forced closer to the street.

Commissioner Evans stated she receives calls from citizens on Farm Lane with health concerns because of the dust and, also, this RSID process has been long and involved.

Commissioner Evans moved that the Board of County Commissioners approve the creation of RSID No. 8465, Paving of Farm Lane in Lolo, as submitted and recommended by the Public Works Department. Chairman Carey seconded the motion. The motion carried on a vote of 3-0.

Consideration: Norm's Little Acres (4-lot Summary Subdivision) – off Snowdrift Lane

Karen Hughes, Office of Planning and Grants, presented the staff report.

Norman Carey, represented by Martinsen Surveys, has requested to create Norm's Little Acres Summary Subdivision in the Grass Valley Farms area. It is located off Mullan Road on Snowdrift Lane. This proposal would split a 20 acre parcel into four lots, each approximately 5 acres in size. The property is currently vacant. It is level and has recently been used for hay production.

The applicant has requested two variances, one for sidewalk installation and one for paving the onsite road, Snow Flake Court. Staff recommends approval of the variance for sidewalk installation and denial of the variance request for paving the onsite road. Staff recommends approval of the subdivision subject to 6 conditions.

The property is level grassland. There are no wildlife or critical habitat or plant issues associated with it. Staff does recommend a revegetation plan be filed with the County to address disturbed sites. The soils are considered to be of importance for agriculture. The Grass Valley French Ditch is located along the eastern boundary of the property. Irrigation rights will be extended to all lots through the subdivision via irrigation easements as shown on the proposed plat.

The property is zoned C-A3 which permits a density of one dwelling unit per 5 acres. The 1998 Missoula County Comprehensive Plan Update designates this parcel as rural residential, with a recommended density of one dwelling unit per 5 to 10 acres. Residential lots in the area generally range in size from 5 to 20 acres and some larger parcels are currently used for agricultural production.

The proposal complies with the zoning and residential density recommendation in the Comprehensive Plan. It also complies with many of the goals and objectives of the Comprehensive Plan. Staff had considerable discussion about transportation issues in this area. Based on transportation goals, which focus on efficiency and establishing connections, staff recommended that a conditional public access and utility easement be placed on the property from the end of Snow Flake Court to the eastern property line. This would permit a through connection along Snow Flake Court in the event that the neighboring property to the east is developed. Such a connection makes sense. Recommended language for this condition has been modified as shown on the memo dated October 11, 2000.

Most of the key issues for this development involve roads and access. The property is accessed by going west on Mullan Road then turning right onto Snowdrift Lane. The proposed subdivision is located approximately 2,000 feet from Mullan Road. Snowdrift Lane is a County road that is 24 feet wide within a 60 foot right-of-way. An RSID for paving is presently underway and the applicant has included RSID waiver language for future improvements to this road. Staff has recommended some modifications to the language of this waiver as indicated in Condition 3.

To serve the lots within this subdivision, the applicant is proposing to build Snow Flake Court, a 24 foot wide, 770 foot long, private gravel road within a 54 foot right-of-way. During Planning Status, the applicant stated he would prefer a 16 foot wide road. Curt Belts of the Missoula Rural Fire Department stated he would not support a 16 foot wide road, especially due to the length of the road. The applicant has requested a variance from paving this onsite road. Based on Subdivision Regulations, which require paving of roads within the Air Stagnation Zone, comments from the Surveyor's Office and comments from the City-County Health Department, staff recommends denial of this variance and that the road be paved to a 24 foot width surface and dedicated as a County road. Staff also recommends that an RSID waiver for future improvements to this road be included on the plat, as noted in Conditions 2 and 3. Staff also recommends that the conditional access be placed on this property to continue Snow Flake Court to the eastern property line. This would provide emergency access, non-motorized connection and convenient travel routes between future developments. The property to the east of the proposed subdivision is relatively flat, developable land. It is currently used for agricultural purposes, but it is zoned C-RR1, which would allow a density of one dwelling unit per acre.

County Surveyor Horace Brown recommended that in order to prevent an extraordinarily long cul-de-sac, this conditional public access easement should not be opened until there is additional access available to the property to the east, so that the road would not loop back into itself and reattach to Snow Flake Court or end in a cul-de-sac.

The applicant has not included driveway plans, however it appears that the driveway to Lot 4 would exceed 150 feet in length. Curt Belts of the Missoula Rural Fire District did not have issues with the proposed access. The Health Department did state that driveways should be paved at least 20 feet back from the edge of the asphalt for Snow Flake Court. Staff recommends that both the County Surveyor's Office and Rural Fire review and approve driveway plans prior to final plat approval.

Because of the low volume of traffic and the rural nature of the area, staff recommends approval of the sidewalk variance. RSID waivers for Snowdrift Lane and Snow Flake Court would address future costs of sidewalk or walkway installation.

The subdivision is proposed to be served by private wells and septic systems. It is part of the Missoula Rural Fire District. Staff has recommended that an RSID waiver be placed on the plat for development of a future water system for fire protection.

Commissioner Kennedy asked how the Fire Department was approached regarding the width of the onsite road; was either a 16 foot wide road with 2 foot shoulders or a 20 foot wide road mentioned

Karen Hughes stated she asked specifically about a 16 foot wide road versus the Subdivision Regulations of 24 feet. The Fire Department said the road should meet those regulations.

Greg Martinsen, Martinsen Surveys, developer's representative was present, as was the developer Norm Carey. He stated there was no problem with conditions 3, 4, 5 and 6. The problems lie with Conditions 1 and 2. Condition 1 requiring the conditional public access easement has been likened to the requirement of another subdivision. He felt there was considerable difference between the two subdivisions. The subdivisions, area and zoning are different. There is no correlation between the two. In Marvin Gardens the reason given for a continuation of the easement was so an irrigation ditch did not have to be crossed from the other direction. The ditch near this subdivision is much larger yet it is being suggested that it be crossed. There is no continuity. There is no immediate plan for the property to the east, no definite reason for acquiring the easement. The plan that is being considered in the future for the property to east would not require this easement. A through road through this proposal would totally disrupt the character of the neighborhood. The road would go through these 5 acre tracts, across the irrigation ditch and into one acre tracts. This takes away from the character of this neighborhood. It creates traffic through this subdivision that does not belong. The covenants do not allow for lots smaller than 5 acres. The residents do not want more traffic from somewhere else through their neighborhood. The intent of the variance request was for a 16 foot paved roadway with 2 foot shoulders on each side, for

a total width of 20 feet, and a private roadway, not a dedicated public roadway. This is similar to what was done north and east of the proposal.

Commissioner Evans stated she was somewhat persuaded by the comments on Condition 1. Knowing that the land to the east is likely to become a golf course, she did not see any sense in a connecting road. The golf course plan may or may not happen. Could this be a sunsetted condition, if within a specific time period a golf course is created, this condition is removed.

Greg Martinsen asked if that would be within an specific amount of time or if the golf course was created?

Commissioner Evans stated she was open to discussion and wanted to be fair to the developer, but at the same time, if there is a potential that the property to the east could be developed as housing, she would like to see a through road. There are too many of these roads that end and don't allow through connection.

Michael Sehestedt stated it could be structured in many different ways. There is a tier of development along Mullan Road that landlocked everything behind it, which is why this provision for through connection is being requested by staff. On the other hand, if this property to the east develops in a manner where this is not used as an access, it seems a shame to have the property encumbered by it. He suggested a 25 year time frame or until the property adjoining it to the east is platted, provided this access is not used as part of that platting, the condition lapses at that point in time. There are other recent proposal where this type of conditional access has been requested to provide for through access rather than cul-de-sacs. The Board must make the decision on how they want to handle the access on this subdivision.

Commissioner Evans stated she was thinking more along the lines of 5 years. She does know there is a golf course in the works that would abut this property. She felt the 25 years would be too long to encumber the property.

Michael Sehestedt stated it would be 25 years or until the plat for the property to the east is filed, whichever comes first.

Commissioner Kennedy stated there were several people in the audience and he would like to hear what they have to say.

Greg Martinsen stated that he did not see the parallel Michael Sehestedt drew between other 5 acre tracts and this proposal. Those other 5 acre tracts were being cut into 1/2 to 1 acre tracts. In circumstances like that, there are reasons for through connections. The character of this neighborhood is different.

Commissioner Evans asked if the developer could live with the suggestion from Michael Sehestedt.

Greg Martinsen stated that was up to Norman Carey.

Karen Tuxbury stated she was a resident on Snowdrift Lane. Snow Flake Court will access from Snowdrift Lane. There are other Snowdrift Lane residents present today as well. Their comments are in regards to the RSID for the paving of Snowdrift Lane. The road is not yet paved and the RSID is being assessed on a per lot basis. When the RSID was set up, this was one lot, but it will now be four lots. The assessment per lot is approximately \$5,500. This subdivision will allow that \$5,500 to be divided among the four lots. This is very unfair to other residents.

Commissioner Evans stated the Board had discussed that issue. If they do not want to proceed with the paving of Snowdrift Lane with the RSID as presented, the Board will likely kill that RSID. The residents could create another RSID.

Michael Sehestedt stated the RSID was created and the assessment method was chosen by the residents. The County did not initiate the paving process, it came from the homeowners and residents. In an attempt to balance the success of the RSID by minimizing the protest of large lots, the residents chose to spread the assessment on a per lot basis. Had it been spread on an acreage basis, this particular property would have had four times the right to protest than a 5 acre parcel had. Mr. Carey was to be assessed one full unit even though his property was a horse pasture. The County can go ahead with RSID, assessed as it is, or the Commissioners could kill the RSID, there would be no paving on Snowdrift Lane, if that is what the majority wants. The third possibility is to come back and recreate the RSID with a different assessment method. If that different assessment method survives the protest period, the Commissioners will create a new RSID with a different assessment method for the purpose of paving Snowdrift Lane. The facts are, given the choices the residents made, the assessment on this RSID cannot be changed. It either gets spread as created or not at all. To qualify the idea of killing it, there have been some costs incurred to date on the project and those costs will be spread against the properties in the district, even if the decision is made not to go forward. This is up to the residents. If they don't like the way this RSID is going to be spread, then they can bring in a protest petition to have the RSID killed. The Commissioners have taken the policy position that they will honor such a petition and not proceed with paving. If that happens and the residents still want paving, then it is up to them to bring in a new petition that spreads the cost in a different manner.

Colleen Sickels stated she was a homeowner on Snowdrift Lane. She owns two lots, 15 acres total. When the decision was made to pave the road, their biggest concern was the cost. When this was initially proposed, it was decided it would be assessed by homeowner, which was important to her as she owns two lots. The County told the residents it could not be assessed in that manner, but the RSID was pushed through anyway. The residents are asking for the consideration of the developer to put in a fair share, 4 lots, rather than killing the RSID. He is benefiting from it as well. The residents are asking for an equitable situation where everyone gets the paved road. She is looking at selling part of her property because of the cost of the RSID.

Commissioner Evans stated the current RSID as submitted cannot be changed. It can be killed and the process started over, but it cannot be changed.

Colleen Sickels asked if the developer could be asked to provide a cash contribution.

Michael Sehestedt stated the developer could be asked, but equated it to passing the plate at church. There is nothing that allows the County to require he make such a contribution. Snowdrift Lane is considered an off site road and the developer

could not be required to pave it, regardless of whether or not an RSID existed. Therefore, the developer cannot be required to pay an additional part of the paving costs as a part of the subdivision approval. There is no easy way to solve the problem.

Commissioner Evans stated the Board must abide by what State law allows.

Colleen Sickels stated she understood the situation but wondered if a cash contribution may be to his benefit.

Michael Sehestedt stated that if there was a cash contribution from a lot owner in addition to what they were being assessed, it would be added as a cash balance in the RSID account and a smaller amount would be spread over all of the lots involved in the RSID. Mr. Carey could be asked for such a contribution, but there is nothing legally to require him to do so.

Colleen Sickels stated it would be to his benefit if the road is paved.

Commissioner Evans asked, if Mr. Carey was willing to contribute, how would a fair share be determined and how do the remaining parties to the RSID have their assessment reduced.

Michael Sehestedt stated the amount would be determined in the final roll preparation. He was unsure of what would be determine to be a fair share.

Commissioner Evans stated she understood there was another subdivision scheduled for this area. There is no guarantee that developer would be willing to contribute either.

Karen Tuxbury stated she is in a similar situation to Ms. Sickels. She and her husband own two lots and are being assessed two shares of the RSID. They are considering putting their house on the market or selling a piece of their land, to pay for this RSID. \$11,000 is hard to pay and then to see the one lot with its \$5,500 assessment being split four ways, it causes concern. If it is decided to kill the RSID and go back to the association to start a new RSID, what time frame do they have.

Commissioner Evans stated the paving would not be done this fall or winter, so they would have that time to resubmit an RSID. However, the action to kill it should be done very soon.

Commissioner Kennedy stated that he felt if this was redone, the overall reduction in the RSID assessment would not be a significant as expected. It could be it would still leave residents in the same position of possibly having to sell a lot.

Karen Tuxbury stated there was another subdivision being proposed as well as this one.

Commissioner Kennedy stated the residents could make an assumption the new RSID would pass with the subdivided lots paying their fair share, but they do run a risk of the RSID not being created, the same as they took when the current one was passed.

Karen Tuxbury stated she understood that and the matter would have to be taken to the Homeowners Association.

Greg Martinsen stated, regrettably, they were not even aware of the RSID situation. Had they known earlier, something could have been done.

Commissioner Kennedy asked Mr. Martinsen how they would have addressed it?

Greg Martinsen stated he did not know, they just heard about it.

Commissioner Kennedy stated the developer could make a cash contribution. He asked if this was why Snow Flake Court was shown as a private road?

Karen Hughes stated the road had been designated as private until reviewed by staff.

Commissioner Evans stated this subdivision is separate from the RSID question and it must be considered on its own merits. If it were up to her, she would advise the residents to ask the Board to dissolve the RSID and restart the process.

Commissioner Kennedy stated the packet showed the relative location of this particular project to others in the area and Mullan Road. It shows Snowdrift Lane as a very long, public (previously private), cul-de-sac. To provide access, which would have the effect of extending the length of that cul-de-sac, without any transportation planning in that area where it is know a subdivision with several hundred houses is planned, seems to him inappropriate. To ask if there is any consideration given to placing a demand on this particular developer to give up of his land, while he has to pay taxes on it, on some speculative proposal for a transportation corridor in that particular area, doesn't make any sense. There needs to be some transportation planning that needs to happen in this area before the decision is made to require this person to give up easement rights. He is opposed to naming this a public right-of-way and making a conditional public easement a condition of approval for this subdivision. He hoped his colleagues would see the wisdom in doing that.

Norman Carey stated he has owned this property for over 20 years and has always paid his assessments. He did not do this subdivision because of the road paving RSID. That is another issue and he would address it with the other homeowners if they would care to have a meeting. He felt that Condition 1, as Commissioner Kennedy said, was an unfair taking of his property to go across the irrigation ditch to a future subdivision that would have the capabilities of one dwelling per acre. His development, with covenants, is one dwelling per five acres, more rural in nature. There is no compensation to him to make a roadway for others and it would add much more traffic to Snowdrift Lane. His intention has always been to pave Snow Flake Court, he does not disagree with that requirement. He did speak about having a 16 foot wide pavement with 2 foot shoulders to alleviate any problems the Fire Department might have. His reasoning was

that there too much asphalt in the country already covering up too much farmland. With this being a private road, he felt the 24 feet would not be necessary.

Horace Brown stated 16 feet is a driveway and 24 feet is a roadway.

Greg Robertson, Public Works Director, stated his opinion on public versus private roads was a long standing problem because folks that live on private roadways desire public services and if the road does not meet minimum standards, they are not accepted as public roads. To bring them up to standards, it is a burden on the residents. The difference between public and private roadways should not be a reduction in design standards, both for safety and minimum pavement widths. If people desire to have their road privately maintained, the option to shift to public maintenance at a later date should be seamless if the standards are in place at the creation of the road. That is what is being dealt with now, roads were put in with minimal standards and require a considerable amount of time, money and effort to upgrade the road to meet County minimum standards. He recommended, at a minimum, even for a private roadway, that the paved width be a minimum of 20 feet to meet uniform fire code requirements, preferably wider. The 20 foot standard is reasonable for a private road with only four lots, but anything less should not be encouraged.

Commissioner Evans asked if it was 20 feet, would Mr. Robertson be willing to accept it as a County road.

Greg Robertson stated he would not accept it, the minimum was 24 feet.

Karen Hughes stated that when staff reviews variances for road width, site constraints on the property are a criteria. This property is level and flat and there is no constraint as to constructing a wider road.

Commissioner Kennedy stated the subject of roadway width could be resolved by deciding whether or not the Board wants to honor the staff recommendation for making this a public road. Once that is determined, then the road width can be dealt with. He is not in favor of dedication of a public right-of-way for the possible, not probably, benefit to an adjacent property owner. He saw no benefit to a future development nor to this subdivision. He would go along with the original proposal to make this a private road, there would not be any publicly dedicated easement and would also support a 20 foot wide structural roadbed with a 16 foot wide paved width to serve the four lots in this subdivision.

Commissioner Evans stated as mentioned by the Public Works Director, people who live on private roads want public services. If the County is to maintain Snowdrift Lane, which Snow Flake Court comes off of, and it might attach to a road to the east, she felt it should be a public road. She supports a 24 foot paved road as it makes sense. This area is expanding and growing and will have more houses in the future. It is in the Air Stagnation Zone. Staff has recommended a 24 foot road and that is what she would support.

Norman Carey stated to address what Commissioner Kennedy mentioned and what Mr. Robertson mentioned, he would support a 20 foot wide paved road, but have it remain private to the cul-de-sac.

Chairman Carey asked if there were covenants addressing the maintenance of the private road.

Norman Carey stated there were none he was aware of. Everyone out there has been assessed to have Snowdrift Lane maintained.

Karen Hughes stated the proposed covenants do include a road maintenance assessment for Snow Flake Court as a private road.

Greg Martinsen stated a homeowners association would be created to handle that situation. Potential buyers would be aware, after reading the covenants, that they would not be getting County services.

Colleen Dowdall stated that regarding road width, she hears from the Fire Department that the 16 foot width are permitted for driveways, serving no more than 2 households. If there is use for 4 households, the Missoula Rural Fire Department feels strongly that they need a wider roadway. Missoula Rural and Frenchtown Rural Fire have both testified that it is problematic to reduce the width to 20 feet on as many roads as have been allowed. They have said it will be more and more difficult to support variances to 20 feet.

Chairman Carey stated he did hear Mr. Robertson say that 20 feet does meet minimum fire code requirements for a private road.

Colleen Dowdall stated it did not meet Subdivision Regulations, however.

Commissioner Evans moved that the Board of County Commissioners approve the variance request from Article 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways on Snowdrift Lane or Snow Flake Court, based on the findings of fact set forth in the staff report. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Commissioner Evans moved that the Board of County Commissioners deny the variance request from Article 3-2(1)(G) of the Missoula County Subdivision Regulations to not pave Snow Flake Court, based on the findings of fact set forth in the staff report, that the road be paved to 24 foot wide and it becomes a County road, based on the recommendation of staff and the fire department.

Chairman Carey stated there was no second for that motion and therefore, the motion died.

Commissioner Kennedy moved that the Board of County Commissioners support a 20 foot wide paved private roadway on Snow Flake Court, absent a public right-of-way at the end of the cul-de-sac for the adjacent subdivision. Chairman Carey seconded the motion. The motion carried on a vote of 2-0 (Commissioner Evans abstained).

Commissioner Evans moved that the Board of County Commissioners approve Norm's Little Acres Summary Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report, with the revised language of Condition 1.

Commissioner Kennedy moved that the Board of County Commissioners approve a variance for Snow Flake Court to have a private access and utility easement of 30 feet rather than the 54 feet required in the Subdivision Regulations.

Karen Hughes asked for clarification. Was the Board amending Condition 1?

Commissioner Kennedy stated he was offering a motion for a variance which would reduce from 54 feet to 30 feet the private access and utility easement width.

Michael Sehestedt stated the developer submitted the proposal with a 54 foot wide easement with 20 feet of paving.

Commissioner Kennedy withdrew his motion and asked for comments.

Commissioner Evans stated her motion was still on the floor.

Michael Sehestedt stated Commissioner Kennedy's motion was clarification of the variance that was granted on the paving issues.

Commissioner Kennedy stated the variance that was granted was a variance from the subdivision standards on the width of the roadway. What is being discussed is Condition 1, which is a 54 foot conditional public access and utility easement.

Michael Sehestedt stated that is not being done as it runs from the end of the cul-de-sac to the property line.

Commissioner Evans stated then that Condition 1 should be deleted.

Commissioner Kennedy stated there needs to be an easement for the private driveway. It has to show up somewhere in the conditions, there has to be an easement to those lots.

Michael Sehestedt stated it shows up on the face of the plat, so nothing needs to be done. When Condition 1 was included, it was to require the conditional public easement from the end of the cul-de-sac bulb east to the property line. By deleting Condition 1, the Board is simply not extending the easement from the end of the cul-de-sac. It will leave the cul-de-sac with a 54 foot right-of-way with a 20 foot paved section. Nothing beyond the private access easement as shown on the face of the submitted plan will be done.

Greg Martinsen stated that was his understanding of Commissioner Kennedy variance motion. This will be a private roadway, 20 feet in width, paved, within the easements shown on the plat. Condition 1 would no longer be relevant. There will be a 20 foot wide road within a 54 foot wide private access and public utility easement and it will be a private roadway.

Commissioner Evans stated there were also shoulders on the side of the road.

Karen Hughes stated that would require changes to Condition 2 as well.

Chairman Carey stated that Condition 1 has been deleted. Condition 2 will read: "Snow Flake Court shall be a private road and improved to a 20 foot paved surface within a 54 foot right-of-way. Grading, drainage and driveway plans shall be reviewed and approved by the County Surveyor's Office prior to final plat approval. Driveway plans shall be reviewed and approved by Missoula Rural Fire District prior to final plat approval."

Commissioner Evans did not want to remove the waiver of right to protest an RSID for Snowdrift Lane, which was included in Condition 3.

Karen Hughes stated Condition 3 would need to be revised to remove Snow Flake Court from the RSID waiver language.

Commissioner Evans stated she had made a motion to approve Norm's Little Acres Summary Subdivision. That motion includes deleting Condition 1, revising Conditions 2 and 3 and authorizing staff to make changes to the Findings of Fact to support the actions taken. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Norm's Little Acres Summary Subdivision Conditions of Approval:

1. Snow Flake Court shall be a private road and improved to a 20 foot paved surface within a 54 foot right-of-way. Grading, drainage and driveway plans shall be reviewed and approved by the County Surveyor's Office prior to final plat approval. Driveway plans shall be reviewed and approved by Missoula Rural Fire District prior to final plat approval. *Subdivision Regulations Article 3-2(1)(G), 3-2(1)(E), OPG, County Surveyor and Health Department recommendation.*

2. The following statement shall appear on the face of the plat:

"Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for improvements to Snowdrift Lane, including, but not limited to, paving, street widening, installation of pedestrian walkways or bikeways, drainage facilities and curbs and gutters, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations Article 3-2 and County Health Department recommendation.*

3. The developer shall contribute \$100.00 per new lot to the Missoula Rural Fire District. Evidence of contribution shall be presented to the Office of Planning and Grants at the time of final plat approval. *Subdivision Regulations Article 3-7(2) and Missoula Rural Fire District recommendation.*
4. The RSID waiver on the proposed plat shall be amended to include the following statement:

“Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for public water and sewer systems, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land.” *Subdivision Regulations Article 3-7(2).*

Weeds

5. A Revegetation Plan for Disturbed Sites shall be approved by the Missoula County Weed Board prior to final plat approval, subject to review and approval by OPG. *Subdivision Regulations Article 3-2(1)(B) and OPG recommendation.*

There being no further business to come before the Board, the Commissioners were in recess at 2:55 p.m.

THURSDAY, OCTOBER 12, 2000

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was out of the office all day.

Claims List -- Chairman Carey and Commissioners Evans signed the Claims List, dated October 12, 2000, batch number 890 (pages 1-4), with a grand total of \$36,022.40. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioners Evans signed the Claims List, dated October 12, 2000, batch number 894 (pages 1-4), with a grand total of \$21,424.71. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioners Evans signed the Claims List, dated October 12, 2000, batch number 896 (pages 1-4), with a grand total of \$7,961.38. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioners Evans signed the Claims List, dated October 12, 2000, batch number 897 (pages 1-4), with a grand total of \$150,446.19. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Agreement -- The Commissioners signed a Memorandum of Agreement, dated October 12, between Missoula County and Montana Community Development Corporation (MCDC). This Agreement provides a \$4,000.00 grant that will be used to assist the agency with moving expenses. Said move is to be completed within two weeks of the execution of the Agreement.

Agreement -- The Commissioners signed a Memorandum of Agreement, dated October 12, 2000, between Missoula County and Montana Community Development Corporation which provides for a loan from Program Income Funds to be used for funding an equity/reserve fund, program marketing and outreach, and creation of a revolving loan fund for Missoula's Northside and Westside Neighborhoods. The total amount shall not exceed \$102,500.00.

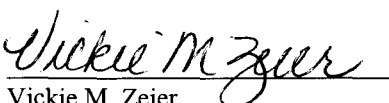
Other items included:

- 1) The Commissioners reviewed and approved the Telephone Review for Fiscal Years 1998-2000, from Susan Reed, Missoula County Auditor, dated September 28, 2000. The document was forwarded to the County Clerk and Recorder for filing.
- 2) The Commissioners discussed with Fred Van Valkenburg a budget issue wherein the three-quarter time legal secretary position be increased to full-time.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, OCTOBER 13, 2000

The Board of County Commissioners did not meet in regular session. Commissioner Evans was out of the office all day; Chairman Carey was out until noon; and Commissioner Kennedy was in briefly in the forenoon.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chairman
Board of County Commissioners

MONDAY, OCTOBER 16, 2000

The Board of County Commissioners met in regular session; a quorum of members was present in the forenoon. Commissioner Evans was out of the office all day; Chairman Carey was out until noon; and Commissioner Kennedy was out all afternoon.

Contract -- Chairman Carey signed Contract Number 200123PROS0003 between Montana State Department of Public Health and Human Services and Missoula County, County Attorney's Office, for professional legal services to represent the State of Montana in Child Abuse and Neglect proceedings on Title IV-E eligible children placed in foster care in accordance with 45 CFR §§ 1345.21(1) and 1356(c)(2)(ii). The term shall be July 1, 2000 through June 30, 2001. Compensation shall be paid as per the schedule set forth in Section 4 ("Consideration") of the Contract. The document was returned to Fred Van Valkenburg, County Attorney, for further handling.

Contract -- Chairman Carey signed Contract Number 200123DMVL0011 between Montana State Department of Public Health and Human Services and Missoula County Domestic Violence Program, Office of Planning and Grants, Missoula County Court House, to provide funding for a Domestic Violence Program which provides services to victims of domestic violence. The term shall be October 1, 2000 through September 30, 2001. The total sum shall not exceed \$38,000.00. The document was returned to Leslie McClintock, Office of Planning and Grants, for further handling.

TUESDAY, OCTOBER 17, 2000

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was out of the office until noon; and Chairman Carey was out all afternoon.

Claims List -- Chairman Carey and Commissioners Evans signed the Claims List, dated October 12, 2000, batch number 893 (pages 1-5), with a grand total of \$69,203.43. The Claims List was returned to the Accounting Department.

Claims List -- Commissioners Evans and Kennedy signed the Claims List, dated October 17, 2000, batch number 898 (pages 1-4), with a grand total of \$43,701.01. The Claims List was returned to the Accounting Department.

Claims List -- Commissioners Evans and Kennedy signed the Claims List, dated October 17, 2000, batch numbers 895 and 900 (pages 1-4), with a grand total of \$22,042.25. The Claims List was returned to the Accounting Department.

Claims List -- Commissioners Evans and Kennedy signed the Claims List, dated October 17, 2000, batch number 901 (pages 1-5), with a grand total of \$30,421.51. The Claims List was returned to the Accounting Department.

Claims List -- Commissioners Evans and Kennedy signed the Claims List, dated October 17, 2000, batch number 902 (pages 1-4), with a grand total of \$37,210.58. The Claims List was returned to the Accounting Department.

Claims List -- Commissioners Evans and Kennedy signed the Claims List, dated October 17, 2000, batch number 904 (pages 1-5), with a grand total of \$64,604.08. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Resolution No. 2000-083 -- The Commissioners signed Resolution No. 2000-083, dated October 17, 2000, relating to Rural Special Improvement District ("RSID") No. 8465 -- Paving Farm Lane in Lolo, Missoula County, Montana; creating the district for the purpose of undertaking certain local improvements and financing the costs thereof and incidental thereto through the issuance of RSID Bonds secured by the County's RSID Revolving Fund and establishing compliance with reimbursement bond regulations under the Internal Revenue Code.

Resolution No. 2000-084 -- The Commissioners signed Resolution No. 2000-084, dated October 17, 2000, altering a portion of Mullan Road right-of-way at McDowell Drive within Tract C-2A of Certificate of Survey No. 4221, located in the NE¼ of Section 18, Township 13N, Range 18W, P.M.M., as shown on Exhibit A attached thereto.

Agreement -- Chairman Carey signed a Memorandum of Understanding between Child Care Resources and Missoula County Health Department for the purchase of professional services related to providing a child care health program to identify and solve health problems which are unique to children and which may be compounded by grouping young children together. The term shall be through June 30, 2001. The total amount shall not exceed \$16,500, and is contingent upon the availability of local tax revenues from Missoula County.

Agreement -- The Commissioners signed a Memorandum of Agreement, dated October 1, 2000, between Missoula County and Missoula County Public Schools to provide for two substance abuse prevention curricula to be integrated into the curriculum at all Missoula School District 1 middle and high schools, including Seeley Lake High School and in the District's alternative education programs. The term shall be October 1, 2000 through September 30, 2001. The total amount shall not exceed \$110,251.00, and is funded by the Department of Public Health and Human Services -- Addictive and Mental Disorders Division.

Agreement -- The Commissioners signed a Memorandum of Agreement, dated October 1, 2000, between Missoula County and Missoula Youth Homes to provide the Reconnecting Youth Curriculum to residents of Missoula Youth Homes. The term shall be October 1, 2000 through September 30, 2001. The total amount shall not exceed \$14,000.00, and is funded by the Department of Public Health and Human Services -- Addictive and Mental Disorders Division.

Agreement -- The Commissioners signed a Memorandum of Agreement, dated October 1, 2000, between Missoula County and WORD/Family Basics to provide for the implementation of the FAST Program in four targeted elementary schools and for the employment of a Native American Family Advocate to provide outreach and home visiting services to Native American families in School District 1. The term shall be October 1, 2000 through September 30, 2001. The total amount shall not exceed \$31,899.00, and is funded by the Department of Public Health and Human Services -- Addictive and Mental Disorders Division.

0109

Agreement – The Commissioners signed a Memorandum of Agreement, dated July 1, 2000, between Missoula County and The City of Missoula, as represented by the City Attorney's Office, to purchase advocacy services for victims of crime and education/training services regarding crime victims' needs and services through the Crime Victims' Advocate Program located in the City Attorney's Office. The term shall be July 1, 2000 through June 30, 2001. The total amount shall not exceed \$9,628.00. The City Attorney's Office and the County Sheriff's Office provide the match for the Board of Crime Control Victim Assistance grant to operate the program.

Agreement – Chairman Carey signed an Agreement between Missoula County and the Montana Department of Environmental Quality ("DEQ") for the purpose of providing public information and outreach regarding radon. The term shall begin on the date the Agreement is signed by both parties, and must be completed by June 30, 2001. The total amount shall not exceed \$7,000.00. The document was returned to the Health Department for further handling.

Closing Documents – On behalf of the Missoula County Airport Industrial District ("Seller"), the Commissioners signed three (3) Sellers Settlement Statements for the following properties:

Buyer	Property Location	Sales Price
Ibey Sprinklers & Landscape	Lot 1A, Block 4, Missoula Development Park, Phase IB	\$145,734.00
Fredsmom, L.L.C., a Montana Limited Liability Company	Lot 3, Block 2, Block Missoula Development Park, Phase II	\$217,800.00
Fredsmom, L.L.C., a Montana Limited Liability Company	Lot 3, Block 3, Block Missoula Development Park, Phase I	\$239,000.00

The Statements were returned to Western Title & Escrow for further handling.

Permit – The Commissioners approved and Chairman Carey signed Permit No. 01-01 allowing Eddie and Karen McElroy to construct a dock on Big Sky Lake. The property is on Lot P9 of the Klien Addition, in Section 29, Township 16N, Range 14W. The Permit was returned to Brian Maiorano in the Office of Planning and Grants for further handling.

Permit – The Commissioners approved and Chairman Carey signed Permit No. 01-02 allowing Anton P. Hollinger to construct a dock and conduct work within the shoreline protection zone of Big Sky Lake. The property is on Lot U4 of Big Sky Lake Estates, in Section 29, Township 16N, Range 14W. The Permit was returned to Brian Maiorano in the Office of Planning and Grants for further handling.

Discussion items included:

- 1) A Legislative update was given by CAO Ann Mary Dussault.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, OCTOBER 18, 2000

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was out of the office from October 18th through October 20th.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated October 18, 2000, batch number 903 (pages 1-4), with a grand total of \$20,873.99. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated October 18, 2000, batch number 907 (pages 1-3), with a grand total of \$27,619.09. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated October 18, 2000, batch number 1009 (pages 1-4), with a grand total of \$10,642.81. The Claims List was returned to the Accounting Department.

Indemnity Bond – Chairman Carey examined, approved, and ordered filed an Indemnity Bond naming Lewis & Clark Justice Court as principal for Warrant #102211 issued August 18, 2000 on the Missoula County Inmate Fund in the amount of \$200.00, now unable to be found.

Recertification -- Chairman Carey signed the Community Rating System Annual Recertification for Missoula County, Montana, NFIP Number 300048, certifying that Missoula County is continuing to implement the activities credited under the Community Rating System for floodplain management. The Recertification Date is October 1, 2000. The document was returned to Brian Maiorano in the Office of Planning and Grants for further handling.

Agreement – The Commissioners signed a Memorandum of Agreement, dated October 18, 2000, between Missoula County and District XI Human Resource Council ("HRC") for a grant to continue to provide through HOME Program funds owner-occupied housing rehabilitation loan funds that will benefit low- and moderate-income homeowners by financing necessary home repairs. The total amount shall not exceed \$10,000.00.

Ballot – Chairman Carey and Commissioner Evans reviewed and voted upon a Secondary Roads Program, Capital Construction Project (Missoula District) Ballot, voting in favor of allowing Ravalli County and the Department of Transportation to expend \$100,000 from the balance of Secondary Road Program for the Missoula district to upgrade

a traffic signal at the intersection of Secondary 531 and 2nd Street in the town of Hamilton. The document was returned to the Department of Transportation in Helena, Montana.

Agreement – The Commissioners signed an Agreement, dated August 15, 2000, between Missoula County Youth Detention Center and Missoula County Public Schools for the continuation of educational services provided to the Youth Detention Center. The term shall be July 1, 2000 through June 30, 2001. The total amount shall not exceed \$60,000.00. The Agreement was returned to Jan Dietz at the Missoula County Youth Detention Center for further signatures and handling.

Extension Request – The Commissioners signed a three-year extension of the final plan approval for Jellystone RV Park, in accordance with the recommendation of the Office of Planning and Grants. The new filing deadline is October 26, 2003.

PUBLIC MEETING – October 18, 2000

The Public Meeting was called to order at 1:30 p.m. by Chairman Bill Carey. Also present were Commissioner Barbara Evans, County Surveyor Horace Brown and Chief Civil Attorney Michael Sehestedt. Commissioner Michael Kennedy was on vacation.

Public Comment

None

Routine Administrative Actions

Commissioner Evans moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$542,173.43. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Hearing: 66 Quarter Circle Ranch Subdivision (40 Lots) – 2 miles NW of 1-90 Wye – Postponed to November 1, 2000

Chairman Carey announced that the hearing on the 66 Quarter Circle Ranch Subdivision had been postponed to November 1, 2000.

Bid Award: Two (2) Motor Pool Vehicles

Doreen Culver, Motor Pool, presented the staff report.

Nine bid requests were sent out but only two bidders responded. Bids for two Motor Pool vehicles were received and opened on October 16, 2000, with the following results: Ronan Auto in the amount of \$25,600 and Flanagins in the amount of \$37,200. It is the recommendation of the Motor Pool to purchase the vehicles from Ronan Auto in the amount of \$25,600, as they are the lowest and most responsive bidder.

Due to the budget situation, it was decided to purchase only two vehicles this year. The amount budgeted for the two vehicles was \$25,000. The lowest bid came in at \$25,600. Jane Ellis, Chief Financial Officer, said the additional \$600 could be taken from the vehicle maintenance budget. These cars will both be the Dodge Stratus model.

Commissioner Evans asked about the significant difference in price between the two vendors.

Doreen Culver stated that Ronan Auto had the State contract which allowed them to offer better prices.

Commissioner Evans asked if these were new vehicles?

Doreen Culver stated they were lease return vehicles. Ronan Auto has consistently provided lower prices this year, under all the other bidders. The cars that have been purchased from them have been great. She was very impressed with their cars and service. The maintenance costs on the fleet have decreased this year as well. At the recent auction, all the old vehicles were sold.

Commissioner Evans moved that the Board of County Commissioners award the bid for two Motor Pool vehicles to Ronan Auto in the amount of \$25,600, as they are the lowest and best bid. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Consideration: Riverlands Subdivision (4 lots) – North end of Salmon Lake **Consideration: Many Rivers Subdivision (3 lots) – North end of Salmon Lake**

Nancy Heil, Office of Planning and Grants, presented the staff reports. As these two subdivision are adjacent to one another and have many of the same issues, she gave both staff reports concurrently.

For the Riverlands Subdivision, the applicant, Wildland LLC, is proposing to divide a 170.28 acre parcel into 4 lots, ranging in size from 15.3 acres to 73.5 acres. For the Many Rivers Subdivision, the applicant, Wildland LLC, is proposing to divide a 275.50 acre parcel into 3 lots, ranging in size from 54.7 acres to 118.5 acres. Both properties are located at the northern edge of Salmon Lake. Both parcels are former Plum Creek land.

Many Rivers Road would serve the subdivisions. Both subdivisions are off North Placid Lake Road, near Highway 83.

Much of the property is located in a floodplain wetland area of the Clearwater River and Owl Creek. The southern portions of the property have steep, timbered slopes and terraces. It was previously managed for corporate timber harvest,

most recently by Plum Creek. There was a resource inventory prepared by Five Valleys Land Trust that states the property is dominated by high quality wetlands that provide rich habitat for a number of native and migrant wildlife species. It is also an in-holding within the Fish, Wildlife and Parks (FWP) Blackfoot/Clearwater Wildlife Management Area. There are some upland habitats that are likely to be used by populations of white tail deer and elk. Five Valleys Land Trust has concluded that the property has exceptional conservation value.

The plats show areas of 25% slope or greater, waterways and floodplain or riparian areas, which are all designated as no build zones. This leaves a very small portion of the property where it would be possible to build. Fish, Wildlife and Parks stated that if the property were in public ownership, the management solution would almost certainly be to perpetuate open space opportunities. FWP did not have the money to purchase the land and understands that this type of development can occur. They appreciated the owner's efforts to protect fish and wildlife while achieving private business objectives.

There were quite a few comments on the proposal. In the conditions there are several covenants that address some of FWP's concerns. There concern about adding additional year-around residences to the wetland were reduced when they considered its present location beside Highway 83 at the junction of North Placid Lake Road, where current habitat values have already been modified from human use and from traffic. They did state that the covenants allow a bed and breakfast not to exceed a 16 guest capacity per lot and they would prefer that the proposed development be limited to residential use or that possible commercial use be further limited. That is not something staff addresses in the subdivision conditions or covenants, it is beyond the scope of the regulations. The covenants also indicate what types of livestock are not allowed and areas where permitted livestock are not allowed. FWP strongly supports excluding livestock from the wetland and buffer area around the riparian areas, which is what is proposed by the applicant. FWP suggests the property is not a suitable location to pasture livestock, if the goal is to minimize environmental consequences of the development.

The proposed covenants state that the provisions relating to wildlife should not be amended or deleted without approval of the governing body. Fish, Wildlife and Parks also suggested that they would like to be consulted if any of the covenants related to wildlife were requested to be amended. That is included in the condition relating to covenants.

There were some concerns about possible human interference with the common loon nest that is located south of the property. Again, there is a covenant that provides landowner notification about the nest. There is also some landowner notification regarding the Montana Stream Access Law, that the Clearwater River is a navigable stream and that water related recreational activities between the ordinary high water marks is permitted. This is primarily to make sure that when people buy a lot they know others may be floating by or walking through or fishing in the area between the high water marks.

The riparian areas and a buffer are shown as no build zones on the plat. There is a suggested riparian management plan included in the application. Staff has suggested some additions to the plan to clarify what is allowed and prohibited in the riparian areas. Mike Thompson, Fish, Wildlife and Parks, stated that the proposed setbacks were acceptable. There is also a condition that states that Salmon Lake and the navigable portion of the inlet are under the jurisdiction of Shoreline Regulations. There is another condition related to weed control on the property. The current owner, Wes Wills, who purchased the land from Plum Creek, has made some efforts to re-seed some of the disturbed areas on the property. The condition would pass that information along to future lot owners.

Based on site visits, Brian Maiorano, Floodplain Administrator, recommended that there would be some additional areas shown as floodplain areas. Those changes have been made on the revised version of the plat.

Access to the property from Missoula is via Highway 83 to North Placid Lake Road to Many Rivers Road. Highway 83 is designated a primary travel corridor. There is already plenty of vegetated buffer along that area. There is a condition that vegetation be retained and that the primary travel corridor be included or referenced in the covenants.

Three of the Riverlands lots will access directly from North Placid Lake Road. Traveling north on Highway 83, immediately after a left turn on North Placid Lake Road, Lot A1 is located to the north. Lot A2, to the south, would also have a driveway access from North Placid Lake Road. Lot A3 would access from North Placid Lake Road further to the west.

North Placid Lake Road is a County maintained gravel road located within a 60 foot right-of-way. The County has plans to pave the first two miles of that road within the next year. Fish, Wildlife and Parks will be contributing \$50,000 toward that effort. The County Surveyor has suggested that this subdivision contribute a portion of the paving of the onsite portion of North Placid Lake Road in an amount that would be proportionate to the FWP contribution. That is included as a condition of approval.

Many Rivers Road, which would serve Lot A4 of Riverlands and the three lots of Many Rivers, is an existing Plum Creek logging road. It is not located on the property, it is on the property boundary of Lot A4 in Riverlands. It is located within a 60 foot right-of-way on Plum Creek land. There is a condition that requires the developer to provide proof of legal access and evidence of a road maintenance agreement along that road prior to final plat approval. The existing width of the road is about 18 feet with wider shoulders or turnouts in some locations. The applicant has also proposed to construct a cul-de-sac at the southern tip of Lot A4, about 2,800 feet from North Placid Lake Road.

Joe Ellinghouse, Seeley Lake Rural Fire District Chief, stated in his written comments on the subdivision that he would approve access as long as the roads, turnarounds and driveways were constructed in accordance with the Wildland/Residential Interface Development Manual. That Development Manual states that secondary roads should have two 10 foot driving lanes, so that is recommended in the condition of approval in the staff report. It was difficult to reach Mr. Ellinghouse for further discussions prior to issuing the staff report. When Mr. Ellinghouse was finally reached, he indicated he would also be able to provide emergency services if the road were constructed to an 18 foot width with turnouts in a design he could approve. There is a separate memo reflecting this change in the condition along with revised findings of fact.

Driveways to all of the lots would be longer than 150 feet and driveway standards are addressed in the covenants. The property is located in a Wildland/Residential Interface and a dry hydrant has been installed along North Placid Lake Road.

The fire chief and the applicant looked into the possibility of locating a dry hydrant to serve the lots in Many Rivers Subdivision, but there was not an acceptable location identified.

A letter received from the Seeley Lake Community Council stated they had no objection to the subdivisions, the lot sizes and configurations were appropriate use of the land. There is a sign near the bridge on North Placid Lake Road that allows courtesy riverbank fishing. That sign was noted and appreciated.

Another letter received from Ron Cox noted a concern about the loss of a quasi-public access to the Clearwater River for camping, canoe launching and fishing. There had been an area that had been a usual place for access to the river that is now not available to the public.

Staff is recommending approval of the variance requests for cul-de-sac length, road width and walkways. Staff is recommending approval of both subdivisions. Riverlands Subdivision has 20 conditions. Many Rivers Subdivision has 18 conditions.

Dick Ainsworth, Professional Consultants, Inc., developer's representative, was present, as was Wes Wills representing the developer, Wildland LLC. He stated they were in agreement with all of the conditions in the staff report with a couple of exceptions. The road width question and the variance request to permit 18 foot wide roads with turnouts created some confusion. Joe Ellinghouse verbally stated he would support that request which was different from his written comments. The final conclusion was that he would support road widths as requested. He asked that the Commissioners substitute the revised condition regarding road width as submitted by staff. The only other comment was in reference to the condition that listed changes to the covenants. Under Section F, it was worded in such as was as to imply that hay had to be stored indoors. They did not have any problem with fencing hay to keep wildlife out. He asked if that could be clarified.

Nancy Heil stated there is a concern about the pellets and grain being stored outdoors as those are more of an attractant.

Michael Sehestedt stated that the reference to hay could be removed altogether.

Dick Ainsworth stated that would be acceptable. There are no problems with the rest of the conditions.

Commissioner Evans asked about Mr. Cox concern about the quasi-public access that would be lost.

Dick Ainsworth stated that where North Placid Lake Road crosses the Clearwater River, there was flat area where the public had historically parked to camp and fish. The land has always been private but traditionally had been used by the public. When Mr. Wills acquired the property, he placed a rail fence along the road to prevent access. That is the location where the sign has been placed to allow river fishing access, but it is foot access only. No vehicles can be parked there now. So there is still access to the river, but not vehicular access or a place to park a vehicle. They have no problem with foot access, but would prefer to eliminate the vehicular access. There has been some conversation with Fish, Wildlife and Parks and Horace Brown about having a parking area. The developer would be willing to work with FWP on that, if FWP and Mr. Brown wish to pursue it.

Commissioner Evans asked if there was another place to publicly access the river that was close to this site.

Dick Ainsworth stated there was state land adjacent to this property. There were pull outs which could provide river access. There is also public access at Salmon Lake.

Horace Brown stated, to correct the report, that FWP would be providing \$50,000 a mile for road paving on North Placid Lake Road.

Chairman Carey stated that Many Rivers Road was referred to by another name.

Nancy Heil stated the plat showing another name was an old one. Many Rivers Road is the correct name of the road.

Chairman Carey stated that FWP recommends that road should never be extended to complete a loop road back to Highway 83. Has that been addressed.

Dick Ainsworth stated the road could not be extended. It would have to go across the wetlands, floodplain and riparian areas, which are all designated as no build zones.

Nancy Heil stated it would be very impractical and unfeasible to ever do that.

Commissioner Evans asked if any of these lots could be further split at a later time?

Dick Ainsworth stated the developer no plans for any further division of the lots.

Commissioner Evans moved that the Board of County Commissioners, for the Many Rivers Subdivision, approve the variance request from Section 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways in the subdivision; approve the variance request from Section 3-2(3) of the Missoula County Subdivision Regulations for Many Rivers Road to vary from the required 24 foot width; and approve the variance request from Article 3-2(3)(A) of the Missoula County Subdivision Regulations for maximum cul-de-sac length for Many Rivers Road; all based on the findings of fact set forth in the staff report and subject to conditions. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Commissioner Evans moved that the Board of County Commissioners approved the Many Rivers Summary Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report, including the revised language to Condition 3 regarding the width of Many Rivers Road, and removing the word "hay" from Condition 14F. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Many Rivers Summary Subdivision Conditions of Approval:**Roads/Access**

1. The following statement shall appear on the face of the plat and in each instrument of conveyance:

“Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for improvements to Placid Lake Road, including installation of pedestrian walkways or bikeways, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land.” *Subdivision Regulations Article 3-2 and County Surveyor recommendation.*

2. The applicant shall provide proof of legal access along Many Rivers Road, subject to County Attorney’s Office approval, prior to final plat approval. *Subdivision Regulations Article 3-2 and County Attorney Office recommendation.*
3. Many Rivers Road shall be improved to an 18 foot width with turnouts in a design to be approved by the Seeley Lake Rural Fire District prior to final plat approval. Engineering, grading, drainage plans and erosion control plans shall be approved by the County Surveyor’s Office prior to plat filing. The roads shall be constructed or guaranteed prior to final plat approval. A professional engineer shall certify that the road has been constructed per the approved plans. *Subdivision Regulations Article 3-2, Seeley Lake Rural Fire District recommendation and County Surveyor recommendation.*
4. The road maintenance agreement for Many Rivers Road shall be approved by the County Attorney’s Office prior to final plat approval. *Subdivision Regulations Article 3-2(1)(H) and staff recommendation.*
5. The covenants for the subdivision shall be amended to include driveway standards from the Fire Protection Guidelines for Wildland/Residential Interface Development, subject to Seeley Lake Rural Fire District and OPG approval, prior to final plat approval. *Subdivision Regulations Article 3-6, Seeley Lake Rural Fire District recommendation and staff recommendation.*
6. The covenants shall be amended, subject to OPG approval, prior to final plat filing, to include provisions of the Primary Travel Corridor standards relating to setbacks, landscaping and commercial standards and requirements for protecting the existing vegetation along Highway 83. *Subdivision Regulations Article 3-14 and staff recommendation.*

Floodplain

7. The plat shall show areas within the floodplain, subject to Floodplain Administrator approval. *Subdivision Regulations Article 3-1(1)(B) and Floodplain Administrator recommendation.*
8. The lowest floor of all dwellings shall be at least 2 feet above the 100 year flood elevation, either as provided by FEMA or approximated on the plat. Crawlspace floors may be at flood elevation if they contain no mechanicals. This requirement shall be included in the covenants, to be reviewed by OPG prior to final plat approval. *Subdivision Regulations Article 3-1(1)(B) and Floodplain Administrator recommendation.*
9. The covenants shall be amended, subject to OPG approval, prior to final plat approval, to state that Salmon Lake and the navigable portion of the inlet to the lake are under the jurisdiction of the Missoula County Shoreline Regulations. *Subdivision Regulations Article 4-1(12) and staff recommendation.*

Water

10. The following statement shall appear on the face of the final plat:

“Acceptance of a deed for a lot within this subdivision constitutes a waiver of the right to protest a future RSID/SID for public water systems, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land.” *Subdivision Regulations Section 3-7(2).*

Resources

11. The plat shall designate slopes greater than 25% as no-build zones. *Subdivision Regulations Article 3-1(2) and staff recommendation.*
12. The riparian area and buffer area/setback shall be shown as a no-build zones on the plat, subject to OPG approval. The buffer area on Lots B1 and B3 shall be increased to 50 feet. *Subdivision Regulations Article 3-14 and staff recommendation.*
13. The Riparian Management Plan shall be included in the covenants, subject to OPG review, prior to final plat approval. The plan shall be amended to include more specific descriptions of permitted and prohibited uses and activities in the riparian and buffer areas, and an attachment clearly designating the riparian areas and buffer. *Subdivision Regulations Article 3-14 and staff recommendation.*
14. The covenants shall be amended, subject to OPG approval, prior to final plat approval, to state the following:

Owners must accept the responsibility of living with wildlife. There are potential problems associated with the presence of bears, mountain lions deer, etc. If wildlife are attracted to this property by artificial means and it becomes necessary to relocate an animal, costs of the removal will become the liability of the landowner.

The following measures are intended to reduce the potential for human-wildlife conflicts:

- a. Permanent barbecue pits are not permitted. Clean portable barbecue grills regularly and store indoors when not in use.

- b. Fence and protect flowers, ornamental shrubs, fruit trees and gardens, which may be susceptible to damage from wildlife. Plant native vegetation for landscaping and revegetation. Harvest all fruit trees properly so as not to allow an accumulation of rotting organic matter, which is a prime wildlife attractant.
- c. If gardens are established, enclose with a fence one foot below ground level and at least eight feet in height, with top rail made of something other than wire to prevent wildlife from entanglement. Bird feeders and compost piles attract bears and are not permitted.
- d. Do not use or maintain any lot or part of a lot as a dumping ground. Do not allow any rubbish, trash or other waste to accumulate, except in sanitary containers. Empty and remove waste in such containers from the premises at least on a weekly basis. Store all garbage inside, in containers of metal, plastic or other suitable material, which has sufficiently tight-fitting covers to prevent entrance or destruction by wild animals.
- e. Artificial feeding of wildlife is prohibited. Do not allow salt blocks, mineral blocks and feeding platforms for deer or other wildlife.
- f. Do not allow mineral blocks for horses or wildlife on the premises. Store horse or livestock feed, such as pellets and grain, indoors, in a secured area, or in wildlife proof containers. Store pet food indoors or in wildlife proof containers. Feed domestic pets indoors to prevent attraction of wildlife.
- g. Do not allow domestic pets, such as dogs, to run freely and potentially harass wildlife. Keep dogs in an enclosed structure when not under direct supervision of the owner. Besides loss of life and the maiming of wildlife, this harassment also causes unnecessary energy expenditures and can displace animals to less suitable habitats.
- h. The keeping of rabbits, chickens, turkeys, pigs, sheep and goats is discouraged. If such animals are kept, build sturdy cages or fences to protect domestic animals from wildlife. These animals have no defense against predators and can be an attractive food source to many wildlife species.
- i. Apiaries may attract species such as bears and should be avoided. Before an apiary is located on a lot, the owner of the bee hive(s) should first contact the Department of Fish, Wildlife and Parks to discuss their plans and how to best avoid wildlife conflicts.
- j. Perimeter fencing of the property is strongly discouraged. Barbed wire fencing is prohibited. Electric fencing should only be used to contain stock.
- k. Appended to these covenants is a copy of each of the following brochures: "Living with Wildlife" and "Bear Safe." Additional copies can be obtained from the Missoula Office of Planning and Grants, 435 Ryman, Missoula, MT 59801, (406)523-4657, or the Montana Department of Fish, Wildlife and Parks. Lot owners should follow recommendations made in these brochures.

Subdivision Regulations Article 4-1(12), Montana Department of Fish, Wildlife and Parks recommendation and staff recommendation.

15. The covenants shall be amended, subject to OPG approval, prior to final plat approval, to state that a common loon nest is located south of the property on Salmon Lake and that areas around the nest are subject to seasonal closures. Landowners should contact the Montana Department of Fish, Wildlife, and Parks, the US Forest Service, and the Montana Loon Society for more information. *Subdivision Regulations Article 4-1(12) and Montana Department of Fish, Wildlife and Parks recommendation.*
16. The covenants shall be amended, subject to OPG approval, prior to final plat approval, to state that the Clearwater River and Salmon Lake are both public waters allowing access for recreational use as defined under the 1985 Montana Stream Access Law. The Clearwater River is defined as a navigable stream which allows water related recreational activities between the ordinary high water mark lines. *Subdivision Regulations Article 4-1(12) and Montana Department of Fish, Wildlife, and Parks recommendation.*
17. The covenants shall include the following provisions:

Covenants which restrict the use of the land for the purpose of protecting wildlife or riparian/wetland areas are enforceable by the each of the lot owners in this subdivision, by Missoula County and by the Department of Fish, Wildlife and Parks. The right to enforce the covenants does not obligate Missoula County or Fish, Wildlife and Parks to inspect the property and no claim of damages may be made against the County as the result of undetected lack of compliance with wildlife and riparian protection requirements.

Covenants which restrict the use of the land under Missoula County Subdivision Regulations Primary Travel Corridor Standards are enforceable by Missoula County. The right to enforce the covenants does not obligate Missoula County to inspect the property and no claim of damages may be made against the County as the result of undetected lack of compliance with Primary Travel Corridor requirements.

Covenants related to wildlife or riparian management shall not be changed without Montana Department of Fish, Wildlife, and Parks review and governing body approval.

Subdivision Regulations Article 4-1(12), Montana Department of Fish, Wildlife, and Parks recommendation and staff recommendation.

18. A Revegetation Plan for Disturbed Sites shall be approved by the Missoula County Weed Board prior to plat filing. The additional covenants for this subdivision shall be amended prior to plat filing to include provision for noxious weed control and implementation of the Revegetation Plan for Disturbed Sites. *Subdivision Regulations Article 3-1(1)(B) and staff recommendation.*

Commissioner Evans moved that the Board of County Commissioners, for the Riverlands Subdivision, approve the variance request from Section 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways in the subdivision; approve the variance request from Section 3-2(3) of the Missoula County Subdivision Regulations for Many Rivers Road to vary from the required 24 foot width; and approve the variance request from Article 3-2(3)(A) of the Missoula County Subdivision Regulations for maximum cul-de-sac length for Many Rivers Road; all based on the findings of fact set forth in the staff report and subject to conditions. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

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Commissioner Evans moved that the Board of County Commissioners approved the Riverlands Summary Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report, including the revised language to Condition 4 regarding the width of Many Rivers Road, and removing the word "hay" from Condition 16F. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Riverlands Summary Subdivision Conditions of Approval:**Roads/Access**

1. The following statement shall appear on the face of the plat and in each instrument of conveyance:

"Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for improvements to Placid Lake Road, including installation of pedestrian walkways or bikeways, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations Article 3-2 and County Surveyor recommendation.*
2. The applicant shall contribute a proportionate share of the cost of paving the onsite portion of North Placid Lake Road, which fronts on Lot A1. The share shall be based on the Montana Department of Fish, Wildlife, and Parks' contribution of \$50,000 per mile, to be approved by the County Surveyor prior to final plat approval. *Subdivision Regulations Article 3-2 and County Surveyor recommendation.*
3. The applicant shall provide proof of legal access along Many Rivers Road, subject to County Attorney's Office approval, prior to final plat approval. *Subdivision Regulations Article 3-2 and County Attorney Office recommendation.*
4. Many Rivers Road shall be improved to an 18 foot width with turnouts in a design to be approved by the Seeley Lake Rural Fire District prior to final plat approval. Engineering, grading, drainage plans and erosion control plans shall be approved by the County Surveyor's Office prior to plat filing. The roads shall be constructed or guaranteed prior to final plat approval. A professional engineer shall certify that the road has been constructed per the approved plans. *Subdivision Regulations Article 3-2, Seeley Lake Rural Fire District recommendation and County Surveyor recommendation.*
5. The road maintenance agreement for Many Rivers Road shall be approved by the County Attorney's Office prior to final plat approval. *Subdivision Regulations Article 3-2(1)(H) and staff recommendation.*
6. The covenants for the subdivision shall be amended to include driveway standards from the Fire Protection Guidelines for Wildland/Residential Interface Development, subject to Seeley Lake Rural Fire District and OPG approval, prior to final plat approval. *Subdivision Regulations Article 3-6, Seeley Lake Rural Fire District recommendation and staff recommendation.*
7. The covenants shall be amended, subject to OPG approval, prior to final plat approval, to include provisions of the Primary Travel Corridor Standards relating to setbacks, landscaping and commercial standards and requirements for protecting the existing vegetation along Highway 83. *Subdivision Regulations Article 3-14 and staff recommendation.*

Floodplain

8. The plat shall show areas within the floodplain, subject to Floodplain Administrator approval. *Subdivision Regulations Article 3-1(1)(B) and Floodplain Administrator recommendation.*
9. The lowest floor of all dwellings shall be at least 2 feet above the 100 year flood elevation, either as provided by FEMA or approximated on the plat. Crawlspace floors may be at flood elevation if they contain no mechanicals. This requirement shall be included in the covenants, to be reviewed by OPG prior to final plat approval. *Subdivision Regulations Article 3-1(1)(B) and Floodplain Administrator recommendation.*
10. If a residential structure is built on the hill on Lot A2, the access driveway shall be elevated at least 2 feet above the 100 year flood elevation. A floodplain permit will be required prior to placing fill in that area. This requirement shall be included in the covenants, to be reviewed by OPG prior to final plat approval. *Subdivision Regulations Article 3-1(1)(B) and Floodplain Administrator recommendation.*
11. The covenants shall be amended, subject to OPG approval, prior to final plat approval, to state that Salmon Lake and the navigable portion of the inlet to the lake are under the jurisdiction of the Missoula County Shoreline Regulations. *Subdivision Regulations Article 4-1(12) and staff recommendation.*

Water

12. The following statement shall appear on the face of the final plat:

"Acceptance of a deed for a lot within this subdivision constitutes a waiver of the right to protest a future RSID/SID for public water systems, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations Section 3-7(2).*

Resources

13. The plat shall designate slopes greater than 25% as no-build zones. *Subdivision Regulations Article 3-1(2) and staff recommendation.*
14. The riparian area and buffer area/setback shall be shown as a no-build zone on the plat, subject to OPG approval. *Subdivision Regulations Article 3-14 and staff recommendation.*

15. The Riparian Management Plan shall be included in the covenants, subject to OPG review prior to final plat approval. The plan shall be amended to include more specific descriptions of permitted and prohibited uses and activities in the riparian and buffer areas; provision for mitigation of any impacts to riparian vegetation from driveway construction on Lot A1 and an attachment clearly designating the riparian areas and buffer. *Subdivision Regulations Article 3-14 and staff recommendation.*

16. The covenants shall be amended, subject to OPG approval, prior to final plat approval, to state the following:

Owners must accept the responsibility of living with wildlife. There are potential problems associated with the presence of bears, mountain lions, deer, etc. If wildlife are attracted to this property by artificial means and it becomes necessary to relocate an animal, costs of the removal will become the liability of the landowner.

The following measures are intended to reduce the potential for human-wildlife conflicts:

- a. Permanent barbecue pits are not permitted. Clean portable barbecue grills regularly and store indoors when not in use.
- b. Fence and protect flowers, ornamental shrubs, fruit trees and gardens, which may be susceptible to damage from wildlife. Plant native vegetation for landscaping and revegetation. Harvest all fruit trees properly so as not to allow an accumulation of rotting organic matter, which is a prime wildlife attractant.
- c. If gardens are established, enclose with a fence one foot below ground level and at least eight feet in height, with top rail made of something other than wire to prevent wildlife from entanglement. Bird feeders and compost piles attract bears and are not permitted.
- d. Do not use or maintain any lot or part of a lot as a dumping ground. Do not allow any rubbish, trash or other waste to accumulate, except in sanitary containers. Empty and remove waste in such containers from the premises at least on a weekly basis. Store all garbage inside, in containers of metal, plastic or other suitable material, which has sufficiently tight-fitting covers to prevent entrance or destruction by wild animals.
- e. Artificial feeding of wildlife is prohibited. Do not allow salt blocks, mineral blocks and feeding platforms for deer or other wildlife.
- f. Do not allow mineral blocks for horses or wildlife on the premises. Store horse or livestock feed, such as pellets and grain, indoors, in a secured area or in wildlife proof containers. Store pet food indoors or in wildlife proof containers. Feed domestic pets indoors to prevent attraction of wildlife.
- g. Do not allow domestic pets, such as dogs, to run freely and potentially harass wildlife. Keep dogs in an enclosed structure when not under direct supervision of the owner. Besides loss of life and the maiming of wildlife, this harassment also causes unnecessary energy expenditures and can displace animals to less suitable habitats.
- h. The keeping of rabbits, chickens, turkeys, pigs, sheep and goats is discouraged. If such animals are kept, build sturdy cages or fences to protect domestic animals from wildlife. These animals have no defense against predators and can be an attractive food source to many wildlife species.
- i. Apiaries may attract species such as bears and should be avoided. Before an apiary is located on a lot, the owner of the bee hive(s) should first contact the Department of Fish, Wildlife and Parks to discuss their plans and how to best avoid wildlife conflicts.
- j. Perimeter fencing of the property is strongly discouraged. Barbed wire fencing is prohibited. Electric fencing should only be used to contain stock.
- k. Appended to these covenants is a copy of each of the following brochures: "Living with Wildlife" and "Bear Safe." Additional copies can be obtained from the Missoula Office of Planning and Grants, 435 Ryman, Missoula, MT 59801, (406)523-4657 or the Montana Department of Fish, Wildlife and Parks. Lot owners should follow recommendations made in these brochures.

Subdivision Regulations Article 4-1(12), Montana Department of Fish, Wildlife and Parks recommendation and staff recommendation.

17. The covenants shall be amended, subject to OPG approval, prior to final plat approval, to state that a common loon nest is located south of the property on Salmon Lake and that areas around the nest are subject to seasonal closures. Landowners should contact the Montana Department of Fish, Wildlife, and Parks, the US Forest Service and the Montana Loon Society for more information. *Subdivision Regulations Article 4-1(12) and Montana Department of Fish, Wildlife, and Parks recommendation.*

18. The covenants shall be amended, subject to OPG approval, prior to final plat approval, to state that the Clearwater River and Salmon Lake are both public waters allowing access for recreational use as defined under the 1985 Montana Stream Access Law. The Clearwater River is defined as a navigable stream which allows water related recreational activities between the ordinary high water mark lines. *Subdivision Regulations Article 4-1(12) and Montana Department of Fish, Wildlife, and Parks recommendation.*

19. The covenants shall include the following provisions:

Covenants which restrict the use of the land for the purpose of protecting wildlife or riparian/wetland areas are enforceable by each of the lot owners in this subdivision, by Missoula County and by the Department of Fish, Wildlife and Parks. The right to enforce the covenants does not obligate Missoula County or Fish, Wildlife and Parks to inspect the property and no claim of damages may be made against the County as the result of undetected lack of compliance with wildlife and riparian protection requirements.

Covenants which restrict the use of the land under Missoula County Subdivision Regulations Primary Travel Corridor standards are enforceable by Missoula County. The right to enforce the covenants does not obligate Missoula County to inspect the property and no claim of damages may be made against the County as the result of undetected lack of compliance with Primary Travel Corridor requirements.

Covenants related to wildlife or riparian management shall not be changed without Montana Department of Fish, Wildlife and Parks review and governing body approval.

Subdivision Regulations Article 4-1(12), Montana Department of Fish, Wildlife and Parks recommendation and staff recommendation.

20. A Revegetation Plan for Disturbed Sites shall be approved by the Missoula County Weed Board prior to plat filing. The additional covenants for this subdivision shall be amended prior to plat filing to include provision for noxious weed control and implementation of the Revegetation Plan for Disturbed Sites. *Subdivision Regulations Article 3-1(1)(B) and staff recommendation.*


There being no further business to come before the Board, the Commissioners were in recess at 2:10 p.m.

THURSDAY, OCTOBER 19, 2000

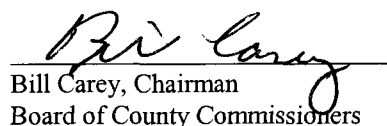
The Board of County Commissioners did not meet in regular session. Chairman Carey was in Helena attending the MACo Growth Policy Forum and the MACo Land Use and Planning Committee meeting held at the MACo Office; and Commissioner Evans was out of the office until noon.

FRIDAY, OCTOBER 20, 2000

The Board of County Commissioners did not meet in regular session. Chairman Carey and Commissioner Evans were out of the office all day.



Vickie M. Zeier
Clerk & Recorder



Bill Carey, Chairman
Board of County Commissioners

MONDAY, OCTOBER 23, 2000

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was out of the office all day.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated October 19, 2000, batch numbers 908 and 910 (pages 1-6), with a grand total of \$63,507.00. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated October 19, 2000, batch number 909 (pages 1-4), with a grand total of \$35,785.81. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated October 23, 2000, batch number 913 (pages 1-4), with a grand total of \$211,678.97. The Claims List was returned to the Accounting Department.

Monthly Report - Chairman Carey examined, approved and ordered filed the Monthly Reconciliation Report for the Report of the Sheriff, Douglas W. Chase, for the month ending September 29, 2000.

Payroll Transmittal - The Commissioners signed the following Payroll Transmittal Sheet: Pay Period: 21 - Pay Date: October 20, 2000. Total Missoula County Payroll: \$775,238.50. The Transmittal Sheet was returned to the Auditor's Office.

Budget Transfer - The Commissioners signed Budget Transfer No. 01-001 for the District Court transferring \$2,188 from the Permanent Salary (\$1,683) and Fringe (\$505) Funds to the Rent (\$1,278), Postage (\$350), LD Phone (\$200) and Phone—Basic (\$360) Funds. The reason for the budget transfer was due to an error in budgeting for MIP expenditures.

Notice of Award - Chairman Carey signed a Notice of Award to Pew Corporation of Missoula, Montana, to build a 4,500 square foot duplex group home for Opportunity Resources, Inc. The bid is in the amount of \$442,723.00. The document was returned to Cindy Wulfekuhle in the Office of Planning and Grants for further signatures and handling.

Contract - The Commissioners signed a contract, dated October 23, 2000, between Missoula County and Eagle Computer Systems, Inc. ("Contractor") for an Index and Imaging system for the Missoula County Recording Office, as per the items set forth therein. The total amount shall not exceed \$197,251.00 with yearly maintenance fee of \$14,520 (\$211,771), based on the prices stipulated. The Contractor shall fully complete all the work within a period of six months (180 days) from the date of the Contract. The Contract was returned to Vickie Zeier, Clerk and Recorder/Treasurer, for further handling.

Agreement - The Commissioners signed a Memorandum of Agreement, dated October 23, 2000, between Missoula City-County Health Department and the Missoula County Attorney's Office to provide home-based services to families with children in Youth Court, under the "Family Referral Program". The total amount shall not exceed \$18,434.00. The County Attorney's Office is providing 70% of the funds from a grant awarded by the Montana Board of Crime Control. The Health Department shall provide 30% match in the total amount of \$5,530. The term will be July 1, 2000 through June 30, 2001, and is contingent upon receipt of Montana Board of Crime Control Grant Funds by Missoula County.

TUESDAY, OCTOBER 24, 2000

The Board of County Commissioners met in regular session; a quorum of members was present in the forenoon. Chairman Carey attended the Travelers Rest Project Development Group Organizational Meeting held during the day at the University of Montana Center at Salmon Lake. In the forenoon, Commissioner Evans attended the Regional Juvenile Detention Meeting held at the Missoula Detention Center; and Commissioner Kennedy was out of the office all afternoon.

WEDNESDAY, OCTOBER 25, 2000

The Board of County Commissioners met in regular session; all three members were present.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated October 24, 2000, batch number 915 (pages 1-4), with a grand total of \$40,276.54. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated October 25, 2000, batch number 916 (pages 1-4), with a grand total of \$17,096.37. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated October 25, 2000, batch number 919 (pages 1-3), with a grand total of \$12,738.71. The Claims List was returned to the Accounting Department.

Resolution No. 2000-085 -- The Commissioners signed Resolution No. 2000-085, dated October 25, 2000, urging the states of Washington, Idaho, Montana, Wyoming and Colorado, and the United States government, to conduct, in partnership, a thorough study of a project to promote a passenger train service within the Spokane-Denver corridor. Montana's Executive and Legislative branches of government are also encouraged to do whatever is within their power to help move this project forward.

Agreement -- Chairman Carey signed a Modification 1 of Agreement, dated October 25, 2000, between Missoula County and the Montana Department of Environmental Quality ("DEQ"), agreeing to modify Section II of the agreement between them related to the project identified as "Elk Creek Canyon Sediment Control Project" (DEQ Contract No. 200035, as amended). The purpose of the modification extends the date for completion of services from June 30, 2001 to December 31, 2001. The Agreement was forwarded to the DEQ in Helena, Montana.

Agreement -- At the County Attorney's Meeting, Chairman Carey signed an Agreement to Extend Preliminary Plat Approval Period, dated October 25, 2000, between Missoula County and Smith/Hauser Investments ("Subdividers"). Extended is the preliminary approval plat approval for Hillcrest Heights from March 27, 1996 to March 27, 2007, providing that the project is developed on a phased basis as anticipated by both the Subdivider and the County at the time the project was reviewed, and that the final plats for the various phases are submitted within a reasonable time interval of the previous phase.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the CAO meeting held in the forenoon, the following items were signed:

Agreement -- The Commissioners approved and Chairman Carey signed a Standard Agreement on the Basis of Stipulated Price, dated October 25, 2000, between Missoula County and JTL Group Inc., to complete the drainage system from Park "9" in the Missoula Development Park through the adjacent MRL right-of-way. The total amount shall not exceed \$12,993. The work shall be substantially complete in 30 days upon receipt of Notice to Proceed.

Other items included:

- 1) The Commissioners approved replacing the air conditioning unit in the 9-1-1 Center and also agreed to move nickel-plated batteries to the generator facility.
- 2) The Commissioners reviewed the status of two ongoing Human Resources grievances.
- 3) The Commissioners were given feedback on the demonstration that occurred the previous week.
- 4) A discussion was held on the County Attorney settlement in Billings, Montana.

PUBLIC MEETING -- October 25, 2000

The Public Meeting was called to order at 1:30 p.m. by Chairman Bill Carey. Also present were Commissioner Barbara Evans, Commissioner Michael Kennedy, County Surveyor Horace Brown and Deputy County Attorney Colleen Dowdall.

Public Comment

None

Routine Administrative Actions

Commissioner Evans moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$381,083.40. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Consideration: Peterson Industrial Park (5 Lots) – West of Airport – North Side of Old Highway 10

Lisa Moisey, Office of Planning and Grants, presented the staff report.

This is a request from Jerry McGinnis, represented by Professional Consultants Inc., to divide a 29.35 acre tract into five large lots for industrial uses. Lots will range in size from 4.3 acres to 7.2 acres. The property is located along the north side of Highway 10 West, about two miles west of the entrance to the Missoula International Airport.

The property is zoned C-11 "Industrial." The 1998 Missoula Urban Area Comprehensive Plan Update recommends industrial uses for the property. The proposed subdivision complies with both zoning and the Comprehensive Plan.

Off site access to the property is from Highway 10. The developer is proposing to build a new roadway to provide on site access to the lots. This proposed roadway, Peterson Park Road, will be paved to 32 feet wide, within an 80 foot right-of-way. Staff is recommending that this roadway be dedicated to the public. The roadway specifications will comply with the Missoula County Subdivision Regulations for public roadways. Access to Lot 5 will be from a private access driveway, located off the end of the Peterson Park Road cul-de-sac.

No pedestrian walkways are proposed with this development. The applicant has asked for a variance from the requirement and staff is recommending approval of the variance. Staff does recommend a condition requiring the applicant to waive the right to protest the creation of an RSID for improvements to Highway 10, Old 10 Road and Peterson Park Road. Old 10 Road will be constructed on this property to connect with the adjoining subdivision to the east, Alpine Addition.

Each lot will be served by an individual well. A designated drainfield is located on Lot B2 of Alpine Addition, a subdivision that was approved about a month ago and located to the east of this property. Each lot in the Peterson Park Subdivision will have an easement to pipe effluent to the designated drainfield on Lot B2.

The property is mostly flat except for the gully located on the southeast border of the property. There is a riparian area located within the gully and the applicant has provided a riparian management plan to protect this area. On a site visit to the property, staff noticed the riparian area was under-represented and one of the conditions of approval is for the applicant to extend the boundaries of the riparian area.

This property is located along a primary travel corridor, Highway 10. Missoula County has Primary Travel Corridor Standards which address landscaping, setbacks, building standards and sign standards. The applicant has provided primary travel corridor information for Lot 1. Staff is recommending these also apply to Lot 2.

There was some discussion about the name of Peterson Park Road. The applicant is proposing the name Peterson Park Road. OPG staff, based on comments from agencies, recommending the name be changed to Roller Coaster Road North. County Surveyor Horace Brown also had some comments regarding the road name.

Horace Brown stated this road is an extension of Roller Coaster Road, but he would not accept the name with "North" attached to it, the County does not use "East," "West," "South" or "North." It would just be Roller Coaster Road. Peterson Park Road is too close to Peterson Street which would cause confusion and he would not approve that name.

Lisa Moisey stated OPG is recommending approval of the variance request. There was another variance requested for cul-de-sac length that was determined to not be needed. OPG is also recommending approval of the subdivision based on the findings of fact in the staff report and subject to 12 conditions of approval. Upon approval, amendments will need to be made to the conditions to delete the word "North" in reference to Roller Coaster Road.

Chairman Carey asked for public comments.

John Kellogg, Professional Consultants Inc., developer's representative, was present, as was the developer, Jerry McGinnis. Mr. McGinnis has been working with Scott Peterson on this proposal. He thanked Lisa Moisey and staff for their careful review of the proposal. They are in agreement with all of the conditions and recommendations. The road, now called Roller Coaster Road, was proposed to be built to County standards and dedicated to the County. This makes sense and is in keeping with the adjacent subdivision. The additional riparian areas that Lisa Moisey mentioned are the banks of the ditch. These would be off limits to development and they are in agreement with expanding the riparian area shown. They are in agreement with all of the staff's recommendations and ask for approval of the subdivision.

Commissioner Evans asked for more explanation about the name of the road.

Horace Brown stated this will be an extension of Roller Coaster Road, across the highway. It is acceptable to him to call the road Roller Coaster Road without the "North" being added. That would only cause more confusion. Although this would cause Roller Coaster Road to be bisected by Highway 10, it is still acceptable. There are other road that are bisected by highways in the County that have the same name.

Commissioner Kennedy stated his objection to adding more roads to the already overburdened, bankrupt Road Department.

Horace Brown stated he did not agree that the Road Department was bankrupt.

Commissioner Evans moved that the Board of County Commissioners approve the variance request from Section 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways in the subdivision, based on the findings of fact set forth in the staff report. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

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Commissioner Kennedy asked about the access which would have heavy industrial traffic. Is there any kind of special condition that would need to be added regarding access.

Horace Brown stated that would be up to the State Highway Department. They should have been included as a reviewing agency.

Lisa Moisey stated they did review the proposal.

John Kellogg stated they did go through the approach permit process with the Montana Department of Transportation. They met on site with MDT to review access and its design. MDT has approved the approach permit as designed for this location.

Commissioner Evans moved that the Board of County Commissioners approve Peterson Industrial Park Summary Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report, and to amend Conditions 3, 4 and 6 to remove the word "North" from Roller Coaster Road. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Peterson Park Industrial Park Summary Subdivision Conditions of Approval:

Airport

1. The following statement shall appear on the face of the plat:

"This property is within the Airport Influence Area and subject to the requirements of the Airport Influence Area Resolution."

The development covenant shall be amended to include information about airport impacts and required mitigation, subject to Airport Authority approval prior to final plat approval. *Subdivision Regulations Article 3-1(2), 4-1(12) and Airport Authority request.*

2. An aviation easement shall be granted to the Missoula International Airport in compliance with the Airport Influence Area Resolution, prior to final plat approval. *Subdivision Regulations Article 3-1(2) and Airport Authority request.*

Roads

3. Old 10 Road shall be dedicated to the public and shown as such on the plat. Peterson Park Road, which will be renamed "Roller Coaster Road," shall be dedicated to the public and shown as such on the plat. *Subdivision Regulations Article 3-2(1) and recommendation of County Surveyor and OPG.*
4. Peterson Park Road shall be renamed "Roller Coaster Road," and shall be labeled as such on the plat, subject to County Surveyor approval. *Subdivision Regulations Article 3-2(8) and comments from the County Surveyor's Office.*
5. The County Surveyor shall approve drainage plans for the site prior to final plat approval. Grading, drainage, driveway and road plans shall be reviewed and approved by the County Surveyor's Office, prior to final plat approval. *Subdivision Regulations Article 3-4.*

Pedestrian Walkways

6. The following statement shall appear on the face of the plat:

"Acceptance of a deed for a lot within this subdivision constitutes the assent of the lot owner to waive their rights to protest a future RSID/SID for future improvements to Highway 10, Old 10 Road and Roller Coaster Road, including construction of pedestrian walkways and bikeways, based on benefit, and may be used in lieu of their signature on an RSID/SID petition. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land depicted herein." *Subdivision Regulations Article 3-2(5).*

Water and Sewer

7. The following statement shall appear on the face of the final plat:

"Acceptance of a deed for a lot within this subdivision constitutes a waiver of the right to protest a future RSID/SID for public sewer and water systems, based on benefit. The lot owner shall connect to public sewer within 180 days of when the public sewer main is available to the subdivision. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations Articles 3-1(1)(D), 3-7(2) and Health Department recommendation.*

Fire

8. The developer shall show proof of contribution to the Missoula Rural Fire District's large diameter hose fund at the rate of \$100.00 per lot, prior to final plat approval. *Subdivision Regulations Article 3-7(1) and Missoula Rural Fire District recommendation.*

Natural Resources

9. The area of riparian resources, as shown on the plat, shall be extended to protect the riparian resources on this property, as shown on Attachment "A," and subject to OPG approval prior to final plat review. *Subdivision Regulations Article 3-13(2).*
10. The Riparian Management Plan shall define more clearly and specifically the proposed low-impact uses allowed and prohibited for the area. The applicant shall address whether the area will be fenced, if storage will be allowed in the riparian area, and the types of uses and access that will be permitted. The Riparian Management Plan shall be attached to the Development Covenant. *Subdivision Regulations Article 3-13(3)(B).*

11. The Revegetation Plan for Disturbed Sites shall be included in the Development Covenant proposed for this subdivision. Additional language shall be added to the Development Covenant to require all future lot purchasers comply with the provision of the Montana Noxious Weed Act and the Missoula County Noxious Weed Plan. *Subdivision Regulation Article 3-1(1)(B) and recommendation of Missoula County Weed District.*

Primary Travel Corridor Standards

12. The Primary Travel Corridor Landscape Plan shall be amended to include Lot 2. Prior to issuance of a building permit on Lots 1 and 2, all Primary Travel Corridor Standards shall be met, including a landscaping plan. Landscaping shall be installed within 180 days of Building Permit approval or by the next growing season. The Primary Travel Corridor Plan shall be attached to the Development Covenant. *Subdivision Regulation Article 3-14.*

Other Business

Chairman Carey stated for the record that all three Commissioners have signed a resolution promoting a passenger train service within the Spokane-Denver corridor and asking the various states involved to conduct a study of that project's costs and benefits.

There being no further business to come before the Board, the Commissioners were in recess at 1:45 p.m.

THURSDAY, OCTOBER 26, 2000

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was out of the office October 25th and October 27th.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated October 26, 2000, batch numbers 917 and 921 (pages 1-3), with a grand total of \$39,951.48. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated October 26, 2000, batch number 920 (pages 1-4), with a grand total of \$45,692.06. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated October 26, 2000, batch number 922 (pages 1-3), with a grand total of \$48,189.78. The Claims List was returned to the Accounting Department.

Replacement Warrant—Chairman Carey examined, approved, and ordered filed an Application for Issuance Replacement Warrant naming Costco Wholesale as applicant for accounting Warrant #369526 issued September 18, 2000 on the Missoula County 2110 Fund in the amount of \$115.00, which was not received in the mail. No bond of indemnity is required.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and McCulley, Frick & Gilman, Inc. to provide fueling facility inspection and sampling services to insure compliance with the Oxygenated Fuels Program, per the items set forth. The term will be November 1, 2000 through February 28, 2001. The total amount shall not exceed \$2,450.00. The Contract was returned to the Health Department for further signatures and handling.

Agreement – The Commissioners signed a Memorandum of Agreement between Missoula County and Missoula Housing Authority (“MHA”), for a \$15,000 grant from County Community Development Block Grant to continue to provide Shelter Plus Care services to qualified Missoula residents.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Missoula Correctional Services, Inc. for services currently being provided to the Missoula County Detention Facility, as per the items set forth. The term will be July 1, 2000 through June 30, 2001. The total amount shall not exceed \$179,498.19.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and the University of Montana, Department of Geology (“Contractor”), to provide a geoprobe rig for monitoring well installation for the Frenchtown groundwater project. The total compensation to be paid shall be: a) daily use of geoprobe: \$300 per day; b) mileage for transport to site: \$0.40 per mile; and c) replacement probe tips: \$12 each. The County official with whom the Contractor should communicate regarding this contract and who shall have authority to accept completion of performance and approve payments for submission to the County Auditor and Commissioners is Peter Nielsen, Environmental Health Supervisor, Environmental Health Division. The Contract was returned to the Health Department for further signatures and handling.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Child and Family Resource Council, Inc. to provide support services to the Healthy Start Council, a subcommittee of the Forum formed to focus community prevention efforts associated with early childhood (0-6 years of age). The term will be November 1, 2000 through June 30, 2001. The total amount shall not exceed \$5,000.

Other discussion items included:

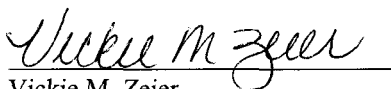
- 1) The Commissioners discussed the Frenchtown fire issues with Scott Waldron.

- 2) The Commissioners considered the fund raising proposal for the Historical Museum at Fort Missoula. Chief Administrative Officer Ann Mary Dussault will contact Bob Brown for further discussion.
- 3) The Commissioners rescinded the County's "golf course policy".

The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, OCTOBER 27, 2000

The Board of County Commissioners met in regular session; a quorum of members was present.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chairman
Board of County Commissioners

MONDAY, OCTOBER 30, 2000

The Board of County Commissioners met in regular session; all three members were present.

Amendment – Chairman Carey and Commissioner Kennedy (with Commissioner Barbara Evans opposing) signed an Amendment to Memorandum of Agreement between Tischler & Associates, Inc. and The City and County of Missoula County for an Impact Fee Study, dated October 1, 2000. This Amendment specifies activities for which impact fees should be studied and for which a fee assessment program should be developed for future consideration, as set forth therein. The total amount shall not exceed \$36,750, which is allocated in the Fiscal Year 2001 County Budget.

TUESDAY, OCTOBER 31, 2000

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was out of the office all day.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated October 31, 2000, batch number 923 (pages 1-5), with a grand total of \$33,541.51. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated October 31, 2000, batch number 926 (pages 1-4), with a grand total of \$36,333.62. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated October 31, 2000, batch number 930 (pages 1-4), with a grand total of \$113,223.55. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Agreement – Chairman Carey signed a Construction Agreement, dated October 26, 2000, between The Montana Power Company and County ProjectsOffice/MSL Develm Park – Barbara Martens, in order to install, operate and maintain gas service to Lots 4A and 5A, Block 2, Missoula Development Park, Phase 1. The total amount shall not exceed \$2,541.00. The Agreement was returned to Barbara Martens in the Projects Office for further signatures and handling.

Agreement – Chairman Carey signed an Agreement of Indemnification by Missoula County (Airport Industrial District) for the benefit and protection of Chicago Title Insurance Company for Lot 3A, Block 2, Missoula Development Park, Phase 1. The purchaser has requested that the following exceptions be deleted from the title report: 1) the creation of RSID/SID No. 470 and 2) the Johnson Brothers Sewer Contract, since Missoula County pays for these expenses out of TIF money and from sale proceeds.

Other items included:

- 1) National Association of Counties (NACo) Membership Dues for 2001 were discussed, and the Commissioners approved payment of these dues (based on population) in the amount of \$1,455.00.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, NOVEMBER 1, 2000

The Board of County Commissioners met in regular session; all three members were present in the afternoon. Commissioner Kennedy was out of the office until noon.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated October 31, 2000, batch number 924 (pages 1-6), with a grand total of \$113,300.93. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated October 31, 2000, batch number 928 (pages 1-3), with a grand total of \$14,094.73. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated October 31, 2000, batch numbers 929 and 931 (pages 1-3), with a grand total of \$6,940.95. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 1, 2000, batch number 932 (pages 1-2), with a grand total of \$2,541.00. The Claims List was returned to the Accounting Department.

Plat -- The Commissioners signed the plat for Blixt Addition, a resubdivision of Lot 7, Sol acreage tracts subdivision, 3rd filing, located in Section 8, T 13 N, R 20 W, PMM, Missoula County, a total area of 2.49 acres, with the owners of record being Beverly J. Blixt and Gary and Julie Kanazawa.

Monthly Report - Chairman Carey examined, approved and ordered filed the Monthly Reconciliation Report for the Clerk of the District Court, Kathleen Breuer, for the month ending October 31, 2000.

Amendment -- The Commissioners signed Exhibit 7a.47, an Amendment to the Missoula County Employee Benefits Plan, which adds Missoula Area Economic Development Corp. to the Missoula County Benefits Plan. This Amendment is effective as of January 1, 2001.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the Chief Administrative Officer meeting held in the forenoon, the following items were reviewed/signed:

Missoula Development Park -- Closing on Lot 3A, Block 2, is contingent on acknowledgement by Technical Sourcing International ("Purchaser") that Purchaser has reviewed flood plain information and hydrology has been reviewed and accepted by Purchaser. Chairman Carey was authorized to sign the Closing Statement (Seller's Settlement Statement). Chairman Carey and Commissioner Evans signed 1) Deed to Convey Title; 2) Real Estate Tax Agreement; and 3) Addendum to Buy/Sell.

A discussion was held on the Department of Emergency Services.

PUBLIC MEETING -- November 1, 2000

The Public Meeting was called to order at 1:30 p.m. by Chairman Bill Carey. Also present were Commissioner Barbara Evans, Commissioner Michael Kennedy, County Surveyor Horace Brown, Chief Civil Attorney Michael Sehestedt and Deputy County Attorney Colleen Dowdall.

Public Comment

None

Routine Administrative Actions

Commissioner Evans moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$451,268.61. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Hearing: Bidlake Family Transfer

Chairman Carey opened the hearing on the Bidlake Family Transfer.

Michael Sehestedt presented the staff report.

This is a consideration of a request to create three family transfer parcels for that parcel described as Tract A-2 of COS 3109, located in the southeast 1/4 of Section 30, Township 15 North, Range 21 West.

Steven V. and Betty D. Bidlake have submitted a request to create three parcels using the family transfer exemption to the Montana Subdivision and Platting Act, with a fourth lot as a remainder. The current parcel is approximately ten acres in size located off Mullan Road. The Bidlakes propose to create three one-acre parcels for transfer to their sons, Michael Ray Bidlake and Brian Steven Bidlake, and to their daughter, Shelly Marie Bidlake. The applicants would retain a remainder parcel of approximately seven acres.

The history of the parcel is as follows:

Parcel History	Year	Exemption Used	Applicant	Intended Recipient
Tract A, COS 3085	1984	Parcel greater than 20 acres in	Robert and William Touchette and	N/A

		size	Virginia Winz	
Tract A-2, COS 3109	1984	Occasional Sale, Remainder	Robert and William Touchette and Virginia Winz	N/A

According to the records kept by the Missoula County Surveyor, the applicants have not previously used the exemptions to the Subdivision and Platting Act.

Betty Bidlake was present and came forward to answer any questions the Commissioners may have.

Chairman Carey stated that as part of the criteria for this exemption, the Board needed to determine if this was indeed a transfer to family members and not an attempt to evade subdivision review. He asked Mrs. Bidlake if she did intend to transfer this property to her sons and daughter?

Betty Bidlake stated that was the intention of her husband and herself.

There being no further comments, the Public Hearing was closed.

Commissioner Evans moved that the Board of County Commissioners approve the request by Steven V. and Betty D. Bidlake to create new parcels by use of the Family Transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Kennedy second the motion. The motion carried on a vote of 3-0.

Hearing: Sixty-Six Quarter Circle Ranch Subdivision (40 Lots) – off Fred Lane, 2 miles NW of I-90 Wye – (Postponed from October 18, 2000)

Chairman Carey opened the Public Hearing on Sixty-Six Quarter Circle Ranch Subdivision.

Nancy Heil, Office of Planning and Grants, presented the staff report.

This is now a proposal for 10 lots. The applicants, Casper Enterprises, are proposing to split a 198 acre parcel into 10 lots that range in size from 5.12 acres to 63.26 acres. They also propose to relocate a common boundary to create the property shown as Lot 8, prior to subdivision filing. That parcel would be recorded as a COS, but subject to the covenants governing Sixty-Six Quarter Circle Ranch Subdivision.

They originally submitted a proposal for a 40 lot subdivision, with 36 lots proposed to range from 1.2 acres to 3.4 acres in size and 4 larger lots. The revised 10 lot design was submitted on October 3, 2000. Staff and agency reviews of this revised proposal could not be completed before the Planning Board meeting on October 3, 2000. The Planning Board held a Public Hearing on October 3, 2000 and continued its decision until October 17, 2000.

The property is unzoned. The 1975 Comprehensive Plan and the 1998 Missoula Urban Area Comprehensive Plan Update both designate Open and Resource land use for the property with a residential density of one dwelling unit per 40 acres. Proposed density is approximately one dwelling unit per 20 acres. Staff did find the proposal could be in substantial compliance with the Comprehensive Plan and also recommended a condition to include some no build zones to further protect the viewshed on the hilltops near the site.

The property does have some large hillsides dominating the eastern portion of the site. Its generally open and vegetated with grasses. There are two intermittent drainages that run through the property that are designated as no build areas. There is a home, a barn and some other outbuildings that are currently located on proposed Lot 8.

The property is accessed from the Frenchtown Frontage Road to Fred Lane. Lots 7 through 10 are proposed to access directly from the Frenchtown Frontage Road. There are currently three existing accesses on the Frontage Road, only one of them has been improved, the one that serves proposed Lot 8. Lots 8 and 9 would share an access. Lots 1 through 6 would access from Fred Lane to a new private road, Sixty-Six Lane. Sixty-Six Lane is proposed to be paved to a 24 foot width with a drainage swale on both side of the road. The road would end in a cul-de-sac about 1,150 feet from Fred Lane. The applicants have requested a variance from maximum cul-de-sac length requirements. Scott Waldron of the Frenchtown Fire District stated they could provide emergency service to the subdivision. He supported approval of the variance request because he would prefer the subdivision include a longer fully improved cul-de-sac rather than a shorter cul-de-sac with longer driveways. The property is not located within a Wildland/Residential Interface. Staff is recommending approval of the variance request.

There is no further development planned for Lot 6, but if the land use designation in the Comprehensive Plan changes or sewers are extended, there would be that possibility in the future. Staff has recommended that an easement be extended between Lots 8 and 9 that could serve Lot 6 in the future. The County Surveyors Office has said they would prefer there not be additional traffic off of the Frontage Road. If there were additional traffic, they would prefer that Fred Lane be used.

Lot 5 would be served by a 54 foot driveway easement from the end of the Sixty-Six Lane cul-de-sac, across Lots 3 and 6. The covenants includes some width and driveway standards. One of the conditions of approval requires that the covenants also address driveway grade requirements.

The drainages on the property are shown within 50 foot easements. There is also another large area that would serve as a drainage collection basin if needed.

There are no pedestrian walkways proposed and the applicants have requested a variance from the walkway requirement. Staff is recommending approval of the variance request. There is no park dedication required since all of the lots are greater than 5 acres in size. Individual well and septic systems are proposed for each lot. The Water District has stated that availability of water is a potential issue and the developer will need to demonstrate that well location exists that can supply enough water to each of the lots before plat filing.

The Planning Office received three letters from neighborhood residents commenting on the original 40 lot proposal. They identified concerns regarding the condition of Fred Lane with respect to dust and the need for paving and water availability.

The Planning Board's consideration of the 10 lot proposal was held on October 17, 2000. They recommended denial of the subdivision based on Comprehensive Plan compliance, a concern about increased density outside the Urban Growth Area and a concern about the sole-source aquifer.

Staff has recommended approval of the subdivision with 12 conditions as noted in the staff report and additional Condition 13 as noted in the attached memo regarding notification about water quantity. Staff also recommends approval of the two variance requests.

Ron Ewart, Eli & Associates, developer's representative, was present, as was the owner, Ed Deschamps. Also present were George Sherwood and Brian Russ, who have been working with Mr. Deschamps on the project. He thanked OPG for the work on the project, especially after shifting gears and changing the number of lots. There is agreement with the recommended conditions of approval. They have been working on this subdivision for about a year and it is now a proposal that will be a good subdivision with minimal impact and enough lots to cover the costs of the improvements. There are covenants that address weed control, road maintenance, single family residential only, custom site built homes, fire standards, wildlife consideration, etc. The lot sizes are variable. The larger lots are along the Frenchtown Frontage Road. There is someone interested in buying a couple of those lots and would keep them as one ranch. The smaller lots are toward the northern end. They would be good for someone who wants to have a couple of horses or raise a few chickens. There are no build zones throughout the property as suggested by OPG to preserve the viewshed and keep houses off the ridgelines. These houses will not be particularly visible from either I-90 or the Frontage Road. There are no build zones along a potential drainage way. Most of the area is flat farmland that has been plowed over but it would be provided as a potential drainage way in case of a catastrophic flood. They agree with the potential road connection between the cul-de-sac and the Frontage Road. A major consideration in this area is the availability of ground water. There are two wells on the property, one is about 300 feet deep and produces 20 gallons per minute, the other is 186 feet deep and produces 25 gallons per minute. The Lee well, located nearby, is 157 feet deep and pumps 20 gallons per minute. These numbers are not great, but they are not bad. They feel there is enough ground water to support the number of homes proposed. Ten lots on 200 acres is a fairly minimal impact on ground water availability. Sixty-Six Lane will be paved to the full 24 foot width. The cul-de-sac will be the full 35 foot diameter radius. It would be 1,150 feet long, slightly longer than maximum. Scott Waldron looked at the proposal and agreed to the variance request. The Planning Board looked at this proposal on two occasions, October 3, 2000 and October 17, 2000. Five of the eight Planning Board members voted to recommend denial of the subdivision, mainly because they felt it did not comply with the Comprehensive Plan. This land is split by governing Comprehensive Plans. Part of it is in the 1998 Update area and part is in the 1975 Comp Plan area. Both plans recommend one dwelling per 40 acres. He felt, however, that the subdivision did meet the goals and objectives of both Comp Plans. This proposal is only three miles from the I-90 Wye, where services and a fire station are located. The roads nearby are all County maintained and in good condition. There is a waiver of the right to protest an RSID for improvements to Fred Lane. The Planning Board was also concerned about the increased density just outside the Urban Growth Area. He could find nothing that indicated exactly what the Urban Growth Area was, but thought the Wastewater Treatment boundary might coincide with it. This property is right next to the boundary line of the Wastewater Treatment area. It would not be that difficult to extend it. There are tracts of land similar to this all around the area. Most of those tracts were created through the Certificate of Survey process with no subdivision review. Another concern was the Missoula sole source aquifer. High groundwater is not a problem in this area. It is about 100 feet down to ground water. The area is also downstream from the Missoula aquifer and would have no effect on it. Again, this is only 10 wells on 200 acres. The water issues will undergo full review by DEQ. Another concern mentioned was the viewshed. The developer was very careful to make sure the viewshed is preserved, that houses will not be located on the crestline, but down from it, so homes will not be that noticeable from the Interstate. If this is approved and built, people will see it as a very good looking subdivision. It will have a good road and homes will be located properly with good landscaping. Other areas north of the Interstate that were created through the COS process are not that nice looking. This proposal includes covenants that will keep it looking good and have a low impact on the environment. A lot of hard work has gone into this project. The number of lots has been reduced to the lowest level possible to still be feasibly done.

Ed Deschamps stated he was the owner of this property. He has owned the property since 1971 and raised his family there. Time has gone by and he is now 73 years old. A couple years ago, he and his wife decided they could no longer run the ranch and their children were not interested in taking it over, so they had to make a decision. A few years ago, they built a home on the corner of this property where they want to live for the rest of their lives, adjacent to this proposal. They listed the ranch with Lambros who tried to sell it for over a year. Then they listed it with Gillespie for over a year and were also unsuccessful. What they found was that this was too large a piece of land and was intimidating. They also found that since the early 1970's, this area had become completely surrounded by subdivisions. They felt they had to do something else but wanted to do it right. They met with George Sherwood and looked at some of the subdivisions he put together. Those were all clean, nice and well designed. They decided to work with Mr. Sherwood. They have been involved with the process and have made some decisions as to what they do and do not want in the subdivision. In the end, this is what they have designed. Mr. Sherwood wanted to include more homes but that did not work out. They are pleased with the 10 lots proposed. They feel it is a good project. The sale price of the ranch with Lambros and Gillespie is approximately the same as with this subdivision, they will not be making any more money. They want to do something that will give them more freedom and a few extra dollars to do the things they like in their senior years. They have sprayed for weeds and have tried to be good neighbors. When Fred Lane needed some work, they met with the County and moved their fences so the road could be improved. They would like to continue to live in the area. This project means a lot to them and they would like to see it happen.

George Sherwood stated he has been working with Mr. Deschamps on this proposal. When he first began on this project, it was with a higher density. He thanked Nancy Heil for her help when gears were switched to have only 10 lots, it was needed. There is a buyer that is willing to buy most of the ranch if it could be divided into lots that could be purchased over time. That was an important factor in changing the proposal. With covenants, mountains, highways, railroads and rivers, there are a lot of no build areas in Frenchtown. He felt Mr. Deschamps property could be done with a high density. There were some unknowns, including the water issue. Some of the wells up high don't produce as well, but Mr.

Deschamps wells and others in the area do produce good quantities. When the project was started at 20 to 40 lots, it would take some time and the infrastructure was starting to mount up and they might lose their buyer for the front end of the ranch, so it was not a good idea to continue. Mr. Deschamps has been a great client. The tone of this subdivision has been set to reflect the Deschamps' wishes. The only way to get the money out of the subdivision and allow them to do what they could was to go with 10 lots. The irregular shapes of the lots was done to allow the buyer of the ranch house to acquire as much of the ground as possible at his wishes. However, to do some of the other improvements, additional lots were needed to pay for them. He would have liked to stay with more lots and make some improvements to the entire area but the bottom line is this is the wishes of the Deschamps.

There being no further comments, the Public Hearing was closed.

Commissioner Kennedy stated that one of the reasons for denial by the Planning Board was lack of compliance with the Comprehensive Plan. This area is designated as Open and Resource and is not really intended as residential, although that is not precluded. The recommended use is one dwelling per 40 acres. This proposal makes the land residential and doubles the recommended density in the Comprehensive Plan. That concerns him. There are other subdivisions near this proposal that have higher density. There is a lot of concern in the entire Frenchtown area allowing density beyond the recommended use. He would have difficulty supporting this subdivision.

Commissioner Evans stated that the Comprehensive Plan the Planning Board used in their determination is 25 years old. It is time a new Comp Plan be instituted and the area be properly represented as to its existing use and needs. She was prepared to support this subdivision.

Chairman Carey stated that to some extent he shared Commissioner Kennedy's concern about this. On the other hand, growth has already outstripped the 25 year old Comp Plan. He was also impressed by the fact that the owners have been good stewards of the land and intend to influence how the land is developed. This is as good as the County could get for this area. He did not lightly contravene the Planning Board's recommendation, but he will in this case.

Nancy Heil clarified that this property is covered by both the 1975 Comprehensive Plan and the 1998 Urban Update.

Commissioner Evans moved that the Board of County Commissioners approve the variance request from Article 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways in the subdivision, based on the findings of fact set forth in the staff report. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Commissioner Evans moved that the Board of County Commissioners approve the variance request from Article 3-2(1)(I) of the Missoula County Subdivision Regulations for Sixty-Six Lane to exceed the maximum cul-de-sac length of 1,000 feet, based on the findings of fact set forth in the staff report. Chairman Carey seconded the motion. The motion carried on a vote of 2-1 (Commissioner Kennedy opposed).

Commissioner Evans moved that the Board of County Commissioners approve the Sixty-Six Quarter Circle Ranch Subdivision, based on the findings of fact in the staff report and subject to the 12 conditions in the staff report and additional Condition 13 regarding low water yield in wells, contained in a memo dated October 30, 2000. Chairman Carey seconded the motion. The motion carried on a vote of 2-1 (Commissioner Kennedy opposed).

Sixty-Six Quarter Circle Ranch Subdivision Conditions of Approval:

Lot Configuration

1. The plat shall include no build zones on Lots 5, 6 and 7, to ensure that structures are not located on the hilltop or ridgeline, as shown on Attachment A, subject to OPG approval, prior to final plat approval. *Subdivision Regulations Article 3-1(1)(C) and staff recommendation.*

Roads/Access

2. The following statement shall appear on the face of the plat and in each instrument of conveyance:

"Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for improvements to Frenchtown Frontage Road and Fred Lane, including installation of pedestrian walkways or bikeways, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations Article 3-2 and County Surveyor recommendation.*

3. The following statement shall appear on the face of the plat and in each instrument of conveyance:

"Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for the creation of a maintenance district for Fred Lane. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations Article 3-2 and staff recommendation.*

4. Engineering and drainage plans for Sixty-Six Lane shall be approved by the County Surveyor's Office prior to final plat approval. The road shall be constructed or guaranteed prior to final plat approval. A professional engineer shall certify that the road has been constructed per the approved plans. The road name shall be approved by the County Surveyor's Office prior to final plat approval. A road sign shall be placed at the intersection of Sixty-Six Lane and Fred Lane prior to final plat approval. *Subdivision Regulations Article 3-2, County Surveyor recommendation and Frenchtown Rural Fire District recommendation.*

5. The road maintenance agreement for Sixty-Six Lane shall be approved by the County Attorney's Office prior to final plat approval. *Subdivision Regulations Article 3-2(1)(H) and staff recommendation.*

6. The final plat shall reference the existing GLO and Road Plat Book 1 roads subject to County Surveyor's Office approval, unless the roads are vacated prior to final plat approval. *Subdivision Regulations Article 3-2 and staff recommendation.*
7. The covenants shall be amended to address driveway grade requirements prior to final plat approval, subject to OPG approval. *Subdivision Regulations Article 3-2 and staff recommendation.*
8. Drainage plans for the site, including the width of the no build zone around the drainages, shall be approved by the County Surveyor prior to final plat approval. The final plat shall state that the purpose of these no build zones is surface water drainage. *Subdivision Regulations Article 3-4 and staff recommendation.*
9. The final plat shall include a 54 foot easement extending between Lots 8 and 9 or along the northern boundary of Lot 9 to provide for a possible through connection to Lot 6. The final plat shall include language, to be approved by the County Attorney's Office, that states that the easement is conditional upon the right-of-way being used as a roadway at the time that it is needed to serve future subdivision on Lot 6. The owners of Lots 8 and 9 will not be responsible for the construction of the future roadway if construction is attributable to division of Lot 6. No access of any type will be allowed across the easement until the area shown as a conditional public access easement is opened for public access, as required and approved by the Missoula Board of County Commissioners. No structures, permanent improvements or utilities shall be placed within the right-of-way so as to interfere with the eventual use of the right-of-way as a public roadway. *Subdivision Regulations Article 3-2(1)(E), OPG recommendation and County Surveyor recommendation.*

Water

10. The following statement shall appear on the face of the plat and in each instrument of conveyance:

"Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for public water and sewer systems, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations Article 3-7(2) and Frenchtown Rural Fire District recommendation.*

11. The developer shall contribute \$100.00 per new lot to the Frenchtown Rural Fire Department prior to final plat approval. *Subdivision Regulations Article 3-7(1) and Frenchtown Rural Fire District recommendation.*
12. The final plat shall include the following statement, subject to County Attorney's Office approval:

"This property is in an area that has experienced low water yield in wells used for domestic purposes. Missoula County makes no representation that water is available to the individual lots within this subdivision." *Subdivision Regulations Article 4-1(12) and Commissioners recommendation.*

Weeds/Wildlife

13. A Revegetation Plan for Disturbed Sites shall be approved by the Missoula County Weed Board prior to final plat approval. *Subdivision Regulations Article 3-1(1)(B) and staff recommendation.*

Consideration: Snowdrift Acres (4 Lot Subdivision) – Within Grass Valley Farms at the Intersection of Mullan Road and Snowdrift Lane

Karen Hughes, Office of Planning and Grants, presented the staff report.

This is a request from Jensen and Jensen Enterprises, represented by Eli & Associates, to divided a 20.62 acre parcel into four lots, each approximately five acres in size, by gross acreage. The property is located on the northwest corner of Mullan Road and Snowdrift Lane within Grass Valley Farms, a large lot single family residential development. The property is currently vacant. A building permit has recently been issued for proposed Lot 4 of the subdivision. Septic drainfields for proposed Lots 2 and 3 have been approved by DEQ. Septic systems and individual wells will provide sewer and water services for all lots. The property is located within the Air Stagnation Zone and the building permit jurisdiction.

Staff recommends approval of the variance request to not provide sidewalks or pedestrian walkways on Snowdrift Lane or Mullan Road, and also approval of the summary subdivision subject to five conditions. Four conditions are listed in the staff report and additional Condition 5 is shown on a memo dated November 1, 2000.

The property is zoned C-A3 which permits a density of one dwelling unit per five acres. The Comprehensive Plan designates this property as Rural Residential with a recommended density of one dwelling unit per five to ten acres. Adjacent properties include rural residential development with lots that range in size from 5 to 20 acres and agricultural lands greater than 20 acres. Many residential properties in the area have accessory agricultural uses.

The property does comply with the Comprehensive Plan and zoning. For the purposes of zoning compliance, staff looks at the area of the property within the right-of-way as well as the lotted area to determine compliance.

There is an irrigation ditch that runs along the northeastern boundary of the property. In addition, the applicant is proposing an irrigation easement along the western edge of the property to permit the irrigation ditch to serve all four lots.

The subdivision is accessed by taking Mullan Road west from Reserve Street for about 4 miles, then right on Snowdrift Lane. The property is at the intersection of Mullan Road and Snowdrift Lane. Mullan Road is a two lane, State maintained road, paved to about 38 feet within a 120 foot right-of-way. It is a primary travel corridor and the applicant has included Primary Travel Corridor Standards in the covenants. In addition, there is a no build line on the plat for Lot 4 which is adjacent to Mullan Road.

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Snowdrift Lane presently has an RSID in effect for paving. Because Snowdrift Lane is an off site, unpaved road that is less than 500 feet from the nearest publicly maintained road, the applicant is required to pave. However, because there is an RSID in effect, staff has recommended a condition that the subdivider contribute an amount equal to the share of two additional lots, as if they had been included in the RSID assessment. In addition, staff requests a development agreement be signed by the subdivider that would require they pave Snowdrift Lane from its intersection with Mullan Road to the driveway of Lot 1, in the event the paving is not done through the RSID.

There is a request for a variance from pedestrian walkways and staff recommends approval of the request given the rural area and lack of connections that could be made at this time. The applicant has included an RSID waiver for future improvements to both Snowdrift Lane and Mullan Road to address those issues in the future.

The fire department did not have any issues with access. They did request the ability to review and approve driveway plans because of the length of the driveways shown on the proposed site plan. No natural environment issues came to light based on comments from Fish, Wildlife and Parks. Staff recommends approval of the subdivision.

Ron Ewart, Eli & Associates, developer's representative, was present, as were the developers, Sam Martin and Bob Jensen. He thanked OPG for their work on this proposal. Grass Valley Farms area has some very beautiful homes. The people really care a lot about their property. Grass Valley Tracts have covenants covering this property and the developer will comply fully with them. Lot 4 does create a small problem, however. It is 4.8 acres and minimum lot size as required by the covenants is 5 acres. Lot 4 was 5 acres but when Mullan Road was fixed and widened, the right-of-way did take some land from the lot. They believe the intent of the covenants can still be met, however. There are also other lots that are slightly less than 5 acres because of Mullan Road. The Homeowners Association suggested the applicant get a variance from the members for the 4.8 acre size. Two-thirds of the members must agree to the variance. Thirty-one letters were sent, one to each property owner. Twenty responses were received that concur with the variance request. There were no negative comments. The other concern was the RSID contribution. Only two of these lots have been included in the RSID assessment. The other two should also be included, everyone should pay their fair share. He had not had a chance to discuss this in detail with his clients, but he felt sure it could be worked out. A Development Agreement is being drafted for this proposal that addresses Primary Travel Corridor Standards, fire standards, weed control and notification of adjacent agricultural operations.

Sam Martin asked what the difference would be in the RSID contribution for four lots as opposed to two lots?

Colleen Dowdall stated that Jesse Sattley in the Public Works Department would have those numbers. She assumed the property owners would know what the assessment was. The Homeowners Association should have given that information. The theory under which this could be required is that under Subdivision Regulations, the developer would be required to pave Snowdrift Lane from Mullan Road to the driveway of the last lot. That was assumed to not be a problem because the RSID would do the paving. The benefit was based on one lot, one assessment. If there had not been this RSID, the developer would have been required to pave Snowdrift Lane from Mullan Road to Lot 1. It was her opinion that all four lots were paying a proportionate share. The neighbors have also envisioned that happening, based on testimony from a public hearing for another subdivision in the area. The total assessment would be redivided adding two more of these lots to the total. The developer would give a cash contribution that would equal the share of the two additional lots.

Sam Martin stated that during discussions, an amount was never mentioned per lot for these additional lots.

Colleen Dowdall stated that Norm's Little Acres is not subject to the paving requirement because they are more than 500 feet from Mullan Road. This subdivision is adjacent to Mullan Road and is required to pave.

Sam Martin asked about the lot across the road, wasn't the cost normally split with them?

Colleen Dowdall stated that was not correct.

Sam Martin was concerned about the fact that no numbers were given.

Colleen Dowdall asked if the property owner knew what his assessment was per lot?

Sam Martin stated that figure was not known. Mr. Jensen would like to know what the additional two lots will cost.

Ron Ewart stated that he believed the assessment was about \$5,000 per lot.

Colleen Dowdall stated there were 31 lots that were being assessed.

Commissioner Evans suggested a brief recess to contact Jesse Sattley to determine the figure.

Commissioner Kennedy stated that regardless of the RSID, regulations require the developer to pave Snowdrift Lane from Mullan Road to the driveway of Lot 1. If that was going to happen, the overall cost to the developer would probably be double what the RSID assessment will be. By requiring the RSID contribution for the additional two lots, it will save the developer more than half the cost that would otherwise be their responsibility.

Colleen Dowdall stated the neighbors were upset about the additional lots not being required to contribute to the RSID. The neighbors considered asking that the RSID be withdrawn.

Sam Martin stated he would like to take a brief recess as Commissioner Evans suggested.

Commissioner Evans stated that assuming Jesse Sattley was in and could provide a figure, it would be, at best, a guess-timate.

Bob Jensen stated he did not mind sharing equally with the addition of two lots. He did have a problem with the fact that if the RSID fails, he would have to pave the whole thing from one end to the other. That did not seem proportionately correct.

Colleen Dowdall stated it would not be all of Snowdrift Lane, it would only be Snowdrift Lane from Mullan Road to the driveway of Lot 1, paved to a 24 foot width.

Bob Jensen stated he did not know if the road was already built to a 24 foot width.

Karen Hughes stated it was currently 24 feet wide.

Bob Jensen stated this could encourage the RSID to fail, until he does his paving, then reinstate the RSID for the remainder of Snowdrift Lane and get his portion for free.

Colleen Dowdall stated the County was not involved in any strategy of that sort. The subdivision is being reviewed strictly by what the regulations say, which say the developer must pave off site access roads if they are less than 500 feet from the nearest paved, maintained road. Those are the rules. They weren't applied to the developer because of the RSID. When Norm's Little Acres was presented, the room was full of Snowdrift Lane residents wanting full contribution from both Norm's Little Acres and this subdivision.

Bob Jensen stated he did not have a problem with paving his share for adding two lots. If the RSID doesn't go through, then the results are somewhat harsh to him.

Colleen Dowdall stated that would have been the requirement anyway, had there not been an RSID in place.

Commissioner Kennedy stated Mr. Jensen did not have to do this until the RSID succeeds. The land does not have to be subdivided. But if it is subdivided, he runs that risk.

Commissioner Evans stated that it would not be in Mr. Jensen's interest to withdraw the subdivision. The Commissioners should go ahead and act on the request. Whether or not it is built is up to the developer, however, they do not want to start the process all over again. They need to have the approval on record. It was not cheap getting this far. Mr. Jensen should call Jesse Sattley to get the figures on the RSID.

Commissioner Kennedy stated he agreed with Condition 5, but felt a time limit should be added.

Colleen Dowdall stated the regulations require the public improvements be installed within two years of the date of filing. If the RSID has not been created at the time of plat filing, a public improvements guarantee will be required for the cost of the paving. The time limit is part of the regulations and did not need to be specified in Condition 5.

Commissioner Evans moved that the Board of County Commissioners approve the variance request from Article 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways on Snowdrift Lane or Mullan Road, based on the findings of fact set forth in the staff report. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Commissioner Evans moved that the Board of County Commissioners approve Snowdrift Acres Summary Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report and the addition of Condition 5 regarding RSID contribution as noted on the memo dated November 1, 2000. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Snowdrift Acres Summary Subdivision Conditions of Approval:

Roads

1. Driveway plans shall be reviewed and approved by the County Surveyor's Office and Missoula Rural Fire District prior to final plat approval. *Subdivision Regulations Article 3-2(1)(G), 3-2(1)(E), OPG, County Surveyor and Health Department recommendation.*
2. Driveway approach permits shall be secured for Lots 1 through 3 prior to building permit issuance. *Subdivision Regulations Article 3-1(1)(E) and County Surveyor recommendation.*
3. If paving of Snowdrift Lane is financed by the paving RSID recently adopted by the governing body, the developer shall contribute an amount equal to the share of two lots, as if those additional lots were included in the RSID assessment. Evidence of contribution to the current RSID for Snowdrift Lane shall be presented to the Office of Planning and Grants at the time of final plat approval. The subdivider shall also sign a development agreement requiring that, in the event that the road paving is not financed by an RSID, the subdivider shall pave Snowdrift Lane from its intersection with Mullan Road to the driveway of Lot 1. *Subdivision Regulations Article 3-2(10)(B)(1).*

Fire

4. The developer shall contribute \$100.00 per new lot to the Missoula Rural Fire District. Evidence of contribution shall be presented to the Office of Planning and Grants at the time of final plat approval. *Subdivision Regulations Article 3-7(2) and Missoula Rural Fire District recommendation.*
5. The RSID waiver on the proposed plat shall be amended to include the following statement:

"Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for public water and sewer systems, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations Article 3-7(2).*

There being no further business to come before the Board, the Commissioners were in recess at 2:30 p.m.

THURSDAY, NOVEMBER 2, 2000

The Board of County Commissioners did not meet in regular session. Chairman Carey was in Bozeman November 2nd and 3rd attending a MACo Leadership Retreat; and Commissioner Kennedy was out of the office all day.

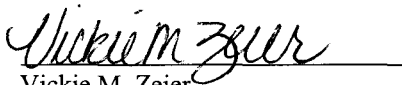
FRIDAY, NOVEMBER 3, 2000

The Board of County Commissioners did not meet in regular session. Commissioner Kennedy was out of the office all day; and Commissioner Evans was out until noon.

Monthly Report - Chairman Carey examined, approved and ordered filed the Monthly Reconciliation Report for Justice Court 1, John E. Odlin, Justice of the Peace, for the month ending October 31, 2000.

Monthly Report - Chairman Carey examined, approved and ordered filed the Monthly Reconciliation Report for Justice Court 2, Justice of the Peace, Karen A. Orzech, for the month ending October 31, 2000.

Agreement - Chairman Carey signed a School Year 2000-2001 Agreement between Missoula County Public Schools and Missoula City County Health Department for the purpose of hiring one 1.0 Full-time Equivalency Neighborhood Nurse to provide services in the Franklin Elementary School neighborhood. The term will be October 1, 2000 through September 30, 2001. The total amount shall not exceed \$46,803.00. The document was returned to the Health Department for further signatures and handling.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chairman
Board of County Commissioners

MONDAY, NOVEMBER 6, 2000

The Board of County Commissioners met in regular session; all three members were present in the afternoon. Commissioner Kennedy was out of the office until noon.

Payroll Transmittal - The Commissioners signed the following Payroll Transmittal Sheet: Pay Period: 22 - Pay Date: October 3, 2000. Total Missoula County Payroll: \$742,628.54. The Transmittal Sheet was returned to the Auditor's Office.

Plat and Agreement - The Commissioners signed the plat for Mountain Heights Subdivision, a subdivision of Tract 9, Massey McCullough acres located in the NE¼ of Section 12, T 12 N, R 20 W, PMM, Missoula County, a total area of 5.04 acres, with the owners of record being Robert J. Wimet and Steven A. Hall.

Also signed was a Subdivision Improvements Agreement and Guarantee, dated October 26, 2000, pertaining to the Mountain Heights Subdivision. The public improvements which remain to be completed are construction of street, water and sewer improvements. The estimated cost is \$249,000.00. The improvements shall be completed no later than one year from the date of the final plat approval, secured by a letter of credit.

Report - The Commissioners signed the annual update report for the State Department of Public Health and Human Services for the receipt of Missoula's allocation of earmarked alcohol tax revenues, used to provide treatment services through the Missoula Indian Center and Turning Point. The estimated funding level continues to be \$86,404 for Fiscal Year 2001.

Agreement - Chairman Carey signed a Traffic Safety Bureau Standard Agreement, dated October 1, 2000, between Missoula County ("Contractor") and the Montana Department of Transportation for a project that proposes to use overtime patrols on particularly heavily traveled holiday weekends to issue citations for non-use, improper use or absence of required seat belts by drivers and passengers stopped for these or other traffic violations. This project shall be started by the Contractor within 10 (ten) days from the date of execution of the Agreement and shall be completed no later than September 30, 2001. The total amount shall not exceed \$15,000.00.

Professional Services Contract - The Commissioners signed a Professional Services Contract between Missoula County and the Missoula County Sheriff's Department, for the participation of Sheriff's Department officers in the Driving Under the Influence (DUI) Enforcement Team as outlined in the Attachment I thereto. Overtime funds are restricted for DUI enforcement with Missoula County. The term will be November 1, 2000 through June 30, 2001. The total amount shall not exceed \$4,000.00. The document was returned to the Health Department for further signatures and handling.

Contract - The Commissioners approved a proposal from Susan Reed, Auditor, that Missoula County enter into a contract with Verizon for cellular phone service, based on input received from County Department Heads. The proposal was returned to Susan Reed for further handling.

TUESDAY, NOVEMBER 7, 2000

The Courthouse was closed for General Election Day.

WEDNESDAY, NOVEMBER 8, 2000

The Board of County Commissioners met in regular session; a quorum was present. Commissioner Evans left for Washington, D.C. where she will attend meetings through November 10th with FERC and EPA regarding the Milltown Dam issue.

Extension Request – The Commissioners signed a six-month Extension Request of the final plat approval for Otto's Acres Summary Subdivision, in accordance with the recommendation of the Office of Planning and Grants staff. The new filing deadline is June 1, 2001.

PUBLIC MEETING – November 8, 2000

The Public Meeting was called to order at 1:45 p.m. by Chairman Bill Carey. Also present was Commissioner Michael Kennedy. Commissioner Barbara Evans was attending a meeting in Washington, D.C. The meeting was called to order 15 minutes late as another meeting in the Conference Room lasted longer than expected.

Public Comment

None

Routine Administrative Actions

Commissioner Kennedy moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$2,541.00. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

There being no further business to come before the Board, the Commissioners were in recess at 1:46 p.m.

THURSDAY, NOVEMBER 9, 2000

The Board of County Commissioners did not meet in regular session. Commissioner Kennedy was out of the office all day.

Election Canvass

In the afternoon, Chairman Carey, County Auditor Susan Reed, and County Superintendent of Schools Rachel Vielleux canvassed the General Election which was held Tuesday, November 7, 2000.

FRIDAY, NOVEMBER 10, 2000

The Courthouse was closed for the Veterans Day holiday. On Saturday, November 11th, Chairman Carey participated in the Veterans Day ceremony held on the Courthouse lawn in the forenoon.



Vickie M. Zeier
Clerk & Recorder



Bill Carey, Chairman
Board of County Commissioners

MONDAY, NOVEMBER 13, 2000

The Board of County Commissioners met in regular session; a quorum was present in the afternoon. Commissioner Kennedy was out of the office all day November 13th and 14th; and Chairman Carey and Commissioner Evans were out until noon.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 9, 2000, batch number 940 (pages 1-2), with a grand total of \$184.02. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 9, 2000, batch number 941 (pages 1-2), with a grand total of \$131.01. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 9, 2000, batch number 942 (pages 1-2), with a grand total of \$143.57. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 9, 2000, batch number 943 (pages 1-2), with a grand total of \$12,514.94. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 13, 2000, batch number 933 (pages 1-4), with a grand total of \$9,836.63. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 13, 2000, batch number 935 (pages 1-4), with a grand total of \$43,896.85. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 13, 2000, batch number 938 (pages 1-3), with a grand total of \$4,952.30. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 13, 2000, batch number 939 (pages 1-4), with a grand total of \$22,365.40. The Claims List was returned to the Accounting Department.

Monthly Report - Chairman Carey examined, approved and ordered filed the Monthly Reconciliation Report for the Report of the Sheriff, Douglas W. Chase, for the month ending October 31, 2000.

TUESDAY, NOVEMBER 14, 2000

The Board of County Commissioners met in regular session; a quorum was present.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Budget Agreement – The Commissioners signed an annual Budget Agreement between Montana State University Extension Service and Missoula County. Missoula County will contribute the amounts specified therein for the purposes listed in the budget for the support of extension work in agriculture, family and consumer sciences and related subjects. The Extension Service and Montana State University will contribute the amounts necessary to pay the balance of the cooperatively financed salaries of County Extension Agents assigned to Missoula County. The term is July 1, 2000 through June 30, 2001. Total County contribution to agents' salaries for contracted services is \$62,608.00. The document was returned to Jerry Marks in the Extension Office for further signatures and handling.

Agreement – The Commissioners signed a Memorandum of Agreement between Turning Point (Western Montana Mental Health Center) and the Missoula Board of County Commissioners to purchase services that would provide for the coordination, facilitation, development and evaluation of the Flagship Project in Missoula County. The term shall be October 1, 2000 through September 30, 2001, and is contingent upon receipt of Juvenile Justice Grant Funds by Missoula County. The total amount shall not exceed \$48,007.36.

Extension Request – The Commissioners signed a one year Extension Request of the preliminary plat approval deadline for Ibey Nursey Subdivision, in accordance with the recommendation of the Office of Planning and Grants staff. The new filing deadline is December 8, 2001.

Other discussion items included:

- 1) An update was given by Barb Martens on the Fort Missoula Planning Process;
- 2) Discussion was held on the approval of the County Attorney's letter regarding Disabled Veterans' Tax Exemption.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, NOVEMBER 15, 2000

The Board of County Commissioners met in regular session; all three members were present in the afternoon. Commissioner Kennedy was out until noon.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 14, 2000, batch number 944 (pages 1-3), with a grand total of \$30,516.77. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 14, 2000, batch number 945 (pages 1-3), with a grand total of \$49,844.40. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 14, 2000, batch number 949 (pages 1-3), with a grand total of \$32,043.76. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 15, 2000, batch number 946 (pages 1-4), with a grand total of \$333,769.07. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 15, 2000, batch number 948 (pages 1-3), with a grand total of \$78,963.55. The Claims List was returned to the Accounting Department.

Agreement – The Commissioners signed an Office Rental Agreement between John H. Sytsma ("Landlord") and SSTEP-OPG, Missoula County ("Tenant"), for office space for the Seeley Lake Rural Outreach Crime Victims' Advocate Office located at the Sytsma Law Office building at the corner of Highway 83 and Locust Lane in Seeley Lake, Montana. This lease shall be in effect for a term of month-to-month, commencing on October 1, 2000. Tenant shall pay landlord a monthly rent of \$100, due the first day of each month. Tenant shall provide telephone service to their office and be responsible for all telephone charges incurred by Tenant. Tenant agrees to reimburse Landlord for any fax charges incurred by using Landlord's fax machine. Landlord will provide utilities for Tenant.

Agreement – The Commissioners signed a Memorandum of Agreement between the Missoula Board of County Commissioners and The YWCA of Missoula to complete the process of implementing The Missoula County Domestic

Violence Program. The YWCA provides for shelter, crisis intervention, advocacy, counseling and support and prevention services to victims of domestic and sexual violence. The term shall be October 1, 2000 through September 30, 2001, and is contingent upon receipt of DPHHS Domestic Violence Program grant funds by Missoula County. The total amount shall not exceed \$38,000.00.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the Chief Administrative Officer meeting held in the forenoon, the following items were addressed:

- 1) The Commissioners did not approve the \$750 payment of Fiscal Year 2001 dues for the Montana Coalition of Forest Counties (Montana Association of Counties), as per the recommendation of Ann Mary Dussault, Chief Administrative Officer. Missoula County did not participate in Fiscal Year 2000 and dues were not budgeted for Fiscal Year 2001;
- 2) A Letter (BCC-2000-268) to County Commissioner-elect Jean Curtiss was signed—congratulating her on her election and informing her of the MACo New Commissioner Orientation coming up in December in Helena; and
- 3) A report was given by Chief Financial Officer Dale Bickell.

PUBLIC MEETING – November 15, 2000

The Public Meeting was called to order at 1:30 p.m. by Chairman Bill Carey. Also present was Commissioner Michael Kennedy, Commissioner Barbara Evans, County Surveyor Horace Brown, Deputy County Attorney Colleen Dowdall and Chief Civil Attorney Michael Sehestedt.

Public Comment

None

Routine Administrative Actions

Commissioner Evans moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$285,393.20. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Hearing: Hollinger Family Transfer

Chairman Carey opened the public hearing on the Hollinger Family Transfer.

Colleen Dowdall, Deputy County Attorney, presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described in Micro Book 322, Page 802, located in Section 29, Township 16 North, Range 14 West.

A.P. Hollinger has submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 104 acres in size located on Big Sky Lake off Highway 83 and is accessed by private roads within the Big Sky Lake subdivision. Mr. Hollinger proposes to create an approximately 60 acre parcel for transfer to his son, Mark Hollinger. The applicant would retain ownership of the remaining 44 acres.

The history of the parcel is as follows:

Parcel History	Year	Exemption Used	Applicant	Intended Recipient
Remainder parcels from the subdivision of Big Sky Lake Subdivision	Over several years	None	N/A	N/A

According to the records kept by the Missoula County Surveyor, the applicant used the agricultural covenant exemption to the Subdivision and Platting Act in 1983 in this same section but not adjacent to Big Sky Lake or this request.

A.P. Hollinger stated that this is what land was left after 35 years. He is inheriting the land from his wife who passed away a year ago. His son would like to have a parcel of land to build on.

Chairman Carey stated that as part of the criteria for this exemption, the Board needed to determine if this was indeed a transfer to a family member and not an attempt to evade subdivision review. He asked Mr. Hollinger if he did intend to transfer this property to his son?

A.P. Hollinger gave a history of the property. He used to own the land but gave it to his wife. His wife gave half the property to his son and family. When she passed away, he inherited the other half back again. There are about 244 acres of contiguous property under family ownership. His son would like to build a cabin on the 60 acre parcel.

Colleen Dowdall asked if the part that Mr. Hollinger was seeking to divide was all owned by him, as soon as the estate was settled, or does his son own part of that.

A.P. Hollinger stated his wife deeded his son half interest.

Colleen Dowdall stated that the son now owed the land with Mr. Hollinger.

A.P. Hollinger stated that was correct. He thought that because they owned more than 160 acres altogether, that it wasn't a problem.

Colleen Dowdall stated that none of this information was reflected in Mr. Hollinger's affidavit. Mr. Hollinger is listed as owner of the property. He can apply to transfer a parcel to his son, but in this case, since the son is part owner of the property, the son would be an applicant also. However, the son cannot transfer property to himself. Mr. Hollinger needs sole ownership of the property to do that.

A.P. Hollinger stated that the title to all of the property was in his name only.

Colleen Dowdall asked if Mr. Hollinger was certain. He had just said that the wife had deeded half interest to the son.

A.P. Hollinger stated his wife gave the son half interest, but it is not deeded.

Colleen Dowdall stated the ownership could be checked at the Clerk and Records Office.

A.P. Hollinger stated it was not of record. The property is in his wife's name but will be transferred to his name.

Commissioner Evans stated the gift to the son was verbal only.

A.P. Hollinger stated that was correct.

Commissioner Evans asked if the son intended to keep the land and build on it, or does the son intend to further split the land and sell part of it?

A.P. Hollinger stated his son had a trailer on the property but moved it off recently.

Commissioner Evans asked if this action was to give the land to Mr. Hollinger's son, not a means of splitting it for sale.

A.P. Hollinger stated this would not be just a one acre lot, his son would be receiving extra terrain.

Commissioner Evans stated that this was the first and only time Mr. Hollinger had transferred land to his son.

A.P. Hollinger stated that was correct.

Commissioner Evans stated that by law Mr. Hollinger was allowed to do that once per County, per lifetime.

A.P. Hollinger asked if he could give land to his other son?

Commissioner Evans stated Mr. Hollinger could do that. By statute, it was one transfer per child, per County, per lifetime.

A.P. Hollinger stated he would like to transfer the rest of this land to his other son.

Colleen Dowdall stated that if this is granted, Mr. Hollinger will be creating the Family Transfer parcel to his son. The other parcel will be in his ownership and he could do whatever he wanted with it. He could transfer it to his other son. That would not require the Board's approval.

Commissioner Kennedy asked if the property was in Mr. Hollinger's name or in the estate's name.

Colleen Dowdall stated that also concerned her. If it is in the estate's name and Mr. Hollinger is to inherit, he would be able to transfer to his son by use the Family Transfer exemption. She is more concerned as to what the son's interest in the property is currently.

Mark Hollinger stated the intention with this property was for him to be able to build a cabin. The property needs to be in his name so he can obtain a mortgage. He would like to keep 60 acres and did not want to subdivide it, he wanted to keep it in the family.

Colleen Dowdall asked how his mother transferred the half interest to him.

Mark Hollinger stated he was not sure how legally that was done.

Commissioner Evans asked if there were any documents that gave him this land.

Mark Hollinger stated it was just a verbal communication.

Commissioner Kennedy stated this would be contingent upon whether or not there is record of ownership.

There being no further comments, the public hearing was closed.

Commissioner Evans moved that the Board of County Commissioners approve the request by A.P. Hollinger to create a new parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review, contingent upon the proper discover of ownership. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Hearing: Mercurio Family Transfer

Chairman Carey opened the public hearing on the Mercurio Family Transfer.

001 0135

Colleen Dowdall, Deputy County Attorney, presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described as a portion of Tract 2, COS 325; Micro Book 618, Page 374, located in the southeast 1/4 of Section 36, Township 36 North, Range 21 West.

Matthew Mercurio has submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately five acres in size located in the Big Flat area, off Harper's Bridge Road. Mr. Mercurio proposes to create a one acre parcel on the northeast corner of the property, along the County road. He proposes to transfer the tract to his eight-year-old daughter, Athena G. Mercurio, for a future homesite. The four acre remainder is the location of the applicant's residence.

The history of the parcel is as follows:

Parcel History	Year	Exemption Used	Applicant	Intended Recipient
Tract 2, COS 325	1974	Parcels greater than 10 acres in size	Mrs. Sullivan	N/A
A portion of Tract 2, of Deed Exhibit Microrecords Book 175, Page 2072, 5 acres in size	1973	Prior to adoption of the Subdivision and Platting Act	Lajoie	N/A

According to the records kept by the Missoula County Surveyor, the applicant has not previously used the exemptions to the Subdivision and Platting Act.

Matthew Mercurio stated that he was not trying to evade any of the subdivision laws. His eight-year-old daughter is his sole dependant. He wants to take one acre of land and put it in her name. He would put in a septic, a well and power and rent it to someone for a mobile or manufactured home. The rental income would be put into a trust for his daughter's college education. When she is of age, she may decide to build there. The money from the rental will be placed in a tax exempt trust. This will give her college money and a future homesite.

There being no further comments, the public hearing was closed.

Commissioner Evans moved that the Board of County Commissioners approve the request by Matthew Mercurio to create a new parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Decision: Denning Family Transfer (from July 14, 1999)

Colleen Dowdall presented a background on this proposal. This is a request the Denning's made in 1999 to create a family transfer parcel. Testimony was taken at that time but it was discovered during the course of the hearing that the land was located on the Flathead Indian Reservation. There is an interlocal agreement with the Tribes that requires that they be allowed to review these matters for purposes of commentary. That review had not been done at the time of the hearing. Since that time, the Tribes have been contacted and a letter from them has been received in which they have listed their usual concerns regarding habitat and asking that landowners visit with the Tribes land use planning office. They had no objections to the transfer. At this point, the Dennings are ready to file their Certificate of Survey and need the Commissioners final approval before they can proceed.

Chairman Carey stated the Tribes have no objection.

Colleen Dowdall stated the Tribes cannot object to such transfers, they can only comment on them. The Tribes typical comment letter states that they hope the landowner will contact their planning office to discuss any habitat issues.

Commissioner Evans moved that the Board of County Commissioners approve the request by Richard and Christine Denning to create a new parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review, and that the Board recommend that they speak with the Tribal planning office as requested to discuss any habitat or other issues. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Hearing: Comprehensive Plan Appeal – Sportland Trailers (Near Lolo)

Chairman Carey: The next item on the agenda is a hearing on a Comprehensive Plan Appeal from Sportland Trailers near Lolo. I will open the hearing.

Dave Loomis: Good afternoon Commissioners. I'm Dave Loomis with the Office of Planning and Grants. The request today is actually from a Planning Director's determination that a proposed use in an unzoned area is not compatible with and does not comply with the Comprehensive Plan. I'd like to give you a little bit of background, if I may, and summarize some of the findings. The applicant is appealing, as I said, a determination. This determination is that a proposed use is not in substantial compliance with the Comprehensive Plans. The property is located on the west side of Highway 93 South, near the intersection of that highway and Valley Grove Drive, which is north of the community of Lolo as we know it. This area is designated in the Comprehensive Plans for residential use at a density of up to two dwelling per acre. The request is to use the property for display, storage and sales of utility trailers and various types of trailers. The applicant also plans to build a sales and display building. And finally it is located within building permit jurisdiction and therefore, it's before you. OPG issued its determination on October 6 of this year and that determination was based upon the analysis required in Resolutions 83-99 and 85-082. I direct you to the findings in the report and the attached letter of October 6, which contains the compatibility analysis. The attachment is Attachment B in the attachments. As I said, this property is not zoned. It's designated for residential use in the Comprehensive Plans. The proposed use is a commercial type use, display and sales. The zoning resolution for the County, if this were zoned, permits, when we looked at this, we try to look at, okay, so if it were zoned, where would we look. And the zoning district that would allow these kinds of uses, if it were zoned, is the C-C2, or a general commercial zoning district. This proposed use also meets a description in

the Comprehensive Plan of property appropriate for what they call highway oriented or heavy commercial use, that's a designation used in the Comprehensive Plan, the Urban Area Comprehensive Plan. I'm noting that we consulted both plans, the 1978 Lolo Land Use Plan, which is still valid, and the 1998 Update of the Missoula Urban Area Comprehensive Plan. The land use as shown on the Land Use Plan maps are exactly the same, the uses and intensities, in terms of the plans and so there was nothing changed from the designation back in 1978 as far as land use goes. The conclusion for the analysis required in Resolution 83-99, which are the guidelines for determining compliance, is that the use is commercial, it's not residential, and the location is not within the community of Lolo. Resolution 85-082 amended the original 83-99 about what to do about unzoned lands in the building permit jurisdiction within the County's jurisdiction, so it is not that often we deal with this, but it is not uncommon. Anyway, in Resolution 85-082, there's a series of tests that requires each project to be analyzed toward, if you will, things like if it meets any of those tests in that series of tests, then it would be exempt from the requirements of Section 3 of Resolution 83-99, so they work in concert with each other in this particular case. So, in this resolution, the key findings have to do when we look at the geographic area in areas where 50% or more of the land uses within 300 feet of the applicant's property, in this case, the proposed property, are compatible with the proposed land use, the permit shall be exempt. So, then we look at individual properties surrounding this proposed use to see what the compatibility is. Now, this is a different standard that substantial compliance but it requires a general compatibility test about the uses and intensities and what kinds of activities would go on in this site, for instance, would there be lights and would there be paving and would people drive to the site and those kinds of considerations are the considerations used in the compatibility. You can see that in this test, actually Finding 5, pursuant to Resolution 85-082, we looked at seven properties surrounding it. And without going to each individual, the majority of properties are not compatible with a proposed commercial use, in that they're agriculture or they're vacant. There are other uses that are discussed, such as the church to the south and adjacent to this property, we'll note that the veterinary clinic, which your Board many years ago dealt with, it's a professional office and residential. The building next to that is also a combination residential unit and office. Nevertheless, we couldn't find that the 50% test was met when we looked at all these surrounding uses and because that threshold could not be reached, we came to the conclusion, the director did, that the proposed use is not compatible with the 50% rule of the surrounding land uses within 300 feet. So, in conclusion, all of the tests that we applied in this, in the seams of both the Comprehensive Plans, and secondly, to the actual uses surrounding the property, yielded the same answer, that it's not compatible as a land use and it's not in substantial compliance with the Comprehensive Plan. That's how the staff recommended it and we recommend to you that you uphold the Planning Director's determination. We're available, Tim and I both, for questions if you desire.

Chairman Carey: Thank you David. Would the applicant ...

Commissioner Kennedy: David, I just have one question for you. We're doing planning out there now and I know it's not completed, but is there any suggested land use that's different for this particular area than the two existing Comprehensive Plans that currently are in effect out there?

Dave Loomis: Nothing has been put on the drawing board so far that would be different.

Commissioner Kennedy: Thank you.

Chairman Carey: Would the applicant or his representative care to speak to this at this point?

Jim Decker: Good afternoon, my name is Jim Decker. One of you have not been privy to our conversations prior so I'll maybe pass out a little ...

Chairman Carey: Sure, whatever you'd like Jim.

Jim Decker: It will help you kind of associate what we're talking about. This is going into Lolo, this is the vet clinic. I've been asked to talk to you today about the findings that Dave has just walked through, the request for Commissioners Action. I may bounce around a little bit, I just picked up this, I wasn't aware that yesterday when we met that there was another letter since October 6. Really hasn't changed much, just been a little reorganized and a lot of repeating of the conclusions of law. And I'm not looking necessarily for you to uphold the determination as I am almost asking you to study one's own guidelines, and almost introduce a little common sense. The compatibility. You know, we've been a long time getting to here, July 21st to now, through a lot of different hoops and have tried to be as amenable as we can. Yes, it's unzoned. Maybe it doesn't fit that portion of the plan nor, as we said, if there's any planning on the board at this point. In the findings of fact and conclusions, it would be the third page, the plan map recommends that commercial land uses be located within the community of Lolo and almost immediately, I'm at a bit of a loss as to what is the legal description of Lolo. What is the community. I mean, the veterinary clinic, Dr. Buehler, is he not a member of the community because he's outside of that, I mean, he's got an article in the Lolo News, featured every time they publish it. I live just past Lolo Creek. I mean, am I not in that corridor. So, as far as the commercial land use be located within the community, I think the two of us have spoken prior and I think we have someone who can speak also today, that, you know, there's not a whole lot of options there. The conclusion of law, in the next paragraph, is our community is growing a bit. You know, we've outgrown our limitations. Going to the description of Resolution 85-082, large barrage of bold italics and several conclusions of law, but we've lost track of, if you list through the one, two, three and the next one should be four, is item five, which Dave talked briefly about, and that is the 50% compatibility analysis. If you thumb through about seven pages in, you'll get to that October 6 letter.

Dave Loomis: Attachment B.

Jim Decker: If you're with me, this is the compatibility analysis. Here's where I need to insist that not all the properties were included in our opinion. If you have a copy of the map, we spoke of this yesterday also, you're privy of all this too, okay. I'd like to represent the Parcel 9, as I'm going describe it, and that would be the McCatton property, be included. As we spoke before, it has been represented to be within that 300 feet. It's an exclusion that came mid-stream through this process, back on September 28th, when we met it, the issues at OPG weren't a matter of whether it was in the circle, it was a matter of does a gravel pit represent commercial use. We shifted gears a bit. As I attested, you know, this map is a great effort, it's the only thing we really have, it's the only thing out at the County Surveyors office, but it's one inch equals 400 feet. The width of a pencil line makes a world of difference. And after three months of this, you know, I've got to ask myself, I go out there on the highway at a bit of a risk and measure across with a 100 foot tape, confirm with the State

Highway the width of that highway, you know, so I don't have to travel out in the middle of it and get run over, and I come up with less than 300 feet. On something this critical, I think that needs to be included. And the basis for changing that resolution determination. There's a stake out there, a pin, excuse me, and there's a stake with a colored ribbon so you can find them if anybody chooses to challenge my findings. And then the issue that we discussed late today with Colleen, and that is possibly Parcel 9, the railroad. And to go further, the highway. You know, as we've maintained from day one, I don't mean to be nitpicky about the letter of the law, but if we're at 50%, something that's this critical, I think all items needs to be addressed, all situations. Going through the adjacent uses, you know, and I, this is my one vague point, but, yes, Tract 4, Parcel 4, excuse me, the contours are such that we probably won't see any development on it. But unfortunately it falls within that 300 foot zone. Parcel 5, you know, here's a 5,000 square foot church just recently approved and built, under construction in fact, not completed as far as landscaping. Just, I want to point out some notes on this that will get referred to later, 20,800 square foot of parking, 1,800 square foot of what is described as a house. If one checks with them, and you can check with some of the members of the church like I did, that's actually the office for the church because there's not one designed in the church facility itself. Parcels 6 and 7. This is the fun one. There's really no tally as to what came up to 50%. We had 7 lots, we're not compatible, it's not like it was a 3 to 4 vote or something of that nature. But I'll go quickly through the descriptions, as soon as I get organized. Parcel 6, I called this today at the office a sugar-coating in a sense, but Parcel 6 is described as a residence with home occupation. Yet, Parcel 7, Dr. Buehler, is professional who lives in an apartment. As you read through, you'll see, Parcel 6 has 2,232 square foot of parking, i.e., 12 stalls for one's home. Dr. Buehler has 5 spaces for customers and employees, sorry, I should call this Parcel 7, sorry. Both occupy one acre. Parcel 6 is described as a two story house with garage and car port. Parcel 7 is a two story frontier style architecture. I'd like to take at this point in time an opportunity to pass some more photos around. The reason I give you the first photo is I'd like you to look at the top photo. Frontier style architecture, as an architect I see is the front façade, the brown that you see where it comes up, and it steeps up, you see them in old westerns. Down below, a little clearer picture, but if you note, both those pictures together, they're not the same building, they're the adjacent buildings, the one that's a home, with a home occupant, occupation, and the other is a professional office. So, the effort I'm trying to pursue here is that I see two commercial projects here, it's not that it hasn't been represented that commercial use is being there at the time and nor it has been in the past, including an architectural firm. Conclusion of law, Parcel 6 seems to be chopped liver. I'm sorry. Also, I note on the one photo that Parcel 7 has added a carport and a storage unit to help facilitate their building and maybe even be more so similar to the building on Parcel 6. I'm going to jump over to Number 4, Item 9, the next page over, characteristics of the compatibilities. We couldn't have more different, four different, more different, characters out there than we do now. You know, and I don't dispute comparing lighting and parking or how those items were selected, they're not really in the resolution, but they're common sense. An so I'll address them, going to the next page, signage. You know, as it's written in here, they could have 175 square foot of signage. At that point it currently has 20, but nobody else has anything. That's not to say that nobody else couldn't have something, it's not to say that the church hasn't got something pending. I mean, after seeing what was capable at Town Pump in Lolo for signage, anything's possible out there, in my opinion, that's my own opinion. And it's not to say that those other businesses aren't entitled to as much square footage, it's just a bit presumptuous that we're going to go out there and put the biggest sign we can. I'm not denying that they won't put up the sign that they feel suits their needs, I'm just, again, pointing out that you get a little carried away here. Parking, nine parking spots, I think, I tried to call and confirm that this morning, but I'm not allowed to talk to the front desk any more, it has to go through you. So, by my nature, my profession, doing some guesstimating, I'll call it 10 stalls. Vet clinic has 5, church has 58, and of course, I'm still maintaining on this end here, Parcel 6, I'm still pushing for them, they've got 12 stalls. Again, I don't know that the findings reflect 50%, if I can maintain that Parcel 8, that I want to introduce across the highway is within the 300 feet, we've got heavy equipment parked over there, that's represented in the next set of photos, the parcel across the street that I argue is, I call it number 8. Display and lighting, you know, I, you can't argue something like that, I mean I don't argue it, I don't dispute it. Impervious surface, I notice the church isn't brought up, and here's what I've pointed out before, we've got a church that has 20,800 square foot of parking, 5,000 square foot of church and 1,800 square foot of office. It just looks like here we've got Sportland and they're this huge development, where really they're not, as big as even the church. And that's if they pave as much as presumed to be paved. Here we go with the traffic in the next one, I want to introduce a little common sense here, and I recognize the zoners only have their ITE trip generation manual to deal off of, but as I represented yesterday, a phone call to Karl Tyler, Mr. Cowboy himself, how many horse trailers and trailers do you sell a month. He represented that he sells 10 trailers a month on the average, to do that he needs to get 10 to 15 clients in there at a time, per sale, i.e., 150 clients per month, or 7 a day. 390 trips were generated in this assumption, I use the word loosely. I did just a quick map with 10 stalls. That means 390 trips, 10 changes a day in an 8 hour day, 4.87 changes, somebody would have to be pulling out and pulling in every 12 minutes. So, I think we can reduce some of the magnitude of what's been given here and maybe the impact is not so aggressive and obtrusive. In conclusion of that report, compatibility has been the key word here, since our September 28th meeting, where we kind of jumped ship a little bit, and I represent that Lolo, and as a member of Lolo and I'll have to be a little personal on this, we're still a bit of a rural community. We don't have a Pizza Hut or a McDonald's. So, to have trailer sales, horse trailers, I mean what would be more compatible to a rural, agricultural area, or even a vet clinic next door, which I'm sure sees one or two, snowmobile trailers, flatbed trailers, I mean to me that's residential, people are going to use it, so again, I maintain here that I don't feel that we are not compatible on one end, and I still maintain that if this resolution's here for the 50%, it needs to be further studied and recognized and acknowledged and respected. Barbara, one of the last, two things I'll conclude with, is you asked about the travel corridors. I did obtain, yesterday, a copy of that. These are standards that are included in Subdivision Regulations, not uncommon to most of us in the field, and really not an aggressive attempt to be a hardship to the owner. I mean, a lot of it's just common sense planting, you know, we've got a sixty foot easement to the front of that that needs to be respected, we don't need 60 feet, the highway is 60 feet, you know, we've got plenty of room to put a landscape buffer up front, you know, and we talked about some screening. It represents in here that they don't want to see above 6 foot screening, fencing and stuff like that. So why not introduce, as we walked away talking, we don't really want to screen out per se that you can't see there's a business there, we want to diffuse it and that would be our efforts in our landscaping attempts. Even in there building setbacks, you know, we don't want to be over a hundred, we need to be 50 feet back, trash receptacles enclosed, those are all common sense things that are very simple to follow up on. I'd also like to at this point in time submit one other thing I've noticed got left behind and that is a letter that was sent around to local business owners, property owners, and their recognition that the vicinity of the tract here they do not have objections to and I would welcome any of them to come forward and speak at this point in time.

Chairman Carey: Thank you Jim. Further testimony?

Gary Buehler: My name's Gary Buehler, I'm, uh, I own, I guess it's number 7 adjacent to that property. Mr. Decker hit about all the points that I was going to bring up and I, of course, signed that I had no opposition to the building of that business. The only question that I would have is that we've pretty well been described as essentially residential, however, I just paid my tax bill and it was considerably more than I think a residential building or property would entail. So, again, my question is how can you tax a business as, tax a property, excuse me, as a business, but then at the same time turn around and say that it's essentially residential. That's a question I'd like maybe, at least one of you to explain to me how that's possible. And again, all the other points that I had, Mr. Decker has covered, about the type of building that we have, the parking, and etc. But that was the only question I could come up with, is why am I taxed commercial if I'm not commercial. If I am commercial, then it doesn't fit the determination. That's my only point.

Chairman Carey: Thank you. Anyone want to take it?

Commissioner Evans: Dr. Buehler, I'm going to make a stab at this. When the Commissioners, back in whatever year it was, granted you the exception to allow you to build there, I think you were really lucky, because what you have is a commercial business. You are there to provide a commercial service to folks. So, the tax assessor likely assesses that based on the service that you provide, so I think if you have any further questions on how they come to your assessment, you need to talk to them, because we certainly, at least I am not qualified to determine that for you.

Gary Buehler: I understand what you're saying and, you know, I agree with that. But that still doesn't tell me how I'm told that yes I am a commercial building, but when you read in their determination, it pretty well says that we're essentially residential, or residential type, which is a compliment to our building, but yet, again, my question comes back to what am I, am I residential or am I commercial. If I'm commercial, then their determination isn't quite right, as far as I see it, as far as I see it, so that's my only concern.

Chairman Carey: Okay. We'll let David, and then Colleen, have a shot at that.

Dave Loomis: Mr. Chair, in the staff report, we, what we talked about each use was analyzed, we characterized this as professional office, i.e., a vet clinic, which is commercial and residential, both uses are in there. Later when we talked about compatibility of what buildings look like, it's residential looking, but it's clearly, there's a commercial use going on there.

Chairman Carey: Thank you. Colleen.

Colleen Dowdall: I was just going to clarify too, that I think that Dr. Buehler was trying to determine whether he was one of the parcels that was considered compatible or not and I think that's the difficulty in reading the report and determining that.

Chairman Carey: Thank you. Further testimony?

Ed Greef: Yeah, hi, I'm Ed Greef. I'm a co-owner of what shows on your map as exhibit or number 6 and I too, like Dr. Buehler am here I think because of some confusion as to how our building is listed as residential within the Comprehensive Plan. That seems to be how that is and in the letter here also. And, going back to when that building was built, and we have the County compliance permit and the building and improvement permits that were issued in 1978, when that building was built, and both of those documents state the building as being, its use being a dwelling and studio and the other document says framed building with art studio and retail sales. To the best of my knowledge that building has never been a residence. There are two apartments in the rear of the building which are rental properties today, or rental apartments. We occupy the front of the building as office space to run our business, which is a wholesale lumber business, and we've also rented to an architect and are presently renting to a building contractor. And so the history of the building as near as I know and certainly from the time that we have owned it, I don't think it's ever been a residence. It's been an income property and a rental property for those apartments and that's the usage that we have occupied it for today and as far as the proposal and putting other business in there, we would have no problem with that.

Chairman Carey: Thank you Mr. Greef. Further testimony?

Dick Rossignol: Hi, I'm Dick Rossignol, and I own about everything else, I guess. Yeah, let's see, I've got Tract 9-A and Tract 9-8 and then of course, Tract 9-B, which is the proposed development area. And, I don't understand, I guess, the count on the surrounding areas that I see we're going to maybe include portion B. I think that Mr. Decker covered all that stuff, but I had a couple of concerns being the landowner of the rest of that frontage along there. I guess I'm not a real, I really don't understand planning that clearly and it's suppose to address the appropriateness of land use, at least that's my assumption of what the planning is supposed to do, and does the Planning, you know, Board give any consideration to the character of the surrounding development. I don't believe that they have in their synopsis of their proposal because, you know, it's obviously, you know, there's the three commercial businesses that are in place there now that I think are perfectly in character considering the traffic flow of 21,500 cars a day that are driving by there considering that's the highest in any rural location in Montana considering that's higher than I-90, if you want to get right down to the nuts and bolts of it. I just talked to the fellow at the State Highway Department and he gave me that information. I don't see that proposing usage of land next to I-90 for residential purposes is as being very foresightful. So, my interpretation is that the plan itself does not reflect what would be appropriate use of any of that property along there and the two acres that you're considering now for a variance. There are about three things that I came across and I kind of did a little bit of summary of all the land use decisions that have been made amongst in Montana, you know, since the 1930's when this whole zoning and planning deal sort of came into play and there seems to be three main things that are always considered and particularly when there's going to be a variance, there's three particular things and this is from Bill Freeman and the Board of Adjustment which was in 1930, and I'm sure Colleen's up to snuff much more than I am and Lambros v. Missoula and the one thing, the variance must be or not contrary to the public interest. Well, you know, these fellows have made a pretty good case, I think, that selling horse trailers by a vet clinic is probably a pretty compatible interest and it's in an interest of Lolo, it's in the interest of the fiscal economy of Lolo and quite frankly, there isn't any other place suitable for Bill's location in Lolo, so we'll simply lose that tax base. Secondly, there's a literal enforcement must result in an unnecessary hardship to the landowner. Well, if you want to talk about hardship, that particular piece of property if you have it appraised under a commercial, as opposed to a residential site, is probably about a 70% taking if you don't grant

him this variance to what I would consider poor planning. And that's just a very poor location to build a house. I can't imagine getting anything more than a maybe a trailer or something to put on there, it's too dang noisy, it violates the Missoula City ordinances which requires 50 decibel level or below, I see no consideration of that. There's an industrial site, or what's called and considered industrial, across the road in the form of a gravel pit. There's a railroad that's also industrial and also exceeds the decibel level that's, you know, set for residential development. You know, I can't see how you can possibly make a case that there's not a hardship by taking the value of that property and reducing it by 70% and I don't think there's a legal precedent for it in Montana case law that I can find and not being a lawyer I'm sure there's some that somebody could find but I can't find them. And thirdly, the spirit of the ordinance must be observed. Well, what's planning for? It's for, you know, it's supposed to have this purpose and the purpose is supposed to be appropriateness of land use and as far as I'm concerned that's a dog gone appropriate area to build a horse trailer sales facility. Thank you.

Chairman Carey: Thank you. Yes, Barbara.

Commissioner Evans: Dick, I'd like to clarify something for you. This is not a request for a variance. This is a determination as to whether or not this proposed use meets the Comprehensive Plan. That is different than asking for a variance and the criteria are different.

Dick Rossignol: Yeah, I understand that. I was only using that as an example because zoning, which would be what we would be doing if we had a zoned area, we would be making a request for a variance and which would be a much higher standard than the planning in the unzoned property that we're dealing with now, so actually the level, as far as I consider, would be much higher under zoning than it should be here. I'm just using that as an example, I think it's an appropriate one under the law.

Commissioner Evans: I just wanted you to know that the criteria are different.

Dick Rossignol: Yes.

Commissioner Evans: Thank you.

Dick Rossignol: Thank you.

Chairman Carey: Is there additional testimony?

Peggy Chilcote: My name is Peggy Chilcote and I'm here representing the Lolo Community Council. Last night this was discussed at our council meeting and the public in attendance don't want to see this changed. They're afraid that that long strip of highway is going to end up being border to border commercial property and it's going to take away from the rural effect that we have between Missoula and Lolo. Pretty soon, there is going to be creep if we don't uphold our Comp Plan as it is written today, we're going to end up seeing the next business come in and saying I want the parcel next to here. But we did at the meeting last night, said and tried to come up with different areas within the Lolo commercial area, some of properties will not be for sale, but there's possibilities of maybe leasing the lots. And we're going to do what we can to try to come up with another place suitable for, he has never come to our meetings to talk to us about this to where maybe we could use the word of mouth and network out and try to find him a place, but we're willing to try to do that, but to uphold the Comp Plan as it stands today was the voice of the community in attendance last night. So I'm here to revert that to you guys.

Chairman Carey: Thank you. Further testimony?

Bill Scullion: Bill Scullion, one of the owners of Sportland Trailers. And I guess if I'm the last, I, being a natural salesman, it's hard for me to keep my mouth shut. I have not been to the Lolo community meeting nor have I been invited to that meeting. I have contacted Mr. Cook, which is one of the people there, over months ago and asked him to locate for me alternate sites. To this date, I have not received any feedback from him, okay. So, and we've been on a long search here and we've been a terribly long process. I'd like to come back and conclude with this map, because this map has brought us where we are right now. I think that the inaccuracies of this map has caused what we're dealing with today. I think under Mr. Decker's measurements, at his personal risk, there should be a Lot 8 noted in there as far as the gravel pit. And if we take these sites one at a time at this point we have four commercial sites by your own personnel standards, and we have four residential sites. One of those residential sites, Site #4, it's my understanding from your staff that they have some kind of a criteria as far as building on a certain slope, that is designated as a non-buildable site, okay, so it couldn't be residential if it is. Alright. That puts us at a four to three lot parcel falling under or way over your 50%, even if we bring Lot 4 in, we still have eight sites within the 300 foot, four of those sites are presently used commercial and have been since they're built. That puts us at the 50% level and we shouldn't even be here today. I appreciate your time and your efforts and patience. Thank you.

Chairman Carey: Thank you Mr. Scullion. Colleen?

Colleen Dowdall: I was hoping I could just summarize the nature of what the issue is with regard to the 50% because I'm just not sure it's clear for the Board at this point. After a Supreme Court decision, Little v. Board of County Commissioners, a decision in which the Supreme Court said that when approving a building permit, you must be in substantial compliance with the Comprehensive Plan, the Board of County Commissioners of Missoula County adopted a resolution that would help them determine whether something was in substantial compliance with the Comprehensive Plan. That was adopted in 1983, I believe. After that, it was determined that the Commissioners were being asked, on a regular basis, to make this determination, so in 1985, the Board of County Commissioners adopted further criteria that staff could use to make a determination of whether something was in compliance with the Comprehensive Plan. The staff report goes through that list of criteria, for instance, if you're in a platted subdivision that's been approved for particular use, then you're in compliance with the Comprehensive Plan, sort of a retroactive finding. In this case, the only of these criteria that apply is whether this use, this proposed use, is compatible, and that's the term the resolution used, was compatible with 50% of the uses within 300 feet of the proposal. So, the planning staff made the determination that this use was not compatible with 50% of the uses within 300 feet and that is what the applicant is appealing. So, your decision rests on whether you find there is 50% compatibility with this proposed use.

Chairman Carey: Thank you. Further testimony? Seeing none, I'll close the hearing. Questions or comments from the Commissioners?

Commissioner Kennedy: A question for counsel. The compatibility has to do with the use or the designated use because what I've heard, or what I thought I heard, was that there may be a conflict between the designated use and use, with respect to Lot 6.

Colleen Dowdall: The resolution is not for the designated use, it's for the actual use, because the philosophy behind it was when we adopted Comprehensive Plans it was viewed as a document that someday in the future it would be implemented with zoning. It was not viewed as a document that would be required to be enforced or that businesses or developments would have to be in substantial compliance so the resolution was necessary because by then our Comp Plan was 10 years old, 8 years old, and the resolutions were to reflect what had been happening in an area absent enforcement of the Comprehensive Plan. So if an area had been developing in a commercial way but it was designated as residential, the resolution allowed you to acknowledge that and continue to allow commercial development in that area. So, in '85, when you adopted the 50% rule, it was to say, okay, if within 300 feet, 50% of the uses are compatible with the proposed use, then we will allow the change to be made. With regard to Tract 6, it was my impression from the planning staff that the permits had always been for a residential use and that we had essentially been snookered by that landowner. In listening to the landowner, it appears that he has a different story.

Chairman Carey: Thank you. Commissioner Evans.

Commissioner Evans: This has been a really difficult issue for me because I was there when we granted the approval for Dr. Buehler's business and I've looked carefully, very carefully, at this issue and felt that I needed a statutory determination of some of the words to help me decide whether it was or was not compatible with the Comprehensive Plan. And I'd like to read to you from Section 75-15-103, this is a definition, and it says, "commercial or industrial activities means for purposes of this subsection, those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following activities are considered commercial or industrial." Now I want to stress that again, "except that none of the following activities are considered commercial or industrial." The first word is "agricultural, forestry, grazing, farming and related activities, including wayside fresh produce stands and railroad tracks and minor sidings." So your mentioning of the railroad tracks as a commercial and the agricultural as commercial do not meet the statutory requirements for commercial, it is clearly excepted, it is not considered commercial by State statute. The gravel and the agricultural uses are extractive of the land, they are not commercial for things that are brought in and sold on the land. So what it boils down to me is the difference in the uses of the land versus on the land and therefore I cannot find that you are in compatibility with the Comprehensive Plan. And it's difficult for me to say no because you have had a long time trying to get to a determination here and I'm going to ask David and Tim to see to it that when you wish to speak to someone at the desk, you are allowed to do that, and I think that they understand that they certainly look mystified by this, but I'm sure they'll check into it and that won't happen anymore. So, while it's hard for me to do, I move to uphold the decision of the planning staff, which is to deny the proposed use as it does not meet the compatible standard.

Commissioner Kennedy: I'm concerned about the proposal for all the reasons stated and Commissioner Evans articulated some objective reasons on why she's taken the position she needs to uphold the planning department's recommendation. It does trouble me somewhat that definition of a gravel pit is not considered an industrial or a commercial use and I, even though it troubles me, and I'm not sure I agree or disagree with it, it still is what we have to deal with. And I have all kinds of concerns about this proposal, about the creep business that we talked about, the use versus the designated use that I asked counsel about and one of the major concerns I have is, you know, what happens down the line when other people misuse property, not suggesting that this owner would, but other people use property that is different from what it's intended or designated use is. What you have is an opportunity for misuse of the planning guidelines and it creates an enormous problem. We have to always remember what the planning guidelines are for and they're an agreement of us, we citizens, that in land use issues, we agree to control how we use land so that the end result is beneficial to everyone, not just one person. So I, even though I have some concern about it, I am going to second Commissioner Evans' motion for denial.

Chairman Carey: And I would like to say that I think the staff did a superb job, a very objective job here, a thorough one, and I would urge you to, I hope you can work with the Community Council down there and I hope you can find a place that's more compatible with your business. I'd like to see your business prosper. I don't think the location you're looking at here complies with the Plan. So, with that, I'll ask for a vote. All those in favor of the motion please say Aye.

Commissioner Kennedy: Aye.

Commissioner Evans: Aye.

Chairman Carey: Aye. Opposed? Thank you.

The motion carried on a vote of 3-0.

There being no further business to come before the Board, the Commissioners were in recess at 2:40 p.m.

THURSDAY, NOVEMBER 16, 2000

The Board of County Commissioners met in regular session; a quorum was present. Commissioner Kennedy was out of the office all day November 16th and 17th.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 15, 2000, batch number 950 (pages 1-3), with a grand total of \$315,858.86. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 16, 2000, batch number 934 (pages 1-3), with a grand total of \$102,648.68. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 16, 2000, batch number 951 (pages 1-4), with a grand total of \$18,848.15. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 16, 2000, batch number 952 (pages 1-5), with a grand total of \$18,417.70. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 16, 2000, batch number 953 (pages 1-4), with a grand total of \$13,332.17. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 16, 2000, batch number 954 (pages 1-4), with a grand total of \$23,288.76. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 16, 2000, batch number 955 (pages 1-4), with a grand total of \$40,558.27. The Claims List was returned to the Accounting Department.

Indemnity Bond -- Chairman Carey examined, approved, and ordered filed an Indemnity Bond naming Meggan Leonard as principal for Warrant #263214 issued October 20, 2000 on the Missoula County 7910 Fund in the amount of \$203.26, now unable to be found.

Agreement -- Chairman Carey signed a School Year 2000-2001 Agreement between Missoula County Public Schools and Missoula County Youth Court for the purpose of hiring a Deputy Probation Officer to work specifically with students returning to school from either pre-trial placement or post-trial disposition placement, students in school and under the jurisdiction of juvenile justice and students at risk of entering the juvenile justice system. The term will be October 1, 2000 through September 30, 2001. The total amount shall not exceed \$47,733.00. The document was returned to Judge Larson's office for further signatures and handling.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Professional Services Contract -- The Commissioners signed a Professional Services Contract between Missoula County and Missoula Sheet Metal for the upgrade and installation of a water source heat pump and humidifier in the 911 Center, replacing the failed air conditioner. Contractor shall commence performance on October 7, 2000 and shall complete performance by November, 2000. The total amount shall not exceed \$13,145.00.

Resolution -- Chairman Carey signed a Resolution authorizing personnel to acquire federal surplus property from the State of Montana, Property & Supply Bureau, for Missoula County. The document was forwarded to the Property & Supply Bureau in Helena for further handling.

Contract -- Chairman Carey signed a Contract, dated November 16, 2000, between Missoula County and Verizon Wireless for cellular telephone services. The term will be for a minimum of one year. The rate plan inclusions and conditions are as set forth in the Contract.

Other discussion items included:

- 1) An update of the Disaster Plan was given by Jane Ellis, Director of Emergency Services; and
- 2) A discussion was held with Geoff Badenoch on the proposed creation of a new tax increment district and the impact on Missoula County's tax base.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, NOVEMBER 17, 2000

The Board of County Commissioners did not meet in regular session. Commissioner Evans was out of the office all day, and Chairman Carey attended a Mental Health Board Meeting in Hamilton during the day.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chairman
Board of County Commissioners

MONDAY, NOVEMBER 20, 2000

The Board of County Commissioners met in regular session; a quorum was present. Commissioner Kennedy was out of the office the week of November 20th through 24th.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 20, 2000, batch number 956 (pages 1-4), with a grand total of \$10,381.24. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 20, 2000, batch number 957 (pages 1-4), with a grand total of \$52,167.49. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 20, 2000, batch number 958 (pages 1-3), with a grand total of \$14,165.83. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Kennedy signed the Claims List, dated November 20, 2000, batch number 959 (pages 1-3), with a grand total of \$14,716.56. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 20, 2000, batch number 960 (pages 1-4), with a grand total of \$16,266.82. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 20, 2000, batch number 964 (pages 1-2), with a grand total of \$5,012.90. The Claims List was returned to the Accounting Department.

Transfer of Property -- Chairman Carey signed Transfer of Property Report No. EZT0000002, from the Bureau of Land Management, Missoula, Montana, to Missoula County. The property is described as Kennedy Creek Bridge NE/SE/Section 26; T13N; R14W, PMM; Latitude: 46° 51.0' N; Longitude: 113° 19.4' W; Precast Concrete: 18' wide out to out, 16' curb to curb, span 16' on centerline. This bridge was built by the Bureau of Land Management on Elk Creek Road at their cost. The intent was for them to build the bridge and then give it to the County of Missoula at no cost to the County. The bridge meets AASHTO requirements. The document was returned to Horace Brown, County Surveyor, for further signatures and handling.

Letter -- The Commissioners reviewed and approved a letter from NoraLynn Morris, Chief Deputy Auditor. The letter stated that the inventory records and the auctioneer's documents for the County auction that was held on October 14, 2000 were reviewed and they appear to be in order. The County has received their portion of the proceeds to be deposited to the General Fund. In addition, Ms. Morris confirmed that the recently revised County policy regarding better oversight of surplus property inventory has been implemented and is being adhered to. The letter was forwarded to the Clerk and Recorder for filing.

TUESDAY, NOVEMBER 21, 2000

The Board of County Commissioners met in regular session; a quorum was present.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 20, 2000, batch number 962 (pages 1-4), with a grand total of \$24,426.88. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 21, 2000, batch number 967 (pages 1-4), with a grand total of \$21,395.61. The Claims List was returned to the Accounting Department.

Payroll Transmittal -- The Commissioners signed the following Payroll Transmittal Sheet: Pay Period: 23 - Pay Date: October 17, 2000. Total Missoula County Payroll: \$766,732.07. The Transmittal Sheet was returned to the Auditor's Office.

Agreement -- Chairman Carey signed a Health Care for the Homeless Sub-Recipient Agreement between Yellowstone City-County Health Department ("YCCHD") and Missoula City County Health Department. YCCHD has received a grant to provide, or arrange the provision of comprehensive primary health care, preventive care and related services to the homeless population located in Missoula County's service area. YCCHD is authorized by DHHS, through this Agreement, to support the provision of the aforementioned services to the medically underserved homeless population residing in Missoula County's service area. The term will be October 1, 2000 through March 31, 2001. The total amount shall not exceed \$212,500.00. The document was returned to Janet Schafer at Partnership Health Center for further handling.

Task Order -- Chairman Carey signed Task Order No. 01-07-3-01-012-0 to the Master Contract that covers the period July 1, 1998 through June 30, 2005. This is the Breast & Cervical Health Program yearly task order. It covers the fiscal operating period of the Montana Department of Public Health and Human Services, and pays for funding for the Breast & Cervical Health Program administrator for the Missoula location. The term will be September 30, 2000 through September 29, 2001. The total amount shall not exceed \$26,200. The document was returned to Janet Schafer at Partnership Health Center for further signatures and handling.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Agreement -- The Commissioners signed a Memorandum of Agreement between the Missoula Board of County Commissioners and Missoula Aging Services for the purpose of purchasing the planning, coordination, and delivery of Aging Services programs in Missoula County. The term shall be July 1, 2000 through June 30, 2001. The total amount shall not exceed \$151,000.00.

Agreement – The Commissioners signed a Memorandum of Agreement between the Missoula Board of County Commissioners and the Montana Asian American Center to purchase services for the purpose of reducing language barriers through translations and interpreting for the Hmong and Russian communities as part of the Rural Domestic Violence outreach effort. The term shall be July 1, 2000 through January 2, 2002. The total amount shall not exceed \$5,000.00, and is contingent upon Missoula County's receipt of Rural Domestic Violence Enforcement Grant Program funds from the Violence Against Women Grants Office.

Application – Chairman Carey signed the Application for the Montana Department of Commerce CDBG ED Technical Assistance Grant on behalf of the University of Montana to approve a request outlined therein. The purpose of the program to be funded is to supplement access to training on basic business skills for people in rural Montana. The DOC ED grant is \$30,000 (which matches a \$70,000 grant from the MicroBusiness Technical Assistance program at the State). There is no cost to the County for administering this program. Approximately \$900 is available from the grant to cover administrative costs. The document was returned to Cindy Wulfekuhle in the Office of Planning and Grants for further handling.

Shoreline Permit – Chairman Carey signed an application by Al and Bonnie Donahue, represented by Kerry Drew of Rainbow Enterprises, to replace a failed water line from their cabin to Placid Lake. The property is on Lot 25 of the Placid Lake South Shore Tracts, located in Section 29 of Township 16N, Range 15W. The Office of Planning and Grants ("OPG") recommended approval of the permit, subject to a condition that all standards for utility line burial (attached to the permit) be followed. The document was returned to Brian Maiorano in OPG for further handling.

Agreement – The Commissioners signed an Addendum to a Buy-Sell Agreement between Michael J. Marbut as Buyer and Missoula County Airport Industrial District ("MCAID") as Seller to resolve ambiguities in their Buy-Sell Agreement dated November 2, 1998, for the Amended Plat of Lots 1-3, Block 13, Phase 2 and Missoula Development Park, Phase 8 (Grizzly Auto Ownership). The issue was over which party is responsible for the cost of extending the gas service to the subject party. The parties agreed that Missoula County Airport Industrial District will contract with Montana Power to extend natural gas service to the subject property by extending natural gas along Expressway and Grizzly Court. The cost of these main extensions will be paid by MCAID, in the amount of \$13,329.00. Mr. Marbut will pay MCAID \$6,714.00 as his share of the cost and also shall be solely responsible for the cost of any service lines to improvements on the subject property. The document was returned to Barbara Martens in the Projects Office for further signatures and handling.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, NOVEMBER 22, 2000

The Board of County Commissioners did not meet in regular session. Chairman Carey was out of the office all day.

Claims List -- The Commissioner signed the Claims List, dated November 21, 2000, batch number 963 (pages 1-5), with a grand total of \$23,638.17. The Claims List was returned to the Accounting Department.

Claims List -- The Commissioner signed the Claims List, dated November 21, 2000, batch number 968 (pages 1-4), with a grand total of \$112,048.12. The Claims List was returned to the Accounting Department.

Claims List -- The Commissioner signed the Claims List, dated November 21, 2000, batch number 969 (pages 1-2), with a grand total of \$5,486.36. The Claims List was returned to the Accounting Department.

PUBLIC MEETING – November 22, 2000

The Public Meeting was called to order at 1:30 p.m. by Acting Chairman Barbara Evans. Commissioner Chairman Bill Carey was on vacation and Commissioner Michael Kennedy was not in the office, therefore there was not a quorum present to conduct the Public Meeting

No one from the general public was present at the meeting as there were no action items on the agenda.

Acting Chairman Evans stated that the weekly claims lists in the amount of \$1,166,247.64 had been approved and signed by consensus by the Commissioners during the prior week.


There being no further business to come before the Board, the Commissioners were in recess at 1:30 p.m.

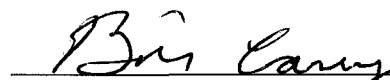
THURSDAY, NOVEMBER 23, 2000

The Courthouse was closed for Thanksgiving Day.

FRIDAY, NOVEMBER 24, 2000

The Board of County Commissioners did not meet in regular session. Chairman Carey and Commissioner Evans were out of the office all day.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chairman
Board of County Commissioners

MONDAY, NOVEMBER 27, 2000

The Board of County Commissioners met in regular session; a quorum was present in the forenoon. Chairman Carey was out of the office all day and Commissioner Kennedy was out all afternoon.

Claims List -- Commissioner Evans and Kennedy signed the Claims List, dated November 22, 2000, batch number 970 (pages 1-3), with a grand total of \$156,888.76. The Claims List was returned to the Accounting Department.

TUESDAY, NOVEMBER 28, 2000

The Board of County Commissioners met in regular session; a quorum was present. Commissioner Kennedy was out of the office all day.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 27, 2000, batch number 975 (pages 1-4), with a grand total of \$7,149.56. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 28, 2000, batch number 972 (pages 1-5), with a grand total of \$23,737.48. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 28, 2000, batch number 973 (pages 1-4), with a grand total of \$78,872.01. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 28, 2000, batch number 976 (pages 1-3), with a grand total of \$925.00. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 28, 2000, batch number 977 (pages 1-3), with a grand total of \$52,764.20. The Claims List was returned to the Accounting Department.

Deed Restriction Agreement and Subordinate Deed of Trust

Chairman Carey signed a Deed Restriction Agreement and Subordinate Deed of Trust between Missoula County and Jamie D. Streinik in the amount of \$5,000 for the property located at 1421 Eaton Street, #34, Missoula, Montana 59801, for the purpose of providing HOME Investment Partnerships Program (HOME) funds to assist with down payment, closing cost and, if necessary, mortgage reduction assistance, as per the terms and conditions set forth therein. The documents were returned to Jennifer Blumberg in the Office of Planning and Grants for further handling.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Agreement -- The Commissioners signed a Memorandum of Agreement between the Missoula Board of County Commissioners and Volunteer Action Services, The University of Montana ("U of M"), for the purpose of hiring an AmeriCorps Volunteer to recruit and place U of M tutors in Missoula high schools. The term shall be October 1, 2000 through September 30, 2001. The total amount shall not exceed \$1,711.00. The funding for this Agreement comes from the County's Community Incentive Project funded by the Addictive and Mental Disorders Division of the Department of Public Health and Human Services.

Payroll Authorization Form -- The Commissioners signed a Payroll Authorization Form, dated October 30, 2000, for Director of Emergency Services, Jane M. Ellis. The hourly salary will be \$27.99; the normal pay period is 40 hours per week. The document was returned to Jane Ellis, Director of Emergency Services.

Contract -- The Commissioners signed a Contract to Provide Operation and Management Services (Minimum, Medium, and Close Custody Prison for Adult Male Offenders) between the Montana Department of Corrections and Missoula County. The Contract will terminate on June 30, 2029, and may be amended from time to time. The Department will pay the County an Operations and Management per diem rate as follows: a) for the contract year ending June 30, 2000, the standard rate of per diem for General Population Inmates will be \$46.27 per inmate; per day; and b) for the contract year beginning July 1, 2000, the standard rate of per diem for General Population Inmates will be \$47.12 per inmate per day. The document was returned to Mike McMeekin at the Detention Center for further handling.

Contract -- The Commissioners signed a Contract, dated November 28, 2000, between Missoula County and Election Systems & Software for Election Software, and the installation and implementation thereof, for the Missoula County Elections Office. The total amount shall not exceed \$59,680.00. The Contractor shall fully complete all the work contemplated by the Contract within the period as specified therein. The document was returned to Debbe O'Neil in the Clerk and Recorder's Office for further signatures and handling.

Notice of Sale -- Chairman Carey signed a Notice of Sale of Rural Special Improvement District Bonds for RSID #8467, in a total amount not to exceed \$234,000.00, for the purpose of paving Whitetail Drive, Black Bear Drive, Timberland Drive, Morrell Creek Drive, Cougar Court, Laurel Court, Lynx Court, Chipmonk Court and Badger Court in Double Arrow Subdivision Phase II (Double Arrow) in the Seeley Lake area of Missoula County, Montana. The document was returned to Jesse Sattley, RSID Coordinator, for further handling.

Other items included:

- 1) The Commissioners approved and confirmed the appointments of Sergeants Ty Evenson and Steve Ruguleiski as Deputy Coroners. Their recent promotion to the rank of sergeant in the uniform division carries with it the assumption of coroner duties. The appointments will be effective on Sunday, December 10, 2000, and will be permanent unless rescinded by the Sheriff.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, NOVEMBER 29, 2000

The Board of County Commissioners met in regular session; all three members were present in the afternoon. Commissioner Kennedy was out of the office until noon.

Claims List – Chairman Carey and Commissioner Evans signed the Claims List, dated November 29, 2000, batch number 978 (pages 1-4), with a grand total of \$26,280.69. The Claims List was returned to the Accounting Department.

Claims List – Chairman Carey and Commissioner Evans signed the Claims List, dated November 29, 2000, batch number 980 (pages 1-3), with a grand total of \$18,399.67. The Claims List was returned to the Accounting Department.

Claims List – Chairman Carey and Commissioner Evans signed the Claims List, dated November 29, 2000, batch number 981(pages 1-4), with a grand total of \$11,339.19. The Claims List was returned to the Accounting Department.

Claims List – Chairman Carey and Commissioner Evans signed the Claims List, dated November 29, 2000, batch number 982 (pages 1-4), with a grand total of \$27,723.40. The Claims List was returned to the Accounting Department.

Claims List – Chairman Carey and Commissioner Evans signed the Claims List, dated November 29, 2000, batch number 983 (pages 1-3), with a grand total of \$1,743.12. The Claims List was returned to the Accounting Department.

Claims List – Chairman Carey and Commissioner Evans signed the Claims List, dated November 29, 2000, batch number 985 (pages 1-2), with a grand total of \$10,510.14. The Claims List was returned to the Accounting Department.

Resolution No. 2000-086 – The Commissioners signed Resolution No.2000-086, dated November 29, 2000, approving and adopting the budget amendment to the Fiscal Year 2001 Operating Budget for Missoula County, Sheriff's Department, relating to the Contract with the Lolo National Forest in the amount of \$229,020.65.

Easement – The Commissioners signed a Permanent Public Utility Easement, dated November 29, 2000, between Missoula County and the City of Missoula, for a permanent easement pertaining to the real property described on the Exhibit "A" attached to the Easement.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the Chief Administrative Officer meeting held in the forenoon, the following items were signed:

Addendum – The Commissioners approved an addendum to Option Agreement for Reserve Parcel "B" (proposed parkland exchange and approval of cost of park improvements), as recommended by Offer Review Committee and MDA.

Annual Budget – The Commissioners approved and adopted the Larchmont Golf Course Annual Budget, Capital Replacement and Debt Reduction Schedule, and Fees for 2001. The fiscal impact or budget implications to Missoula County's Budget is \$0.

Administrative Reorganization – The Commissioners approved and adopted the Administrative Reorganization and Departmental Core Functions charts. These charts reflect the reorganization of departments and the realignment of core functions, as well as the creation of a new Department of Public Works. These changes are effective December 1, 2000. The fiscal impact or budget implications are reflected in the Fiscal Year 2001 Missoula County's Budget.

Administrative Salary – The Commissioners approved and adopted the Administrative Salary Structure Model and Adjustments [for] Fiscal Year 2001. The adjustments are as follows: 1) Grant of a Cost of Living Adjustment (COA) equal to that given elected officials when elected official salaries are set for the fiscal year and retroactive to July 1; and 2) A base salary adjustment made on or about January 1 of the fiscal year, based on performance, merit, and market conditions, and dependent on the overall financial condition of the county. The change can be absorbed through the Salary and Fringe Adjustment pool in Financial Administration. Salary changes are base cost adjustments and carry forward into the next fiscal year.

Contract Language -- The Commissioners approved and adopted the Contract Language changes for Contracted Department Heads reflecting: Administrative Reorganization Chart and Administrative Salary Structure Model and Adjustments Fiscal Year 2001. Standardized language will be inserted in each contract and submitted for Employee and Board of County Commissioners signatures. There are no fiscal impact or budget implications.

Other discussion (information only) items included:

- 1) Justice Court Staff Realignment;

- 2) Fire alarm system remodel in the Health Department;
- 3) Sprinkler system remodel on the first floor.

PUBLIC MEETING – November 29, 2000

The Public Meeting was called to order at 1:30 p.m. by Chairman Bill Carey. Also present was Commissioner Barbara Evans and Chief Civil Attorney Michael Sehestedt. Commissioner Kennedy was out of the office.

Public Comment

None

Routine Administrative Actions

Commissioner Evans moved that the Board of County Commissioners approve the routine administrative items adopted the week of November 20, 2000 and approve the weekly claims lists in the amount of \$1,166,427.64. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

Commissioner Evans moved that the Board of County Commissioners approve the routine administrative items adopted the week of November 29, 2000 and approve the weekly claims lists in the amount of \$370,210.38. Chairman Carey seconded the motion. The motion carried on a vote of 2-0.

There being no further business to come before the Board, the Commissioners were in recess at 1:31 p.m.

THURSDAY, NOVEMBER 30, 2000

The Board of County Commissioners did not meet in regular session. Chairman Carey was in Helena where he attended a Growth Policy Forum at the MACo Office; and Commissioner Kennedy was out of the office all day.

NOV 01 11:41

FRIDAY, DECEMBER 1, 2000

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was out of the office all day.

Election Recount

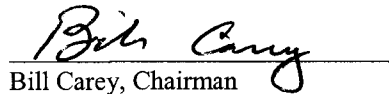
In the forenoon, Chairman Carey, County Auditor Susan Reed, and County Superintendent of Schools Rachel Vielleux, conducted an Election Recount for House District No. 70.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 30, 2000, batch number 984 (pages 1-3), with a grand total of \$5,378.57. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 30, 2000, batch number 986 (pages 1-4), with a grand total of \$110,237.72. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated November 30, 2000, batch number 989 (pages 1-3), with a grand total of \$10,105.60. The Claims List was returned to the Accounting Department.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chairman
Board of County Commissioners

MONDAY, DECEMBER 4, 2000

The Board of County Commissioners met in regular session; all three members were present in the forenoon. Commissioner Kennedy was out of the office all afternoon.

Deed Restriction Agreement and Subordinate Deed of Trust

Chairman Carey signed a Deed Restriction Agreement and Subordinate Deed of Trust between Missoula County and Arthur Lee and Paula Fransine Dykstra in the amount of \$5,000 for the property located at 3010 Flynn Lane, Missoula, Montana 59808, for the purpose of providing HOME Investment Partnerships Program (HOME) funds to assist with down payment, closing cost and, if necessary, mortgage reduction assistance, as per the terms and conditions set forth therein. The documents were returned to Jennifer Blumberg in the Office of Planning and Grants for further handling.

TUESDAY, DECEMBER 5, 2000

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was out of the office all day.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 5, 2000, batch number 987 (pages 1-3), with a grand total of \$17,010.28. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 1, 2000, batch number 988 (pages 1-4), with a grand total of \$97,300.42. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Payroll Transmittal -- The Commissioners signed the following Payroll Transmittal Sheet: Pay Period: 24 - Pay Date: December 1, 2000. Total Missoula County Payroll: \$773,201.94. The Transmittal Sheet was returned to the Auditor's Office.

Task Order -- Chairman Carey signed Task Order No. 00-07-5-31-261-0 to the Master Contract that covers the period July 1, 1998 through June 30, 2005. This Task Order allows the Montana Department of Public Health and Human Services to act as statewide FICMR (Fetal, Infant, Child Mortality Review) Coordinator. The term will be July 1, 2000 through August 30, 2001, except for the final annual written report due August 1, 2000. The total amount shall not exceed \$70,884. The document was returned to the Health Department for further signatures and handling.

Professional Services Contract -- The Commissioners signed a Professional Services Contract between Missoula County and Linda Stoll, to act as Missoula County's lobbyist for the 2001 47th Legislative Session. The term shall commence on December 5, 2000 and shall conclude within 15 calendar days following the adjournment of the 47th Legislature. The total amount shall not exceed \$15,000.00, at the rate of \$40 per hour, and \$500 in incidental expenses as described in the contract.

Extension Request -- The Commissioners signed a one-year Extension Request of the final plan approval deadline for Phase I of the New Castle Court Subdivision for Lease or Rent, in accordance with the recommendation of the Office of Planning and Grants staff. The new filing deadline for Phase I is December 11, 2001. The Phase II filing deadline of December 11, 2002 remains unchanged.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, DECEMBER 6, 2000

The Board of County Commissioners did not meet in regular session. Chairman Carey was in Helena to attend a Legislative Meeting and a MACo Board of Directors Meeting later in the day. Commissioner Kennedy was in briefly, but out of the office most of the day.

The Weekly Public Meeting was canceled as two of the Commissioners were out of the office.

THURSDAY, DECEMBER 7, 2000

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was out of the office all day.

Plat – The Commissioners signed the plat for Herbenson Tracts, a subdivision plat located in the SE¼ of the SW¼ of Section 30, T 13 N, R 19 W, PMM, Missoula County, with the owner of record being Harold Herbenson.

Monthly Report - Chairman Carey examined, approved and ordered filed the Monthly Reconciliation Report for the Clerk of the District Court, Kathleen Breuer, for the month ending November 30, 2000.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Contract – The Commissioners signed a Contract between Missoula County and Montana Electronics Co., Inc. for maintenance of the 9-1-1 Dispatch Console System and Missoula County's Microwave Network Systems. The terms and conditions of the Contract are described on Attachment "A" thereto. The document was returned to Jane Ellis in the Department of Engineering Services for further signatures and handling.

Task Order -- Chairman Carey signed Task Order No. 01-07-5-21-055-0 to the Master Contract that covers the period July 1, 1998 through June 30, 2005. This Task Order allows the Montana Department of Public Health and Human Services to conduct a childhood lead poisoning prevention program during SFY 2001. The term will be July 1, 2000 through June 30, 2001. The total amount shall not exceed \$21,273. The document was returned to the Health Department for further signatures and handling.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and A&E Architects (James McDonald, Principal Contractor) to provide an exterior assessment of the old side of the Missoula County Courthouse for restoration. The term will be December 8, 2000 through March 1, 2001. The total amount shall not exceed \$5,000.00.

The minutes of the Administrative Meeting are on file in the Commissioners Office.


FRIDAY, DECEMBER 8, 2000

The Board of County Commissioners met in regular session; all three members were present in the afternoon. Commissioner Kennedy was out of the office until noon.

Monthly Report - Chairman Carey examined, approved and ordered filed the Monthly Reconciliation Report for the Report of the Sheriff, Douglas W. Chase, for the month ending November 30, 2000.

Resolution No. 2000-087 – The Commissioners signed Resolution No. 2000-087, dated December 8, 2000, for an abatement of the 2000 tax bill for Maclay Addition, Lot 17, Block 12, and for refund of real property taxes previously paid by Gerald Wustner. The total refund amount is \$5,639.58. A new tax bill was issued to Mr. Wustner reflecting exemption under the disabled veterans tax exemption set out in MCA § 15-16-603.

Agreement – The Commissioners signed a Memorandum of Agreement, dated October 1, 2000, between Missoula County and the Child and Family Resource Council to purchase services that will allow the Nurturing Program, a parenting program, to be taught at the Carole Graham Home, a transitional home for substance abusing women and their children. The term will be October 1, 2000 through September 30, 2001, and is contingent upon receipt of Community Incentive Project Grant Funds by Missoula County. The total amount shall not exceed \$6,853.23.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chairman
Board of County Commissioners

MONDAY, DECEMBER 11, 2000

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was out of the office all day December 11th and 12th.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 11, 2000, batch number 992 (pages 1-4), with a grand total of \$10,358.23. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 11, 2000, batch number 993 (pages 1-4), with a grand total of \$15,388.13. The Claims List was returned to the Accounting Department.

Plat and Improvements Agreement -- The Commissioners signed the plat for Alpine Addition, a three-lot summary subdivision of Tract B, C.O.S. 4768, located in the S½ of Section 27 and in the NE¼ of Section 34, T 14 N, R 20 W, PMM, Missoula County, a total gross area of 29.36 acres, with the owner/developers being Jerry M. and Lois M. McGinnis.

Also signed was a Subdivision Improvements Agreement and Guarantee, dated December 4, 2000, for the full and satisfactory completion of the following improvements: 1) Construction of Roller Coaster Road north from Highway 10 to El Way, and construction of El Way to access this subdivision; and 2) Providing emergency turnouts along El Way. The estimated cost of said improvements is \$76,173.00. The improvements shall be completed on or before December 8, 2002, secured by a Letter of Credit by First Interstate Bank.

TUESDAY, DECEMBER 12, 2000

The Board of County Commissioners met in regular session; a quorum of members was present. In the evening, the Commissioners attended a meeting of the Lolo Community Council held at the Lolo Community Center.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 12, 2000, batch number 991 (pages 1-2), with a grand total of \$3,378.04. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 12, 2000, batch number 1000 (pages 1-4), with a grand total of \$42,029.92. The Claims List was returned to the Accounting Department.

Monthly Report - Chairman Carey examined, approved and ordered filed the Monthly Reconciliation Report for Justice Court 2, Justice of the Peace, Karen A. Orzech, for the month ending November 30, 2000.

Certification of Acceptance -- Chairman Carey signed a Missoula County Surveyor's Office Certification of Acceptance for County Maintenance for ACM. No. 2000-0008, Monta Vista Court, Road No. L-0996A, T 13 N, R 20 W, Section 25. The limits of acceptance are .059 miles from the intersection with North Avenue thence northerly 309.54 feet to the center of a 50 foot radius cul de sac, 24 foot of asphalt within a 54 foot right of way. The document was returned to the County Surveyor's Office.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Board Appointments -- The Commissioners approved and signed letters, dated December 27, 2000 reflecting the following:

1. Reappointment of Betty Jo Johnson to a two-year term as a member of the Missoula County Fair Commission. Ms. Johnson's new term will run through December 31, 2002;
2. Reappointment of Gladys Hardin to a three-year term as a member of the Missoula Aging Services Governing Board. Ms. Hardin's term will run through December 31, 2003;
3. Reappointment of Daniel P. Doyle to a three-year term as a member of the Missoula Aging Services Governing Board. Mr. Doyle's term will run through December 31, 2003;
4. Reappointment of Isabel A. "Bitsy" Singer to a three-year term as a member of the Missoula Aging Services Governing Board. Ms. Singer's term will run through December 31, 2003;
5. Appointment of Susan Wall to a three-year term as a "regular" member of the Missoula Aging Services Governing Board. Ms. Wall's term will run through December 31, 2003; and
6. Appointment of Jeanne M. Patterson to a three-year term as a "regular" member of the Missoula Aging Services Governing Board. Ms. Patterson's term will run through December 31, 2003.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, DECEMBER 13, 2000

The Board of County Commissioners met in regular session; all three members were present in the afternoon. Commissioner Kennedy was out of the office until noon.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 12, 2000, batch number 1003 (pages 1-2), with a grand total of \$8,970.00. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 13, 2000, batch number 994 (pages 1-3), with a grand total of \$4,062.68. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 13, 2000, batch number 1001 (pages 1-4), with a grand total of \$17,910.26. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 13, 2000, batch number 1002 (pages 1-4), with a grand total of \$17,457.28. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 13, 2000, batch number 1005 (pages 1-4), with a grand total of \$9,735.31. The Claims List was returned to the Accounting Department.

The following decisions were made at the Clerk and Recorder's Departmental Meeting held on December 13, 2000. The Commissioners approved the following:

1. Request from Missoula Bible Church, c/o James Overbaugh, P.O. Box 16507, Missoula, MT 59808, to waive penalty and interest charges for the 1999 property taxes. The total 1999 Delinquent Taxes amount is \$6,007.20. 100% of the water levy bill is \$14.30.
2. Request from Ron Williams, 330 Brooks Street, Missoula, MT 59801, to waive penalty and interest charges for the 1999 property taxes.
3. Request from William Buck, 529 S. 6th Street E, Missoula, MT 59801, to waive penalty and interest charges for the 1999 second-half property taxes.
4. Request from Bob Hayselden, 1626 Cooper Street, Missoula, MT 59802, for a refund of \$25 for taxes paid on a motor vehicle.
5. Request from Sally K. Stansberry, P.O. Box 7371, Missoula, MT 59807, to waive penalty and interest charges for two parcels located at 645 West Crestline and 1204 Poplar Street.
6. Request from Department of Revenue, c/o Dick Venable, 200 W. Broadway, Missoula, MT 59802, for a refund of taxes on Tax Parcel #1039206, owned by Patrick and Susan Wall. The total amount to be refunded is \$106.82.
7. Request from Janie Tripp, 2101 Humble Road, Missoula, MT 59804-6133, regarding the County Tax Deed to Raser Commercial Tract #1 – Lot 2. The Commissioners agreed to the redemption of the property if all delinquent taxes are paid, including penalties, interest and costs.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the Chief Administrative Officer meeting held in the forenoon, the following items were approved:

Policy Adoption – The Commissioners approved the adoption of a policy relative to Internet Access to Property Data.

Mainframe Replacement – The Commissioners approved spending \$23,000 from the Mainframe replacement fund for software to connect the 911 CAD system to the new mainframe. The Logisys system requires this communications software. The amount was not budgeted; however, there will be enough collected to cover this expenditure once the mainframe connection billing for Fiscal Year 2001 is completed.

Server Hardware/Software – The Commissioners approved spending \$15,000 for server hardware and software which will allow county employees and software support personnel to connect to the County file system and servers. This purchase will also enable the County employees to connect to the network from home. This amount was budgeted in the 2001 Technology fund for purchase of new hardware and software.

Other discussion items included:

- 1) Greg Robertson gave an update on the Kim Williams Trail Extension.
- 2) An update of the Lolo Wastewater Treatment Plant was given. There was a discussion of Biosolids Remedy/Removal.

PUBLIC MEETING – December 13, 2000

The Public Meeting was called to order at 1:30 p.m. by Chairman Bill Carey. Also present were Commissioner Barbara Evans, Commissioner Michael Kennedy, County Surveyor Horace Brown, Chief Civil Attorney Michael Sehestedt and Deputy County Attorney Colleen Dowdall.

Public Comment

None

Routine Administrative Actions

Commissioner Evans moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$393,472.63. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Hearing: Federal Block Grant Monies Allocation (Sheriff's Department)

Chairman Carey opened the hearing on the Federal Block Grant Monies Allocation for the Sheriff's Department.

Sheriff Doug Chase presented the staff report.

This year the Sheriff's Department has the opportunity to receive \$45,000 in Block Grant monies to assist them in being able to do certain things they ordinarily would not be able to do, due to budget constraints. Congress mandates that a citizens' panel review the plans, however, their recommendations are non-binding, and a public hearing must be held on the plans. Those tasks must be completed by December 30, 2000. Tentatively the Block Grant expenditures are as follows:

Item	Description	Amount
1	10% Match for Court Security Training	\$500.00
2	Office Supplies	\$2,700.00
3	Civil Disturbance Equipment	\$5,000.00
4	Vests and Equipment for 4 New Officers	\$9,000.00
5	Service Ammo	\$2,500.00
6	Digital Cameras	\$2,500.00
7	Digital Camera - 3rd Floor (Already purchased - reimburse 110-206)	\$700.00
8	Uniform Badges (Already purchased - reimburse 110-712)	\$500.00
9	**TENTATIVE Vehicle Exchange	\$5,000.00
10	TAC Conference	\$2,000.00
11	Overtime	\$14,600.00
	TOTAL	\$45,000.00

10% Match for Court Security Training - This training has already occurred. Detective Dave Fowlkes and three bailiffs were sent to Las Vegas for training.

Office Supplies - This is self explanatory and has been hit rather hard.

Civil Disturbance Equipment - This would include headgear, face shields, etc. The department is ill-equipped to handle a disturbance at the Detention Facility and protect employees, especially the head area. The last time purchases of this nature were made was in 1974. That equipment is now outdated.

Vests and Equipment for 4 New Officers - This pertains to another grant pending for 4 new officers through Community-Oriented Policing. If the grant is approved and the officers appointed, there is no money to equip them as required by contract. This money is being set aside should the grant for the new officers be approved. If the grant is not approved, the money will be moved into other line items that are showing stress, such as vehicle fuel, repair and maintenance.

Service Ammo - This line item refers to the department's policy of replacing all officer ammunition every 18 months to two years.

Digital Cameras - The department is now moving toward digital cameras. However, on serious crime scenes, they are always backed up by 35 mm film. The digital cameras provide a substantial savings on film and developing.

Digital Camera (3rd Floor) - This camera is used for the concealed weapons permits and any department identification. This camera has already been purchased.

Uniform Badges - Because of the number of promotions within the department, new badges were needed. Those badges have already been purchased.

Tentative Vehicle Exchange - There are several vehicles that are being refurbished this year as a cost savings measure, but the purchase of several new vehicles will be necessary. The light bars are 10 years old, as is some of the other equipment within the vehicles. The department would like to be proactive and begin to replace the older equipment over the next few years.

TAC Conference - This conference was held in Great Falls and dealt with disturbances and how to handle them.

Overtime - The overtime line item is always under strain, so this money will be set aside to help offset the difference.

The department needs to come up with a \$4,000 match and will do that out of the present budget's line items. This tentative Block Grant should then help bolster those line items.

Commissioner Kennedy asked what the consequence was of this grant not being approved?

Sheriff Chase stated the consequences were evident, none of the items listed would be received. The new officers would not be equipped, no digital cameras, no protective gear for officers at the Detention Facility for suppression of a disturbance, etc. That would hurt the department badly.

Commissioner Kennedy stated these items were not currently in the Sheriff's Department budget. The reason they were not in the budget was because other things were a higher priority under the tight budget constraints. The department decided then, on a priority basis, that these items were, on a scale, less important than items currently in the budget. Is that correct?

Sheriff Chase stated he did not feel these items were less important, but due to the budget constraints the department had a limited ability to purchase anything and there have been no real increases in the last 4 or 5 years.

Commissioner Kennedy asked about the Civil Disturbance Equipment. Is there evidence that suggests this equipment is needed?

Sheriff Chase stated there have been two incidents in Regional Prisons in the State of Montana since they opened. The Missoula facility has not had an incident, and the State officials are quite impressed that there have been none in over a

year. They have no reason to believe that one may not happen, even though everything is done to prevent that from happening.

Commissioner Kennedy stated the title referred to "civil" disturbances.

Sheriff Chase stated the title should have been changed to reflect that it was disturbance equipment mainly directed toward the Detention Center, but he would not rule out its use should there be a civil disturbance, such as a labor strike. The department does not have the ability to protect their street officers adequately.

Commissioner Kennedy thanked Sheriff Chase for the clarification that the equipment would be purchased primarily in the event of a disturbance at the jail, but could be used for other purposes outside the jail if needed.

Sheriff Chase stated that was correct.

Commissioner Evans asked Sheriff Chase if he really needed this stuff, really wanted this stuff and had a grant to get this stuff?

Sheriff Chase stated that was correct.

There being no further comments, the public hearing was closed.

Commissioner Evans moved that the Board of County Commissioners approve the request for the Federal Block Grant Monies Allocation for the Sheriff's Department. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Hearing: Heikes Family Transfer

Chairman Carey opened the public hearing on the Heikes Family Transfer.

Ron Ewart, Eli & Associates, stated his firm did not normally represent clients on Family Transfers, but the Heikes live in Oregon. He had received a letter from them which he distributed to the Commissioners.

Colleen Dowdall, Deputy County Attorney, presented the staff report.

This is a consideration of a request to create two family transfer parcels for that parcel described as Government Lot 6, located in Section 6, Township 14 North, Range 22 West.

Dwayne Heikes has submitted a request to create two parcels using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is forty acres in size, located west of Missoula. The Heikes propose to create two parcels, each 20 acres in size, for transfer to their son, David Duane Heikes, and to their daughter, Roxanne L. Pratt.

The parcel has not been divided since 1974. According to the applicant, he has not previously used the exemptions to the Subdivision and Platting Act.

Ron Ewart entered the letter from Dwayne Heikes into the record:

*Dwayne & Janine Heikes
10715 N.W. Shearer Hill Road
Forest Grove, Oregon 97116
(503) 357-9798*

To the attention of the Missoula County Commissioners:

We are Dwayne and Janine Heikes of Washington County, Oregon, 25 miles west of Portland in the Forest Grove area. We are farmers in a farming community. We sold our farm and processing business and have recently retired in April of 2000. Since then, we purchased 80 acres with a log home in your State of Montana for a retirement home. We plan to commute from Oregon during the different spring, summer and fall seasons.

We would like to deed a 20-acre parcel to each of our children; David Heikes, our son, and Roxanne Pratt, our married daughter. There are two 20-acre parcels we would like to keep; one with the house and the one connecting to it. A 40 acre parcel remains, which we would like to divide for our two children in that I am on Social Security and getting older every day like the rest of parents and grandparents which is why I want to divide and deed this acreage to our children for future. This would work well with our will and estate planning. Hope this is agreeable with you folks and thank you for your time. My address and phone number is as indicated above.

Thank you, Dwayne Heikes

Ron Ewart stated that his understanding of the situation was that the Heikes owned 80 acres, one 40 acre tract and two 20 acre tracts. They want to retain the two 20 acre tracts and divide the 40 acre tract between the two children. One of the 20 acre tracts has the house on it.

Commissioner Evans asked that Mr. Ewart convey to his client that approval of this transfer does not indicate the County will every improve their road or bring in any services.

Ron Ewart stated that would be conveyed.

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There being no further comments, the Public Hearing was closed.

Commissioner Evans moved that the Board of County Commissioners approve the request by Dwayne Heikes to create two new parcels by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review.

Commissioner Kennedy stated that he would second the motion if Commissioner Evans would include in the motion a request to the owners that they submit a statement to the Board saying that this is not an attempt to evade subdivision regulations.

Commissioner Evans stated the Board has never asked for such a statement before.

Colleen Dowdall stated that assurance is part of the affidavit they submit, they state that the purpose is for transfer to their children. The affidavit is a sworn statement that they are telling the truth.

Commissioner Kennedy seconded the motion as presented. The motion carried on a vote of 3-0.

Consideration: Phase I Revisions to Subdivision and Zoning Regulations

Commissioner Carey: The sixth item on our agenda is consideration of Phase I Revisions to Subdivision and Zoning Regulations.

Nancy Heil: On March 24, 1999, the Board of County Commissioners considered revisions to the Subdivision Regulations and Zoning Resolution to reflect work conducted by the joint City-County Growth Management Task Force. There was testimony given at that time and the Commissioners delayed a decision pending exploration of some of the issues that were raised by that testimony. The Board today is considering adoption of those revisions, with some changes to what was originally brought forth in March of 1999. Those revisions reflect some public testimony and it clarifies language to improve implementation of the regulations. There was a work session held last Friday, December 8th, and there are a couple of summary memos that are available if people from the public haven't seen them. I'm going to go through the first one that talks about the four main areas where the Commissioners are considering substantive changes and then I'll talk about some changes subsequent to Friday on some wording. The first is the designation of the Urban Growth Area. A map would be adopted setting the Urban Growth Area in the County and that area, at adoption, would coincide with the area adopted as the 201 Sewer Service Area that is shown on the map behind Commissioner Carey, and there are also 11 x 17 versions up front. That map will only change by revision to the Regulations, after notice and hearing, by a vote of the Board of County Commissioners. The second area has to do with density bonuses. In the City, these are available within the Primary Urban Growth Area. In the County, they would be available within the Urban Growth Area, however, additionally, connection to the sewer system would be a requirement for density bonus eligibility, as well as being a density bonus item. Also, the original proposal brought forth a provision that said that bonuses are not available in areas deemed to be 80% built out. The proposal before the Commissioners does not include that exception. This proposal also adds a bonus item for the rehabilitation of existing structures. The third area has to do with neighborhood meetings. In the Growth Management revisions that were brought forth out of the Task Force, there was a requirement for developers to meet with neighborhood groups prior to submission of any application for development proposal and the Commissioners are considering that neighborhood meetings would be required for major subdivisions and density bonus projects only and that review would occur before the end of the agency review period, in the case of subdivisions. With respect to hillside developments standards, there is a, one of the provisions in the hillside standards would be that development on hillsides results in a reduction of density on slopes greater than 10%, and the proposal before the Commissioners includes that provision only within the Urban Growth Area. Also, there is a requirement as adopted by the City that talks about ridgeline standards applying at elevations greater than 3,400 feet. That standard would be included in the County regulations, however, the reference to 3,400 feet would not be included due to the fact that much of the outlying parts of the County are already over 3,400 feet. After the work session on Friday, there are a few changes that the Commissioners are considering that I wanted to go over. For people in the audience, this would be based on a memo dated December 12th. I think most of you picked it up, if not there are additional copies here. On the second page of that memo, any changes are noted in shading, there were some suggestions that had to do with wording of some parallel construction and addition of the word "and" that have been added. Also, more definition about what is meant by connection to City sewer in terms of a definition, so the wording has been included as a "waste water collection and treatment facility, not to include individual or community drainfields." There was also a request to clarify some wording regarding rounding in the application of density bonuses. That is included on Page 3. There was also a suggestion to make more clear that the lot, slope and density reduction and recuperation would only occur within the Urban Growth Area and that wording change is noted on Page 4. Also, in the table on Page 5, just a minor wording change to make it parallel with itself, to make it consistent with itself. Under neighborhood notice requirements, there was a suggestion that the developer, after a neighborhood meeting, include not only copies of the meeting minutes, but the applicant's response to the comments and suggestions that were received. That is noted on the remaining pages, there are three sections that actually refer to neighborhood meetings because it occurs in slightly different form in the Zoning and Subdivision Regulations. There was also an addition of notice to the Planning Office to make sure that our office receives notice of neighborhood meetings and also the addition of the word "or other neighborhood organization" be notified for neighborhood meetings just to make sure all the bases are covered in terms of the different types of neighborhood organizations or community councils or landowner associations that exist in the County. Those were the changes from Friday. You also have before you motions that you could use if you chose to adopt these changes to the regulations today. The subdivision motion refers to the Subdivision Regulations that can be adopted. The Zoning Resolution motion is noted as an adoption of a Resolution of Intent to both amend and add new chapters. There are seven motions. That's all.

Chairman Carey: Thank you Nancy. This is a consideration and not a hearing, but I don't think the Commissioners would object to anybody who would like to make a comment about this, I ask as a question.

Gerard Berens: My name is Gerard Berens, 2085 Edward Court, I live in the Target Range area. Before I begin my comments, I would like to, want to say that these comments do not reflect negatively upon staff or upon all the hard work that they've done in some of the changes they've made even at suggestions and they are not designed to reflect negatively

or personally against folks that may advocate density bonuses and what they're attempting to achieve. We just have some very strong differences of opinion regarding that. And our differences of opinion are quite heart felt. I stand here before you today as I have for the past two years, representing the Target Range Homeowners Association, in opposition to density bonuses. Through surveys and extensive public planning meetings over the last two years, the Target Range community has voiced its strong opposition to imposing density bonuses on our community. The following are the reasons why we oppose these major changes in zoning which impact all residential County properties within the Missoula Valley area, as described as the Urban Growth Area. First, I'd like to raise some legal concerns. The proposal before you contains substantive changes as just so stated which have not been exposed to the full public process as required for zone changes. The changes are of such magnitude that, in argue, you are required to send them back to the Planning Board and follow the prescribed process for approval. The length of time that has passed since the last hearing on this matter, March of 1999, is too great to attempt to boot strap this truncated process onto the previous process, which in our view was also deficient. Anecdotaly, we know that as a result of homeowner turnover, there have been changes in the makeup of the residents in the areas that are affected since the last hearing. Additionally, the impacted areas have been changed from the previous proposal, vis-a-vis, the map that has been presented. Up until this point, we had this sliding line, a movable line that would adjust in time and ultimately would have gotten to this larger area, but now you've set this as the area that's going to be encompassed now and all the residents within this area can be exposed to this. These changes, with few exceptions, represent a 50% density increase in all County residential zoning districts in the Missoula Valley. While staff will advise you this is a general change to the County-wide Zoning Resolution 76-113, as now employed, the proposal applies to a specific number of zoning districts, thus in our view it is a zone change of these specific districts. Each approval under these proposals will violate the conditions of the zoning district where densities are employed. These changes will allow density increases above the density set forth in the Missoula Comprehensive Plan. The densities in the Comprehensive Plan need to be honored. In our view, and that of the Montana Supreme Court, the Comprehensive Plan densities prevail over zoning densities. The density bonuses takes away the State statutory right of protest to changes in zoning. The density bonus proposal is a clever circumvention of the statutory Planned Unit Development (PUD) zone change process which mandates the right of a binding protest. Splitting of existing zoning districts by the Urban Growth Area. As now defined, the Urban Growth Area will split the boundaries of existing zoning districts. For example, the C-RR1 in the Target Range area is located on both sides of the Bitterroot River and Clark Fork River. I live on one side, Commissioner Kennedy happens to live on the other side. The Urban Growth Area is bound by the Bitterroot River, thus the high density development will be skewed towards my side, or the eastern portion of the zoning district. The residents east of the river will experience a never-ending degradation of their area while residents west of the river will continue to enjoy the low density pattern of development that exists now. This pattern of development is unfair to one body of property owners in a contiguous zoning district. Segregating one class of property owners in one part of the zoning district and increasing their density, lowering their quality of life in our view, changing the pattern and development and denying future protest right while allowing the other portion of this district to be spared these negative changes in inherently unfair to one class of property owners, which until now have enjoyed the same rights as a district as a whole. The negative effects of density bonuses on the community and the neighborhoods. Target Range has voiced its community-wide opposition. In 1999, and again in 2000, we have been conducting surveys in the district, and these surveys have been conducted neighborhood by neighborhood, and as one neighborhood gets involved, they start to do the survey, so the survey results started in 1999, but we've had reaffirmation of the results in 1999 now in the year 2000. The Target Range Association conducted surveys of 242 households on a wide range of planning issues. Over 97% of the respondents stated they were opposed to a 50% increase in housing density in our community. So we ask, what good reason is there for increasing the population of the County 50% above levels set forth in current zoning. Your approval of density bonuses will be against the direct will of the homeowners and taxpayers of the community. Increased density will cause environmental harm. The increased density and growth promotion will cause dramatic and negative effects on a host of environmental factors in the Missoula Valley. Traffic congestion and air pollution will increase in excess of that allowed by current zoning and Comprehensive Plan densities. We are already experiencing the negative effects of increased traffic with the existing pattern of development. A 50% increase in that pattern will cause great harm to the environment and quality of life of the valley. To prove this point, please find attached, and by the way I'll give you copies of all of this, a paper entitled "Coping with Traffic Congestion" by Wendell Cox. Mr. Cox is a nationally known transportation expert who has served on the Amtrak Reform Council and the L.A. County Transportation Commission and numerous other national commissions and committees. The report establishes the following. Urban traffic congestion increases with increased population density. As urban population density increases, so do vehicle miles traveled, as urban areas with the lowest air pollution have the lowest population densities. The paper concludes with the following sage comments: "Traffic congestion is not a product of sprawl. On the contrary, traffic congestion is a cause of sprawl as people move to sparsely populated areas to escape excess traffic," and it continues, "without an aggressive policy for adding sufficient roadway capacity, policies that increase the density of population and development will be counterproductive. Whatever decisions are made about density, public officials need to develop plans for the reality of life in the future, rather than for idealized notions that will require behavioral and developmental changes. Experience demonstrates that such changes are simply not going to materialize." These factors are evident in our community. Traffic congestion and vehicle accidents are on the rise in the valley. Regarding behavioral changes, Commissioner Evans, I hope I don't misquote you Barbara, has stated a view held by many; "You will have to pry my dead hands, or cold hands, I forget, off of the steering wheel."

Commissioner Evans: Cold, dead fingers.

Gerard Berens: "Cold, dead fingers off the steering wheel." Traffic to and from Ravalli County is rapidly increasing and vehicle deaths are on the rise. The Missoulian has recently reported that previous Missoula residents comprise the largest source of in-migration to Ravalli County, the bulk being baby boomers with children. Our central city schools in the high density areas of the city are losing student population and are closing. Meanwhile, new and large schools are required in Ravalli County. The increased growth in the Missoula Valley and the city's high density areas has not stemmed this trend of migration from Missoula to Ravalli County. We assert, as the Cox paper states, that the growth of Missoula Valley has exacerbated this out-migration and the traffic problems we are now encountering. Density bonuses will only serve to accelerate this trend. Crime rates are lower in low density areas. I've attached for your review some crime statistics from the State Bureau. Crime rates are dramatically higher in urban areas versus rural areas. Attached are the state wide crime rates as reported by the Montana Board of Crime. They show that the most heavily Montana populated counties have crime rates above the state wide average, while lower populated counties, crime rates are below the state wide average. More dramatically, Table 7 shows that all of the densely populated major urban areas have crime rates above the state wide average and all, and I emphasize all, unincorporated county areas, which means county areas that are served by

sheriffs, all of them in the state which have lower densities, just by the nature of what they are, boast crime rates below the state wide average. In Missoula County, if you move from a low density area of the County to the City, you have a 221% greater chance of being exposed to crime. One may argue that the concentration of businesses in the city makes this comparison invalid. However, consider the fact that the burglary rate in low density unincorporated Missoula County is 60% below the burglary rate in the city, which is not a factor of businesses. Please note that these are comparisons of rates per population, therefore the evaluation is not biased. One would naturally assume if you have higher population you're going to have higher crime, because you just have more people. But this is a case where we're actually doing a per capita comparison so it shows that there's some very dramatic increases the moment you cram more people in a tighter area. Density bonuses produce a larger tax base at a cost to the environment. Density bonuses will increase the County's tax base but at the great expense of the loss of quality of life and the negative impact on the environment. Lower density areas are of benefit to the community. Rural and semi-rural areas of the Missoula Valley are of benefit to the community as a whole. These low density areas produce less traffic and less valley pollution. They are friendly to wildlife, they add to the urban open space, they provide for homeownership which is rapidly declining in the more densely populated areas of the city, and they provide a local alternative to Ravalli County for young families with children seeking less densely populated areas. Density bonuses in the city have proven they don't work. Density bonuses utilized in the City have caused great unrest in the neighborhoods where they've been used. Both the Dillworth and Rattlesnake Court projects brought outcries from the neighbors. The reason for this outcry is two fold. First, most of the neighbors who complained about the change knew nothing about the existence of density bonuses and their effects. At the time of the city's adoption of density bonuses in 1999, the general community did not know the direct effect density bonuses would have on them. The information about density bonuses was not effectively communicated by the City to the public before its passage. You are about to repeat the same deficit, defect. Please look upon your own advertisement about this issue. It states in part: "The Missoula County Commissioners will consider, and I've dropped some of the legalese, County Phase I Growth Management revision to County Subdivision and Zoning Regulations." What average homeowner can discern from this ad that their lives will be dramatically changed. What, in our view, the ad should state is this: "Homeowners in the Missoula Valley, please take notice that your neighborhood potentially will be dramatically changed. We are proposing to increase the densities in your area by 50%. That means, for example, if you live on one acre in a two house per acre area, we will be promoting developments of three houses per acre next door to you." I would venture to say if that ad had appeared in the paper, this room would be full. Right now, there's quite a few people here, but many of them I personally called and have been kept aware in the Target Range Homeowners Board of Directors and that's why they're present. Second, unless you are a policy wonk, or a special interest group advocating density bonuses, you are not going to fully understand the "on the ground" impact of these "on the surface" very subtle changes until their effects are manifested with real experiences close to home. That is why when density increases are proposed through PUDs, the generally uninformed public can register a legal, binding protest when they experience a major zone change next door. This right of protest is a safety valve for both them and for you. The affected homeowners get the opportunity to register their legal, binding protest and you get the opportunity to consider the negative effects of the zone change in your decision. Denying the public's right of protest is unfair. The zone change density bonus without a subdivision request delegates your decision-making to staff and a safety valve of a legal protest is removed. When you remove such power from the public, you engender feelings of hopelessness, anger and distrust. Please ask Councilperson Harmon and growth management advocate Bill Clarke. Both can relate many stories of angry, outraged homeowners adjacent to the first two density bonus projects in the Rattlesnake. Density bonuses without the right of statutory protest do not work. As each neighborhood of the community is picked off, the higher density project will be approved and in its wake will be a neighborhood of disgruntled and distrusting homeowners. In the end, the community as a whole will be upset by the County Commissioners. Taking away the right of protest is a major shift of power from the existing homeowners for the express purpose of benefiting growth and development promotion. Are you willing to foster this much community discontent and the ill will toward County government. And I'm nearing the end. Neighborhood network concerns. The concerns of the Target Range and the neighborhoods throughout the valley are clearly stated in a September 7, 2000, letter sent to your office. For the record, I will read it. This is addressed to you. *"We the members of the Neighborhood Network, a non-profit umbrella group of various Missoula Valley neighborhood associations, incorporated in 1990, wish to voice our deep concerns regarding some very disturbing trends in zoning and planning in the Missoula Valley. Bullet 1: We firmly believe that thoughtful zoning brings to neighborhoods and communities continuity and predictability which are beneficial to the smaller and larger community by promoting enduring neighborhoods, stable school enrollments and a much desired sense of community. Bullet 2: We know and deeply respect that when we, and our neighbors, made the choice of living in our particular and diverse neighborhoods, we did so because of desirability, particular attributes of the areas, and predictability. Bullet 3: While changes in zoning that alter patterns of development may be beneficial and wanted in some area, in other neighborhoods, such changes have negative impacts on livability and desirability. Bullet 4: We feel strongly that such changes should proceed only when they enjoy the firm support of the immediately impacted neighborhoods. Citizens should have the right to trust that elected officials will not change zoning designations of an area against the desire of its citizens. Bullet 5: We feel that the state mandated right of citizen protest of zone changes shall not be abridged by our elected officials or government bodies. Bullet 6: We feel that the zone changes often bring an economic advantage to a few at the expense of many residents who lose stability, livability, desirability of their chosen place to make their home. Zoning changes made against the will of the affected people diminish their trust in governing bodies."* And then, in summary, I'll conclude. The residents who purchased or built their homes in low density areas did so with the implicit understanding that the neighborhood was protected from radical changes in zoning and density. Their home often represents their single largest financial investment and is a direct reflection on the quality of life which they have chosen. Any changes which disrupt those core factors is very threatening to these families. Such changes are without a doubt the single most intrusive government action to directly and negatively affect their lives. When it's undertaken without full public knowledge and against the expressed will of those who know about it, you foster distrust in representative government. You do a great disservice to your constituents and to the governmental body you represent by causing these very threatening changes. From the viewpoint of one who will be directly affected, it appears the outcome of this proposal is to cram as many houses as can be imagined into the valley. The result will be the demise of many of the values and quality of life which we have come to enjoy and expect. The proposal will encourage high density developments in the furthest parts of the valley. It undermines the very concepts of growth management the document supposedly advances. In short, this is not growth management, it is growth promotion in its highest degree. We strongly recommend that you not approve these changes to the zoning and subdivision regulations. We also recommend, as we stated earlier, that they be sent back to the Planning Board if you're going to go through this, and start the process anew, because of the dramatic nature and size and the substantive nature of the changes. However, if you desire to approve this dramatic zone change, we suggest that you put it to a vote of the affected zoning districts. Let the homeowners who are

going to be impacted have a voice. If not without their knowledge you will strip away their statutory right of protest, increase traffic and pollution in their neighborhoods without their informed consent. Thank you very much.

Chairman Carey: Thank you Mr. Berens. Is there additional comment to help inform our consideration of this matter?

Helen Orendain: My name is Helen Orendain. I live at 2555 Blue Mountain Road. And for those from Palm Beach, I'm west of the river, so I'm not in the Urban Growth area. However, I am a member of the Target Range Homeowners Association, and I'm on the board. And I concur with what Mr. Berens has said. However, perhaps I'm not as polite as Mr. Berens. The issue is relatively new to me, however, the process is not. I've lived in Missoula for 13 years, I've owned property in other jurisdictions, cities, da-dah, and never have I had to confront so much defense of my property. Hey, I pay the taxes, you know, make your machinery work, but I've found that the City and the County governments have their own agenda and fail to adequately address and notice the public. Now there have been some substantive changes in your plan and yet we people are not apprised of that. I take issue with the notice that's in your legal notices that lacks any specificity. I happen to be an attorney but I don't sit around and read the legal notices and I question, where are the Commissioners in something of this import, why are they contacting their constituents as to what's happening in their area. If I were to read this, the notice that was in the paper, I wouldn't have any idea what the boundaries were, I wouldn't have a clue and yet you people sit in judgement of what's to be done with our property and that's scary. I think the property owners in this area have a tough time. We don't have a newspaper that is particularly receptive to the property owners. We collect together and complain, we're portrayed as whiners. It is my suggestion, given the fact you haven't discussed this in a collective group since March of 1999, that's almost two years ago, that this whole matter should be brought back to the Planning Board. Let's start over. Let's let people know what's going to happen to their property. Okay. No more railroading. I've lived through it with the family definition in the University area. We were promised housing regulations, occupancy standards, that was five years ago. That hasn't happened. So I think this is unconscionable, let's go back to the Planning Board. Let's get it done right. Thank you.

Chairman Carey: Thank you Ms. Orendain.

Judy Smith: My name is Judy Smith. Perhaps for a change of tune here. As someone who worked very hard to suggest these kinds of issues to you all, I'm glad that we're coming to the point of maybe finally being able to have something passed. I worked on this for at least four or five years and know it's not perfect, and as you probably know, have some concerns about it as you have it written here. But those concerns are the kinds of things that I want to be in dialogue with you about. They are not concerns that I think are enough to suggest that you do not pass this. I want to give you just a couple of brief comments. I'm sorry we haven't had a chance to have a better conversation maybe among those of us that are neighbors, because I think the Cox article that was referenced wasn't talking about Missoula. The real conversation in Missoula is about affordable housing. The real issue for density bonuses is around affordable housing. People didn't move out of Missoula because of traffic. People moved out of Missoula because they couldn't find housing. I've done many, many, many interviews with people that live in Ravalli County because they couldn't find a house to live in in Missoula. I represent people with lower incomes and those folks basically had to leave because we didn't have housing for them. Density bonuses done correctly, in my opinion, are a very important tool for affordable housing. I think the organization that I work with, though I don't consider myself a policy wonk or a special interest, I think the policy concerns are great and I think the kinds of organizations that I work with are trying to build this kind of housing for folks. I'm already in conversations with some neighborhoods around a potential density bonus project we'd like to do, and we'll do those meetings correctly, and we'll have conversations and the neighbors will be a part of that. And that's exactly the concern I bring to you mainly today about your particular outline of some of the changes that you've looked at. We believe that neighbors interests need to be balanced with development interests. We don't see them as diametrically opposed, we see them as mutually beneficial. We think it's unfortunate that sometimes it has been in opposition and so the goal in this particular approach would be to have these neighborhood meetings at a time when the developer could have the most constructive conversation possible. So we're a little concerned that you've moved the timing. In the discussion with the City on density bonuses the timing was not changed, that was not an issue that developers that attended that meeting brought up to question and have change. We still prefer to have the notice and the involvement, I'm sorry, the involvement with the neighborhood as early as possible so before the actual application would be our suggestion. But as I say, that's not enough in my mind to tell you not to pass this, but it's enough to offer you a caution, to say that neighbors need time and may be that this does not give neighbors as much time as they need to actually be in the conversation with the developer. I think it's very important that you have in here the fact that neighborhood comments will be responded to by the developer and I appreciate the fact that you had the meeting and that staff wrote that in, in this particular version because I think that does respond. I also think around the discussion of density bonuses if you're not going to use the 80% buildout, which is somewhat to the point that was raised earlier, because folks in neighborhoods don't want all of a sudden there to be a mass change in the amount of density where they're living, so the 80% buildout was a protection. You don't have that protection in this now and so what you do have is this discussion around discretion and granting a density bonus may be based on and the factors that are listed there. I think that's a very important safety net, if you will, that you've allowed and I think that's a very important thing to have in here and I think we all have to pay a lot of attention to that, because it does put in your lap the responsibility of not letting what Mr. Berens suggested happen. Because I don't think that density bonuses ultimately means deterioration. It doesn't have to. It doesn't necessarily mean environmental degradation, it doesn't have to. But it's in your hands to make sure that you actually execute the discretion that you've outlined here so that those kinds of things would not be possibly able to occur. And you also have discretion in another way which I actually support although it makes me a little nervous, which is that you can designate different areas for growth, because that is what growth management is about. It's about saying we know there is growth coming and I think the comments of the folks before me were somewhat on the basis of somehow growth isn't coming so we can afford to not have to worry about this. Growth is coming. We all know that. I might prefer that it didn't. So it means that we have to figure out where we direct that growth and what kind of density we can actually establish so that we can all continue to live in this community. The folks that I represent, the lower income folks, they don't own the one house per acre houses. They need something very different and that's where the density bonus need to come in. But you all, I think, need discretion to target certain growth areas. I'm just very concerned that it be done with very open public comment and neighborhood involvement, because the last thing that needs to happen is a neighborhood to all of a sudden, as Mr. Berens said, find out it's become a new growth area. That should be a community conversation longer than the ones that we usually have. But my comments to you are to say I'm very glad you're looking to pass this. It's something that folks like myself have been in conversation with you all about in some ways positive and some ways not so positive over the years and let's take this year and look at it and see what kinds of results we get and come back and have this conversation again.

But once again, in my mind, density bonuses are about affordability and if we don't go there the people that I work with every day will not be able to live in Missoula. Thank you.

Chairman Carey: Thank you Ms. Smith.

Wally Sept: Hello, my name is Wally Sept, and I live at 2103 33rd Avenue. The first letter that I'm going to read is at the request of Ross Best and he states this: *"Dear Commissioners: I understand that you are to consider today proposed zoning changes as part of your Growth Management efforts. Since I will be unable to attend today's meeting, I wish to submit these written comments. As you may recall, when an earlier version of the current proposal was before you last year I expressed concern that the process up to that point had been defective. Since it appears that your consideration of the language before you today is based upon that earlier process, you should be aware that adoption of the proposed zoning changes without further appropriate public notice and hearings will be open to legal challenge by residents of the affected areas. I am a resident of the City and thus will not be directly affected by the zoning changes, but I believe that it is in the best interests of all that all decisions of local government should be made with the benefit of full public awareness and participation. For that reason, I would encourage you to take care that all legal requirements regarding public notice and public hearings have been observed before you adopt these zoning changes. Sincerely, Ross Best."* I'll hand these to you. I got back to town late last night and after having reflected on what I read in Sunday's Missoulian, I sat down at my computer this morning and I cranked this out. I beg your indulgence. On March 3rd, 1999, I presented testimony to a joint meeting of the City Council and the County Commissioners. As I picked up Sunday's Missoulian to read today's agenda, I thought to myself, this is déjà vu. We've been there and we've already done that. But no, you are now considering adopting a comprehensive zoning and subdivision code that governs how and when construction can take place in the Missoula Valley. Since the rote process of learning seems to be the only way to get a point across, allow me to reiterate. The Target Range Homeowners Association by-laws state, and I'm quoting from the by-laws, "we will preserve the area in a semi rural condition of the first rate." In simple terms, ladies and gentlemen, we the people do not want to change the present zoning. Let me repeat that, we do not want to change. Please do not do to us what we expect you to do for us and that is to protect our private property rights. One home per acre or per half acre as it is presently designated in the Target Range area, is sufficient regardless of anyone's dispute to the contrary. Mr. Berens has articulated very well what should be clearly understood by this time. Increasing support in our area validates our contentions. The welcome mat of public participation has been spread out again. But for what end, may I ask. Are public testimonials truly a means to identify hurdles to be overcome, are they a legal format to be followed only to be changed, circumvented or disregarded to proceed with your predetermined agendas and the public be damned. It appears that way to me. Hence a mounting distrust in the entire planning process. Smart growth versus dumb growth, I guess. Density bonuses, affordable housing and the entire rhetoric associated with the planning process in reality are collectively myths, ladies and gentlemen. They are myths. It is time to detonate the theories in favor of unadulterated common horse sense. Most citizens do not approve of this intrusiveness into their private lives. In a pamphlet that was circulated by Commissioner Evans, which preceded her re-election, she stated, and I hope I'm quoting this properly, I took it right from the pamphlet: "New urbanism is fine so long as it is optional and if people want to endorse these ideas and wish to allow someone else to tell them where and how to live and how to get to and from work, that is fine. I do not, and I do not believe that the majority of Missoulians do either." I can say I support that, I cannot dispute that in any way. The entire concept endorsed by most planners is that they are the only ones that have the expertise to make important decisions that affect all of us. We don't need government to protect us from ourselves. They are pompously in error. Zoning and rezoning is presently being used as a contrivance in my judgement to force entire neighborhoods to accept a plan that does not take into account the constitutionally guaranteed rights of free choice. Now this may hit some of you rather hard, but I'll tell you, it's true, and as a reminder. The Communist Manifesto represents a misguided philosophy which teaches the citizens to give up their rights for the common good, for the common good. Number one on the list is the abolition or the interference with private property ownership. Politicians and bureaucrats would have us believe that we should gladly give up some of our rights for the good of the community. No matter how cleverly this Marxist argument is made, the hard fact is, whenever we relinquish a right, we lose our free choice. This adds another control inflicted upon us by government on the way to bondage. I would agree with Mr. Berens, you do a grave disservice to your constituents and the body that you represent by even thinking of implementing these threatening changes. I second the motion made by Mr. Berens not to approve these changes to the zoning and subdivision regulations. Thank you.

Chairman Carey: Thank you Mr. Sept.

James Carkulis: Good afternoon Commissioners, for the record my name is James Carkulis. It's refreshing to be able to speak to a body as opposed to being sort of relegated behind the scenes at planning, annexation and zoning in the City. As you well are aware and Mr. Carey, I believe that I've spoken to you on this, I have been in general favor of the Phase I regulations. In March of 1999, I did come to you with I believe four to six pages of changes. Most of those revolved around the fact that if you implement these particular regulations, they are County-wide. There are many aspects of these regulations that are inappropriate for areas outside of the Urban Growth area. That is why and in light of the recent Supreme Court decision which clearly states that use of a parcel must comply with the goals and objectives of a Comprehensive Plan. Not substantially comply, but must comply. This gives me pause in light of the fact that our Comprehensive Plan dates back to 1975, and I think that we should reflect a little bit for this Phase I as to how it will be integrated into the update of the Comprehensive Plan, whether it's under SB-97 or not, but more specifically, whether or not we really need to have an update first, prior to the passage of Phase I. Once again, that's not to say that I'm against the passage of Phase I, it is to say that I think there is a legitimate concern here. The second area of concern that I have, and it's one that I have spoken to you with before, is simply that probably through no fault of OPG as a whole, we have been religiously putting what I call development standards which affect a wide girth of zoning districts, of land area, into regulatory documents as regulatory standards. Personally, I think that must cease and I think that areas like density bonuses, hillside standards, ridgeline standards, are truly development standards and should go in the proper document and you will find that the proper document is the growth plan. I see that Colleen has made, I think, a gallant attempt with the hillside regulations to designate inside and outside of the Urban Growth area and I appreciate that. However, I do have one recommendation and that is there is, under State statute, I believe under Title 76, an inherent right to harvest timber that cannot be superceded by land use issues and I believe that under the wording of the ridgeline standards that the integrity of that ridgeline must be maintained. I have a feeling that that would pose a problem if indeed private owners of property wish to harvest their timber, regardless of how they wish to do it, I'm not here to comment on that. But, I think that that is an area that needs to be reflected on and looked at to see if it does, if there is some friction there as far as the regulations are concerned. In conclusion, I'm just very concerned at this juncture of the County and where it's at and

where we're heading with land use policy. As Judy Smith said, you're the ones that are going to decide where growth occur. I couldn't agree with you more, but I think we should have that master plan in effect to know where growth is going to occur, where you have your concept and maybe the citizenry concept of where that is going to happen and then provide a set of regulations that will truly coincide and be complementary of that particular growth plan. Thank you.

Chairman Carey: Thank you Mr. Carkulis. Anyone else care to make a comment?

Don Stinger: For the record, my name is Don Stinger, I live at 245 North Davis Street in the recently East Reserve area that was recently annexed that is, and so, I represent the Orchard Homes in the Neighborhood Network that was mentioned my Gerard Berens and I, so, population-wise, about half of the, reside in the City now and half in the County. And I reminded you at Friday's meeting that red line you have there in that gap, there to the west is an area that's ripe for further annexation, development, whatever. And they, people do not agree on the, this, they say well this thing, growth management, smart growth, what's it. I says, well, essentially, I explain it this way, essentially it means we build up instead of out and that's what happening with the density bonuses, we have one next door to me going, it's being constructed as we speak and another one is in the works and I know there's two more that are be coming up this spring and that's what they, happen, and I also stated that the, this term character of the neighborhood is non-definitive in our area because of the PUDs and cluster housing, rentals that were allowed and there are very, the setbacks and the so forth, and the yard size and the so forth, and there's no, so it does, these new developments don't look that much out of character and it's, so it's in essence what I say about smart management or this smart growth, I mean, and the growth management, one size does not fit all and so I have a hard time trying to tell the people because there's, you already have some areas that are zoned 16 units per acre that are immediately adjacent to the City limits and the sewer and they are not, this has not been used. But, the people are not aware of what the thing. I took one day and researched the history of County zoning in our area and the whole area of the County Life Club, the Orchard Homes County Life Club area, and went back to 1959 is the last, first that I could see and there were, it was a very loose attempt, but it was an attempt and there was a lot of people voiced their, made negative comments and so we have several areas right now in the City that are agriculture and they don't want zoning and they don't want, because they don't want to be told what they can do with their land and though they are, some of them are aging out and they're giving up and going and so, of course, it's surrounded by City so there's no question that they'll be City property, but the area west of Reserve is wide open and it's, those people are unaware of what the zoning and it's hard to educate them, they don't trust the City and they don't want anything to do with them. And so, they will comprehend this thing you are doing today as kowtowing to the City or agreeing to, however, I'm not and once again, I want to do like Mr. Berens, it's not you or the staff or anything, I'm just saying how those people think. They don't want it. When they say never, I say you're probably next. Thank you.

Chairman Carey: Thank you Mr. Stinger.

Diane Beck: Good afternoon. For the record, my name is Diane Beck. First, I'll make a comment on behalf of the Missoula County Association of Realtors and then I'd like to make a comment separate of that as a Missoula County resident. I'll start with the Realtor Association. We were not aware that there would be any testimony today so what I'm going to say has not been totally authorized, but as the president they leave it up to me to make comments when I need to, so. First of all, the goals and objectives set out in the Themes Document and throughout the process of Growth Management included such items as density bonuses, cluster housing, in-fill development. And so I guess in light of that I think we need to take that into consideration today. And we do support planning, we support healthy neighborhoods, we support all of those things that some of the people in this room may not think we support, but we do support the neighborhoods having the opportunity to design, help design their neighborhoods in the true sense of the word, meaning true participation in that plan and honestly having a good representation from the neighborhood and not just a select few. So, we support good planning. My last comments will be as a Missoula County resident. I live in the Wye/Mullan Road area, the planning area. I'm five miles from Reserve Street off Mullan Road in what will be in the next five years one of the fastest growing parts of our County. And, we have a new Wal-Mart, we have a new theater, we have lots of new restaurants, and we have lots of new homes going out in our area. And traffic is a concern, congestion is a concern, but I feel strongly that as participants in the process, which we've had a couple of years to say, you know, how we would like to see the area grow, there's nothing adopted yet, unfortunately, but hopefully that will come soon. We have had the opportunity to say how we'd like that area to look. And there are some areas that need to be dense, more dense than others and so, I guess, I feel like we've been part of the process, it's been an open process and so I disagree with comments made that it's been a closed process and that you guys are just heavy-handed in doing what you want to do anyway. So, also, I would like to personally just make a comment. Mr. Berens' arguments against density bonuses are the same arguments many of the groups such as the APA, Montana Smart Growth Coalition, the Greater Yellowstone, those are things that those groups support and say are good for communities, so there's a lot of diversity in how things will look, but the bottom line is we're growing, we're going to keep growing and if we do it right, we're better off than if we do it wrong. So, thank you for your time.

Chairman Carey: Thank you Ms. Beck.

Linda Smith: My name is Linda Smith. I'd like to preface my remarks by saying it would be very useful to good long term planning if the County lands were zoned and if County residents understood how zoning can protect their interests. Second, I appreciate these proposed changes as an attempt to better balance the interest between the development community and the interests of the community's neighborhoods in more meaningful participation in neighborhood meetings with developers, and that we may even get to the point where developers and neighbors understand that they mutually benefit when they, when developers can learn from the expertise of neighbors and neighbors can learn, you know, design, good design aspects from developers as well as other places in the community, so that it's a real win/win so that we end up with a well designed community. Otherwise, I think if we continue to, especially early in the process, I know how much it means to neighbors to be participating before plans are fully, are very much developed at all for that matter, and I think that these proposed changes address or make the neighborhood participation process more meaningful, or potentially meaningful to neighbors. I also am concerned about the 80% buildout provision. I know that with the County not being zoned and to a great extent that it may not make sense as it does for the city, but I do think that the concept that the City was working with, and I've attended the subcommittee meetings on density bonuses, and it seemed to me that in general the neighbors and many of the developers at those meetings were in support of neighborhoods not being built out more than 100% of the underlying zoning. So any way that the County can get at that, if an area is substantially built out, to review the state of things there and to address whether the neighborhood concerns are being included at that

point, at that 80% or substantially built out point, I think is important. And, lastly, I think that neighborhood character is threatened more by badly designed development than by density bonuses, which if well designed both fit into the neighborhood and provide more affordable housing. So I do support these proposed changes and I think it's really critical for the City and the County to be working together on their long range planning and zoning together, in other words adopting the Comp Plan and now the Phase I Subdivision and Zoning Regs, and then going into Phase II and however many phases there are going to be together. Thanks.

Chairman Carey: Thank you Ms. Smith.

Dick Ainsworth: My name's Dick Ainsworth, I'm with Professional Consultants, also a member of the Board of Directors of the Missoula Building Industry Association. Generally, I'm in favor of growth management and of all of these changes that are proposed. I worked with the task force or the group that spent a couple years going over these and hashing them out and was in favor of the City adopting them and was in favor of the County adopting them at the time, a year or so ago when you did not, and I think they are working in the City. They've got some kinks that they need to work out as any new regulation does and we learn as we go. There's portions of those that I personally spent hours and hours working with the group on and now you go back and read it and say, what the hell did we mean when we said that. And so how somebody that wasn't even working on it could possibly figure out what we had in mind, I don't know. But in general I think they're working, I think they're good. I've got a couple of concerns, more specific than philosophical, I guess, with these, and primarily dealing with the hillside regulations. Had those concerns when the City adopted them. We talked about these a little bit last Friday, the definition of hillside at 10% concerns me, I would rather see it at 15%, I think that a lot of things that fall into the hillside regulations really, that 10% is a pretty flat slope to be putting some of those restrictions on. The other thing that's bothered me since the day they wrote these was the reduction of densities on hillsides. In essence, what you're doing is taking away or down zoning people's property. If you own 40 acres and it was zoned two to the acre and a quarter of it's flat and a quarter of it's between 10% and 20% and the other half of it's over 20%, you've got half the density that you thought you had when the property was zoned and you had nothing, no opportunity to say anything about that, no opportunity to protest. The reverse of that, of course, is that you can also come in and, other people or you could come in and try to get density bonuses and the neighbors may not have an opportunity to protest that, but someone that's applying for density bonuses has to take a conscious action and do certain things that address growth management practices and that the County or the City has found to be favorable sorts of things they need to do in some particular proposal to get the density bonus. There's probably thousands, I don't know, hundreds certainly, of landowners that are within the designated urban area that have slopes on their property that are over 10% or over 20% that think today that their property is zoned whatever the underlying zoning says it is and they don't know that if you approve these tomorrow, they don't have that density. I don't think that's right or appropriate and in most instances, the property was originally zoned and at the time that the County looked at zoning it that way they took into account things such as slopes, for the most part when they got out of the valley bottom into the more steeply sloped property, they would be down zoning as they went and maybe zone it one to forty or something like that and of course there's lot of property in Missoula County that's got a mix of densities but it concerns me that by adoption here, we're taking away people's density on property that are over 10% and they have no opportunity to say anything about it. I guess if they knew they could come in and say the same thing I'm saying, but a lot of those folks are losing density today if you adopt these as is and don't realize that. Thank you.

Commissioner Evans: May I ask Dick a question?

Chairman Carey: Sure.

Commissioner Evans: Dick, you're recognizing that the line that we have does not extend clear out to the County line.

Dick Ainsworth: Oh, I understand that.

Commissioner Evans: So it would seem to me that the number of places you're talking about would be minimal due to the fact that there shouldn't be that many within the line.

Dick Ainsworth: No, I don't agree with that. 10% slope of property is, you know, I don't know, maybe from the corner of floor back here to the ceiling there, or something, pretty flat. And within the line, there's thousands of acres that fall in that. Maybe not a lot of stuff that's over 20%, but certainly a lot that's over 10%, between 10 and 20, we take away a third of your zoning, 30% of it. And there's a lot of it within that area. Certainly as you get out into the more rural areas of the County, there's more of the property that's that way, but within that line, there's thousands of acres that fall in that category. Thank you.

Chairman Carey: Thank you Mr. Ainsworth.

Lee Clemmensen: Hello, my name is Lee Clemmensen, I live 541 McLeod but I also have property up in the upper Rattlesnake. I had an opportunity to attend the neighborhood council meeting, oh I suppose that it was mid-summer, concerning the development at 3100 Rattlesnake, which has a density bonus. It became abundantly clear that although the vast majority, I would say all of the people there, were opposed to this development, there was no recourse for us, there was no listening to us, we were given our public hearing, that was it, it was done, it was a fate accompli, the developer stood there in his arrogant way and said this is what I'm going to do. There was no chance for us to object. When we brought up objections, Mr. Loomis said well, gee, there's nothing we can do in the planning. He met all of the regulations. Well, the regulations are this, he's putting 21 units on 4 acres. Most of the units are 560 square feet, they are tiny. They are built as rentals, which is affordable housing, but with the idea of being converted after two years into condominiums. That meant that this developer could get by all subdivision rulings or regs or conditions without having to meet the ones that a condominium would have to meet, yet he's going to make them condominiums. We had no say, it became abundantly clear. Mr. Harmon was there. He listened to us. We were furious, absolutely livid. The people of the adjoining streets, some of them have sold their homes. It does not seem fair to drive people out for the benefit of the profit of the developer. The developer is making the money. Take the money and run. In two years, he's out of there. We're left with a slum in the making and people are really unhappy. Now, this is in the middle of a core neighborhood and there are various other suggestions in other neighborhoods where this is going to happen. Our feeling was that we were left without any recourse. Our protest rights had been abrogated and so we don't have a way to go to say no, we really don't

want this. Secondly, one of the things that was absolutely astounding considering the fires this summer, that there was no look into what the egress would be from that property. We're going to dump at least 42 cars, probably more, onto Rattlesnake Drive. Well, a few years ago they were threatened by a fire and it was back to backed up cars all the way down, they couldn't get out of the Rattlesnake. And you're going to dump in a density bonus with 42 more cars trying to scramble out onto a two lane road and get out of that valley. There isn't egress. It seems, and I went to this thing saying gee I just wanted to be educated. I came out thinking, my God, what are we doing. This kind of development, regardless of where it happens in the City, is going to impact the neighbors. And it's going to impact them negatively, because there will be more traffic, there will be egress problems, there will be possibly, if you consider the cheap matter in which these buildings are being put up, they are going to become an eye sore. Thirty years from now we're going to take redevelopment funds and see what we can do to clean them up. It doesn't seem like a very wise way to go. Now, I agree with Judy Smith that we need affordable housing, but we do not need affordable housing by degrading core neighborhoods. There is land in Missoula, out by the airport, all the way back in, where very good developments could go in, which could include childcare and necessary services for people in need. But to take on the core neighborhoods one after another. Target Range is looking at the possibility, if this goes through, they're going to be annexed, they don't want to be annexed. So their value of life will be degraded. There just seems to be some way we can do this properly so that we don't end up with degrading existing neighborhoods and forcing urban flight. I lived, I'm a native of the Rattlesnake, but I lived for awhile in the Bay area. I watched urban growth. You can't believe the amount of urban growth that happened there and it's not positive. And the developers ran free with a lot of the stuff they did and now you have enormous traffic problems, moving of people, so on. People just do what they do, they take off and they go further south or they go out into the hills, or whatever. But there is urban flight. What you want to do is create neighborhoods where people are happy living in relatively close confines, I know that, I live in the "U" area, but with the quality of life still there. If you degrade the neighborhood, you've lost the quality, you've forced the people down to Ravalli County. And that's going to impact this County and it's traffic systems. Secondly, what we really need in Missoula are good jobs. If we want affordable housing, we need jobs which will support housing. Simply going to the point where you say to people, well, gee let's just put in affordable housing while you still work at minimum wage, that doesn't really solve the problem. And Missoula has the ability still to make wise planning decisions. But I think the density bonus idea, kicking out the 80% buildout limits, all of that, it's practically blind. You have to look at what has happened in other communities to see that we need to do this right and do it well. And make real plans. That's going to take a lot more time to come up with plans that will actually benefit neighborhoods and make them very viable. Anyway, that's it. Thank you.

Chairman Carey: Thank you Ms. Clemmenson. Anybody else? Anyone else care to speak to this? Thank you all for your comments.

Commissioner Evans: I'd like to ask Colleen some questions.

Chairman Carey: Okay. Commissioner Evans.

Commissioner Evans: Colleen, would you address the legal issues that have been raised, please?

Colleen Dowdall: All of them?

Commissioner Evans: Yes, all of them please.

Colleen Dowdall: I took notes. First of all with regard to Mr. Berens testimony and whether there is a requirement that you return this to the Planning Board. The state statute specifically empower you to take the recommendations of the Planning Board and make revisions to those without sending it back to Planning Board. You have the ability and the power to do that.

Commissioner Evans: Are there time constraints with that?

Colleen Dowdall: No. Mr. Berens raised an issue regarding I believe a recent Supreme Court decision that says planning densities within the planning document take precedent over zoning densities. That is not my interpretation of that Supreme Court decision, that one was also referred to I think by Mr. Sept, oh, Mr. Carkulis, who stated that we must comply with the Comprehensive Plan. I think that that particular case that was a case in Ennis, Montana, having to do with a mobile home, or a recreational vehicle park, and that RV park was turned down through subdivision and one of the reasons was for its failure to comply with the Comprehensive Plan. But it was I don't think strictly a density issue or a use issue and I don't think it applies in this particular case. Mr. Berens also expressed interest or concern about the fact that the Urban Growth area splits his particular zoning district because it follows the Bitterroot River and that as a result, people will be treated differently within that zone, and it's my belief that because we have had notice and hearing and this issue has been discussed and that that due process has occurred so that people within a zoning district can be treated differently depending upon the goals of the zoning regulations. If we were to take Mr. Berens argument to its logical conclusion, it would be unconstitutional to zone some property and not zone other property, because you would be treating people differently. But I think that issue is well settled in the Supreme Court decisions of this country that we have the right to zone property and to treat some property differently than others. With regard to the crime issue, I just wanted to tell Mr. Berens that it's the Montana Board of Crime Control, not the Montana Board of Crime, I thought you might think that we had a board that regulated the criminals.

Commissioner Evans: A little humor is good.

Colleen Dowdall: Yes. And I would also state that with regard to the burglary statistics, burglaries are not, it is also a crime of burglary to break into a business, so whether those occurred in the City or the urban area more frequently cannot be solely attributable to increased density of residences. Mr. Carkulis also raised the issue of putting development standards into the growth plan as opposed to into the regulations. I believe that development standards, it's appropriate to put them into the regulations. I still believe that Comprehensive Plans are a planning tool, they are not regulations. So, I don't believe that we are doing that inappropriately. With regards to his concern about the timber harvest, none of these regulations will apply to something like a timber harvest, they apply to the building of a residence, getting the zoning compliance permit or doing a subdivision. He is correct that timber harvests are something that are exempt from zoning and regulation by the County. He also stated, wanted to remind you that the regulations are County-wide and I believe

that throughout the regulations we distinguished between rural areas and rural standards, standards within the urban growth area and outside the urban growth area and then also different kinds of developments that are either rural or non-rural. With regard to Mr. Best's notice, his problems with notice, many of the changes that we made with regard to the urban growth area were ones that addressed Mr. Best's past comments and that his issue with whether folks in a zoning district would have notice that their zoning was changing and I think that we have dealt with all of those legal challenges that he spoke of before. With regard to the notice for this meeting, this meeting was not required to be noticed, it was permissible for you to make a decision at any time after the public hearing were held on this issue and we did do public notice as if it was a public hearing even though that wasn't required and I think your taking public testimony to aid you in your consideration also exceeded what requirements you have under the law.

Commissioner Evans: Plus the working session.

Colleen Dowdall: Plus the work session. I think that covers all of them that I got.

Commissioner Evans: Thank you.

Chairman Carey: Thank you Colleen.

Commissioner Evans: I would defer to someone else if they had some questions before I made my comments. Then I would like to make some comments. This is a very difficult thing for me to do because I do not like new urbanism. I don't like it at all. What I think it does is tell people how to live and I don't believe government should tell people how to live. I don't believe it should tell them they have to have a front porch and that they ought to be crammed in like sardines. And that's what I think new urbanism does. However, one of the major things that I think government should do and it's certainly one of the things that I feel most important as a responsibility to the people here, is to protect our ground water. That is a number one thing with me, to protect our ground water. I also don't like the idea of a donut around the City as they've done in other places which says you have to be crammed in to what we'll say are the yellow areas here and that that's where we would put our growth area. One of the main reasons that I wanted that area larger is so that it gives people the right to find where they want to live. However, if they want to live in affordable housing, and that is another thing that is very important to me, then they need the extra density in order to build affordable housing. And the requirement before you're going to get any density bonuses with these rules is that you must connect to the sewer with protects our ground water. So to me that's a trade off. One acre, one house per acre uses up our land. I hate the word sprawl. I don't like that word at all. But houses, one house per acre, uses up the land, it doesn't protect the wildlife and it doesn't protect the open space or our water, because they can have a single house on one acre with a septic system. And that is legal and this is fine with me. But if you want increased density you must do it on a sewer system. Now that doesn't preclude having a separate sewer system somewhere, other than the City's sewer system, but it must be a system that will protect our ground water. These are the values we cherish, these are the reasons we live here and that's one of the, some of my reasoning for going to support these. I try to find compromise positions and I think this is as close as we can come. Some of these things are going to need adjustment. Like I don't know whether 10% is a good percentage in these hillside regs, but I have to take the fact that the fire agencies have set some standards that are important to them and that they say they can respond to a fire with. But I will want to know from the folks who use these regulations whether they work or whether they don't. If they don't work I'm going to want them to come in and say, look at this piece of land, this rule doesn't work, and make us aware of that, in which case we will very likely change it, because we have no desire to prevent people from using their land but we also want to provide that they have fire protection when they need it. So this has been very difficult for me, I didn't like growth management, I thought those six years were the most miserable 1,200 hours of my life, but I think there are some good things here that we would be remiss if we did not consider adopting and it provides water protection and affordable housing, to me those are the reasons that I support them.

Chairman Carey: Thank you. Commissioner Kennedy?

Commissioner Kennedy: Thank you. I'll not repeat some of the things, some of the reasons why Commissioner Evans is going to support these regulatory changes and has supported some of the efforts of growth management, but I will lay the groundwork for why we are here, reiterate it actually, why we are here, and also talk about some things that Commissioner Evans did not. The growth management process, of course, was a six year long process and it was a general acknowledgement that as a community we looked at the pattern of development that was occurring in the valley with limited natural resources and we really didn't like what we saw. We didn't like the way the pattern of development was happening, we didn't like the congestion, the resultant air and water pollution and all the rest. We decided that perhaps there was a better way to look at how development might occur, acknowledging the fact that growth in population, in fact, was going to occur, we simply can't put a fence around Missoula and keep people out. Development was going to occur. So we took the conscious decision to address that, acknowledging that people would move to this area and it would in fact expand population-wise and so we asked ourselves what is the best way for this to happen so as to preserve all of those things that we hold dear, including the rural areas that Mr. Berens spoke so eloquently about in Target Range. And what we noticed was is that congestion in the last 10 years was remarkable up and that prices were up and affordable housing, of course, was way down, and at the same time land is being consumed at a rather remarkable rate and on a national level it's no different than it is in Montana, and that is for about every 10% increase in population, we have about a 60% increase in the overall land that is committed to development. That can only go so far in a limited land resource that we have in Missoula so we have to be real about what the future holds with respect to how we develop our land, remaining developable land here. The result of the growth management process in Missoula, in my mind most importantly is we've really raised some consciousness. I have, my consciousness has been raised, I believe that most people who have been associated with growth management process, their consciousness has been raised about what the issues really are, the limited resources that we have and all the rest. And there's a willingness to really embrace and protect this area even if it does require some new regulatory process, because after all in our system the regulation is really not a top down effort at all. What it is meant to do, it's meant to preserve and enhance a quality of life. And we get there sometimes by self regulating what we, the activities that we want to do. The high level of participation, of course, was also a result and I think a remarkable benefit of the growth management process and now I look at, kind of, the national election, you know, it's kind of interesting that we have in excess of a quarter of a billion people who live in this country and representing, oh, maybe more than 150 ethnic groups, and more or less, even though we whine and cry and we're going to complain a lot about what the result might be, when it's all over with we believe somewhat in the honor of the process and we go forward thinking that we're going forward in a good way. And I think the same is true in Missoula, we represent any number of

different views here and sometimes they're so divergent that they can't come together, somewhat like Northern Ireland in a way, but in the end most of what we're doing is for the good of everyone here and it does sometimes bother individual people, but mostly we believe that we're intent, or that we're headed in a way where development, in this case, is going to occur in a better way than it has in the past. And so I think it's really important always to keep that in mind. Now in terms of one comment that Mr. Berens made that I really want to comment on, and that is that in March of 1999, of course, we did consider these changes and we did delay and in my mind that's a tribute to our commitment to having an expanded public process for this very, very important decision that we are about to make. We took 21 months, we heard all kinds of comments and we heard rehashes of all of the arguments and when it came down to the end, what we have proposed before us that we're going to act on today, I hope, it pretty substantially what we had started with. In other words, I believe that all of those comments notwithstanding, the overall process and the ending document withstood the scrutiny of all of that and it validates and supports the six years worth of work that this community has invested in it. So I'm strongly in support of this although it's not everything that I wanted, most of you who know me know that. I didn't get nearly what I had hoped to when this process began. But acknowledging the diversity of opinion that exists in this community, I believe it's a strong start and it gives lots of things to lots of people and generally the population will, in fact, benefit. A couple of things that I want to take issue with that Mr. Berens said with respect to the quality of life in Target Range. I, of course, have the benefit of having grown up in Montana and I remember Target Range 50 years ago when Target Range and Orchard Homes was mostly orchards and mostly grass and there were cattle and sheep out there and there wasn't even a bridge across the Clark Fork River, by the way, at Reserve Street. And what I noticed is, is that year by year, regardless of the regulatory process, but year by year, the density of that area increases. It increases in spite of any regulatory program that we have and it is not going to stop whether these regulations are adopted or not. It will not stop. So that density is going to increase so the question, in my mind, has to be are we going to have the density increase in a way that really does support the rural nature of that particular area that's in question, or not. And, in my mind, we need to take a proactive approach to this and I believe that this does. It does not, by the way, entitle a density bonus in any way outside the City, in the County. It does not do that. And we need to understand that. There's been some thought that the way it is structured that it entitles people automatically to a density bonus. That simply is not the case. First there is a threshold where a development has to connect to a sewer system and a legitimate treatment facility and after that threshold is met, then there are additional requirements that may, not will, but may qualify that particular area for a density bonus. In the end though, it comes down to a decision that this Board of County Commissioners makes and the good judgement that this Board will make about those individual proposals. So, again there is no entitlement and there is no guarantee of density bonus anywhere. In terms of the patterns of growth that generate air pollution and congestion, all we can do is dispute those figures. What we do know is that when people move into rural areas, the traffic, in fact, does increase. In 1983 in Missoula County, the overall travel for a family, pardon me, a family sedan was about 11,300 miles per year. In 1990, that had increased to about 15,000 miles. At the same time the overall land mass that was dedicated to development more than doubled. Now, what you can conclude from that is, is that as the land that is developed increases beyond the percentage of increase of population, you will get, in fact, increased vehicle miles traveled. That is documented throughout and so it is in direct disagreement with the statistic that Mr. Berens had given us. And why that's important is, is that our air quality is a limited bank of air in this area that only can be either protected or degenerated, it hardly can be improved because of the number of people and the number of cars that we add every single year with each new development and each new person that moves here. So it is important for us to do the very best that we can by reducing the potential for pollution, not only to our air, but as Barbara Evans mentioned eloquently, our groundwater. So it's very, very important for us to consider these in light of what we're wanting to accomplish with respect to the living environment here, not only now, but also in the future. So in the end I would just say that I believe that these policy changes, which had enormous public participation, represent the best effort by a lot of people over a long period of time to accommodate the desires to make adjustments in our patterns of development that we will benefit from in my mind for many years to come. So, thank you for that time.

Chairman Carey: Thank you. I concur with what my fellow Commissioners have said, but I'll respectfully disagree with Commissioner Evans' assessment of new urbanism and leave it at that for now.

Commissioner Evans: That's okay, I don't mind.

Chairman Carey: But, you know, to me this is nearing the end of a very long and sometimes painful process where people have, I believe, in good faith tried to work together to come to a set of regulations and a zoning resolution that is in the best interest of the public that resides in this County, and so I think that even though sometimes well-intentioned and intelligent people can strongly disagree about what's going to happen as a result of certain changes, I think we're at the point where we have to move forward, we need to adopt these revisions and take a look at them as we go along in the coming year or two, and make the necessary changes that we know we'll have to make.

Commissioner Evans: Are you ready?

Chairman Carey: Ready.

Commissioner Evans: Michael and I will alternate on these so that ...

Commissioner Kennedy: Well, unless you have some problem Barbara, we can take them in mass, it's up to you.

Colleen Dowdall: They need to be done individually. I am sorry.

Commissioner Kennedy: Individually. Okay.

Commissioner Evans: I move that the Board of County Commissioners adopt the revisions to the Missoula County Subdivision Regulations, based on Growth Management Task Force revisions, as amended by the Board of Commissioners.

Colleen Dowdall: But as always, I have to add something. The amendments, this is, to understand that the amendments by the Commissioners include some minor renumbering that we have discovered, even in the last couple of days. We're trying to get everything consistent within the regulations. And changing the regulations to refer to the Department of

Environmental Quality instead of the Department of Health and Environmental Sciences, and referring to the Planning Office instead of OCD. Those kinds of things.

Chairman Carey: Thank you. Is there a second to that motion.

Commissioner Kennedy: Second.

Chairman Carey: All in favor, please say Aye.

Commissioner Evans: Aye.

Commissioner Kennedy: Aye.

Chairman Carey: Aye.

Commissioner Kennedy: That the Board of County Commissioners adopt a Resolution of Intent to amend Chapter 1, General Provisions, of the Missoula County Zoning Resolution, based on Growth Management Task Force revisions and as amended by the Board of County Commissioners, as shown on the attachment to the Resolution of Intent.

Commissioner Evans: Second.

Chairman Carey: All in favor, please say Aye.

Commissioner Evans: Aye.

Commissioner Kennedy: Aye.

Chairman Carey: Aye.

Commissioner Evans: I move that the Board of County Commissioners adopt a Resolution of Intent to amend Chapter 3.06A, Exceptions to Height Regulations, of the Missoula County Zoning Resolution, based on Growth Management Task Force revisions and as amended by the Board of County Commissioners, as shown on the attachment to the Resolution of Intent. And I assume there will be an attachment.

Colleen Dowdall: There will.

Commissioner Evans: That is the map?

Colleen Dowdall: No, it's the, the map will probably be to the first motion on the zoning. This will be the actual chapter revision.

Commissioner Kennedy: Second.

Chairman Carey: That motion is seconded. All in favor please say Aye.

Commissioner Evans: Aye.

Commissioner Kennedy: Aye.

Chairman Carey: Aye.

Commissioner Kennedy: I'll offer a motion that the Board of County Commissioners adopt a Resolution of Intent to amend Chapter 3.06B, Exceptions to Setbacks, of the Missoula County Zoning Resolution, based on Growth Management Task Force revisions and as amended by the Board of County Commissioners, as shown on the attachment to the Resolution of Intent.

Commissioner Evans: Second.

Chairman Carey: That's seconded. All in favor, please say Aye.

Commissioner Evans: Aye.

Commissioner Kennedy: Aye.

Chairman Carey: Aye.

Commissioner Evans: I move that the Board of County Commissioners adopt a Resolution of Intent to add Chapter 3.06M, Density Bonuses, to the Missoula County Zoning Resolution, based on Growth Management Task Force revisions and as amended by the Board of County Commissioners, as shown on the attachment to the Resolution of Intent.

Commissioner Kennedy: Second.

Commissioner Evans: That's a little redundant.

Colleen Dowdall: We're having fun watching, however.

Commissioner Evans: Yeah, I suppose.

Chairman Carey: That's been seconded. All in favor, please say Aye.

Commissioner Evans: Aye.

Commissioner Kennedy: Aye.

Chairman Carey: Aye.

Commissioner Kennedy: I'll offer a motion in support of the Board of County Commissioners to adopt a Resolution of Intent to add Chapter 3.06N, Hillside Design Standards, to the Missoula County Zoning Resolution, based on Growth Management Task Force revisions and as amended by the Board of County Commissioner, as shown on the attachment to the Resolution of Intent.

Commissioner Evans: Second.

Chairman Carey: That motion's seconded. All in favor, please say Aye.

Commissioner Evans: Aye.

Commissioner Kennedy: Aye.

Chairman Carey: Aye.

Commissioner Evans: I move that the Board of County Commissioners adopt a Resolution of Intent to add Chapter 3.06O, Cluster Development Standards, to the Missoula County Zoning Resolution, based on da ta da ta da ta da.

Commissioner Kennedy: Second.

Commissioner Evans: It's there, I'm not going to say it again.

Chairman Carey: That's seconded. All in favor, please say Aye.

Commissioner Evans: Aye.

Commissioner Kennedy: Aye.

Chairman Carey: Aye. Thank you very much.

Colleen Dowdall: That's the one we'll get challenged on, da ta da ta da ta da.

Commissioner Kennedy: I think that her motion was that based on the Growth Management Task Force revisions and as amended by the Board of County Commissioners, as shown on the attachment to the Resolution of Intent, and I seconded that motion.

Commissioner Evans: Thank you Michael.

Chairman Carey: Thank you Nancy. Thank you Colleen. Other business? We're in recess. Thank you.

There being no further business to come before the Board, the Commissioners were in recess at 3:25 p.m.

THURSDAY, DECEMBER 14, 2000

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was out of the office all day December 14th and 15th. In the forenoon, the Commissioners and local area legislators attended the MACo Local Government Funding & Structure Meeting held at the Holiday Inn; and in the afternoon, the Commissioners attended the MACo Elected Officials Salary Review and Discussion also held at the Holiday Inn.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 14, 2000, batch number 1006 (pages 1-4), with a grand total of \$9,394.37. The Claims List was returned to the Accounting Department.

Monthly Report - Chairman Carey examined, approved and ordered filed the Monthly Reconciliation Report for Justice Court 1, John E. Odlin, Justice of the Peace, for the month ending November 30, 2000.

Resolution No. 2000-088 -- The Commissioners signed Resolution No. 2000-088, dated October 13, 2000, intending to amend Chapter 1, General Provisions of the Missoula County Zoning Resolution (Resolution No. 76-113 as amended), as shown on the document attached to the Resolution.

Resolution No. 2000-089 -- The Commissioners signed Resolution No. 2000-089, dated October 13, 2000, intending to amend Chapter 3, Section 3.06.A., Exceptions to Height Requirements of the Missoula County Zoning Resolution (Resolution No. 76-113 as amended), as shown on the document attached to the Resolution.

Resolution No. 2000-090 -- The Commissioners signed Resolution No. 2000-090, dated October 13, 2000, intending amend Chapter 3, Section 3.06.B., Exceptions to Setbacks of the Missoula County Zoning Resolution (Resolution No. 76-113 as amended), as shown on the document attached to the Resolution.

Resolution No. 2000-091 – The Commissioners signed Resolution No. 2000-091, dated October 13, 2000, intending to add Chapter 3, Section 3.06.M., Density Bonuses to the Missoula County Zoning Resolution (Resolution No. 76-113 as amended), as shown on the document attached to the Resolution.

Resolution No. 2000-092 – The Commissioners signed Resolution No. 2000-092, dated October 13, 2000, intending to add Chapter 3, Section 3.06.N., Hillside Design Standards to the Missoula County Zoning Resolution (Resolution No. 76-113 as amended), as shown on the document attached to the Resolution.

Resolution No. 2000-093 – The Commissioners signed Resolution No. 2000-093, dated October 13, 2000, intending to add Chapter 3, Section 3.06.O., Cluster Development Standards to the Missoula County Zoning Resolution (Resolution No. 76-113 as amended), as shown on the document attached to the Resolution.

Resolution No. 2000-094 – The Commissioners signed Resolution No. 2000-094, dated October 13, 2000, intending to add Chapter 3, Section 3.06.P., Grading, Drainage, and Erosion Control to the Missoula County Zoning Resolution (Resolution No. 76-113 as amended), as shown on the document attached to the Resolution.

Resolution No. 2000-095 – The Commissioners signed Resolution No. 2000-095, dated October 14, 2000, amending the Missoula County Subdivision Regulations (Resolution adopted on December 13, 2000), as shown on the document attached to the Resolution.

Resolution No. 2000-096 – The Commissioners signed Resolution No. 2000-096, dated October 14, 2000, amending the Missoula County Subdivision Regulations (Resolution adopted on August 4, 1999), as shown on the document attached to the Resolution.

Voided Resolution No. 2000-095 – The Commissioners voided Resolution No. 2000-095, dated October 14, 2000. The same resolution was given a new number of 2000-098.

Resolution No. 2000-098 – The Commissioners signed Resolution No. 2000-098, dated October 14, 2000, amending the Missoula County Subdivision Regulations (Resolution adopted on December 13, 2000), as shown on the document attached to the Resolution.

Agreement – The Commissioners signed a Master Agreement between Missoula County ("Employer") and I.U.O.E. Local 400, Butte Teamsters Union Local #2, I.A.M. and A.W. District 86, Local Lodge 88 ("Union"). The purpose of the Agreement is for the promotion of harmonious relations between the Employer and the Union; the establishment of an equitable and peaceful procedure for the resolution of differences; and the establishment of rates of pay, hours of work, fringe benefits, employee safety and other conditions of employment. The term will be July 1, 2000 through June 30, 2002. The document was returned to Steve Johnson in Personnel for further signatures and handling.

Notice of Hearing -- Chairman Carey signed a Notice that a Hearing will be held on January 17, 2001, at 1:30 p.m., in Room 201 of the Missoula County Courthouse, to conduct a public hearing on the question of generally designating the location of future arterial and collector streets to be constructed when the area between Highway 10 West and Mullan Road to the west of Reserve Street is developed.

Extension Request – The Commissioners signed a 180-day extension of the filing deadline for Phase 5 (Lots 12 and 14) of the Placid Lake – South Shore Tracts Subdivision, in accordance with the recommendation of the Office of Planning and Grants staff. The new filing deadline for Phase 5 is June 30, 2001.

FRIDAY, DECEMBER 15, 2000

The Board of County Commissioners met in regular session; a quorum of members was present. In the forenoon, Commissioner Evans attended a Forest Counties Meeting held at the Federal Courthouse.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 14, 2000, batch number 1007 (pages 1-4), with a grand total of \$5,198.36. The Claims List was returned to the Accounting Department.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chairman
Board of County Commissioners

MONDAY, DECEMBER 18, 2000

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was out of the office all day.

Payroll Transmittal – The Commissioners signed the following Payroll Transmittal Sheet: Pay Period: 25 - Pay Date: December 15, 2000. Total Missoula County Payroll: \$743,422.47. The Transmittal Sheet was returned to the Auditor's Office.

Agreement – The Commissioners signed an Agreement between Missoula County ("Employer") and The Federation of Missoula County Employees ("Federation"). The purpose of the Agreement is for the promotion of harmonious relations between the Employer and the Federation; the establishment of an equitable and peaceful procedure for the resolution of differences; and the establishment of rates of pay, hours of work, fringe benefits, employee safety and other conditions of employment. The term will be July 1, 2000 through June 30, 2002. The document was returned to Steve Johnson in Personnel for further signatures and handling.

Amended Approval Letter – The Commissioners signed an Amended Approval Letter, dated December 18, 2000, relating to the Extension Request for Placid Lake – South Shore Tracts Subdivision – Phase 5. Deleted is the sentence “If an additional filing extension is necessary, you may request an extension prior to June 30, 2001.” Added to the letter is Missoula County Subdivision Regulation Article 4-2(6), which states that only one 180-day filing extension may be granted.

TUESDAY, DECEMBER 19, 2000

The Board of County Commissioners met in regular session; all three members were present in the afternoon. Commissioner Kennedy was out of the office until noon.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 18, 2000, batch number 1010 (pages 1-3), with a grand total of \$155,682.90. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 18, 2000, batch number 1011 (pages 1-2), with a grand total of \$4,965.29. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 18, 2000, batch number 1012 (pages 1-4), with a grand total of \$46,845.34. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Notice of Lease Termination – The Commissioners signed a Notice of Lease Termination regarding certain leases with Missoula Correctional Services, Inc., for space in the building located at 304 West Broadway, Missoula, Montana, and commonly known as the Lennox Hotel or Old Lennox Hotel. These leases expired on November 1, 1999, with no right to renew. This Notice is required for the Lennox Building title report for closing purposes.

Construction Agreement – Chairman Carey signed an Agreement, dated December 5, 2000, between The Montana Power Company (“Company”) and Missoula County Airport Industrial District (“Customer”) to install, operate and maintain natural gas and main facilities to provide service along the north side of Expressway from the east end of Missoula Development Park to the intersection of Grizzly Court and south along Grizzly Court. The Customer will pay the Company the sum of \$17,875.00 as a Customer Advance. The total sum refunded shall not exceed the amount of Customer's Advance for construction, nor will any refund be made after December 5, 2005.

Appointments – The Commissioners approved and signed letters reflecting the following:

1. Reappointment of Jennifer R. Copley to a three-year term as a member of the Missoula Public Library Board of Trustees. Ms. Copley's new term will run through December 31, 2003.
2. Reappointment of Bruno Friia to a five-year term as a member of the Missoula County Airport Authority. Mr. Friia's new term will run through December 31, 2005.
3. Appointment of Mike Hartkorn to the Big Sky Park Stewardship Committee as the representative of the Missoula Horsemen's Council.

Mileage Certification Form – The Commissioners signed a Mileage Certification Form for fuel tax allocation purposes, certifying that the rural road mileage in Missoula County, exclusive of the National Highway system (including interstate) and Primary system, amounts to 1,571.176 miles. The document was returned to the County Surveyor's Office for forwarding to the Montana Department of Transportation, Data and Statistics Bureau.

Other discussion items included:

- 1) Horace Brown will represent Missoula County at the Agreement Signing for the Highway 93 Project in Polson on Wednesday, December 20, 2000, at 2:00 p.m.
- 2) A request from Lewis & Clark Bicentennial Commission to pass grant funding through the County was forwarded to Cindy Wulfekuhle in the Office of Planning and Grants for handling.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, DECEMBER 20, 2000

The Board of County Commissioners met in regular session; all three members were present in the afternoon. Commissioner Kennedy was out of the office until noon.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 20, 2000, batch number 1004 (pages 1-6), with a grand total of \$58,699.02. The Claims List was returned to the Accounting Department.

Quit Claim Deed – The Commissioners signed a Quit Claim Deed, dated December 20, 2000, between Missoula County and Mark A. Denton, to Lots 1-27 inclusive of Gleneagle at Grantland Addition, a platted subdivision in Missoula County, according to the official recorded plat thereof and as more particularly set forth on the Exhibit “A”

attached thereto. The document, required for the Gleneagle settlement, was returned to Deputy County Attorney Mike Sehestedt for further handling.

Quit Claim Deed – The Commissioners signed a Quit Claim Deed, dated December 20, 2000, between Missoula County and Grant Creek Heights, Inc., to a tract of land located in and being a portion of the SW¼ of Section 33, T 14 N, R 19 W, P.M.M, Missoula County, Montana, and being more particularly described on Certificate of Survey No. 3340. The document, required for the Gleneagle settlement, was returned to Deputy County Attorney Mike Sehestedt for further handling.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the Chief Administrative Officer Meeting held in the forenoon, the following items were signed:

Resolution No. 2000-097 – The Commissioners signed Resolution No. 2000-0097, dated December 20, 2000, assigning Tract 2 of Certificate of Survey 3858 located in T 14 N, R 20 W, Section 35, to the Missoula City-County Health Department for the purpose of constructing and providing for the operation of facilities and programs that serve the domestic animal control and humane needs of the County and City of Missoula. The total cost is estimated at \$255,000 of funds proposed to come from City Sewer fund.

Agreement for Boundary Relocation – The Commissioners signed an Agreement between the Missoula County Airport Industrial District and Nurture, Inc., regarding the relocation of boundaries between their respective property ownership interests within the Missoula County Airport Industrial District. The exchange will result in a net increase of the acreage being acquired by Nurture under its contract for deed in the amount of 18,216 square feet. Missoula County will receive a net gain in value of \$1,307.20 to be credited to Nurture, Inc. at closing. The relocation shall close on or before June 1, 2001. First American Title Company is designated closing agent. The document was forwarded to Scott Dumler at Nurture, Inc. in Denver, Colorado, for signature and return.

Agreement – The Commissioners signed a Memorandum of Agreement, dated December 20, 2000, between Missoula County and the City of Missoula, supporting the County Park Board's motion to contribute to the Greater Fort Missoula Park Site Planning Process. The total commitment is \$10,000, and shall be remitted no later than February 1, 2001. The document was forwarded to the City of Missoula for further signatures.

Policy Statement - The Commissioners signed Policy Statement No. 00-18, which was approved on December 13, 2000, setting forth the guidelines for external access to web-based integrated property information: Clerk and Recorder, Treasurer (Tax), Department of Revenue (CAMA), and Mapping.

PUBLIC MEETING – December 20, 2000

The Public Meeting was called to order at 1:30 p.m. by Chairman Bill Carey. Also present were Commissioner Barbara Evans, Commissioner Michael Kennedy, Chief Civil Attorney Michael Sehestedt and Deputy County Attorney Colleen Dowdall.

Commissioner Evans suggested moving Public Comment to the end of the meeting as Colleen Dowdall, Deputy County Attorney, had to leave early. She asked that the order of business be changed to accommodate her schedule.

Routine Administrative Actions

Commissioner Evans moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$244,059.20. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Hearing (Certificate of Survey): Indreland Family Transfer

Chairman Carey opened the public hearing on the Indreland Family Transfer.

Colleen Dowdall, Deputy County Attorney, presented the staff report.

This is a consideration of a request to create two family transfer parcels for that parcel described in Microbook 139, Page 564, in Section 11 of Township 14 North, Range 20 West.

Roger Indreland has submitted a request to create two parcels using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is over 160 acres in size located west of Missoula, off Indreland Road. Mr. Indreland proposes to create two three-acre parcels for transfer to his sons Rory Evan and Ryan Dean.

Mr. Indreland was out of town but sent correspondence stating that whatever his sons want is okay with him.

The history of the parcel is as follows: Mr. Indreland purchased the property in 1979 from Elmer R. and Elo A. Indreland.

According to the applicant, he has not previously used the exemptions to the Subdivision and Platting Act.

Rory Indreland was present and came forward to answer any questions the Commissioners may have.

Chairman Carey stated that as part of the criteria for this exemption, the Board needed to determine if this was indeed a transfer to a family member and not an attempt to evade subdivision review. He asked Rory Indreland what his and his brother's intentions were for the property.

Rory Indreland stated the property would be used for a homesite for each of them. To facilitate financing to build a home, the property needs to be in their names. Each small parcel will continue to be part of the main ranch, but the family transfer will allow each of them to finance their homebuilding plans.

Chairman Carey asked if these parcels would stay in the family or were there any plans to subdivide them further.

Rory Indreland stated they would stay in the family and would not be further subdivided.

There being no further testimony, the public hearing was closed.

Commissioner Evans moved that the Board of County Commissioners approve the request by Roger Indreland to create two new parcels by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Hearing (Certificate of Survey): McConnell Family Transfer

Chairman Carey opened the public hearing on the McConnell Family Transfer.

Colleen Dowdall, Deputy County Attorney, presented the staff report.

This is a consideration of a request to create two family transfer parcels for that parcel described as Tract 3 of COS 4582, located in the south 1/2 of Section 27, Township 15 North, Range 22 West.

Gerald McConnell has submitted a request to create two parcels using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is 135 acres in size, located on Cayuse Hill Estate off of Ninemile Road. The original parcel was over 160 acres. A mortgage parcel was created for purposes of construction of a home in 2000. Mr. McConnell proposes to create two approximately forty acre parcels for transfer to his sons, Bradd L. and Brian N. McConnell. Mr. McConnell was out of state today. Mr. McConnell did previously meet with the Deputy County Attorney and stated that he was doing some estate planning and would like this family transfer completed by the end of the year.

The history of the parcel is as follows:

Parcel History	Year	Exemption Used	Applicant	Intended Recipient
COS 4582	1996	Parcels over 160 acres	Ernie Johnson	N/A
Deed Exhibit	2000	Mortgage parcel	Ernie Johnson	N/A

According to the applicant, he has not previously used the exemptions to the Subdivision and Platting Act.

Ken Jenkins, Professional Consultants Inc., stated that he was standing in for Mr. McConnell. He would try to answer any questions the Commissioners may have.

Chairman Carey asked Mr. Jenkins, to the best of his knowledge, if this was truly a family transfer and not an attempt to evade subdivision review?

Ken Jenkins stated that to the best of his knowledge, that was Mr. McConnell's intention.

There being no further testimony, the public hearing was closed.

Commissioner Evans moved that the Board of County Commissioners approve the request by Gerald McConnell to create two new parcels by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Public Comment

Tony Tweedale stated that as this was Commissioner Kennedy's last public meeting, he wanted to thank him for his service to the community during the last six years. All the Commissioners have a tough job representing all the different, often conflicting, interests in the County, and each Commissioner has a different approach. He felt Commissioner Kennedy took the long term view of the problems and opportunities facing Missoula County. He felt Commissioner Kennedy had been very open and helpful to him and others that he has dealt with. Secondly, he mentioned the upcoming Hazardous Materials Transportation Task Force which will be forwarding a joint resolution to the Commissioners and the City, as soon as Louann Crowley completes the work. He urged the Commissioners support of the resolution which names members to this temporary task force. The transportation of hazardous materials through the Missoula valley is one of the biggest acute risks it faces. The liabilities are tremendous.

Bond Bid Award: RSID #8467 (Paving in Double Arrow Subdivision Phase II) – Seeley Lake

Jesse Sattley, Public Works Department, presented the staff report.

This is a request to award the sale of the bonds for RSID #8467, Double Arrow Subdivision paving, in Seeley Lake, Montana.

On December 18, 2000, RSID #8467 Bond Bids for Series 2001 RSID Bonds Ten Year Issue of \$234,000 were opened with the following results:

Net Effective Interest Rate

2001-2002

Bitterroot Valley Bank – Lolo, MT

5.75%

Montana Municipal Cooperative – Bozeman, MT

5.19%

It is the recommendation of the Public Works Department to award the Bond Bid to Montana Municipal Cooperative at the net effective interest rate of 5.19%.

Commissioner Evans asked if the bid came in at approximately what the Seeley Lake folks thought it would be?

Jesse Sattley stated it was within expectations.

Commissioner Kennedy stated there was a remarkable difference between the interest rates of the two. Had the reasons for the difference been discussed with counsel?

Jesse Sattley stated it was an open bond market, it was not a brokerage firm. The bids are from private investors.

Michael Sehestedt stated that to account for the difference, private investors buy direct from the County and avoid additional fees giving them a slightly better effective rate. Bitterroot Valley Bank's rate might be a little higher because they may have figured there would not be a lot of interest in the bonds.

Commissioner Evans moved that the Board of County Commissioners award the sale of RSID #8467 – Double Arrow Paving – Series 2001 RSID Bonds Ten Year Issue to Montana Municipal Cooperative of Bozeman, MT, at the net effective interest rate of 5.19%. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Michael Sehestedt stated that Montana Municipal Cooperative was a group of doctors who were pooling their funds to purchase these bonds.

Consideration: Valley Meadows (3 Lot Summary Subdivision) – South 3rd Street West

Denise Alexander, Office of Planning and Grants, presented the staff report.

Valley Meadows subdivision is a three lot subdivision on three acres. It is located slightly less than a mile west of Reserve Street on the south side of South Third West, approximately where Stone intersects with Third Street. The property was originally a little over four acres. The portion that is known as Lot 18A, COS 5068, was created by a mortgage exemption within the last year. The remaining three acres are now to be subdivided into three one-acre lots. The applicant is Leslie Jensen, represented by WGM Group.

The applicant has asked for two variances. There is a driveway that runs from Third Street that would serve Lot 3 where a home is currently located. This driveway would also continue and serve Lot 18A where a home is being constructed. This driveway is asphalt paved and meets the requirements for a driveway that is longer than 150 feet. The proposal is to create a new driveway 80 to 90 feet west of the existing driveway, to serve Lot 1 and Lot 2. Both of these accesses qualify as driveways because they only serve two lots.

This property has an area along Third Street that is in the 100 year floodplain and has associated riparian vegetation and back water. The applicant has submitted a Riparian Management Plan and has included it in the covenants as advice and direction to future owners of these properties. The driveway from Third Street is also placed so it will not cross over the riparian area or the floodplain to get to Lot 2. There is an easement that can be used to continue from the shared driveway to get to Lot 1.

Lots 1 and 2 along Third Street have been tested and found to have high ground water. Because of this, the drainfields for Lots 1 and 2 are being placed in easements on Lot 18A, and the wells for Lot 18A and Lot 3 are on Lots 1 and 2. There are easements provided for all these improvements. The Health Department has looked at this property and it will continue on to environmental quality review. The Health Department had no adverse comments about the arrangement.

There is also a large easement between Lot 1 and Lot 2 to provide for utilities and septic system lines. There is an irrigation ditch along the south property line of Lot 3. A ten foot irrigation ditch easement is provided on the plat. There is an irrigation pipeline easement provided along the west edge of Lot 3 and the east edge of Lot 18A to provide for possible future connection to the irrigation ditch for water to Lots 1 and 2 if desired.

The Floodplain Administrator has made comments about the high ground water and the 100 year floodplain. Due to his comments, Condition 5 has been recommended regarding any new construction in this subdivision shall have the lowest floor, including the crawl space floor, of at least 3,136 feet, two feet above the 100 year flood elevation, which should be included in a statement on the plat. Also at the advice of the County Attorney, staff is asking that a statement be put on the plat that the County has not reviewed the subdivision to the extent that guarantees can be made about the potential for high ground water or flooding on this property. Both of those statements have been requested to be put on the face of the plat, in the covenants and on each instrument of conveyance.

For the driveways, staff is asking that a maintenance agreement be drafted between the lots that share these driveways to provide assurance for emergency access. That agreement would be done through either the protective covenants or through an agreement that would be reviewed by the County Attorney. The covenants include all of these lots, including Lot 18A. There is an architectural review committee that will look at new construction. The covenants also include a weed management section. There are four different areas of the covenants that cannot be revised without approval of the governing body. They include weed management, floodplain information, prohibition of basement construction and the fire standards for the driveways.

In addition to Condition 2 regarding driveways, staff is asking that a no access strip be placed along the easement for the existing driveway on Lot 2, to assure that the driveway will only be used for two lots, Lot 3 and Lot 18A. There is also a

suggestion that an existing no access strip be continued to protect the riparian area from any driveway construction. Staff has also asked that the driveway easement be increased from 20 feet to 27 feet to give vehicles more maneuverability.

Condition 3 asked that a waiver of the right to protest a future RSID/SID for public water or sewer systems be included on the plat. The fire department has asked that the developer contribute \$100 per new lot or dwelling unit to the fire district as noted in Condition 4.

Chairman Carey asked for public comments.

Commissioner Kennedy stated that the RSID waiver should be for public water "and/or" sewer systems, not just "or." It is also likely that one of the first RSIDs for sewer will be in this area. It would be appropriate to have an easement for Lot 3 for sewer to Third Street for that reason. Otherwise, it will be landlocked when the sewer RSID happens.

Denise Alexander suggested that the 27 foot wide private driveway and public utility easement on Lot 2 would provide that access.

Commissioner Kennedy stated that the sewer system would likely be gravity driven and the existing easement would create the need for 90 degree angles and possibly manholes.

Julie Titchbourn, WGM Group, developer's representative, stated that the 54 foot easement running north and south between Lots 1 and 2 could be used for gravity sewer to serve Lot 3.

Commissioner Kennedy asked if that was adequate.

Julie Titchbourn stated the easement was 54 feet wide, 27 feet on Lot 1 and 27 feet on Lot 2.

Commissioner Kennedy asked if it could be stipulated that the easement be used as a sewer easement for Lot 3 to Third Street?

Denise Alexander stated she was referring to the 27 foot wide easement along east edge of Lot 2.

Commissioner Kennedy stated he did not care how it got there, but the one on the east is at the back of the house and the sewer connection is on the opposite side.

Michael Sehestedt stated there would be a 54 foot area running all the way to Third Street, as long as it was clear that it is available for public utilities including sewer.

Commissioner Kennedy stated those sewer connections were going in the opposite direction. He wanted an easement for Lot 3 to Third Street.

Michael Sehestedt stated it needed to be clear that the easement could be accessed. As all the property was in common ownership, it would not be a problem to include this as a condition.

Julie Titchbourn stated that was correct. They have been working with the City Engineer to get direction on which option he would prefer. They will dry lay a gravity sewer along that north/south easement to serve all three houses.

Michael Sehestedt stated the condition should be worded so that easement for sewer service be satisfactory to the City Engineer.

Julie Titchbourn stated the applicant concurred with the conditions as presented. They would like to propose some additional language on the floodplain consideration. Nick Kaufman would present that information.

Nick Kaufman stated there was no problem with the intent of Condition 5, but wanted it clearly stated so that in five years someone else would understand what was required under this condition. There are two statements in Condition 5. The first sentence is about the minimum elevation of the crawl space and floors. The second sentence is intended to relieve Missoula County of liability. The third part of the condition is that those statements appear in three places, on deeds of conveyance, in the covenants and on the face of the plat. He would like to reorder the condition so the first sentence says, "The following statements shall appear on the face of the final plat, in all deeds of conveyance and in the covenants." The first statement would be, "The County has not reviewed the subdivision to the extent that guarantees can be made about the potential for high ground water or flooding on the property." The second statement would read, "All new construction on lots in this subdivision shall have a lowest floor elevation, including the lowest elevation of the crawl space of at least 3,136 feet (two feet above the 100 year flood elevation, National Geodetic Vertical Datum of 1929 (NGVD 29) as shown on the Flood Insurance Rate Map, Map Number 30063C1D, Effective Date: August 16, 1988)." The way the first sentence of the condition is currently written causes some concern with future building. There are two significant vertical datum used in surveying mapping, the 1929 datum which is the elevation quoted on the flood insurance rate maps. However, mean sea level has changed and all professionals now use 1988 data. He proposed that the second statement be reworded as just suggested. A builder two years from now who reads that will know what datum to use. There could be two benchmarks in the field based on different datum. There is a 3.5 foot difference between the two datum. The language removes any question as to which datum to use. His request, specifically, is to change the condition to read: "The following two statements shall appear on the face of the plat, in the covenants and in deeds of conveyance." The first statement is the one that says, "The County has not reviewed the subdivision to the extent that guarantees can be made about the potential for high ground water or flooding on property" and the second statement is, "All new construction on lots in this subdivision shall have the lowest floor elevation, including the lowest elevation of the crawlspace, of at least 3,136 feet (two feet above the 100 year flood elevation, National Geodetic Vertical Datum of 1929 (NGVD 29) as shown on the Flood Insurance Rate Map, Map Number 30063C1D, Effective Date: August 16, 1988)."

Denise Alexander asked if Mr. Kaufman wanted the change to "deeds of conveyance" versus "instruments of conveyance," and if that was an important change. The reason for the rather unwieldy order of the condition is so that the building instruction is first so it would be easy to catch during plan checking for the building permit.

Commissioner Evans asked Denise Alexander if there was a problem with changing the order as requested by Mr. Kaufman?

Denise Alexander stated she did not have a problem with it. All conditions are read when being reviewed for building permits.

Commissioner Kennedy asked Denise Alexander if she was satisfied that the 3,136 foot elevation was the 1929 datum?

Denise Alexander stated that she was not the expert but she had contacted Brian Maiorano, the Floodplain Administrator, and he was satisfied.

Nick Kaufman stated the map was prepared from the recent air photography prepared by the City. It has two foot contours, accurate to 1/2 foot. That is the 1988 datum. When the plat was submitted to OPG, Brian Maiorano noted that the 1988 datum was used but that the floodplain was the 1929 datum. The floodplain on the map needed to reflect the 1929 datum. The whole plat was converted to the 1929 datum and used the benchmark at 7th and Third Street to do that. This is a caution to be aware that all the elevations of the 100 year floodplain maps are 1929 datum. All new mapping is the 1988 datum. All benchmarks are in meters which must be converted to the English system and converted between the 1929 and 1988 datum.

Commissioner Kennedy stated that he appreciated Mr. Kaufman wanting to change the order but that OPG does it in a certain way and this would differ from their way. He asked Mr. Kaufman to leave the wording as shown as it is more convenient for OPG.

Nick Kaufman stated he had a problem with it being left that way. The condition states this must be in the covenants, the deeds of conveyance, or instruments would also be acceptable, and on the face of the plat. If someone builds three years from now and has a complaint that the floor elevation is different, has Ms. Jensen then violated the conditions of the subdivision? She has not as the condition of the subdivision is to place this language in three different places so it is available. It is not to make Ms. Jensen an enforcer of the finished floor elevations of the homes. It can be left as it is but have the last clause read that the above two statements shall appear on, so it is known what the condition is saying.

Commissioner Kennedy stated he understood Mr. Kaufman's concern.

Chairman Carey stated that Mr. Kaufman's proposal was clear to him.

Commissioner Kennedy stated that he was also okay with it. It might be good to make that adjustment in the future as well so there is no misunderstanding.

Michael Sehestedt stated it might be worthwhile to require that all data related to elevations come in using the 1929 benchmark. He asked Mr. Kaufman if there was a straight conversion from the 1929 datum to the 1988 datum?

Nick Kaufman stated there was a printout available with all the geodetic benchmark throughout the County, giving both the 1929 and 1988 elevations. The difference between them is averaged. There is also a computer program that can be used.

Michael Sehestedt stated that as a caution, if elevations are to be required on subdivisions, it would be good to have those elevations reported correctly.

Nick Kaufman stated he had just gone through this on two different subdivisions. The standard today is the 1988 datum. The 1929 datum is old. The way to reflect the change is to say that the 100 year floodplain as shown on the flood insurance rate map has been adjusted to the 1988 datum by adding either 3.5 feet or 3.2 feet, which brings the old up to the new.

Commissioner Kennedy stated that Michael Sehestedt had asked if there was an equation that could be used to convert the figures. Mr. Kaufman just indicated that it was 3.5 feet.

Nick Kaufman stated it was about 3.5 feet out in the Orchard Homes area.

Commissioner Kennedy stated that Michael Sehestedt had his answer for conversion.

Michael Sehestedt stated the conversion should be provided so that an incorrect elevation is not used.

Julie Titchbourn stated she had no further comments on the subdivision. She wanted to clarify the wording for the sewer service easements. She suggested: "Sewer service easements shall be provided to Lots 1, 2, 3 and 18A to meet the approval of the City engineer."

There were no further public comments.

Commissioner Evans moved that the Board of County Commissioners approve the variance request from Section 3-2(5) of the Missoula County Subdivision Regulations to vary from the provision of walkways on South Third Street West, based on the findings of fact set forth in the staff report.

Commissioner Kennedy asked if the waiver statement for improvements to Third Avenue includes walkways?

Denise Alexander stated that was correct.

Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Commissioner Evans moved that the Board of County Commissioners approve the variance request from 3-2(3) of the Missoula County Subdivision Regulations to vary from the minimum pavement width of 32 feet for South Third Street West, based on the findings of fact set forth in the staff report. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Commissioner Evans moved that the Board of County Commissioners approve Valley Meadows Summary Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report including the additional condition under Water & Sewer that a sewer easement be provided serving Lots 1, 2, 3 and 18A that is satisfactory to the City engineer, the amended language relating to construction elevation, and the insertion in Condition 3 relating to the RSID/SID waiver for public water "and/or" sewer systems. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Valley Meadows Summary Subdivision Conditions of Approval:

Driveways

1. The provision for maintenance of the private driveways shall be addressed through the covenants, or an agreement between lot owners, to be reviewed and approved by the County Attorney and filed with the County Clerk and Recorder prior to plat approval. *Subdivision Regulations 3-2(1)(3) and OPG recommendation.*
2. The plat shall be revised to show the one-foot no-access strip continued 28 feet from the east boundary of Lot 1 and the 20 foot wide private driveway and public utility easement widened to 27 feet. *Subdivision Regulations Article 3-2(1), Article 3-13 and OPG recommendation.*

Water & Sewer

3. Sewer service easements shall be provided to Lots 1, 2, 3 and 18A to the satisfaction of the City Engineer prior to plat approval.
4. The following statement shall appear on the face of the plat and in each instrument of conveyance:

"Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for public water and/or sewer systems, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations Article 3-7(2) and Health Department recommendation.*

Fire

5. The developer shall contribute \$100.00 per new lot or dwelling unit to the Missoula Rural Fire District. Evidence of contribution shall be presented to the Office of Planning and Grants at the time of plat approval. *Subdivision Regulations Article 3-7(2) and Missoula Rural Fire District recommendation.*

Floodplain

6. The following statements shall appear on the face of the plat and in each instrument of conveyance, and be included in the Protective Covenants:

"All new construction on lots in this subdivision shall have a lowest floor elevation, including the lowest floor elevation of the crawl space, of at least 3,136 feet (two feet above the 100-year flood elevation, National Geodetic Vertical Datum of 1929 (NGVD 29) as shown on the Flood Insurance Rate Map, Map Number 30063C1D, Effective Date: August 16, 1988)."

"The County has not reviewed the subdivision to the extent that guarantees can be made about the potential for high groundwater or flooding on this property." *Subdivision Regulations Article 3-1(2), Floodplain Administrator and County Attorney recommendation.*

Presentation: Certificate of Appreciation to 9-1-1 Center by U.S. Forest Service

Chairman Carey stated that Debbie Austin of the Forest Service would make a presentation to the 9-1-1 Center.

Debbie Austin stated that she was the Forest Supervisor for the Lolo National Forest. It was her pleasure to be here today to thank all the folks at the 9-1-1 Center. It was a wild and crazy fire season on top of everything else that they do and she knew that the Center received many calls about fires. She truly appreciated the Center's efforts during the summer. Their work helped the Forest Service to respond quickly to many fires. It had been a pleasure to work with the Center and she told them to keep up the good work. She presented to Pat Hintz a Certificate of Appreciation to the 9-1-1 staff in recognition of their invaluable communication service during the severe fire season of 2000.

Pat Hintz stated that it was a memorable season for all the 9-1-1 staff, far beyond what they had seen in the past. With the Hells Angels, the fires and the increased levels of activity that the community faces and the decrease in the number of staff, she appreciated the positive recognition.

Chairman Carey stated that he had spent a few hours in the 9-1-1 Center and he was very impressed with the work they do and they way they do that work.

Commissioner Kennedy stated that 9-1-1 works in the bowels of the Courthouse with low light and no windows. They do an incredible job and don't get recognized very often. He was glad the Forest Service took the time to recognize them for the work they do. He wanted to separately recognize them for their work, it is quite remarkable and is the backbone of safety in Missoula and other counties. He thanked the 9-1-1 Center for their hard work.

There being no further business to come before the Board, the Commissioners were in recess at 2:20 p.m.

THURSDAY, DECEMBER 21, 2000

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was out of the office all day December 21st and 22nd.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 20, 2000, batch number 1008 (pages 1-4), with a grand total of \$16,703.12. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 20, 2000, batch number 1014 (pages 1-4), with a grand total of \$62,951.77. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 20, 2000, batch number 1015 (pages 1-4), with a grand total of \$17,437.14. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 20, 2000, batch number 1017 (pages 1-4), with a grand total of \$103,401.59. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 21, 2000, batch number 1018 (pages 1-4), with a grand total of \$78,729.92. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 21, 2000, batch number 1019 (pages 1-3), with a grand total of \$23,361.36. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 21, 2000, batch number 1022 (pages 1-4), with a grand total of \$13,344.37. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 21, 2000, Batch number 1020 (pages 1-3), with a grand total of \$8,145.65. The Claims List was returned to the Accounting Department.

Correction -- The Commissioners signed a Correction of Extension Date to the Extension Request for Placid Lake -- South Shore Subdivision (Phase 5). The new filing deadline is July 5, 2001 (the previous deadline being June 30, 2001).

Addendum -- The Commissioners signed an Addendum extending the response time for a Counter Offer for Lots 1-5, Block 12, dated October 5, 2000, wherein the Missoula Airport Development Park is Seller and eLocal.com, Inc. is Buyer, to January 31, 2001. The document was returned to Barbara Martens in the Projects Office for further handling.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Agreement -- The Commissioners signed an Employment Agreement between Missoula County and Rebecca Deschamps for her position as Partnership Health Center Pharmacy Manager. Ms. Deschamps will be responsible as "Pharmacist in Charge" of pharmacy services and operations at Partnership Health Center (PHC), as defined by the Statutes and Rules Regulating the Practice of Pharmacy in Montana. Responsibilities include the development, supervision, and coordination of all activities of the PHC pharmacy and drug distribution system, in collaboration with the PHC administrative team. The term will be December 18, 2000 through June 30, 2002. The hourly rate of pay is \$30.00.

Request for Extension -- The Commissioners approved a request by Tony Dalpiaz, Crystal Sportswear, for an extension to the closing deadline of December 15, 2000 for the purchase of Lot 2, Block 3, Missoula Development Park, Phase 1, to January 5, 2001. Because of the holidays, staff recommended a deadline of January 10, 2001, and the Commissioners concurred.

Request for Action -- The Commissioners approved a request from e-Local to extend the response time for a Counter Offer for Lots 1-5, Block 12, Missoula Development Park, Phase 1, to January 31, 2001.

Request for Action -- The Commissioners approved a request to direct staff to begin negotiations with Professional Consultants, Inc. for engineering and surveying service costs to develop final plats for Phases 3, 4 and 5 or portions thereof for the Missoula Development Park.

Board Appointments -- The Commissioners approved and signed letters reflecting the following:

1. Reappointment of Tom Maclay to a three-year term as a member of the Missoula Planning Board. Mr. Maclay's new term will run through December 31, 2003.

2. Reappointment of Philip W. Russ to a three-year term as the citizen voting member of the 9-1-1 Advisory Board. Mr. Russ's new term will run through December 31, 2003.

Other items included:

- 1) The Commissioners denied a request from Abe Abramson for a real estate commission for land sale to CM Manufacturing within the Missoula Development Park.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, DECEMBER 22, 2000

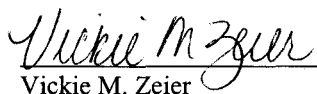
The Board of County Commissioners met in regular session; a quorum of members was present in the forenoon. Commissioner Evans was out of the office in the afternoon.


Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 21, 2000, batch number 1021 (pages 1-3), with a grand total of \$15,538.47. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 22, 2000, batch number 1024 (pages 1-4), with a grand total of \$12,153.93. The Claims List was returned to the Accounting Department.

Counter Offer -- The Commissioners approved a Counter Offer proposed by the Offer Review Committee between Missoula Development Park and Patrick S. McCutcheon, and/or Assigns, pertaining to a Buy/Sell Agreement dated November 28, 2000, concerning Lots 3 and 4, Block 9, Missoula Development Park. Lines 34 & 35 are modified as follows: Change sales price to Six Hundred Fifty Thousand (\$650,000.00) dollars. The deadline for acceptance of the Counter Offer is December 29, 2000, at 5:00 p.m. The document was returned to Don Sokoloski at Properties 2000 for further handling.

Counter Offer -- The Commissioners approved a Counter Offer proposed by the Offer Review Committee between Missoula Development Park and Jolynn Montgomery, pertaining to a Buy/Sell Agreement dated December 5, 2000, concerning Lot 1, Block 9, Missoula Development Park. Lines 104-106 are modified as follows: Change to sixty (60) days to complete platting process. Lines 108-113: Change to Missoula County and Nuture, Inc., who are co-owners of said lot as well as Sovereign Leasing, an interest holder, reaching a mutual agreement satisfactory with Missoula County, regarding the disposition, reallocation, or any other matters related to the jointly owned properties. Line 57: Add closing date to be within fifteen (15) days of final plat recording, but no later than 8/1/01. The deadline for acceptance of the Counter Offer is December 22, 2000, at 12:00. The document was returned to Don Sokoloski at Properties 2000 for further handling.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chairman
Board of County Commissioners

MONDAY, DECEMBER 25, 2000

The Courthouse was closed for the Christmas Day holiday.

TUESDAY, DECEMBER 26, 2000

The Board of County Commissioners did not meet in regular session. The Commissioners were all out of the office all day.

WEDNESDAY, DECEMBER 27, 2000

The Board of County Commissioners met in regular session; a quorum of members was present. Chairman Carey and Commissioner Evans were out of the office until noon; and Commissioners Kennedy was out all day.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 27, 2000, batch numbers 1023 and 1026 (pages 1-7), with a grand total of \$174,670.83. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 27, 2000, batch number 1025 (pages 1-4), with a grand total of \$32,394.54. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 27, 2000, batch number 1027 (pages 1-4), with a grand total of \$5,855.58. The Claims List was returned to the Accounting Department.

Plat -- The Commissioners signed the plat for Shipp Addition, a minor subdivision plat located in the NE¼ of Section 32, T 15 N, R 22 W, PMM, Missoula County, a total gross area of 15.71 acres, with the owners of record being Flayton Glen and Crystal Queenette Shipp.

Certification of Acceptance -- Commissioner Evans signed Missoula County Surveyor's Office Certifications of Acceptance for County Maintenance for the following:

1. ACM. No. 2000-0009, Camden Street, Road No. L-0652C, T 13 N, R 19 W, Section 07. The limits of acceptance are .067 miles from the intersection with Flynn Lane thence easterly 244.32 feet to the intersection with Fleet Street thence easterly 107.00 feet to the end of this phase, 32 foot asphalt, curb and gutter within a 54 foot right of way.
2. ACM. No. 2000-0010, Canterbury Lane, Road No. L-0652D, T 13 N, R 19 W, Section 07. The limits of acceptance are .020 miles from the intersection with Fleet Street thence easterly 107.00 feet to the end of this phase, 32 foot asphalt, curb and gutter within a 54 foot right of way.
3. ACM. No. 2000-0011, England Boulevard, Road No. L-0652A, T 13 N, R 19 W, Section 07. The limits of acceptance are .067 miles from the intersection with Flynn Lane thence easterly 247.44 feet to the intersection with Fleet Street thence easterly 107.12 feet to the end of this phase, 46 foot asphalt, curb and gutter within an 80 foot right of way.
4. ACM. No. 2000-0012, Fleet Street, Road No. L-0652B, T 13 N, R 19 W, Section 07. The limits of acceptance are .236 miles from the intersection with England Boulevard thence northerly 586.90 feet to the intersection with Canterbury Lane thence northerly 01.00 feet to the intersection with the alley thence northerly 677.00 feet to the intersection with Camden Street, 32 foot asphalt, curb and gutter within a 54 foot right of way.

The documents were returned to the County Surveyor's Office for signatures and further handling.

The Weekly Public Meeting was canceled due to the holidays and no agenda items scheduled.

THURSDAY, DECEMBER 28, 2000

The Board of County Commissioners did not meet in regular session. The Commissioners were all out of the office all day.

FRIDAY, DECEMBER 29, 2000

The Board of County Commissioners met in regular session; a quorum of members was present in the forenoon. Commissioner Kennedy was out of the office all day, and Chairman Carey and Commissioner Evans were out all afternoon.

Swearing-In Ceremony

In the forenoon, Chairman Carey conducted the Swearing-In Ceremony for newly elected Officials, Kathleen Breuer, Clerk of Court, elected for a four-year term; and Jean Curtiss, elected to a six-year term as County Commissioner.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 28, 2000, batch number 1028 (pages 1-4), with a grand total of \$22,738.98. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 28, 2000, batch number 1029 (pages 1-3), with a grand total of \$5,479.19. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 28, 2000, batch number 1030 (pages 1-3), with a grand total of \$13,536.24. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 28, 2000, batch number 1033 (pages 1-3), with a grand total of \$100,712.47. The Claims List was returned to the Accounting Department.

Claims List -- Chairman Carey and Commissioner Evans signed the Claims List, dated December 29, 2000, batch number 1032 (pages 1-5), with a grand total of \$14,192.92. The Claims List was returned to the Accounting Department.

Plat -- The Commissioners signed the plat for Montana Vista, Phase 2, a minor subdivision located in the NW¼ of Section 2, T 16 N, R 15 W, PMM, Missoula County, a total area of 4.86 gross acres, with the owner of record being Seeley Lake Real Estate Investors, Inc.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Payroll Transmittal -- The Commissioners signed the following Payroll Transmittal Sheet: Pay Period: 26 - Pay Date: December 29, 2000. Total Missoula County Payroll: \$736,446.37. The Transmittal Sheet was returned to the Auditor's Office.

Contract -- Chairman Carey signed a Contract between Missoula County and the Job Service Division, Montana Department of Labor and Industry, for the provision of a public health nurse for home visits for families with multiple barriers enrolled in the WoRC (Work Readiness Component) Program operated by the Job Service. The term will be January 1, 2001 through June 30, 2001. The total amount shall not exceed \$21,500. The document was returned to the Health Department for further signatures and handling.

2001-0176

Agreement – The Commissioners signed a Memorandum of Agreement, dated October 1, 2000, between Missoula County and Turning Point, Western Montana Mental Health Center, for facilitation of the Common Sense Parenting Program, prevention specialists, tutoring programs, and coordination of evaluation efforts and data input. The term will be October 1, 2000 through September 30, 2001, and is contingent upon receipt of Community Incentive Project Grant Funds by Missoula County. The total amount shall not exceed \$120,103.02.

Tax Increment Release Agreements – The Commissioners signed two Agreements, dated December 29, 2000, pursuant to the Missoula City Council's authorization to MRA (Missoula Redevelopment Agency) to remit \$250,000 of unused tax increment urban renewal monies for fiscal year 2000-2001. The two Agreements authorized the remittance of tax increment monies to:

1. Missoula County Board of Commissioners in the amount of \$37,614.01; and to
2. Missoula County Board of Commissioners for Countywide Schools in the amount of \$39,418.00.

Agreement – The Commissioners signed an Agreement (Traffic Safety Contract #01-01-07-01 & 01-03-03-01), dated October 1, 2000, between Missoula County and the Montana Department of Transportation for the maintenance of the Missoula Integrated Traffic Safety Program administered by the Missoula City-County Health Department. The term will begin with 10 days from the date of execution of the Agreement, and shall be completed no later than September 30, 2001. The total amount shall not exceed \$62,340.00. The document was returned to Lonie Hutchison at the Health Department for further handling.

Request for Action – The Commissioners approved and authorized the expenditure of \$12,500 from CIP/ADA Projects as Missoula County's share to install a fully code-compliant fire alarm system at the Missoula City-County Health Department.

Agreement – The Commissioners signed an Agreement between Missoula County ("Employer") and the AFSCME MT State Council 9 and The Juvenile Detention Center of Missoula County ("Union"). The purpose of the Agreement is for the promotion of harmonious relations between the Employer and the Union; the establishment of an equitable and peaceful procedure for the resolution of differences; and the establishment of rates of pay, hours of work, fringe benefits, employee safety and other conditions of employment. The document was returned to Steve Johnson in Human Resources for further signatures and handling.

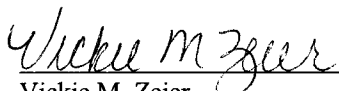
Board Appointments – The Commissioners approved and signed letters, dated December 29, 2000, reflecting the following:

1. Appointment of Jeffrey Crouch to a two-year term as a "regular" member of the County Zoning Board of Adjustment. Mr. Crouch's new term will run through December 31, 2002.
2. Reappointment of Mike Knopik to a two-year term as a member of the County Zoning Board of Adjustment. Mr. Knopik's new term will run through December 31, 2002.
3. Reappointment of Tom Blunn to a two-year term as a member of the County Zoning Board of Adjustment. Mr. Blunn's new term will run through December 31, 2002.
4. Appointment of Lois Schlyer to a two-year term as the "first alternate" member of the County Zoning Board of Adjustment. Ms. Schlyer's new term will run through December 31, 2002.
5. Appointment of John Fletcher to a two-year term as the "second alternate" member of the County Zoning Board of Adjustment. Mr. Fletcher's new term will run through December 31, 2002.
6. Appointment of Mae Nan Ellingson to fill an unexpired term on the Airport Authority through December 31, 2001.
7. Appointment of Ernest Dewey to a three-year term on the Historical Museum Board through December 31, 2003.
8. Appointment of Mike Fussell to a three-year term as an "alternate member" of the Historical Museum Board through December 31, 2003.

Other items included:

The Commissioners selected Barbara Evans as Board Chairman for 2001.

The minutes of the Administrative Meeting are on file in the Commissioners Office.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chairman
Board of County Commissioners

001 0177

MONDAY, JANUARY 1, 2001

The Courthouse was closed for the New Year's Day holiday.

TUESDAY, JANUARY 2, 2001

The Board of County Commissioners met in regular session; all three members were present.

Monthly Report - Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Report for Justice Court 1, John E. Odlin, Justice of the Peace, for the month ending December 31, 2000.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, no items were signed.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, JANUARY 3, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – The Commissioners signed the Claims List, dated January 2, 2001, batch number 1037 (pages 1-2), with a grand total of \$106.35. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated January 3, 2001, batch number 1036 (pages 1-4), with a grand total of \$123,056.39. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Carey signed the Claims List, dated January 3, 2001, batch number 1039 (pages 1-2), with a grand total of \$201.23. The Claims List was returned to the Accounting Department.

Monthly Report - Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Report for Justice Court 2, Justice of the Peace, Karen A. Orzech, for the month ending December 31, 2000.

Monthly Report - Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Report for the Clerk of the District Court, Kathleen Breuer, for the month ending December 31, 2000.

Indemnity Bond – Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming Mark Ellingson as principal for Warrant #28074 issued May 18, 2000 on the Missoula County General Fund in the amount of \$338.00, now unable to be found.

Indemnity Bond – Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming Linda Cordial as principal for Warrant #69453 issued October 20, 1999 on the Missoula County 78-42 Fund in the amount of \$4,326.30, now unable to be found.

Indemnity Bond – Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming Dan Moe as principal for Warrant #33932 issued December 7, 2000 on the Missoula County School District #40 Fund in the amount of \$283.40, now unable to be found.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Letter of Support The Commissioners signed a Letter of Support for the MAEDC's (Missoula Area Economic Development Corporation) application for EDA funds.

Request for Action – The Commissioners approved a request to rescind Policy No. 93-A, which was originally adopted in 1979 and subsequently amended in 1993. The policy relates to the purchase of food and refreshments at certain events sponsored by Missoula County.

Policy – The Commissioners signed a Board "Emeritus" Appointment Policy.

Budget Transfer – The Commissioners signed Budget Transfer No. 01-002 for the Health Department, transferring \$6,000 within the Permanent Salary Fringe Fund (#447300 to #447203). The Health Department HIV contract contains both planning and prevention money loaded under one subactivity. For budget ease, these amounts will be separate for reporting and audit purposes.

Budget Transfer – The Commissioners signed Budget Transfer No. 01-016 for the Airport Increment District, transferring \$3,000 from the Operations Fund to the Transfer Out Fund, for the purpose of showing the Increment District's share of the G.I.S. plotter in the appropriate line-item.

Budget Transfer – The Commissioners signed Budget Transfer No. 01-017 for Ann Mary Dussault, Chief Administrative Officer, transferring \$14,082 within the Financial Administration Funds (VNRP to Legislative Initiative), for the purpose of obtaining an accurate measure of the legislative initiative costs.

PUBLIC MEETING – January 3, 2001

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Bill Carey, Commissioner Jean Curtiss, County Surveyor Horace Brown and Chief Civil Attorney Michael Sehestedt.

Public Comment

None

Routine Administrative Actions

Commissioner Carey moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$802,497.36. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Consideration: Terrace Drive Subdivision (3 lots) – Miller Creek area

Lisa Moisey, Office of Planning and Grants, presented the staff report.

This is a request from Nader and Nancy Shooshtari, represented by DJ&A, to create Terrace Drive Addition, a three lot residential subdivision in the Miller Creek area. The applicants are requesting approval for the subdivision and three variances associated with it. The existing parcel is 6.14 acres and the applicants wish to create two one-acre lots and one 4.14-acre lot. The property is zoned C-RR1 which is a residential zone and allows for a density of up to one dwelling unit per acre. The most applicable Comprehensive Plan is the Comprehensive Plan Amendment Land Use Map Revision for Section 18. This plan recommends a density of up to one dwelling unit per five acres. However, the Plan states that if a parcel is less than the recommended size but the Health Department has approved a water system and a drain field, then development should be allowed to proceed. In this case, the lots in the subdivision will hook to Mountain Water and there is no indication from the Health Department that a drainfield permit would be problematic. Sanitary review will be conducted by the Health Department in a separate process.

The access to the property is from Terrace Drive which is a County-maintained cul-de-sac road. Terrace Drive meets County standards with respect to road surface width and right-of-way, but it does exceed the County maximum standard length of a cul-de-sac, which is 1,000 feet. The applicant has requested a variance from this requirement. OPG recommends approval of the variance request. It is an existing roadway and concerns that the fire department might have had with the length have been mitigated by the fact that the applicants plan to install a fire hydrant at this location.

According to previous reports from the County Surveyors Office, Miller Creek Road at the Wye is at or exceeding capacity of 10,000 AADT, based on prior subdivision approvals. This subdivision is expected to generate between 14 and 20 additional trips per day, which will add to the excess capacity at the Wye intersection. As mitigation, staff recommends the subdivider contribute to the established fund for the Miller Creek Road improved as noted in Condition 4.

There are no pedestrian walkways on Terrace Drive and the applicant does not propose them with this development. They have requested a variance. Staff recommends approval of the variance with mitigation of a statement on the plat waiving the right to protest a future RSID for pedestrian walkways. This is a relatively low volume road that essentially dead ends at the cul-de-sac and there are no other sidewalks in the area with which they could connect. Staff recommends that sidewalks in this area be done comprehensively.

The property generally slopes from the south to the north, from above Terrace Drive, at about a 15% slope. There is a gentle swale on Lot 3 which the subdivider plans to redirect away from the proposed building site. Staff recommends a condition that an engineer certify that the drainage swale has been modified in a way that will not cause damage to homes.

The third variance associated with this proposal is that the applicant is asking to vary from the subdivision regulation which states that no lot shall have an average depth greater than three times its average width. In this case, Lots 1 and 2 will exceed this 3:1 length to width ratio. Staff is recommending approval of this variance as well. The justification is there is a very long relative to width parent parcel and in order for the applicant to meet Health Department regulations for lot size, zoning and to provide space for a drainfield, the variance request was reasonable.

Staff recommends approval of the Terrace Drive Addition with the three variances based on the findings of fact in the staff report and subject to 10 Conditions of Approval.

Gilbert Larson, DJ&A, developer's representative, thanked Lisa Moisey for her work on this proposal. There were a few issues that needed to be resolved. All of them have been resolved with mitigation. The applicant concurs with all the mitigations and all the conditions as recommended by staff.

Chairman Evans asked for public comments. There were none.

Commissioner Carey moved that the Board of County Commissioners approve the variance request from Section 3-2(3)(a) of the Missoula County Subdivision Regulations to allow Terrace Drive, an existing cul-de-sac to exceed the required maximum of 1,000 feet in rural subdivisions, based on the findings of fact set forth in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners approve the variance request from Section 3-2(5)(a) of the Missoula County Subdivision Regulations to not provide pedestrian walkways or sidewalks along Terrace Drive, based on the findings of fact set forth in the staff report, subject to the condition of an RSID waiver. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners approve the variance request from Section 3-3(1)(e) to allow Lots 1 and 2 to have lot lengths greater than three times their average widths, based on the findings of fact set forth in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners approve the Terrace Drive Addition Summary Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Terrace Drive Addition Summary Subdivision Conditions of Approval:

Roads/Access

1. The subdivider shall petition into the Missoula Urban Transportation District prior to final plat approval. *Subdivision Regulation Article 1-3(6) and recommendation of Mountain Line.*
2. Any driveway in excess of 150 feet long shall be reviewed and approved by the Missoula Rural Fire District prior to issuance of a building permit. *Subdivision Regulation Article 3-2(6)(D).*
3. Grading, drainage, erosion control, shall be approved by the County Surveyor prior to final plat approval. Driveway design shall be approved by the County Surveyor prior to issuance of a building permit. *Subdivision Regulation Article 3-2(6) and County Surveyor's comments.*
4. The subdivider shall mitigate the traffic impacts generated by this subdivision on the Miller Creek transportation system. The amount of fee assessed and the specific improvements to be made shall be approved by the Board of County Commissioners and the County Surveyor's Office, prior to final plat approval. *Subdivision Regulations Article 4-12.*
5. The following statement shall appear on the face of the plat and in each instrument of conveyance:

"Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for improvements to Miller Creek Road, including installation of pedestrian walkways or bikeways, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations 3-2(5).*
6. The waiver statement on the face of the plat regarding improvements to Terrace Drive shall be amended to include a waiver of an RSID/SID for the future installation of pedestrian walkways or sidewalks. *Subdivision Regulation Article 3-2(5).*

Natural Resources

7. The Subdivider shall file a development covenant with Missoula County that requires lot owners to maintain their property in compliance with the Montana County Noxious Weed Control Act and the Missoula County Noxious Weed Management Plan. The development covenant shall also require the lot owners to revegetate areas disturbed by construction with beneficial plant species appropriate for the site and land use. The development covenant shall be subject to review and approval by the Weed District Supervisor for the Missoula County Weed District prior to final plat approval. *Subdivision Regulation 3-1(F) and recommendation from County Weed Supervisor.*
8. Prior to final plat approval the subdivider shall obtain an engineer's certification that the drainage swale has been modified in a way that will not cause damages to homes. Additionally, the engineer's certification shall include an indemnification of Missoula County for any damages that may result to landowners, homeowners, or public infrastructure as the result of a claim against Missoula County for approval of this subdivision based upon the engineer's certifications. The engineer shall also provide evidence of coverage by errors and omissions insurance for the design, study or activity certified, in amounts deemed adequate by Missoula County, prior to final plat review. *Subdivision Regulation Article 3-4(1)(2).*
9. The subdivider shall file a development covenant with Missoula County to alert future lot owners about the responsibility of living with wildlife. The development covenant shall include the following items and shall be subject to review and approval by Fish, Wildlife and Parks prior to final plat approval. *Subdivision Regulations Article 4-1(12) and recommendations from State Department of Fish, Wildlife and Parks.*
 - There is potential for vegetation damage by deer to lawns, gardens, flowers and ornamental shrubs located on or near the homesites. Homeowners should be aware of the potential problems that can occur, and take the responsibility to protect their vegetation or plant only non-palatable vegetation. Homeowners should be aware that white-tailed deer might occasionally attract mountain lions to the area.
 - Garbage, pet food, horse food, etc. should be properly stored in secure animal-proof containers or inside buildings to avoid attracting species such as bears, lions, raccoons or skunks. Bird feeders and compost piles also attract bears, and are discouraged from being used in this area. Montana law prohibits supplemental feeding of game animals. In addition, homeowners should be reminded that artificial concentrations of game animals resulting from feeding can attract mountain lions and also result in additional damage to gardens, ornamental shrubs, etc.
 - Pets should be confined to the house or yard and not allowed to roam, as they can chase and kill big game and small birds and mammals. This harassment also causes unnecessary energy expenditures, and can displace animals to less suitable habitats. Having a pet on a leash when off the homeowner's property prevents these problems.

Easements

10. The following public utility statement shall be added to the plat prior to final plat approval:

2001-2002

"The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water, or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever." *Subdivision Regulation Article 3-5(2)*.

There being no further business to come before the Board, the Commissioners were in recess at 1:37 p.m.

THURSDAY, JANUARY 4, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – The Commissioners signed the Claims List, dated January 4, 2001, batch number 1040 (pages 1-2), with a grand total of \$4,949.98. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated January 4, 2001, batch number 1041 (pages 1-2), with a grand total of \$11,225.99. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated January 4, 2001, batch number 1042 (pages 1-4), with a grand total of \$9,803.87. The Claims List was returned to the Accounting Department.

Budget Transfer – The Commissioners signed Budget Transfer No. 01-004 for Partnership Health Center, Inc., transferring \$30,000 within the Health Care for the Homeless Fund, for the purpose of re-allocating grant expenses.

Deed Restriction Agreement and Subordinate Deed of Trust

Chairman Evans signed a Deed Restriction Agreement and Subordinate Deed of Trust between Missoula County and Charmaine Mycroft in the amount of \$1,664.00 for the property located at 5614 Explorer Court, Lolo, Montana 59847, for the purpose of providing HOME Investment Partnerships Program (HOME) funds to assist with down payment, closing cost and, if necessary, mortgage reduction assistance, as per the terms and conditions set forth therein. The documents were returned to Jennifer Blumberg in the Office of Planning and Grants for further handling.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Letter – The Commissioners signed a letter to Dr. Fred Haruda (Dwelling Place) regarding sewer and water services to the "Wye area".

Professional Services Contract – The Commissioners signed a Professional Services Contract between the Missoula County Health Department and Fister Electric, for the installation of computer cable drops, including materials and necessary permits. The Contractor shall conclude completion of performance by February 9, 2001. The total amount shall not exceed \$11,800.00, for no more than 70 drops at \$168.50 each. The document was returned to the Health Department for further signatures and handling.

Closing Documents – The Commissioners signed the Closing documents for Lot 2, Block 3, Missoula Development Park, Phase 1 (Crystal Sportswear).

Grievance Response Letter – The Commissioners signed a letter to Dan Doogan, Business Representative of Teamsters Local No. 2, denying his grievance relating to "call-back" work provisions of Article 13.

Policy Statement – The Commissioners signed Policy Statement No. 2001-01, "Appointing Emeritus Members to County Boards," stating that persons appointed as board members emeritus shall be entitled to notice of meetings and all materials provided to board members and shall be entitled to participate in board meetings. Emeritus members, however, shall not be entitled to vote and may not be counted in determining what constitutes a quorum of the board of whether a quorum of the board is present.


The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, JANUARY 5, 2001

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Carey was out of the office all day.

Replacement Warrant—Chairman Evans examined, approved, and ordered filed an Application for Issuance Replacement Warrant naming Barnes & Noble, Inc. as applicant for accounting Warrant #366530 issued July 11, 2000 on the Missoula County Health Fund in the amount of \$31.99, for a book which was not received in the mail. No bond of indemnity is required.


Vickie M. Zeier
Clerk & Recorder


Barbara Evans, Chairman
Board of County Commissioners

MONDAY, JANUARY 8, 2001

The Board of County Commissioners met in regular session; all three members were present.

2001-2002

Claims List – The Commissioners signed the Claims List, dated January 5, 2001, batch number 1038 (pages 1-7), with a grand total of \$93,035.37. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated January 8, 2001, batch number 1045 (pages 1-4), with a grand total of \$35,346.87. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated January 8, 2001, batch number 1046 (pages 1-4), with a grand total of \$252,392.22. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated January 8, 2001, batch number 1047 (pages 1-2), with a grand total of \$206.49. The Claims List was returned to the Accounting Department.

Resolution No. 2001-001 – The Commissioners signed Resolution No. 2001-001, dated January 8, 2001, which annexes to the Greenough/Potomac Fire District a parcel of land located in Missoula County described as: Tract 1 of COS #4792, Sections 8 and 17, T 15 N, R 14 W, Missoula County, Montana (Big Waters Ranch Subdivision).

Corrected Monthly Report - Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Report for Justice Court 1, John E. Odlin, Justice of the Peace, for the month ending December 31, 2000, correcting the report signed on January 2, 2001.

TUESDAY, JANUARY 9, 2001

The Board of County Commissioners met in regular session; all three members were present.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Board Appointments – The Commissioners approved and signed letters, dated January 9, 2001, reflecting the following appointments to the Missoula County Weed Control Board:

1. Reappointment of Jim Olivarez to a three-year term. Mr. Olivarez's new term will run through December 31, 2003;
2. Reappointment of John W. Hart to a three-year term. Mr. Hart's new term will run through December 31, 2003;
3. Reappointment of John A. Rimel to a three-year term. Mr. Rimel's new term will run through December 31, 2003.

Letter – The Commissioners signed a letter to Michael Kennedy terminating his membership on the Missoula Development Authority Commission, reaffirming the Board's original intent that two members of the Board of County Commissioners would sit as members of the MDA Commission.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, JANUARY 10, 2001

The Board of County Commissioners met in regular session; all three members were present in the afternoon. Chairman Evans was out of the office until noon.

Monthly Report - Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Report for the Report of the Sheriff, Douglas W. Chase, for the month ending December 29, 2000.

The following decisions were made at the Clerk and Recorder's Departmental Meeting held on January 10, 2001. The Commissioners approved the following:

1. Request from William A. and Juanita Puckett, 221 Brighton Street, Lolo, MT 59847, to waive penalty and interest charges for tax parcel #1792959.
2. Request from Maggie Keller of K & R Properties, P.O. Box 8366, Missoula, MT 59801, to waive penalty and interest charges for tax id #5981309 and 2334053.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the chief administrative officer meeting held in the forenoon, there were no action items.

PUBLIC MEETING – January 10, 2001

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Bill Carey, Commissioner Jean Curtiss, County Surveyor Horace Brown, Public Works Director Greg Robertson, Deputy County Attorney Colleen Dowdall and Chief Civil Attorney Michael Sehestedt.

Public Comment

None

2001-2002

Routine Administrative Actions

Commissioner Carey moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$493,389.35. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Hearing: Canyon River Subdivision (aka Bandmann Flats) – 270 Units + 18 Hole Golf Course – Between East Missoula and Bonner on Deer Creek Road

Nancy Heil, Office of Planning and Grants, presented the staff report.

The proposal is to create the Canyon River Subdivision with one golf course lot and 270 residential lots on a 392 acre parcel. The property is located east of Missoula, between East Missoula and Bonner, in an area known as Bandmann Flats. The Clark Fork River borders the property on three sides and Interstate 90 forms the southern boundary. It is currently leased for pasture and hay production. The preliminary plat indicates the location of some golf course holes. If approved, the subdivision would create the golf course lot, not the specific golf course design. The hole locations are shown for demonstration purposes. The final golf course design will be approved at issuance of a zoning compliance permit.

The Yellowstone Pipeline runs through the northeast portion of the property within a 50 foot easement and crosses the river in the northern portion of the property. There are also overhead utility lines in the northeast portion of the property. There are some riparian areas located along the river and in two upland areas.

The property is zoned C-RR1, Residential, one dwelling unit per acre. The Missoula County Board of Adjustment approved a special exception for the golf course as a quasi-public use on April 26, 2000, subject to conditions. Those conditions require a site plan, a vegetation management plan, trail construction and management plan and surface water management and erosion control plan for the golf course. Regardless of the action by the Commissioners, the construction of the golf course could proceed if the Board of Adjustment conditions were met, but there would not be a lot created.

The applicant, Canyon River Development, L.L.C., has requested a Planned Variation which would allow reduced side yard setbacks for Lots 1 through 150, which are located in the more western portion of the site. Staff is recommending approval of the Planned Variation request.

The 1998 Missoula Urban Comprehensive Plan recommends Parks and Open Space for the perimeter of the property, generally located adjacent to the river, and suburban residential land use for the interior of the property where most of the residential lots are proposed.

The proposal's gross density is one dwelling unit per 1.45 acres. The Missoula Urban Area Open Space Plan identifies the property as an Open Space Cornerstone. The Open Space plan defines six types of open space – conservation lands and park lands, agriculture lands and urban forests, trails and views and vistas, which are links within the system. The plan states that potential cornerstones may be proposed and approved for development but any development should include appropriate park and open space provisions that address the goal of the Open Space system. With the inclusion of the golf course, about 75% of the property will remain in some form of open space. There is also a proposed linear park easement with a trail along portions of the river that will allow access to the river and possibly in the future, a connection to the Kim Williams Trail.

The property is accessed via Highway 200 to Speedway Avenue to Deer Creek Road. There have been some concerns raised about traffic throughout the process. There is a revised traffic report included in the application packet. There were some trip counts and turning movement counts that were performed and a trip generation analysis which concluded that the development, when fully built out, would produce about 3,300 new trips per day. Traffic volume at the Highway 200/Speedway intersection is expected to increase to about 4,800 trips without development and 7,200 trips with development by the year 2010. The applicants also performed a level of service analysis to evaluate current and projected traffic flow characteristics for peaks in 2010. The proposed development could decrease level of service at some intersections on Highway 200 through East Missoula. Most of the intersections would still function with acceptable levels of service under most conditions. There are a couple of intersection where level of service would drop. The traffic report makes some recommendations to be sure that the development functions with minimal impacts within, as well as around, the area. One of those is to reconstruct the intersection of Highway 200 and Speedway to make it perpendicular so it could accommodate the turning radius of large trucks. That reconstruction should occur at the beginning of the development process. The plan also recommends turn lanes off of Highway 200 onto Speedway. There is a recommendation to relocate the Sha-Ron Fishing access and also some improvements to Speedway and Deer Creek Road. There are Conditions of Approval requiring those improvements.

Deer Creek Road travels east from Speedway to the Deer Creek bridge over the river. It is about 24 feet wide in that area. East of the bridge, Deer Creek Road was paved with milling in 1999 and chip sealed in the summer of 2000. The road narrows to between 18 and 21 feet wide for about 500 feet east of the bridge and then it curves and is between 21 and 24 feet wide for about 1,000 to 1,500 feet. After the curve, the road widens again to 24 to 27 feet wide until it reaches the property boundary. After Deer Creek Road leaves the property, it travels under I-90 and crosses a railroad track and becomes gravel and heads up University Mountain and exits at Pattee Canyon. There were some mixed opinions staff received on widening that portion of Deer Creek Road through the curve. There were some comments that the curve and the trees would slow traffic. There was also a recommendation to go ahead and widen it through the curve. Another factor was that bike and pedestrian trails would be provided outside the road right-of-way. Staff is recommending approval of a variance request to not widen that portion of Deer Creek Road.

There are new roads proposed to serve lots south of Deer Creek Road. These are proposed to be located within 54 foot public rights-of-way with 30 foot back to back paved surfaces and curbs and gutters. The applicant has requested a variance for right-of-way width and surface width for these roads. Staff and Planning Board both recommended approval of those variance requests. Also, there are two roads, Ribbon Run and Cahill Rise, which are frontage roads off of Deer Creek Road. These are proposed to be located within 30 foot rights-of-way with 20 foot back to back paved surface and

curbs and gutters. The applicant has also requested variances for right-of-way width and surface width for these two frontage roads. The Missoula Rural Fire District stated some concerns about the 20 foot road width, but that if parking were restricted and wider entrances were provided, that emergency vehicles would have room to operate. They did recommend that the full width be provided. The Fire District also stated that structures generally would not be greater than 150 feet from Deer Creek Road so service could also be provided from Deer Creek Road. Both staff and Planning Board recommend approval of the variance requests for those two roads.

There are sidewalks proposed on portions of the roads serving the subdivision. Those sidewalks are located on at least one side and on two sides in several locations. Staff is recommending that the sidewalks be installed on both sides of the subdivision roads except Bandmann Trail, Cahill Rise and Ribbon Run. This was a question the developer had of whether or not sidewalks would be necessary on some portions of the roads where the road is also in front of a golf course hole as opposed to lots. There is a Condition of Approval related to that.

There are no walkways proposed along Deer Creek Road, however, there is a trail along portions of the road. Staff has recommended that the linear park easement or trail that is shown along Deer Creek Road be extended on the north side of Deer Creek Road, from the edge of the top tier of lots down to the clubhouse area, and also that the trail between the Canyon River Road intersections on Deer Creek Road be constructed of a hard surface. This is because the trail in that area generally is going to be serving as much a walkway function as a recreational function for the residences of the subdivision.

The application includes a proposed Riparian Management Plan and staff has recommended some changes to the plan. A revised plan was submitted that addressed some of those changes. There are portions of Lots 1A to 4A that include some riparian areas. Staff recommended that there be no fencing within the riparian areas on those lots and that the portions of Lots 1A and 2A that are north of the riparian area be designated as no build zones.

There is a common area proposed north of Deer Creek Road which is located primarily in a riparian area. Staff has recommended that the plan include more information about what uses would be allowed in that common area. The Missoula City Parks Board recommended that the common area be dedicated as a public park with the possible installation of a kayak put-in. Because the Sha-Ron public fishing access is located across the river from the common area and provides public access to the river, and because of the riparian vegetation in that area, staff did not recommend that the common area be made public.

There are some golf course features that are shown on the preliminary plat within riparian areas. The Board of Adjustment conditions required set backs from riparian areas and the applicant has stated that these holes could be moved outside of riparian areas. There is a revised Riparian Management Plan that shows this. Holes 12, 17 and 18 would be moved so that they don't encroach into riparian areas. Staff has recommended that the trail be moved away from the riparian areas near Holes 12 and 17.

There is a Condition of Approval which reflect staff's recommended changes to the Riparian Plan which includes more specific description of permitted and prohibited uses, it addresses fencing, vegetation removal, motorized use and inclusion of more guidance on specific maintenance activities as opposed to landscape maintenance for the riparian areas.

There are portions of the property that are located within 100 year and 500 year floodplain areas, generally on the perimeter of the property. There are recommended Conditions of Approval that address set backs and property owner notification along Lots 1B through 13B, the tier of lots on the most eastern portion of the property. There is a recommended set back for structures of 100 feet from ordinary high water for those lots and also that the actual lot line be set back 50 feet from the top of bank as a buffer for the riparian area, wildlife corridor and water quality.

There was quite a bit of discussion about the possibility of extending the trail easement behinds Lots 1B through 13B among staff and agencies and developer. There was some question about whether a trail could be accommodated there along with wildlife use and also about whether it could serve as a possible connection if a trail were extended along the river on the property to the south. What staff included as a recommended Condition of Approval was that the park easement be extended but that a trail not be constructed at this time. That would preserve the option of constructing a trail at a later time if the trail to the south were constructed. The developer requested that condition be changed so that there be neither an easement nor a trail in that location. Planning Board concurred with that recommendation. Condition 14 reflects Planning Board's recommended change on that issue.

Another trail question that came up has to do with Hole 14, which is located in the western portion of the property. The original drawings for this proposal showed the trail on the river. After the Board of Adjustment hearing, the golf course architect did some reconfiguring of Hole 14, which led to a recommendation that the trail go on the other side of Hole 14, not along the river. This has been somewhat controversial between staff and the developer. Staff has recommended that the trail remain on the river side of Hole 14. The developer would prefer it remain on the other side of Hole 14, primarily for safety concerns and for aesthetic reasons. Planning Board's recommendation was for the trail to remain on the east side of Hole 14.

Some other trail questions that came up had to do with whether there would be co-use of the trail by recreationalists and golfers. No co-use of the trail is proposed except in one location where the trail crosses under Deer Creek Road. There are some conditions that relate to trail design, trail construction and maintenance responsibility. There is also a condition that at the end of Ginger Quill Road, in the far southwest portion of the property, there be an easement so that residents of the subdivision could get to the trail without going all the way out to Deer Creek Road.

There were some concerns about whether there could possibly be fish introduced into the artificial ponds that would be part of the golf course features. There is a Condition of Approval that prohibits that. There is a Condition of Approval that recommends the standard "Living with Wildlife" recommendations. Fish, Wildlife and Parks said that the wildlife corridor is generally related to vegetation on both sides of the Interstate in this area and that wildlife use on the property is likely to occur along the stringers of trees and shrubs that provide cover. The applicants have said that they are going to try to retain as many of the trees as possible and do what they can to enhance the cover on the property. Fish, Wildlife and Parks also said that golf courses generally don't provide or protect open space values related to grasslands wildlife habitat,

fairways are not surrogates for habitat. They are generally monocultures of introduced grasses and tend not to support a very diverse wildlife species. Staff has recommended that the developer maintain existing cover and enhance it where possible, which has been the developers stated intention. Fish, Wildlife and Parks said that the 50 foot buffer that is recommended as a riparian set back behind Lots 1B through 13B would probably be a sufficient minimum to provide a wildlife corridor.

There were some questions that came up about water quality during the review, generally because golf courses can be sources of non-point source pollution because of fertilizers and herbicides. There was a condition applied at the Board of Adjustment hearing that relates to a surface water management plan and a vegetation management plan, that includes some integrated pest management.

The subdivision is proposed to be served by a public water system. One proposal would be to use two public water supply wells. The applicants and Mountain Water have also discussed the possibility of extending service to the subdivision. That is an ongoing discussion. They are considering two options for sewage treatment. One would be to treat the sewage on site with recirculating sand filter systems, with effluent that could be used for golf course irrigation. The second option would be to connect to City of Missoula sewer. A sewer main serving East Missoula will be constructed in 2001.

The Fire District stated some concerns about a water supply being in place prior to construction. There is a condition that requires that fire fighting water be in place after more than four structures are built on the property.

When the staff report was issued, OPG had received four comments from property owners, mostly with concerns about traffic, cars entering Highway 200 from Speedway, the safety of Brickyard Hill on Speedway especially in the winter, pedestrian safety and the possibility of additional development south of Deer Creek Road. The possibility of providing access directly from I-90 has also been suggested. Since the staff report was issued, five more letters have been received, a couple of them generally not in favor of the golf course, some of them mostly expressing concerns about traffic. Bonner Development Group stated that it supported the project. When Planning Board reviewed the project, they recommended approval of the Planned Variation, approval of the road variances and approval of the subdivision subject to 40 conditions, with an amendment to Condition 14. There has also been some discussion about Conditions 4 and 5 that relate to improvements on Speedway, between Deer Creek Road and Highway 200 and those are included in a separate memo, generally, that the improvements be designed to encourage right turns from Deer Creek Road onto Speedway. The revision to Condition 4 basically clarifies that the access to the Sha-Ron fishing access is what should be moved, as opposed to the fishing access itself.

Dick Ainsworth, Professional Consultants, Inc., developer's representative, stated that the present owners of the property are Randy Jacobs and his family. Randy Jacobs and his daughter Julie are present today. The developers are the McCleod family from the Butte area and the Temple family. The traffic engineer consultant is Doug Widmayer with Peccia and Associates in Helena. Barry Dutton with Land and Water Consulting is also present to discuss the Riparian Management Plan. Gary Bryan with Gillespie Realty, and other members of his staff, are also present. He thanked OPG staff for all their time and effort on this project. The Bandmann Flats is a unique piece of property. With the exception of the Interstate and some utility corridors, it has remained unchanged for 100 years. It has been in the Jacobs family ownership for over 80 years. Missoula County has long recognized the potential for the development of this property. In 1975, the Urban Area Comprehensive Plan designated this for development at 2 units per acre. The property is nearly 400 acres. The County has zoned the property C-RR1, one dwelling unit per acre. Both the 1990 and 1998 Urban Area Comprehensive Plan Updates have designated the property for development at densities of up to 2 units per acre, with the river corridor to be Parks and Open Space. The property was designated as a cornerstone in the Open Space Plan. Anyone who has driven by the property on Interstate 90 has probably wondered what might happen there. It is an unusually large piece of property this close to Missoula that has development potential. Randy Jacobs has been contacted numerous times over the years by people wanting to acquire and develop the property. He has not been willing to sell or work with developers in the past. The McCleods and the Temples care for the land as much as Randy Jacobs does and are not interested in cramming as much development as possible on the property. Randy Jacobs feels very comfortable with these people. PCI is fortunate to be able to work on this property and work with developers who want to see it done right. These developers started work on the project 4 years ago with another company. The Jacobs family also owns property to the south of Interstate 90 and originally they were looking at developing all of the Jacobs ownership into over 600 home sites. There are now 270 units, which is a good solution for the property. The zoning would permit up to one unit per acre, or nearly 400 units, the Comprehensive Plan would permit almost double that number of units. It is proposed for 270 units with over 75% of the property set aside as open space in perpetuity, some of which is a golf course. There are several key features of this development that set it apart from others. One is the 18 hole golf course which will be open to the public. It is conceivable it will be owned by the County as Larchmont is. If that doesn't work, someone else will own and run it, but it will be public. The extensive trail system is another critical feature to this development. The golf course will be designed by Schmidt-Curley, world famous golf course architects in Scottsdale, Arizona. Mr. Schmidt spent over 7 years as a senior design associate with Jack Nicklaus. Brian Curley headed Landmark Golf Company's design office for several years before he bought them out. The two gentlemen formed a partnership and have designed lots of major golf course all over the world. It will be a real asset to the community. The golf course is extremely spacious, the development is not crowding the course. The fairways are wide and the space between the homes is generous. A typical 18 hole golf course will require between 130 and 175 acres. Larchmont, for example, is built on 130 acres. This golf course takes up 290 acres, twice the space of Larchmont. That is just the golf course itself, not including the development. If this proposal is granted today, the golf course will become a reality and construction will start in Spring 2001. The trail system includes over 2.5 miles of public trails, with over 1 mile along the Clark Fork River. It covers property that up until this time has not been open to the public. The complete north end of the property will have a trail along the river. Internal pedestrian traffic will be handled with sidewalks. With the exception of the two frontage roads that adjoin Deer Creek Road, all of the sidewalks are boulevard sidewalks. There are sidewalks on both sides of the street wherever there are homes. The only place where sidewalks are not proposed is where they are adjacent to, and possibly in danger from, the golf course. Staff felt sidewalks were appropriate in these areas. That is the only condition that the developers would like to take exception to. There will be two distinct types of housing in the development. The lots in the southwesterly portion of the development are proposed to be "senior, empty-nester" lots. The Temple family has done a lot of development in the southwestern United States and have found a market for folks whose children have moved out and want carefree and maintenance free living. These will be single family detached homes. The homeowners association will maintain the yards and shovel snow in the winter. Some of these owners may not live here in the winter, they may go

south. There are 150 of those lots. Of the 270 lots planned, 150 are planned for the "empty-nester" folks. The other 120 lots scattered over the balance of the property are a more conventional lot, 100 feet by 150 feet, typically. Custom homes will be built on these lots, some possibly by the developer. The developer intends to select and work with a small group of local contractors. There is a fairly restrictive set of covenants to make sure the homes built will be quality homes. It is the developers intention to extend Mountain Water from East Missoula, across the bridge and into this property to provide a larger storage facility for Mountain Water. It will improve Mountain Water service to East Missoula and provide water for this development, domestic and fire fighting water both. It is also the developers intention to connect to the City of Missoula sewer system through the East Missoula sewer mains that are scheduled to be installed next summer. That sewer system is presently being designed by a company in Great Falls. It is intended to be put out for bid this winter with construction to begin next spring. The funding is in place for this system. The sewer mains will be in Deer Creek Road, near the Speedway intersection. Presently, the property to the north of Deer Creek Road is not in the sewer district while the property to the south is. There have been preliminary discussions with the City about connecting to the system. Should that not happen, sewage can be treated on site with a series of recirculating sand filter systems. Traffic has always been a concern for this project. Access to it is over the Bandmann Bridge on Deer Creek Road. A traffic engineer was hired early on to do a traffic analysis of this development and the impacts it would have on the surrounding roads. Doug Widmayer, the traffic engineer, will give a presentation about the traffic. One of the questions that has been raised several times is putting an interchange in at Deer Creek Road from the Interstate. The developers have had conversations with the Highway Department. The Highway Department has said that it doesn't meet their criteria for an interchange, it doesn't have regional significance and several other things and indicated that an interchange was not going to happen there. The developers would like to have the interchange, it would give good access to the development. A draft letter has been developed to the Department of Transportation for people to sign and urge the installation of the interchange. The developers are willing to continue to pursue the interchange, but it doesn't look like it will happen at this time. The study shows the traffic can be handled without the interchange. It has been said by some people that this development will not have an impact on traffic in the area. That is not a correct statement. The developers have said they know there will be an impact and they will mitigate the impact. It will take a lot of improvements to several intersections and roads and they are proposing to do what is necessary. They have never claimed this will not have an impact on traffic. He asked if Doug Widmayer would make his presentation regarding the traffic study.

Doug Widmayer, Robert Peccia and Associates, stated the process in evaluating the traffic impacts of this development involve first looking at what is out there now and defining the existing conditions. Traffic counts were conducted and other counts provided by the Department of Transportation were used. Deer Creek Road currently handles about 300 vehicles a day and also has varied pedestrian traffic. Speedway in the vicinity of the Deer Creek Road intersection has about 700 vehicles a day. Highway 200 going through East Missoula has about 3,900 vehicles a day. There are two ways to look at level of service. The first is does the volume exceed the capacity on the roadway. The answer is no in all cases, with or without the development, there is plenty of capacity on the roads. Then the focus goes toward how the intersections operate which is where most delays occur. Right now the intersection at Deer Creek and Speedway works fine. To define level of service analysis, if any intersection works well with almost no delay, that is level of service "A". The greater the intersection delay, the lower the level of service, an "A" through "F" scale. At "E" it indicates a capacity saturation condition, with an average delay exceeding one minute. When in a vehicle, time moves at a different rate making 30 seconds seem like an eternity. Level of service "C" is average and considered acceptable. Levels of service "D" "E" and "F" are considered unacceptable. The initial analysis of existing conditions in East Missoula indicated that all of the intersections are operating at level of service "A" or "B". The exception is at the bottom of the Interstate ramp to go into East Missoula during the evening peak period, which is at level "C". The development is then theoretically superimposed on the existing conditions. The development has a golf course which will generate traffic as well as two different kinds of housing, the "senior" housing and the single family dwellings. It was estimated that single family dwellings would generate about 10 trips per day, which is probably higher than what would actually occur. For the "senior" units, the trips generated would be less, about 5 trips per day. The golf course trip generation is based on the actual number of acres. He felt he was very conservative in his estimates and they were based on full build out of the subdivision. During the summer the golf course is running and all the "snow birds" are here. During the winter, the golf course will not be in operation, which accounts for almost half of the traffic. His estimates were based on a worse case scenario. During the winter, the Marshall Ski Area also generates some traffic in the area, but is counterbalanced by the golf course not being in operation. The summer is really the critical time. Based on those assumptions, the trip generation used was 3,300 vehicles per day. What roads will those vehicles use in trying to get to the major commercial centers. The major commercial center is Missoula and it was assumed most trips would cross the Deer Creek Bridge and get on Speedway. Which way will they go? Speedway through East Missoula is posted at 25 miles per hour with multiple 4-way stop intersection. The other and more prominent route would be to take Speedway to Highway 200 then through East Missoula on the major U.S. highway. It is estimated that 95% of the trips will actually go out to Highway 200 and come down through East Missoula. Only 5% of the traffic generated will go through the East Missoula neighborhoods. It is also estimated that 80% will head toward the Interstate once they reach Highway 200. Those volumes were superimposed on the current situation, then the level of service analysis was redone. It was estimated that full build out would happen sometime between now and 2010. All the background volume levels then were raised by 1.5% annual growth rate. The analysis was done assuming it is 2010, the subdivision is fully built out and it is the height of summer. The Speedway/Highway 200 intersection will operate at level of service "B" in the morning and level of service "C" during the evening peak period. All of the intersection through East Missoula will operate in the "B-C" range in the morning. In the evening, most will operate in the "B-C" range, with exceptions. Highton Street in the middle of town will slip to level of service "D". The interchange ramps where they meet Highway 200 by the bridge were of most concern. The one area that had problems before had deteriorated to level of service "F". This deterioration will occur whether the subdivision happens or not, and will be compounded if the subdivision is built. That analysis covered the big picture, then more specific locations were reviewed. If an interchange from I-90 were installed, it would have to be a modified half cloverleaf, because the river bridge is so close to the Deer Creek bridge, there is not enough room to put in a standard diamond interchange. The Highway Department was asked what the chances were of getting an interchange and they did not really answer the question, but provided the rules which do not include showing regional significance anymore, which is a good thing. The number one rule, however, is to demonstrate that the traffic cannot be handled another way. That is a real stumbling block as the traffic can be handled in several other ways. The Highway Department would also want to see someone else pay for the project. A question was raised about the Mount Jumbo grade school crossing in East Missoula. The traffic count done by MDT in 1996-97 showed only about 4 children in the morning and 7 in the afternoon using the crossing. That doesn't warrant any more than what it has now, a painted cross walk and pedestrian crossing warning signs. The increase in traffic would not push it to the next level where it would require signalization. The interchange that comes

out of Missoula and drops down onto Highway 200 is the only one that will need signalization within the next 10 years. There were several recommendations resulting from the study. First, the intersection at Highway 200 and Speedway is currently a skewed intersection with an acute angle. That should be redone to make Speedway have a 90 degree angle with Highway 200, and that should be done prior to any work on the subdivision. It would also be prudent to add a right turn lane to allow residents of this development to get out of the through traffic volume mix. It was also recommended that as approaching Highway 200 from the development on Speedway, both a right and left turn lane be provided. The analysis at full build out did also indicate it may require a left turn bay from Bonner, which should be monitored and installed if necessary. The intersection at Speedway and Deer Creek is in poor shape, the pavement is cracking and needs to be reconstructed. Deer Creek Road through the development has been recently repaved using millings and looks to be in good enough shape to withstand the actual construction. However, any areas that are damaged during the construction phase should be the responsibility of the developer to fix. Deer Creek Road should be upgraded to a minimum width of 24 feet throughout its entire length. The first 1,000 feet east of the bridge are less than that and should be widened. Cahill Rise and Ribbon Run, the two frontage roads, posed a concern about site distance and truck access and egress. The frontage road is only about 30 feet from the main road. Moving vans might have trouble getting in and out. The recommendation was to limit the number of access points to the frontage roads and those access points be widened to about 40 feet. That will allow a moving van easier access and egress. It was recommended that crosswalks be put in by the four-way intersection near the golf course club house. Some residents might own golf carts and would be driving them from their residence to the club house. The crosswalk for Deer Creek Road needs to be wide enough to accommodate golf carts with appropriate warning signs. The layout of the roads within the development was done well with pedestrian walkways and good crossings. The major trail along the river is a great amenity. Using the Deer Creek Road underpass for both the trail and golfers also makes good sense. The Sha-Ron fishing access is close to the intersection of Highway 200 and Speedway and the recommendation is to move that access as far away from the intersection as possible. The developers are proposing to do that. A comment had been made regarding the "senior" housing. If the home was not occupied by "seniors" and had more than 5 trips per day, how would that affect the traffic count. A scenario was also done assuming all the housing was typical single family dwellings with 10 trips per day. It did not change the outcome of any of the results.

Dick Ainsworth stated that the project is to be phased over approximately 10 years, it will not happen overnight. The phases are shown on the plan. Prior to the developer using Professional Consultants, another firm, WGM, had conducted a traffic study. Their numbers and findings were basically the same as Mr. Widmayer. Almost all of the recommendations from the study have been included in the staff report or the conditions and the developer is agreeable to doing all those things. The major improvement is rebuilding the intersection at Speedway and Highway 200. To bring it in at a right angle will require the acquisition of right-of-way from the adjacent property owner, Rick Allen. A meeting was held with Mr. Allen prior to the Planning Board meeting. Mr. Allen's subdivision has a small public water system and the wells are in the area in question. They were concerned that the road might be too close to their wells. It will not be too close, there is plenty of room. He felt Mr. Allen and the neighbors were willing to work with him to acquire the necessary right-of-way. He has also had a preliminary meeting with Darren Kaufman of MDT. Ultimately, MDT has to approve the improvements to the intersection. Mr. Kaufman felt the proposal was workable. There has also been some discussion about the access to the Sha-Ron Fishing Access. A meeting has been held with Fish, Wildlife and Parks regarding the proposal. FWP felt it was workable. There have been some concerns expressed about the traffic that might not turn right off Deer Creek Road and might go through East Missoula. Mr. Widmayer mentioned it briefly and it is a real concern. In its present state, going through East Missoula would not be a shortcut. The roads are narrow and there are numerous stop signs. A variety of suggestions have been mentioned to deter people from going through East Missoula. Mr. Widmayer had some recommendations and they have been discussed with Horace Brown and Greg Robertson. Some suggestions were making it a right turn only or installing a raised median. There are pros and cons to those suggestions. Rick Stephens, an East Missoula resident, suggested an intersection similar to Arthur and South Avenue in Missoula, allowing right turns without stopping but permitting a left turn after stopping for traffic. Both Horace Brown and Greg Robertson felt those type of improvements were not necessary. If Speedway were improved between Deer Creek Road and the Highway 200 intersection, making it more driver friendly, it would encourage people to take that route. This proposal does include doing those improvements. The developer is willing to do whatever improvements are necessary. There is a condition to that effect that is a little open ended but is acceptable as worded. The riparian areas along the river and including some uplands are of concern to everyone. Barry Dutton of Land and Water Consulting was hired to do a Riparian Management Plan. An initial plan was drafted and then revised based on comments from various agencies and people. He has also been working with the golf course architects. He asked Mr. Dutton to discuss the plan further.

Barry Dutton, Land and Water Consulting, stated that his firm was hired to construct a management plan for the riparian area according to County regulations. They were also asked to answer some questions on other natural resource related issues. The Riparian Management Plan has been revised three or four times. There are about 30 acres of riparian resource area. There will be no building whatsoever within the riparian resource area. The golf course architects originally wanted some golf course features in the riparian area, however it was decided that the golf course could be built without encroaching into the riparian area. The riparian area is so important that part of the plan discusses and outlines enhancement of the riparian area. The area has been subject to 100 years of cattle grazing and other agricultural activities. The vegetation is not in very good shape. Some replanting of trees and shrubs that should be in the area will be done. Also, incorporated into the golf course design will be riparian type species that will be used outside the current riparian area. The end result will be more riparian resource type lands across the entire development. There is also an integrated crop and pest management program scheduled for the riparian area to limit chemical use. Golf course designers today feel that courses don't have to be meticulously manicured. The Board of Adjustment took many recommendation to heart and put them in the conditions, such as a surface water management and erosion control plan. This will result in zero discharge to surface waters of any kind and should protect the ground water resource as well. They have also required a vegetation management plan for the golf course turf itself that would reduce chemical use on the golf course portion of the property outside the riparian area. In the golf industry currently, there is a tendency toward reduction of herbicides and fertilizers. That plan will be developed and implemented on the golf course. Beyond that, an upland vegetation management plan is also being developed to protect the existing ponderosa pine native vegetation trees and some native grass lands. The golf course designers and homeowners will be given a pallet of native species to use for landscaping. This is an opportunity to return some of the land to native species that has been used for grazing and agriculture. There is also a monitoring plan included to make sure all this happens. The proposed project should not affect the surface or

ground water quality, should protect and enhance the riparian values and perhaps increase wildlife values across the property.

Dick Ainsworth stated that 40 Conditions of Approval was a new record. It is a large and complicated subdivision. The fact that there are "only" 40 conditions reflects on the work done by OPG. The staff recommended 40 Conditions of Approval to the Planning Board. The Planning Board unanimously approved the subdivision with the 40 conditions, with revisions to Condition 14 as requested. That dealt with the location of Hole 14 and the pedestrian trail, and the possibility of a trail connection between Lots 1B through 13B and the river. The developer prefers the Planning Board's recommendation. Staff has presented a revision to Condition 4 that clarifies that the access to the Sha-Ron Fishing access is being moved, not the actual fishing access. There is a revision to Condition 5 that is acceptable. The developer is asking for a revision to Condition 12 that deals with the location of sidewalks. This deals with the question of where sidewalks are located. The developer has proposed boulevard sidewalks in front of all the lots. There are some areas that don't have any lots and sidewalks are proposed in these areas on one side of the street only. Staff has requested that sidewalks be included on both sides of the street in those areas. There are some concerns with providing sidewalks in these areas, including pedestrian safety with proximity to a golf hole and maintenance. The "senior" section is the only area that will be maintenance free, the other single family dwellings will be responsible for sidewalk maintenance. The revised condition states that there will be sidewalks everywhere except in those specific locations where sidewalks will be on just one side of the street. With that exception, the developer is agreeable to all conditions as recommended by the Planning Board and the revisions to Conditions 4 and 5. They would prefer the Planning Board's recommendation on Condition 14. This is a very unique project on a unique piece of property. It has a great deal to offer everyone. It will provide much needed housing in Missoula. It will provide an excellent public golf course which is much needed in Missoula. Over 75% of the property is being set aside as open space, nearly 300 acres. The developer is not only providing the easements for the trails, they are building the trails. The riverfront trail will be built first when the golf course is constructed. The connecting trail on both sides of Deer Creek Road will be built at the time those phases are done. All of the trails will be constructed by the developer and will be public easements. New public access to over a mile of river frontage will be provided. Prior to this it has always been in private ownership. He was available to answer questions.

Chairman Evans opened the public hearing. She asked each speaker to keep their remarks as brief as possible and echo previous testimony rather than reiterating the comments.

Rick Skates, president of First Citizens Bank, stated there is a branch bank in East Missoula which is located on the corner of Staple Street and Highway 200. There are many similarities with this development to the newly constructed golf course in Polson. The bank was very active in pursuing the new 18 holes in Polson. The course in Polson is very similar as it is surrounded by water. There were environmental concerns, traffic concerns and subdivision problems expressed. Getting the first 9 holes built was difficult. The bank was very active in securing financing for the Polson golf course. Since that time, the golf course has expanded to include 27 holes and it is one of the nicest amenities in Polson. It is a good, clean industry that provides a lot of jobs. It is a great tax base and good for the economy. It has brought a lot of new residents to the area. Being an avid golfer, the biggest complaint is there are not enough adequate golf facilities in Missoula. Finding adequate housing is also a problem. The bank in East Missoula will be impacted by the increase in traffic. The branch manager did not feel it would be a problem. The bank is 125% in favor of this project and recommended the County approve it.

John Fletcher stated that according to Mr. Ainsworth, traffic would be encouraged to turn right at the Speedway intersection. This would be fine for people going into Missoula. There would be people going to Mount Jumbo school and to the actual businesses in East Missoula. They would be impacted. He felt there should be more study of the off site impact of this proposal. He hoped this subdivision would be more integrated with East Missoula. He felt that East Missoula may need some help with infrastructure because of this development.

Commissioner Evans asked if Mr. Fletcher was suggesting that it not be made impossible to turn left on Speedway?

John Fletcher stated that there would be some people who would turn left on Speedway no matter what. He hoped they would intend to use the services in East Missoula. He felt kids would develop short cuts to school. He just wanted to make sure those impacts were taken into account.

Commissioner Curtiss informed Mr. Fletcher that the school district would be Bonner, not East Missoula.

Jack Brown, 1505 Speedway, stated that his property was right next to the fishing access. He was concerned about the whole project as no one has spoken to him about it. He was also representing some of his neighbors who could not attend today. No one has talked to his neighbors either about moving the access to the fishing access. Rick Allen was concerned about his wells. He felt someone should talk to him and his neighbors before they made statements about what their intentions were.

Rick Stephens, 633 Minnesota, East Missoula, stated that in a democracy, the illusion of integrity is everything. Without integrity, the people are nothing. He asked why everyone was here today, on TV last night it was reported that this is a done deal. He received calls from people last night who said they would not be coming today because they had been "sold down the river." They felt they had no voice in the decision. He wanted to know how many in the audience were realtors or developers or were related in some way? There were very few people from East Missoula in the audience, those people work and would have to take time off to be present at the meeting. He did not see any possibility of being able to do anything. East Missoula has a history of paving their own streets. They got their own school, they are working on their sewer system, they built their own fire hall and their own community center. They did not ask for money from outsiders. They are willing to work with these developers to solve some of the off site traffic problems. The traffic expert's count was for vehicles. The count of school children crossing Highway 200 was distorted. Some parents drive their kids to school in the morning because they feel it is unsafe for the children to cross the highway. More may walk home in the evening because their parents work. These things should be taken into consideration for a traffic study, not just vehicles. The school is also changing from K-3 to K-5 and will have more children bussed in from the Rattlesnake. There will be a lot more children walking to school. He felt the traffic study had not looked at any of these issues. If 5% of the traffic goes up Speedway, based on 3,000 cars, that's 150 cars, which is a 1000% increase. If nothing is done to calm traffic, there could be up to 300 cars a day going through East Missoula, which is the entire traffic count currently. These are the kinds

of questions that should have been asked during the traffic study. Mr. Ainsworth mentioned another traffic study that had been done. Just because the two studies have the same findings doesn't make them right. He felt the trip generation did not look at what could actually happen. If a "snow bird" couple rented their house while they were away, it could house four students which could generate 40 trips per day, which would significantly raise the traffic count. The single family housing with mom, dad and two teenagers would generate more than 10 trips a day. These factors were not looked at. He read an excerpt from an article entitled "Why can't Johnny walk to school," which reflected some of the conditions in East Missoula. East Missoula believes in planning and paying for their improvements. He felt that wasn't being done with this development. The developer doesn't like loose conditions so why are they asking East Missoulians for a lot of loose conditions. He has been studying traffic calming for 20 years and some of the developers suggestions were recommended by him, but he is treated like he knows nothing about traffic studies because he isn't the expert. The people of East Missoula were not here today because they were told by the news last night that they had already lost.

Chairman Evans stated that her comments on KECI were that this was a good use of the land, not that this was a done deal.

Rick Stephens stated he never said this was not a good use of the land but the development was very loose. It is very up in the air and does not have what East Missoula is used to. The developers have spent 3-1/2 years planning this project and could have talked with East Missoula residents more. He felt the developers did not have answers to some of the questions raised, such as the Sha-Ron fishing access, the Speedway/Deer Creek Road intersection or the Staples or Summers Corner intersections. They have had 3-1/2 years and could have discussed some of these problems with the people sooner. He mentioned that Jim Van Fossen of City Parks and Recreation noted that the total acreage of parks shown is 16.2 acres, but much of it is linear or steep, unbuildable or river bank. The parks department would like to see some common area become parks. East Missoula has a HUD development that had to install a park. There are no soccer fields or baseball fields included with this development. These families are going to go into East Missoula to use their facilities. He questioned why the Homeowners Association wouldn't want to own and operate the golf course, it would provide money for maintenance and upkeep. These are some loose questions. Mountain Line posed a question that has not been answered about inclusion in the Missoula Urban Transportation District (MUTD). Mary Jean Gilman posed a question about trail maintenance that has not been answered. There were more questions that had not been answered but he did not want to bore the Commissioners further.

Commissioner Carey stated that most of the questions Mr. Stephens raised have been addressed and Mr. Ainsworth will cover that at the end of the public comments. He asked Mr. Stephens if his main concern was the Speedway traffic increase and impact.

Rick Stephens stated his main concern is that the East Missoula residents have not really been consulted. They have had no meetings with the developers in 3-1/2 years of planning. There have been no real surveys to find real answers. He felt the developers were making up the answers. He would like more time to make the project right. There are too many loose ends.

Jim Parker, 813 North 5th Street, stated he was the former chair and current member of the Open Space Advisory Committee. He was speaking for himself today, not representing the Open Space Advisory Committee. There are several issues he could address but would limit his comments to the trail system. He thanked the developers for working with the citizens and making an attempt to reach out to certain groups. Compromise is always important. He personally would like to see no development on this land at all. There are some things that could be done better concerning open space values. Bandmann Flats is an Open Space Cornerstone area. This is one of the very top properties in the community. It has been identified by several different groups as particularly unique and important. He is not convinced that a golf course is the same thing as open space, but it is better than filling the entire area with residences. Some of the top desires of citizens for open space are access to the river front and a trail system. There are some unique opportunities with this development to deal with both of those issues. The trail system is critical to this development. The developer seemed to understand the importance of the trail system close to the river without damaging riparian areas. The trail system is a benefit to this development. The developer should be proud of their efforts to enhance the area with the trail system and the citizens of Missoula should be proud of the developer's efforts. Future planning is critical, however, as learned through past mistakes. Connections to future developments should be considered. He hoped the Commissioners would agree to support moving the trail back by the river near Hole 14 and the leaving the easement on the northeast for a possible future connection to the south. At meetings with the Open Space Advisory Committee and the Board of Adjustment, the developers had shown the trail by the river near Hole 14. Now, after further design by the golf course architect, the trail has been moved, they say, for safety reason. The Board of Adjustment agreed to the use of the golf course with the understanding that a perimeter trail would be important to the final usage. He believes the design still allows the trail to go along the river. Some alterations may have to be made, but they don't take away from the value of the golf course. He asked the Commissioners to support the recommendation of staff that the trail remain near the river in this location. On the northeast side of the development, staff recommended an easement be allowed for a future possible trail connection to the south. The developers are suggesting routing the trail toward Deer Creek for future connection. The area to the south will be developed in the future. Part of the importance of the trail system are the connections and safety they provide. If the opportunity to connect along the river is lost, it will force the trail to locations that are not suitable for a safe public trail system. That opportunity should not be lost and he again urged the Commissioners to support staff's recommendation for the easement. There have been some concerns about possible transient problems around these homes. He felt that would not happen, it is not near anything transients might need to support themselves. The trail would be over 50 feet from the houses in this location, which he felt was an acceptable distance. He felt having the public trail in front of these lots would not prevent people from purchasing them. He asked the Commissioners for their support on these two very small additions in this very large and expensive development.

Jim Berkey, 529 Blaine Street, stated he was also a member of the Open Space Advisory Committee and the active chair. He was also speaking as an individual. He had a statement from 7 members of the Committee that was prepared without a quorum so it was not an official OSAC statement. He reiterated much of what Jim Parker said with regard to the land being an Open Space Cornerstone and being grateful and thankful to the developers and staff for their protection of this land. The 7 members of OSAC also reinforced what Jim Parker said about the trail system and accepting the staff's recommendation for the trail location by the river on Hole 14 and the public easement for future connections on the northeast.

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Tom Northey stated he was not a realtor, developer or banker. He thought this was a great project and the developers have done a great job. He urged the Commissioners to support the project.

Ethel McDonald, 316 West Central, said that Jim Parker eloquently stated all of her feelings about the trail and using staff's recommendations. Her dream is for a trail that would extend all the way on both sides of the river. Anytime the possibility exists to obtain that dream, it needs to be taken.

Ken Peers, 8750 South Drive and West Riverside, stated he was a lifetime resident and neither a developer nor banker. He graduated from Bonner School and this project will support that school. He is also active in the community, including Lions Club, volunteer fire department and Bonner Development Group. He has watched this property his entire life and always felt it was ideal for a golf course and housing development. He thinks this is a wonderful project and the golf course is needed in the Missoula area. He felt East Missoula would gain a lot from this project. He was 100% in favor of the development and asked the Commissioners to approve it.

Eric Edlund, 3 September Drive, Missoula, stated he was a member of the City's Bicycle/Pedestrian Advisory Board. He reaffirmed Mr. Berkey's and Mr. Parker's statements about the trail. This trail is a great opportunity for riverside access. Rejecting the staff's recommendation for the trail along the river by Hole 14, and especially the easement, restricts any possible future connection on the northeast to any development to the south. He encouraged the Commissioners to keep the easement and complimented those involved in the planning process.

Lee Bridges, 203 Clyde Street, East Missoula, stated she has been a homeowner in East Missoula for 17 years. She serves on the sewer board and is involved with the East Missoula Fire Department. She talked to many residents who had planned to attend the meeting today but as a result of last night's news broadcast decided not to bother. The news story was interpreted as this subdivision being a done deal. She was unhappy about that. She is disappointed with the lack of communication that the developer has had with residents. She felt this was a good idea and a good project, however she had some concerns that should be addressed before approval. One of the concerns was having more than half the residences occupied by seniors, she did not know how that could be restricted. There are lots of people looking for affordable housing. These houses start at \$125,000 which is more affluent than what these people are looking for. There are already some traffic difficulties in the area. These seniors may have medical problems and there was a concern about emergency response. There is nothing that would prevent a surviving senior from selling to a family or college students, which would increase traffic even further. It would be more appropriate to have an Interstate access and she was willing to work toward that goal. The sidewalks through East Missoula have not been addressed. She had questions about who would fund the public golf course and if taxpayers would be impacted. Another concern was the archeological aspect of this land and if any research was planned. She felt the interchange should be dealt with and built before the development is approved. She felt this development did impact the citizens of East Missoula.

Commissioner Carey stated there have been several meetings about the golf course and the Board would not commit to it if it put the citizens of Missoula County at risk. There are other methods of financing that are being discussed.

Mike Hargas, 4301 South Reserve Street, stated he has lived in Missoula County his entire life and grew up in Bonner. He is quite familiar with this piece of land. There are numerous stakeholders and special interests that will reap the benefits of this plan, especially the golfers. He has been a golfer for over 20 years and has played at many courses around the state, he was also the coach of the golf team at Hellgate High School in the late 1980s. This golf course could be one of the nicer ones in the state and the fact that it is public is even more of a plus. There is a great demand for public golf in the Missoula area. It is difficult to make a tee time at Larchmont on the weekends. It will not hurt Larchmont and will benefit all the golfers in the area. The whole package that this plan brings to the table, not just the golf course, will be good for everyone. It will benefit the advocates of open space and the trail system. The homes are being developed to a much lesser extent than zoning allows. The trail may not be exactly what those advocates want, but it is better than what is currently available. The facts that should be remembered are that Canyon River's plan is an improvement on the status quo, open space will be preserved and private land will become accessible to the general public. The plan will boost Missoula's economy in many ways. The Bonner area will also benefit. This will be something that people can be proud of. No project, especially one this large, can be all things for all people, but this comes close. He strongly urged the Commissioners to support the project.

Jack Ballas stated he was a resident of East Missoula. There was lots of talk about the trail system and its possible future connection to the Kim Williams Trail. He wanted to know who would use the trail system, just the residents or people from East Missoula or everyone. If people from outside the area are going to use the trail, how will they access it. Would parking be provided. Right now, the only parking would be at the clubhouse. Near the Deer Creek Bridge the road narrows. During the summer, people swim in the river and jump off the bridge into the river. This would increase the number of people and vehicles in the area. He suggested some off site improvements to allow access to the trail should be considered.

Commissioner Carey asked Mr. Ballas if people use the road and bridge for swimming currently.

Jack Ballas stated they do when the weather is nice. He has seen 200 to 300 people out there on really nice days. There are cars parked on both sides of the road.

Bruce Hall stated he is the Executive Director of Bonner Development Group and has lived in the Bonner/Milltown area for 25 years. It has been said that this piece of land is cornerstone for Missoula, but it is the same for the Bonner/Milltown community. In 1996 a meeting was held to discuss the future of the Bonner/Milltown area and Bandmann Flats was an important part of that discussion. What Canyon River has proposed has met and far exceeded the public comment in 1996. He hoped the Commissioners would support this project. Regarding the comments that the developers have not communicated with the residents, he felt that was not true. Bonner Development Group has been kept in the loop throughout the entire planning process. He asked the Commissioners to approve this development as requested.

Pat Coyle, 831 Parkview Way, stated he felt this was a great project. The only thing that concerned him was the trail by Hole 14. He has played golf for over 30 years and most amateurs will slice the ball. When a golfer hollers "FORE," the

golfers will know what to do, but users of the trail will not and someone could get hurt. He did not want to see that happen. He hoped the trail advocates could live with the location near Hole 14.

Linda Smith stated she came to the hearing today to become better informed about this subdivision. She was encouraged by the amount of open space, dealing with wildlife issue, the riparian area and the river. She was appointed in 1980 to serve on the first Citizens Advisory Open Space Committee. The highest priority at that time was a continuous trail system on both sides of the Clark Fork River. Because of the spacious nature of this development, it seemed adjustments could be made to allow continuous river front access and that the easements are secured now to allow for future connections. She supported the others who spoke on open space issues, particularly Mr. Parker, Mr. Berkey and Eric Edlund. She supported staff's recommendations regarding the trail. The importance of how these developments will impact Missoula is profound. She also suggested having these kinds of meetings in the evenings and in a larger space.

Diane Beck stated she was not representing any group or organization and she was a Missoula County resident. She does sell real estates but was not being paid to be here today. She is an independent contractor and only made money when she sold a house. She took some offense at the comments made earlier about realtors and bankers. The developers of this project have gone well beyond what they are required to do. They have given to the community open space, a trail system and public access, all of which are not currently available. She understood the concerns of the open space advocates but the developer of the golf course know what they are doing. There are a lot of positive things about this development, economics, open space and a trail system, more housing for the community. \$125,000 for a home is the industry median cost today. Excellent design and thought went into this development. The developers have met with community residents on several occasions. Smart growth is a big buzz term around the country today and she felt this development was smart growth. This area could have almost 400 homes on one acre parcels with wells and septs on this parcel of land. What was being planned instead was exceptional.

There being no further comments, the public hearing was closed.

Dick Ainsworth stated there were a couple of things that bothered him from the public testimony. Jack Brown's comments that no one has talked to him were troubling. Rick Allen, the man who owns the house on the corner of Speedway and Highway 200, had met with Mr. Ainsworth prior to the Planning Board meeting. Mr. Allen had invited some of his neighbors, including Mr. Brown who was unable to attend. Ron Wilkerson was invited and attended. Mr. Wilkerson lives on the other side of the Sha-Ron Fishing Access. Ruben, the operator of the water system was also present. Ruben was invited because of the concern about the wells with the realignment of the road. That meeting lasted an hour and a half including viewing the areas of concern. The consensus was that this realignment could be done, it wouldn't be a problem for the wells. Those present at the meeting told him it looked like it would not cause a problem. Those same people also attended the Planning Board meeting and testified that he had met with them. After that meeting, Mr. Wilkerson visited with him at his office. His primary concern was an interchange. It was actually Mr. Wilkerson who prompted the plan to write letters of support to the Highway Department to look at the possibility of an interchange. A draft of that letter was sent to Mr. Wilkerson, Jack Ballas and Gary Marbut. Mr. Wilkerson suggested changes to the draft of the letter. He had spent a lot of time with the residents of this area and to have someone say they were not talked bothered him a great deal. Rick Stephens made the same assertion, as well as some other folks. The Board of Adjustment meeting was on May 26, 2000 and public notice was given. On June 12, 2000, a meeting was held in Bonner at the school that was organized by Bruce Hall and his group. Public notice was given for that meeting as well, and 50 to 75 people attended. Letters were sent to agencies on July 27, 2000. The Open Space Advisory Committee was included on that list. No comments were received from the Open Space Advisory Committee until last week when they voiced their concerns about the trail system. He wondered where they were between July 27, 2000 and January, 2001. On August 28, 2000, a meeting was held in the East Missoula Community Hall. Jack Ballas was asked for help to announce the meeting, which including hand delivering notices. 650 notices were distributed and over 100 people attended the meeting. There were lots of questions, lots of concern and lots of support at that meeting. The law requires 60 working days on a project of this type for governing body response. Today is working day 101 since submittal, almost two months longer than required. This substantial amount of time was taken to allow for public comments. Rick Stephens contacted him and Commissioner Evans after the Planning Board meeting to request an extension of time. He asked Mr. Stephens to schedule a meeting with more than a month before the Commissioners meeting. Mr. Stephens set up a meeting with Jack Ballas and other sewer board members. Concerns included traffic going through East Missoula and the school crossing. Another meeting was held with those people last week. He has spent a great deal of time trying to figure out how to fix the Deer Creek Road/Speedway intersection. The developers are willing to do any number of things to improve the situation. From research he has done, there appears to be no problem with the school crossing. All the findings were reported to Mr. Stephens, Mr. Ballas and others last week. They sounded like they were fairly comfortable with the findings. Today Mr. Stephens reported that he feels like he's been shot in back, like he has not been talked to or his concerns dealt with. Mr. Stephens asked for a four month delay with no good reason other than more time was needed. He felt he had gone out of his way to address the concerns that have been raised. The only "loose" condition was regarding what might happen to the intersection, there are no other loose conditions and not a lot of questions that remain unanswered. The golf course will be constructed by the developer at their expense. They will either own and operate it or they will sell it to someone else who will operate it. It will get built and it will get manicured and it will get irrigated. It will not cost Missoula County residents anything.

Gary Bryan stated there will be a proposal to the County regarding ownership before that decision is made.

Dick Ainsworth stated the County will not assume that responsibility until there is assurance that the citizens of Missoula County will not be impacted. The developer will pay for and build the golf course up front.

Chairman Evans asked about possible connections for the trail system to the south. Were there other areas that could be used as opposed to the easement between the houses and the river?

Dick Ainsworth stated there were other possibilities for connection. Taking the trail from behind the houses does not eliminate the possibility of the trail connecting to a river front trail to the south. The trail would not be built at present behind the houses, but the easement would be there and the trail would be constructed at such time there was something to connect to. One of the concerns was the people who would purchase these homes may have a problem with having a

public trail in their back yard. This is different than having a sidewalk in front of a house in town. It is heavily timbered and vegetated and protection for wildlife. They did not feel it was appropriate to have the trail behind those houses.

Commissioner Carey asked if the eastern most part of those lots would be 150 feet from the river?

Dick Ainsworth stated that was not true.

Nancy Heil stated the lot line would be 50 feet from the top of bank and the structures would be 100 feet from ordinary high water.

Dick Ainsworth stated that in this area, the bank is fairly steep so when the river rises, it doesn't move much. The other question regarding the trail near Hole 14 was a safety issue. He had a letter from the golf course architect outlining the safety concerns and liability issues. The golf course architect also sent another letter, dated January 10, 2001, that said: *"I am writing to you in light of recent conversation in relation to the location of the public trail along Hole #14. It is our understanding that there is a possibility that the trail might be moved to the right side of Hole #14. We feel that this could be a potential recipe for disaster for coexistence between golfers and public trail use. We would like it known, for the record, that we would want indemnification of liability of this design if the trail is moved to the right side of fairway on Hole #14. Thank you for your consideration."*

Commissioner Carey asked if Phase 5 could be moved closer to the river and put Hole 14 west of Phase 5.

Dick Ainsworth stated that the golf course design was done to conform with the contours of the land, including terraces. Certainly some major redesign could be done to eliminate this concern. The other issue that's fairly important is the matter of private property rights. This property is in private ownership and has always been that way. There is now no public access whatsoever to the river. The development review does give an opportunity to require certain things. The developers have given in excess of a mile of new, previously non-existent, public access to the river. The Open Space people would like to have all of this property and have access to the river, however, the land is private property. It is felt that the developers have gone above and beyond a reasonable amount of public access. There are just these two small areas where there is not access to the river. The Open Space people think that what has been given isn't sufficient, they want 100%, every foot of river frontage. That seems above a reasonable request to the developer who has already set aside 75% of their ownership as open space.

Nancy Heil stated that regarding the archeology issue, it was known early on that this was a possible site for historical or cultural artifacts. As is the practice for all subdivisions, a copy of the packet was sent to the Tribes. No comment was received from them, and two follow up calls were made. There are, by law, requirements that if, during excavation, human remains are uncovered, certain procedures have to occur. The developers are willing to have a reconnaissance level survey performed for artifacts that might possibly exist. The question would be who would pay for and carry that out.

Dick Ainsworth stated that during the Planning Board's discussion, they suggested a connection through the housing for access to the trail.

Commissioner Curtiss stated that the Planning Board minutes do reflect that Mr. Wilkerson and Mr. Allen were both present and both agreed with the project and had been engaged in discussions with the developers. She asked if the traffic study had included swimmers and the associated parking near the bridge during the summer.

Doug Widmayer stated there is some roadside damage occurring in the vicinity of the bridge, but the possibility of people jumping off the bridge had not occurred to him. He did note that parking could be handled at the fishing access.

Nancy Heil stated there was a question raised about Mountain Line. There is a Condition of Approval that the developer petition for inclusion in the Missoula Urban Transportation District prior to final plat approval. There was another question about trail maintenance, and that would be the responsibility of the golf course owner.

Commissioner Carey stated a question had been raised about responding to medical emergencies, particularly with the possibility of more seniors living in the area. What impacts would that have on Missoula Rural Fire.

Curt Belts, Missoula Rural Fire District Fire Marshall, stated any subdivision puts an increase in response time and responsibility on the fire district. Approximately 70% of their calls are medical so this development will cause an increase.

Chairman Evans stated she lived on the second tee at Highlands Golf Course, to the right of the tee. Over the last several years, she has gathered several hundred golf balls. It seemed clear that there was a danger present on the right side of a golf hole. She was in favor of not having the trail go to the right of Hole 14.

Commissioner Carey asked Mr. Ainsworth about the comment of the lack of public amenities in the subdivision, no soccer field, no baseball diamond, etc.

Dick Ainsworth stated that at the Planning Board that was discussed, the possibility of a pocket park at least. The developers are still trying to find a good spot to put such a facility. After the golf course designer has fine tuned the layout, such a location could be determined. There is one fairly flat wide open area that would be a good place, but there is a Bonneville Power line easement that runs through it. Most Bonneville Power easements are designed to have twin lines, however there is only one line in this area, but room has been allowed to run a parallel line. Jim Van Fossen from the City Parks Department stated that it was probably not a good idea to have a park under a power line, it would not be preferred. There are some other areas that would be acceptable but they were close to the "senior" housing area. They are still working on finding an acceptable location and will likely put one it, but no such location has yet been identified. The suggestion did not come up during agency review, even by the Parks Department.

Chairman Evans stated that there was a study done some time ago by 13 different scientific groups that determined there were no dangers from high power lines.

Commissioner Carey commended Mr. Ainsworth for his work making this the best possible project. He also commended Nancy Heil and the developers. He felt everyone had gone more than the extra mile. He believed very strongly there was a way to make the trail contiguous with the river. If that could be fixed, he was all in favor of the project.

Chairman Evans suggested leaving the trail on the left side of Hole 14 from a safety perspective. She suggested bringing the trail easement in front of and to the southeast of the housing to allow for a contiguous connection. Walking on a trail through a golf course is not an unpleasant experience. She asked if all Mr. Widmayer's traffic report conclusions and recommendations were included in the conditions?

Nancy Heil stated all of them are with the exception of clarifying that all of Deer Creek Road be improved to a 24 foot width.

Greg Robertson, Director of Public Works, stated he had reviewed the traffic analysis. He had some concerns initially with the senior housing and placing controls on preserving it as senior housing, it might cause an underestimation on traffic counts. He did concur with the report of the traffic engineer. He also had some concerns about Speedway and Deer Creek Road in terms of their structural integrity to support the increased traffic as well as the construction traffic. The developer has agreed to meet his demands and improve that segment of roadway. As far as making the intersection of Deer Creek Road and Speedway a right turn with stop condition on Speedway, he did not feel that was any significant benefit to the volume of traffic coming into East Missoula. The money would be better spent on improving Speedway at the intersection of Highway 200. He was not totally convinced it could be improved appropriately with the space available. He did not feel the developers knew for sure themselves if it could be done, however, in concept it is a good idea. That would encourage the bulk of the traffic. He was also not sure about the 95%/5% split of traffic. There will be some increased traffic on Speedway. As the condition of the level of service at the intersection of Highway 200 and Speedway deteriorated, people would find an alternate route. His recommendation is to allow himself and the developer to work on a suitable design that is satisfactory prior to filing the first plat. There are some issues that need to be worked out before they get too far into this project. He recommended the developer first do the preliminary engineering design on Deer Creek Road and Speedway and the intersection of Highway 200. To encourage people to go a certain way is to make it easier and more viable. He requested that a condition be added that prior to the filing of the first phase that detailed construction plans of the off site improvements be submitted for review.

Chairman Evans stated that was already a condition.

Dick Ainsworth stated that Greg Robertson had not had a lot of time to look at this submittal. He was not originally on the list to be contacted when the project first started. He assumed that the packet sent to the Surveyors office would be seen by everyone who should see it, but that did not happen. There is a condition that prior to the filing of the first phase the design has to be done.

Horace Brown stated the problem with the right hand turn would force those who want to go into town to turn right and go all the way around. He felt if all the improvements to the other roads were done, it would not be necessary. He felt it was important for Deer Creek Road to be widened to 24 feet near the bridge, otherwise it would create a bottleneck. He also felt some room should be left for parking in that area to accommodate swimmers in the summer.

Dick Ainsworth stated widening the road to 24 feet was acceptable.

Commissioner Curtiss stated that the Board of Adjustment, when approving the golf course, had said the "site plan should identify the trail corridor along the river with a minimum setback of 40 feet from the slope break where there is a bluff and identify the trail corridor along the 4,000 linear feet where there is no high bluff." Both areas where the trail has been moved away from the river are high bluff areas. The developer has given over a mile of river access. The Open Space Committee does recognize this as a cornerstone property, but that doesn't automatically mean the trail needs to go along the river the whole way. There were other things to consider, such as the riparian areas, preserving the vistas or viewshed and preserving open space. There is also a safety concern, there are to be no fences between the trail and the riparian areas or golf course. Smart growth factors are included such as cluster development. Building trails is something the developer did not have to do, and the possible future connections are an added bonus. There are steep slopes that need protection. The river also needs protection. Mountain Line service is possible in the future and they are required to petition for inclusion in the MUTD. That could help to reduce traffic. The river trail will be built up front when the golf course is constructed, which is an important fact. This is not an easy decision and there are a lot of factors involved in the decision. The trail on the left of Hole 14 is really only a block and a half from the river, the river is still visible over the golf hole. No matter who the owner of the golf course ends up being, Hole 14 will be a "Signature" hole. That will be a major draw for a destination golf course.

Commissioner Carey stated that the example the developer has set has been exemplary. They have bent over backwards and have done more than they were asked. He regretted the fact that he could not support the project with the trails being moved away from the river.

Commissioner Curtiss moved that the Board of County Commissioners approve the Canyon River Planned Variation, based on the findings of fact in the staff report. Chairman Evans seconded the motion. The motion carried on a vote of 2-1 (Commissioner Carey opposed).

Commissioner Curtiss moved that the Board of County Commissioners approve the variance request from Article 3-2(3) of the Missoula County Subdivision Regulations for portions of Deer Creek Road to vary from 24 foot road width to the existing condition, based on the findings of fact set forth in the staff report. Commissioner Carey seconded the motion.

Chairman Evans asked Nancy Heil if this precluded widening the road at the end of the bridge.

Nancy Heil stated there was a condition of approval that requires widening Deer Creek Road from the eastern portion of the bridge for 1,000 feet. The variance is for that portion that is not covered by the condition.

The motion carried on a vote of 3-0.

Commissioner Curtiss moved that the Board of County Commissioners approve the variance request from Article 3-2(3) of the Missoula County Subdivision Regulations for all roads (except Ribbon Run and Cahill Drive) to vary from the required 60 foot road right-of-way width and required 32 foot surface width to 54 foot right-of-way and 30 foot surface width, based on the findings of fact set forth in the staff report. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Commissioner Curtiss moved that the Board of County Commissioners approve the variance request from Article 3-2(3) of the Missoula County Subdivision Regulations for Ribbon Run and Cahill Drive to vary from the required 60 foot road right-of-way and 24 foot road width to 30 foot right-of-way and 20 foot surface width, based on the findings of fact set forth in the staff report. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Commissioner Curtiss moved that the Board of County Commissioners approve the Canyon River Subdivision, based on the findings of fact in the staff report and subject to the amended conditions of the Planning Board. Commissioner Carey seconded the motion.

Chairman Evans asked for discussion.

Commissioner Curtiss moved that the Board of County Commissioners amend Conditions 4 and 5 in accordance with the recommendations submitted by Nancy Heil on the memo dated January 9, 2001, relating to the access to the Sha-Ron fishing access and MDT and Missoula County approval of improvements to Deer Creek Road, Highway 200 and Speedway Avenue. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners amend Condition 12 as proposed by the developer per a memo submitted on January 10, 2001, relating to sidewalks. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Chairman Evans moved that the Board of County Commissioners amend Condition 14 to leave the trail on the east side of Hole 14 and to allow the extension of the linear park easement not behind Lots 1B through 13B, but in a location to be accepted by the planning staff after consultation with the Surveyors Office.

Chairman Evans stated that her reason to remove the easement behind Lots 1B through 13B was that these were choice lots and to impact them by putting in a trail takes away from the property owners.

There was no second to Chairman Evans motion; therefore the motion died.

Commissioner Carey moved that the Board of County Commissioners amend Condition 14 to leave the trail on the east side of Hole 14 and allow the linear park easement to be extended behind Lots 1B through 13B, however, construction of a trail shall not occur unless public access is acquired along the river south of Interstate 90 and/or a trail is constructed. Commissioner Curtiss seconded the motion. The motion carried on a vote of 2-1 (Chairman Evans opposed).

The Board of County Commissioners then voted on the main motion to approve the Canyon River Subdivision subject to amended conditions 4, 5, 12 and 14. The motion carried on a vote of 3-0.

Canyon River Subdivision Conditions of Approval:

1. The Planned Variation shall be approved prior to final plat approval of the phases that include Lots 1-150. *Subdivision Regulations Article 3-1(1)(B).*
2. A phasing plan shall be filed that includes the golf course lot prior to final plat approval of Phase 1 or the golf course lot, subject to County Attorney's Office approval. *Subdivision Regulations Article 4-1(14), 4-1(8) and staff recommendation.*
3. Conditions of Board of Adjustment approval of the golf course special exception use shall be met prior to final plat approval of the golf course lot, subject to OPG and County Attorney's Office approval. *Subdivision Regulations Article 3-1(1)(B) and staff recommendation.*

Roads

4. The intersection of Highway 200 and Speedway Avenue shall be redesigned and constructed prior to Phase 1 or golf course lot final plat approval. The intersection shall be perpendicular and designed to accommodate large trucks. The access to the Sha-Ron fishing access shall be moved. Left and right turn lanes shall be installed as necessary. The design and engineering plans for the intersections shall be reviewed and approved by MDT and Missoula County prior to Phase 1 plat filing. *Subdivision Regulations 3-2, MDT and County Surveyor recommendation.*
5. The intersection of Speedway Avenue and Deer Creek Road shall be improved subject to MDT and Missoula County approval prior to Phase 1 or golf course lot final plat approval. Speedway Avenue shall be improved from Deer Creek Road to Highway 200, subject to MDT and Missoula County approval. The improvements shall be designed to encourage right turns from Deer Creek Road onto Speedway Avenue in a design subject to MDT and Missoula County approval. *Subdivision Regulations Article 3-2(1) and County Surveyor recommendation.*
6. Deer Creek Road shall be improved to a 24 foot width from east of the Deer Creek Road bridge for 1,200 feet, subject to County Surveyor approval, prior to final plat approval of Phase 1 or the golf course lot. *Subdivision Regulations Article 3-2(1) and County Surveyor, City Engineer, and OPG recommendation.*

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7. The developer shall provide striped pedestrian crosswalks on all four approaches to the intersection of Deer Creek Road and Canyon River Road; across Canyon River Road at the Canyon River/Deer Creek intersection; and across Bandmann Trail at the intersection of Bandmann Trail and Deer Creek Road. The pedestrian crossing at Deer Creek Road shall be made wide enough to accommodate golf carts. Pedestrian crossing and advance pedestrian crossing warning signs shall be installed on both Deer Creek Road approaches to the Canyon River intersection. Pedestrian crossings shall be installed at the time of road improvements subject to County Surveyor approval. *Subdivision Regulations Article 3-2(1) and staff recommendation.*
8. The following statement shall appear on the face of the plat:

“Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for improvements to Deer Creek Road and Speedway Avenue, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land.”
Subdivision Regulations Article 3-2 and County Surveyor recommendation.
9. Names for streets within the subdivision shall be approved by the County Surveyor prior to final plat approval. Road engineering plans and specifications for improvements within the subdivision shall be approved by the County Surveyor's Office prior to final plat approval of each phase. The middle access points on Ribbon Run and Cahill Rise shall be deleted. Ribbon Run and Cahill Rise shall be designed with 30 foot wide access points to allow turning of large trucks, subject to County Surveyor approval. *Subdivision Regulations Article 3-2(1-6,8) and County Surveyor recommendation.*
10. a. Grading, drainage and erosion control plans shall be approved by the County Surveyor prior to final plat approval of each phase. Drainage improvements shall be installed with each phase of development in a schedule to be approved by the County Surveyor's Office. *Subdivision Regulations Article 3-4, 4-1(12).*
b. The plat shall include a certification by the consulting engineer that the drainage design will effectively retain any additional drainage that results from the subdivision on site or release it in a manner that will not substantially increase the peak run-off normally present before the subdivision. *Subdivision Regulations Article 3-4 and County Attorney recommendation.*
11. The developer shall petition for annexation into the Missoula Urban Transportation District prior to Phase 1 plat filing. *Subdivision Regulations 3-1(1), 3-2(1) and MUTD recommendation.*

Walkways and Trails

12. Five foot boulevard sidewalks shall be constructed along the full length of both sides of Canyon River Road, Angler's Bend, Coachman Way, Ginger Quill, Creel Court and Caddis Dance prior to the final plat approval of the appropriate phase, with the following exceptions: the west side of Canyon River Road between its intersections with Angler's Bend, the northeast side of Coachman Way from the west side of Lot 76A to the intersection with Angler's Bend, the east side of Angler's Bend between Coachman Way and Canyon River Road, and the east side of Coachman Way from the northeast corner of Lot 93A to Canyon River Road. Five foot boulevard sidewalks shall also be constructed along the east side of Bandmann Trail prior to final plat approval of the appropriate phase. Sidewalks shall be constructed along the north side of Ribbon Run and the south side of Cahill Rise prior to final plat approval of the appropriate phase. *Subdivision Regulations 3-2(5) and staff recommendation.*
13. The final plat shall show the linear park easement extended on the north side of Deer Creek Road from the east end of Ribbon Run to the Canyon River Road intersection. *Subdivision Regulations 3-2(5) and staff recommendation.*
14. Linear Park Easement Location: The linear park easement shall be shown on the face of the final plat subject to OPG approval. The easement along Lots 45-48 and along Hole #18 shall be extended above the slope break to allow sufficient room for a trail. A private access easement shall be shown on the final plat between Lots 21 and 22 subject to OPG and County Attorney's Office approval. The linear park easement shall be extended so that the trail will avoid areas of dense riparian vegetation in the northern portion of the property. The linear park easement shall be extended behind Lots 1B through 13B; however, construction of a trail shall not occur unless public access is acquired along the river south of Interstate 90 and/or a trail is constructed. *Subdivision Regulations Article 3-1(1)(C), 3-2(5), 3-8, 4-1(12) and FWP, Parks and Recreation and staff recommendation.*
15. Linear Park Easement Language: The final plat for the golf course lot shall grant the linear park easement for non-motorized public use, with language to be approved by the County Attorney's Office, prior to final plat approval. *Subdivision Regulations Article 3-8 and staff recommendation.*
16. Linear Park Easement Connections: A private access easement at the end of the cul-de-sac on Ginger Quill along the 20 foot utility easement shall be shown on the final plat subject to OPG and County Attorney's Office approval. *Subdivision Regulations Article 3-2(5), 3-8 and staff recommendation.*
17. Trail Construction Schedule: The trails within the linear park easements shall be constructed prior to final plat approval of the golf course lot or Phase 1, whichever is first. Trails within the linear park easement on the north side of Deer Creek Road between the Canyon River intersections shall be constructed prior to Phase 2 final plat approval. Trails within the linear park easement on the south side of Deer Creek Road between the Canyon River Road intersections shall be constructed prior to Phase 4 final plat approval. *Subdivision Regulations 3-2(5), 3-8 and staff recommendation.*
18. Trail Design: The trail shall be constructed in a design to be approved by OPG prior to final plat approval of the golf course lot or Phase 1. The trail shall be 10 feet wide in all locations and constructed to AASHTO and ADA standards. The trail along Deer Creek Road between the Canyon River Road intersections shall be constructed with an asphalt surface. The trail shall be constructed with a crushed gravel surface in all other locations. A

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maximum running grade of 5% shall be maintained, with short exceptions allowed due to the terrain. A maximum cross-slope of 2-3% shall be maintained. Appropriate signage shall be included along the trail to discourage golf cart use and to inform users about golf course use and riparian areas. The public trail shall not be obstructed or limited by obstructions or barriers, such as fencing. The design shall show the trail location within the linear park easement subject to OPG approval. The trail may be located in existing or potential riparian areas only after consultation and approval by OPG. *Subdivision Regulations Article 3-2(5), 3-8 and staff recommendation.*

19. Trail Maintenance: A development agreement shall be filed that states that the owner of the golf course lot is responsible for maintenance of the linear park easement, prior to final plat approval and subject to County Attorney's Office approval. *Subdivision Regulations Article 3-2(5), 3-8 and staff recommendation.*

Common Area

20. A development agreement shall state that the developer shall provide noxious weed control, litter removal and implementation of the riparian management plan in the common area until the homeowners association accepts maintenance responsibility. The development agreement shall be filed prior to final plat approval, subject to County Attorney's Office approval. *Subdivision Regulations Article 3-8, 4-1(12) and staff recommendation.*

Fire, Water and Sewer Services

21. Fire hydrant locations shall be approved by the Missoula Rural Fire District prior to final plat approval of each phase. *Subdivision Regulations Article 3-7 and Missoula Rural Fire District recommendation.*
22. The developer shall demonstrate the means for installation and maintenance of fire hydrants, such as an RSID, prior to final plat approval. *Subdivision Regulations Article 3-7 and Missoula Rural Fire District recommendation.*
23. A working fire protection system shall be in place, subject to Missoula Rural Fire District approval, prior to issuance of building permits for any more than four structures on the property. *Subdivision Regulations Article 3-1(1)(F) and Missoula Rural Fire District recommendation.*
24. If the subdivision is served by a community wastewater system, plans for the subdivision shall be approved by the City Engineer prior to final plat approval, with permits and inspection by the City Engineer upon installation. *Subdivision Regulations Article 3-7(3) and City Engineer Recommendation.*
25. The following statement shall appear on the face of the final plat:

"Acceptance of a deed for a lot within this subdivision constitutes assent of the lot owner to waive the right to protest a future RSID/SID for public water and sewer systems, based on benefit. The lot owner shall connect to public sewer within 180 days of when the public sewer is available to the subdivision. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land depicted herein." *Subdivision Regulations Article 3-7(3) and City Engineer recommendation.*

Riparian Management Plan

26. Riparian areas shall be shown on the face of the plat as no-build/no-improvement zones, except for trails per approved plans. *Subdivision Regulations Article 3-13, 4-1(12) and staff recommendation.*
27. The final plat shall show Lots 1B through 13B with a set back of 50 feet from the top of the bank. *Subdivision Regulations Article 3-13, 4-1(12) and FWP and staff recommendation.*
28. The riparian management plan shall be amended, subject to OPG review and governing body approval, prior to final plat approval to include the following:
- A more specific description of permitted and prohibited uses and activities in the riparian areas for the golf course, common area and residential lots.
 - Golf course grading or construction shall not encroach into riparian areas.
 - The golf course shall not be separated from the riparian areas by fencing. The 50 foot buffer area east of Lots 1B through 13B shall not be fenced or landscaped with non-native vegetation.
 - No fencing is permitted within the riparian areas on Lots 1A-4A. The portions of Lots 1A and 2A north of the riparian area shall be designated no-build areas.
 - No vegetation removal or pruning shall occur in riparian areas, except for that associated with trail construction per approved plans. Weed control shall minimize use of pesticides in the riparian area.
 - No motorized use is permitted in the riparian areas, except during trail construction.
 - The plan shall include more guidance on specific maintenance activities, as distinct from landscaping maintenance, in and around riparian areas for the golf course, common area and residential lots.
 - A map showing the location of riparian areas on the property shall be attached to the riparian management plan. *Subdivision Regulations Article 3-13, 4-1(12) and staff recommendation.*
29. A development agreement shall be filed prior to final plat approval that states that the golf course lot owner shall implement the riparian management plan. The riparian management plan shall be attached to the covenants for the residential lots. *Subdivision Regulations Article 3-13, 4-1(12) and staff recommendation.*

Wildlife

30. A development covenant shall be filed, prior to final approval of the golf course lot, subject to County Attorney's Office approval, that states that fish shall not be introduced to ponds on the golf course property. *Subdivision Regulations Article 4-1(12) and Montana Fish, Wildlife, and Parks recommendation.*
31. The covenants shall be amended to include specific "Living with Wildlife" recommendations, subject to OPG approval prior to final plat approval:

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- a. Permanent barbecue pits are discouraged. Clean portable barbecue grills regularly and store indoors when not in use.
- b. Fence and protect flowers, ornamental shrubs, fruit trees and gardens, which may be susceptible to damage from wildlife. Plant native vegetation for landscaping and revegetation. Harvest all fruit trees properly so as not to allow an accumulation of rotting organic matter, which is a prime wildlife attractant.
- c. If gardens are established, enclose with a fence one foot below ground level and at least eight feet in height, with top rail made of something other than wire to prevent wildlife from entanglement. Bird feeders and compost piles attract bears and are not permitted.
- d. Do not use or maintain any lot or part of a lot as a dumping ground. Do not allow any rubbish, trash or other waste to accumulate, except in sanitary containers. Empty and remove waste in such containers from the premises at least on a weekly basis. Store all garbage inside, in containers of metal, plastic or other suitable material, which have sufficiently tight-fitting covers to prevent entrance or destruction by wild animals.
- e. Artificial feeding of wildlife is prohibited. Do not allow salt blocks, mineral blocks and feeding platforms for deer or other wildlife.
- f. Store pet food indoors or in wildlife proof containers. Feed domestic pets indoors to prevent attraction of wildlife.
- g. Do not allow domestic pets, such as dogs, to run freely and potentially harass wildlife. Keep dogs in an enclosed structure when not under direct supervision of the owner. Besides loss of life and the maiming of wildlife, this harassment also causes unnecessary energy expenditures and can displace animals to less suitable habitats.
- h. The keeping of rabbits, chickens, turkeys, pigs, sheep and goats is discouraged. If such animals are kept, build sturdy cages or fences to protect domestic animals from wildlife. These animals have no defense against predators and can be an attractive food source to many wildlife species.
- i. Apiaries may attract species such as bears and should be avoided. Before an apiary is located on a lot, the owner of the bee hive(s) should first contact the Department of Fish, Wildlife and Parks to discuss their plans and how to best avoid wildlife conflicts.
- j. Appended to these covenants is a copy of the following brochure: "Living with Wildlife." Additional copies of this brochure can be obtained from the Missoula Office of Planning and Grants, 435 Ryman, Missoula, MT 59802, (406) 523-4657. Lot owners should follow recommendations made in this brochure. *Subdivision Regulations Article 4-1(12) and Montana Fish, Wildlife, and Parks recommendation.*

Weeds

32. A Revegetation Plan for Disturbed Sites shall be approved by the Missoula County Weed Board prior to final plat approval. *Subdivision Regulations Article 4-1(12) and staff recommendation.*

33. The covenants shall include the following provisions:

Covenants which restrict the use of the land for the purpose of protecting wildlife or riparian/wetland areas are enforceable by each of the lot owners in this subdivision, by Missoula County and by the Department of Fish, Wildlife and Parks. The right to enforce the covenants does not obligate Missoula County or Fish, Wildlife and Parks to inspect the property and no claim of damages may be made against the County as the result of undetected lack of compliance with wildlife and riparian protection requirements.

Covenants related to wildlife or riparian management shall not be changed without Montana Department of Fish, Wildlife and Parks review and governing body approval. *Subdivision Regulations Article 4-1(12) and Montana Department of Fish, Wildlife, and Parks and staff recommendation.*

Air Quality

34. The covenants shall be amended prior to final plat approval to state that the property is within the Air Stagnation Zone and that wood burning stoves and fireplaces are prohibited. *Subdivision Regulations 3-1(1)(D) and staff recommendation.*

Yellowstone Pipeline

35. The final plat shall show the location of the Yellowstone Pipeline centerline and easement, subject to YPL approval. The final plat shall show a 50 foot setback line from the centerline of the YPL easement, prohibiting primary dwelling units within the setback. *Subdivision Regulations 3-1(2) and YPL recommendation.*

Floodplain

36. The final plat shall show the 100 year and 500 year floodplains, subject to Floodplain Administrator approval. The 100 year floodplain area shall be shown as a no-build zone, with no structures permitted. *Subdivision Regulations 3-1(1)(B) and Floodplain Administrator recommendation.*
37. A development agreement for the Golf Course Parcel shall be filed, prior to final plat approval and subject to County Attorney and Floodplain Administrator approval, that states that no net increase in fill will occur in the 100 year or 500 year floodplain. *Subdivision Regulations 3-1(1)(B) and Floodplain Administrator recommendation.*
38. The lowest floor of all dwellings on Lots 1B-5B shall be at least 2 feet above the 100 year flood elevation. Crawlspace floors may be at flood elevation if they contain no mechanicals. The covenants shall be amended to include this requirement, subject to OPG approval prior to final plat approval. *Subdivision Regulations Article 3-1(1)(B) and Floodplain Administrator recommendation.*
39. Structures on Lots 1B-15B shall be set back 100 feet from ordinary high water. *Subdivision Regulations 3-1(1)(B), 4-1(12) and Floodplain Administrator recommendation.*
40. The covenants shall be amended, subject to OPG approval prior to final plat approval, to state that building a home close to the river carries inherent risks and that stopping a bank from eroding may be difficult or impossible. Missoula County Floodplain Regulations prohibit the use of riprap for bank stabilization. *Subdivision Regulations 3-1(1)(B) and Floodplain Administrator recommendation.*

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There being no further business to come before the Board, the Commissioners were in recess at 5:05 p.m.

THURSDAY, JANUARY 11, 2001

The Board of County Commissioners met in regular session; all three members were present. In the afternoon, Commissioners Carey and Curtiss traveled to Seeley Lake for a tour of the Pyramid Lumber facility. In the evening, the Commissioners and County staff met with area residents at the Seeley Lake Elementary School for a "Community Needs Assessment for the Seeley Lake Area" in conjunction with the probable closing of the Pyramid Mountain Lumber Mill.

Claims List – The Chairman Evans and Commissioner Curtiss signed the Claims List, dated January 9, 2001, batch number 1050 (pages 1-3), with a grand total of \$15,310.33. The Claims List was returned to the Accounting Department.

Claims List – The Chairman Evans and Commissioner Curtiss signed the Claims List, dated January 10, 2001, batch number 1051 (pages 1-5), with a grand total of \$33,417.26. The Claims List was returned to the Accounting Department.

Claims List – The Chairman Evans and Commissioner Curtiss signed the Claims List, dated January 10, 2001, batch number 1053 (pages 1-4), with a grand total of \$63,646.57. The Claims List was returned to the Accounting Department.

Claims List – The Chairman Evans and Commissioner Curtiss signed the Claims List, dated January 10, 2001, batch number 1055 (pages 1-2), with a grand total of \$7,270.43. The Claims List was returned to the Accounting Department.

Claims List – The Chairman Evans and Commissioner Curtiss signed the Claims List, dated January 11, 2001, batch number 1054 (pages 1-4), with a grand total of \$46,456.53. The Claims List was returned to the Accounting Department.

Claims List – The Chairman Evans and Commissioner Curtiss signed the Claims List, dated January 11, 2001, batch number 1056 (pages 1-4), with a grand total of \$21,718.82. The Claims List was returned to the Accounting Department.

Claims List – The Chairman Evans and Commissioner Curtiss signed the Claims List, dated January 11, 2001, batch number 1058 (pages 1-6), with a grand total of \$21,397.88. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Resolution No. 2001-002 – The Commissioners signed Resolution No. 2001-002, approving a planned variation for property described as Canyon River Subdivision, located on Tract #3, C.O.S. 4494, in portions of Sections 17, 18, 19, 20, T 13 N, R 18 W, P.M.M., as per the items set forth.

Agreement – The Commissioners signed an Interlocal Agreement, "Jail Hold Expenses", between Missoula County and the University of Montana for the purpose of setting forth the basis on which State Agencies agree to pay costs of inmate confinement in a detention center following arrest; including medication, medical services or hospitalization, but excluding capital construction costs. The Agreement will be in effect from the date of final signature until June 30, 2001. The University will pay to the County \$47.00 per day for the period of this contract for each adult inmate, and \$110.00 per day for each juvenile inmate, confined in the County detention Center who is the financial responsibility of the University under State law. The document was returned to Mike McMeekin at the Detention Center for further handling.

Task Order -- Chairman Evans signed Task Order No. 01-07-4-51-012-0 to the Master Contract between Missoula County and the Montana Department of Public Health and Human Services that covers the period July, 1998 through June 30, 2005. The purpose of this task order is to support community planning and services to assist in the prevention of the spread of the human immunodeficiency virus (HIV). The term will be January 1, 2001 through December 31, 2001. The maximum total amount payable shall not exceed \$61,895 during calendar year (CY) 2001. The document was returned to the Health Department for further signatures and handling.

Application – Chairman Evans signed Montana Board of Crime Control Continuation Subgrant Application #00-K20-8363 for the Missoula Correctional Services, Inc.'s Pretrial Supervision Program. The term will be July 1, 2001 through June 30, 2002. The document was returned to Sue L. Wilkins at the Missoula Correctional Services, Inc. for further handling.

Request for Action – The Commissioners approved and signed an amendment to a counter offer, dated December 5, 2000, by JoLynn Montgomery pertaining to Lot 1, Block 9, Missoula Development Park, Phase 2. The Offer Review Committee recommended the following amendments:

- 1) Amend the contingency which states, "Final platting and recording of Lot 1, Block 9, by Missoula County. Seller may have up to 60 days beyond the release...";
- 2) Amend the contingency to add Sovereign Leasing to reaching a mutual agreement regarding the disposition of the property;
- 3) Amend the closing date to close within 15 days after plat filing;
- 4) An additional amendment stating: "Closing date to be no sooner than July 1, 2001."

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The request was returned to Barbara Martens in the Projects Office for further handling.

Request for Action – The Commissioners approved and signed the Equipment Disposal, Purchase and Financing Plan presented to the Board of County Commissioners on January 10, 2001, in conjunction with the equipment needs of the Public Works Road Department.

Board Appointments – The Commissioners approved and signed letters reflecting the following:

1. Letter dated January 11, 2001: Reappointment of Russ Fletcher to a three-year term as a member of the Missoula Planning Board. Mr. Fletcher's new term will run through December 31, 2003;
2. Letter dated January 11, 2001: Appointment of Fred W. Reed as an "alternate member" of the Missoula Planning Board. Mr. Reed's new term will run through December 31, 2003;
3. Letter dated January 16, 2001: Appointment of James T. Carkulis as the "3rd alternate member" of the County Zoning Board of Adjustment. Mr. Carkulis' new term will run through December 31, 2003;
4. Letter dated January 16, 2001: Appointment of Gary Glynn as an "alternate member" of the Historical Museum Board of Trustees. Mr. Glynn's new term will run through December 31, 2003;

The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, JANUARY 12, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – Commissioners Carey and Curtiss signed the Claims List, dated January 11, 2001, batch number 1057 (pages 1-2), with a grand total of \$2,439.37. The Claims List was returned to the Accounting Department.

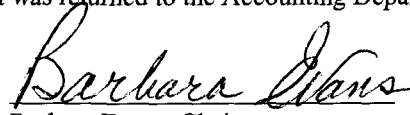
Claims List – Commissioners Carey and Curtiss signed the Claims List, dated January 11, 2001, batch number 1060 (pages 1-4), with a grand total of \$52,192.13. The Claims List was returned to the Accounting Department.

Claims List – Commissioners Carey and Curtiss signed the Claims List, dated January 11, 2001, batch number 1061 (pages 1-2), with a grand total of \$4,619.07. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated January 12, 2001, batch number 1064 (pages 1-4), with a grand total of \$25,866.54. The Claims List was returned to the Accounting Department.

Claims List – Commissioners Carey and Curtiss signed the Claims List, dated January 12, 2001, batch number 1065 (pages 1-3), with a grand total of \$15,188.95. The Claims List was returned to the Accounting Department.


Vickie M. Zeier
Clerk & Recorder


Barbara Evans, Chairman
Board of County Commissioners

MONDAY, JANUARY 15, 2001

The Courthouse was closed for the Martin Luther King, Jr. Day holiday.

TUESDAY, JANUARY 16, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – Chairman Evans and Commissioner Carey signed the Claims List, dated January 12, 2001, batch number 1063 (pages 1-5), with a grand total of \$54,734.90. The Claims List was returned to the Accounting Department.

Payroll Transmittal – The Commissioners signed the following Payroll Transmittal Sheet: Pay Period: 01 - Pay Date: January 1, 2001. Total Missoula County Payroll: \$755,117.09. The Transmittal Sheet was returned to the Auditor's Office.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and OZ Architects ("Contractor") for the purpose of providing conceptual design products related to the environment surrounding the area of the confluence of the Clark Fork and Blackfoot Rivers following potential removal of the Milltown Dam and the contaminated sediments located behind the dam. The Contractor will produce a final display product no later than January 21, 2001. The total amount shall not exceed \$2,000. The document was returned to the Health Department for further signatures and handling.

Agreement – Chairman Evans signed an Agreement between the Missoula County Health Board/Missoula Valley Water Quality District ("Contractor") and the Montana Department of Environmental Quality ("DEQ") for supporting completion of source water delineation and assessment reports ("SWDARs") for public water systems ("PWS") within Missoula County. These activities will support the development of Source Water Protection Plans by each PWS for their drinking water source, and the Contractor in source water protection planning for the Missoula Valley sole source

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aquifer. The term will be January 1, 2001 through September 30, 2001. The total amount shall not exceed \$25,000.00. The document was returned to the Health Department for further signatures and handling.

Board Appointments – The Commissioners approved and signed letters, dated January 16, 2001 reflecting the following:

1. Appointment of Roy F. Kimble as a member of the Missoula County Tax Appeal Board. Mr. Kimble's unexpired term will run through December 31, 2001;
2. Reappointment of Natalie Carlson to a three-year term as a member of the Missoula County Tax Appeal Board. Ms. Carlson's new term will run through December 31, 2003;
3. Appointment of Patricia Rector as a "regular" member of the Missoula City-County Animal Control Board. Ms. Rector's new term will run through December 31, 2002.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, JANUARY 17, 2001

The Board of County Commissioners met in regular session; all three members were present. In the evening, the Commissioners met with Frenchtown area residents at the Frenchtown Fire Station.

Notice of Hearing – Chairman Evans signed a Notice of Hearing on Question of Submitting an Extension of the Existing Florence Park District to Voters. The extension would include the Missoula County portion of the Florence-Carlton School District. The hearing will be held in the meeting room of the Florence-Carlton School District 15 Offices in Florence, Montana, at 7:30 p.m. February 8, 2001.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the Chief Administrative Officer meeting held in the forenoon, the following items were signed:

Resolution No. 2001-003 – The Commissioners signed Resolution No. 2001-003, dated January 17, 2001, which allows the Appraisal/Assessment Office of the State of Montana Department of Revenue to utilize certain property owned by Missoula County located at 2681 Palmer. There are no fiscal impact or budget implications.

Employment Agreements – The Commissioners signed Employment Agreements, dated January 17, 2001, by and between the Board of Missoula County Commissioners ("Board") and the following Employees, to perform the functions and duties as agreed to between the Board and the Employee as set forth in the attachment to the respective Agreements:

1. Amended Agreement with Gregory H. Robertson, commencing August 1, 2000 and subject to review on February 1, 2001. The starting salary will be \$64,000 per year. Up to \$3,000 will be paid for moving expenses.
2. Amended Agreement with Hal K. Luttschwager, effective January 1, 2001 through December 31, 2004. Retroactive to July 1, 2000 a Cost of Living Adjustment at the rate of 2.3% shall be applied to the Employee's annual salary. Effective on the first pay period after January 1, 2001, Employee's annual salary is adjusted to \$61,500 per year.
3. Agreement with Dale Bickell, effective October 23, 2000 and subject to review on October 22, 2001. Annual salary is set at \$60,000.
4. Agreement with Jane M. Ellis, effective September 1, 2000 through December 31, 2003. Retroactive to July 1, 2000 a Cost of Living Adjustment at the rate of 2.3% shall be applied to the Employee's annual salary. Effective on the first pay period after January 1, 2001, Employee's annual salary is adjusted to \$61,500 per year.
5. Amended Agreement with Steve R. Johnson, effective January 1, 2001 through December 31, 2004. Retroactive to July 1, 2000 a Cost of Living Adjustment at the rate of 2.3% shall be applied to the Employee's annual salary. Effective on the first pay period after January 1, 2001, Employee's annual salary is adjusted to \$61,500 per year.
6. Agreement with James D. Dolezal, effective January 1, 2000 and subject to review December 31, 2001. Effective on the first pay period after January 1, 2001, Employee's annual salary is adjusted to \$61,500 per year.

PUBLIC MEETING – January 17, 2001

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Bill Carey, Commissioner Jean Curtiss, County Surveyor Horace Brown, Deputy County Attorney Colleen Dowdall, Chief Civil Attorney Michael Sehestedt, and Airport Director John Seymour.

Public Comment

None

Routine Administrative Actions

Commissioner Carey moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$278,031.45. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Consideration: Tannie Subdivision (2 lot split of 3.77 acres) – 2 miles east of Bonner on Highway 200

Tim Hall, Office of Planning of Grants, presented the staff report.

This is a request to create the Tannie Subdivision, a 2 lot split of a 3.77 acre parcel. The subject property is located adjacent to the Blackfoot River on Highway 200, approximately two miles east of Bonner.

Cynthia Jimmerson and Tom Everts, represented by Eli and Associates, have requested to divided Tract 1 of COS 3592 into two lots. Lot 1 is proposed to be 2.72 acres and Lot 2 is proposed to be 1.05 acres. The subject property slopes downward from the southeast to the northwest, toward the Blackfoot River. The lots will share a drainfield and the home on Lot 2 has an existing well. The new home on Lot 1 will either connect to the existing well or, if needed, drill their own well. They will be provided utility service by Missoula Electric Co-op.

The area is unzoned and governed by the 1975 Missoula County Comprehensive Plan. The recommendation for this property is suburban residential density, with a recommended maximum density of two dwelling units per acre. The average density on this project is 1.89 dwelling units per acre. The proposal is in compliance with the recommended land use designation.

OPG recommends approval of the variance request from Section 3-2(5) to not provide sidewalks or pedestrian walkways in this subdivision, based on the findings of fact. They also recommend approval of the variance request from Section 3-3(1)(B) and 3-1(2) to build on slopes exceeding 25%. Approval of the variance request from 3-3(1)(E) that no lot shall have an average depth greater than 3 times its average width is recommended. Lastly, approval of the variance request from 3-2(1)(I) that states that the access easement width for the private driveways shall be 20 feet instead of 54 feet also is recommended. OPG recommends approval of the Tannie Subdivision, based on the findings of fact in the staff report and subject to 8 conditions. The conditions as recommended were reviewed.

Ron Ewart, Eli and Associates, developer's representative, was present, as was Cindy Jimmerson. He thanked staff for their work on this proposal. They were in agreement with the conditions of approval. Since Ms. Jimmerson has owned the property, she has done a lot of work to it. A new septic system has been installed. There is an existing small home on the property. Ms. Jimmerson would like to split the property and build another small home. The building site is right on the edge of the bench and the plan is to overhang the deck by about 10 feet. Because the slope is over 25%, the variance is being requested. An architect and geotechnical engineer were retained to help design the home and homesite. The slope is stable and home planned is small. Several additional trees are planned along the right-of-way to serve as buffer. There are several species of birds on the property. Ms. Jimmerson plans to take good care of the property and riparian area.

Chairman Evans asked for public comments.

Cindy Jimmerson stated that she has started the process of a conservation easement for the lower area with the Five Valley Land Trust. It is not yet complete, but the process is well underway.

There were no further comments.

Commissioner Carey moved that the Board of County Commissioners approve the variance request from Section 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways in the subdivision, based on the findings of fact set forth in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners approve the variance request from Sections 3-3(1)(B) and 3-1(2) of the Missoula County Subdivision Regulations to build on a slope exceeding 25%, based on the findings of fact set forth in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners approve the variance request from Section 3-3(1)(E) of the Missoula County Subdivision Regulations that states that no lot shall have an average depth greater than 3 times its average width, based on the findings of fact set forth in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners approve the variance request from Section 3-2(1)(I) of the Missoula County Subdivision Regulations that states that the access easement for private driveways be 54 feet, based on the findings of fact set forth in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners approve the Tannie Summary Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Tannie Summary Subdivision Conditions of Approval:

Roads/Access

1. Driveway and grading, drainage and erosion control plans shall be reviewed and approved by the County Surveyor's Office prior to final plat approval. *Missoula County Surveyor recommendation, Subdivision Regulations Articles 3-2(3)(C) and 3-2(6).*
2. Driveway plans, including turnarounds for emergency service vehicles, shall be reviewed and approved by OPG and the Missoula Rural Fire District prior to final plat approval. *Missoula County Surveyor recommendation and Subdivision Regulation Article 3-2 (6).*
3. A 20 foot shared driveway access easement shall be shown on the plat and reviewed by the Missoula Rural Fire Department and OPG prior to final plat approval. *Subdivision Regulations Articles 3-2(1)(I) and 3-2(6)(E).*

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Fire

4. The developer shall contribute \$100.00 per new lot to the Missoula Rural Fire District. Evidence of contribution shall be presented to the Office of Planning and Grants at the time of final plat approval. *Missoula Rural Fire Department recommendation and Subdivision Regulations Article 3-7.*
5. The following statement shall appear on the face of the final plat:

"Acceptance of a deed for a lot within this subdivision constitutes a waiver of the right to protest a future RSID/SID for public water system adequate for fire protection, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations Article 3-7(2).*

Natural Environment

6. A Revegetation Plan for Disturbed Sites shall be approved by the Missoula County Weed Board prior to final plat approval. *Subdivision Regulations Article 3-1(1)(B) and Missoula County Weed Control recommendation.*
7. An easement shall be shown on the plat for any designated pedestrian access. *Subdivision Regulations Article 5-2(3).*

Water, Sewage Disposal and Solid Waste

8. Easements allowing access to the shared drainfield and well shall be shown on the plat, and a maintenance and use agreement for all shared facilities shall be reviewed and approved by OPG and County Attorney's Office prior to final plat approval. *Subdivision Regulations Article 3-6.*

Consideration: Castle's Acres Subdivision (South 7th West) – 1 block west of Clements Road

Zoe Mohesky, Office of Planning and Grants, presented the staff report.

This is a summary subdivision request by the applicant and owner, Tim Creighton, represented by John Kellogg of Professional Consultants, Inc., to divide an approximately 4.6 acre parcel located in Section 26, Township 13 North, Range 20 West into 4 lots, ranging in size from 1.1 acres to 1.2 acres.

Surrounding land uses are primarily single family residential. The property is zoned C-RR1, Residential, allowing up to one dwelling unit per acre. The 1998 Missoula Urban Comprehensive Plan designates the property suburban residential land use, with a maximum density of two dwelling units per acre. The proposal complies with both the zoning and Comprehensive Plan. No public comments were received.

There is one existing home and some assorted outbuildings located in the northeast corner of the parcel on proposed Lot 1. The remainder of the parcel has been used for pasture in recent years. Proposed Lot 1, with the existing improvements, will continue to access from South 7th Street West via an existing driveway. Lot 2 will then access off a portion of a driveway from the north toward the south. To the point of the driveway that will access into Lot 2, the road will be a private roadway and will meet the 54 foot right-of-way and 24 foot pavement standards. After that point it will continue as a private driveway, accessing Lots 3 and 4. A no-access strip is being proposed from the point where it changes from a road to a driveway along the west portion of Lot 1 and the east portion of Lot 2, so in the future, there are no individual driveways coming onto the main shared driveway.

The proposal also includes variance requests for a reduced driveway easement width from 54 feet to 30 feet, and also a variance request to not include pedestrian walkways in the subdivision. The lots will be served by individual wells and septic systems and a drainfield easement is located on Lot 2 for the benefit of Lot 3, because of some low areas on Lot 3 that would limit drainfields.

OPG recommends approval of the variance requests and approval of the subdivision, based on the findings of fact in the staff report and subject to 9 amended conditions contained in the memo to the Board of County Commissioners dated January 16, 2001. The conditions as recommended were reviewed.

John Kellogg, Professional Consultants, Inc., developer's representative, was present representing the applicants, Tim and Rebecca Creighton. They are proposing the private road easement be built to County standard up to the point where the driveway would access Lot 2. This roadway would be improved to 24 feet wide up to the driveway, where a hammerhead turnaround would be located. The driveway would then continue back to Lots 3 and 4. The applicants are in agreement with the proposal and the revisions proposed by staff.

Chairman Evans asked for public comments.

Horace Brown asked if that portion was to remain a private road. If it were to become a public road it would have to have a cul-de-sac as the County does not accept hammerhead turnarounds.

There were no further public comments.

Commissioner Curtiss moved that the Board of County Commissioners approve the variance request from Section 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways in the subdivision, based on the findings of fact set forth in the staff report. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Commissioner Curtiss moved that the Board of County Commissioners approve the variance request from Section 3-2(1)(I) of the Missoula County Subdivision Regulations to reduce the required private driveway easement width from 54 feet to 30 feet, based on the findings of fact set forth in the staff report. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

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Commissioner Curtiss moved that the Board of County Commissioners approve the Castle's Acres Summary Subdivision, based on the findings of fact and subject to the 9 amended conditions in the staff report. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Castle's Acres Summary Subdivision Conditions of Approval:

Roads/Driveways

1. The following statement shall appear on the plat:

"Acceptance of a deed for a lot within this subdivision shall constitute the assent of the lot owner to waive the right to protest a future RSID/SID for improvements to South Seventh Street West, including installation of pedestrian walkways or bikeways, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land depicted herein." *Subdivision Regulations Article 3-2.*

2. Engineering and drainage plans shall be approved by Missoula County prior to final plat approval. *Subdivision Regulations Article 3-2.*
3. Driveway design, including emergency vehicle turnarounds, shall be approved by the Missoula Rural Fire District prior to final plat approval. *Subdivision Regulations Article 3-2, County Surveyor and Missoula Rural Fire District recommendation.*
4. The applicant shall place a 1 foot no-access strip along the driveway serving Lots 3 and 4. This no-access strip shall run along the western edge of Lot 1 and eastern edge of Lot 2 from the point where it ceases to be a private road southward to the northern limits of Lots 3 and 4. *Subdivision Regulations Article 3-2(1)(I).*
5. The applicant shall place a 1 foot no-access strip along the north boundary of Lot 2, exclusive of the private road and public utility easement. *Subdivision Regulations Article 3-2 and County Surveyor recommendation.*
6. The maintenance agreements for the shared private driveway and for the private road shall be approved by the County Attorney's Office prior final plat approval. *Subdivision Regulations Article 3-2(6).*
7. **The applicant shall show on the final plat the right-of-way and private roadway pavement widths meeting private road standards to a driveway access point on Lot 2 (to be determined), subject to approval by the Office of Planning and Grants and Missoula County prior to final plat approval. *Subdivision Regulations Article 3-2.***

Sewer/Water

8. The following statement shall appear on the plat:

"Acceptance of a deed for a lot within this subdivision constitutes a waiver of the right to protest a future RSID/SID for public sewer and water systems, based on benefit. The lot owner shall connect to public sewer within 180 days of when the public sewer main is available to the subdivision. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations Section 3-7(2).*

Fire

9. The developer shall contribute \$100.00 per new lot to the Missoula Rural Fire District large-diameter hose fund. Evidence of contribution shall be presented to the Office of Planning and Grants prior to final plat approval. *Subdivision Regulations Article 3-7(2) and Missoula Rural Fire District recommendation.*

Hearing: Designation of Future Road Locations between Highway 10 West and Mullan Road, west of Reserve Street

The Commissioners gave notice that they would conduct a public hearing on the question of generally designating the location of future arterial and collector streets to be constructed when the area between Highway 10 West and Mullan Road to the west of Reserve Street is developed. The purpose of the plan is to assure that as various ownerships develop at different times, adequate and coordinated provision is made for arterial streets and collectors to serve the area.

Horace Brown stated this is Phase II of a project started several years ago. The Commissioners approved a grid system for roads between Mullan Road and the airport. This is second phase where the County is trying to identify the proximity of where these roads will be built. It also provides an area for drainage using this system of roads and the future areas that will be developed. Brent Campbell, an engineer for WGM Group and one of the best transportation planners in the state, will give a presentation of the proposed road system based on discussions with landowners and other groups.

Brent Campbell, WGM Group, Inc., stated this discussion is about infrastructure planning in the Wye/Mullan area. Roadways, sewers, water and drainage all fit together integrally and are important in the overall land use planning process for future growth in Missoula. The overall objectives of the study were to establish a basic transportation network that supports the highest anticipated use that could develop in the area. The street network should meet the needs of the landowners and the community, to achieve a system that works for everybody. The system will be integrated to support all modes of travel, any method chosen to move around. An important planning component is to evaluate the network and land use in terms of its consistency with the 1996 Missoula Transportation Plan Update (MTPU). This document looked at a 20 year plan for transportation in the greater Missoula area and is closely tied to air quality. The study area is south of Broadway, north of Mullan road and east of Deschamps Lane. Reserve Street is the eastern boundary. OPG has been working on some conceptual land use for this area for the past two years. That conceptual land use is being used as the basis for this plan. A network of collector streets is to be developed that connect the existing arterials, West Broadway and Mullan Road, coordinating the ongoing planning efforts for the airport, sewer, water and drainage. Urban residential usage is shown for a good portion of this area, with lower density residential along Mullan Road. An industrial buffer will be included around the airport. Industrial use is not as sensitive to airport noise as residential use. An important part of the plan is neighborhood commercial. It is incorporated in several different ways, crossroads commercial, mixed use

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commercial buffer zones and some core neighborhood commercial that might be higher intensity. These are important services that people need on a daily basis such as a laundry, a grocery store, etc. Having those kinds of services close to where people live help reduce the amount of traffic generated. Currently there are about 550 residential units in the study area with a population of approximately 1,500 people and employing 1,600 people in existing commercial. It is assumed that there may be anywhere between 1,600 and 6,300 additional residential units in this area. The basic assumption uses about 4,500 residential units in that area with a population of 12,000 people and approximately 5,000 jobs, for the year 2015. The proposal shows a new collector street parallel to Mullan Road with several roads that run north/south that interconnect the east/west collector. There are some critical frontage roads that allow circulation off of the major arterials, that are important to maintaining the safety and capacity on West Broadway. The projection in 2015 is about 14,000 vehicles per day on Mullan Road. It currently carries 10,000 and that is fairly congested. It is close to capacity as it nears Reserve Street and within the next 15 to 20 years will not be able to handle much more traffic. To fix it would require 5 lanes and more right-of-way, which is expensive and would greatly impact the landowners. The objective then was to create a series of parallel streets that allows distribution of the traffic, rather than push more vehicles down Mullan Road. If this grid network is not in place and all the development relies on Mullan Road, it will be broken. The new road parallel to Mullan Road, referred to as England Boulevard, would carry 8,000 to 10,000 cars. There is also the important connection behind the airport to allow people to get to jobs and services in the area. Another primary objective of the system is to get more traffic on West Broadway, which is already improved to 5 lanes. It currently carries 10,000 cars per day, which is about 40% to 50% of its capacity. Reserve Street currently carries about 25,000 cars per day, which is close to its capacity. West Broadway can be better utilized and an added benefit is that it goes under Reserve Street. The grid system is designed to establish strong north/south connections and get vehicles up to West Broadway. One of the goals was to design a fine enough network of grid streets so there would not have to be any 5 lane roads. Higgins Avenue by Paxson School carries 15,000 cars a day as a comparison. The roads proposed in the grid system would be similar, 2 lanes, good connections and good spacing. This also allows good spacing on the arterials where signals would be placed. Ultimately, West Broadway would carry as much traffic as Reserve Street. That is a good use of existing infrastructure. The planned grid system will well support the proposed conceptual land use developed by OPG. It was found to be very realistic in relation to the proposed growth. The grid street network allows traffic to disperse rather than concentrate on one street or road, which creates congestion. That is being seen now on Mullan Road as there are no options. The options are what needs to be established. West Broadway is the preferred route for traffic destined for downtown and the University of Montana. The grid street network will distribute traffic to West Broadway and England Boulevard, relieving the traffic pressure on Mullan Road and Reserve Street. This allows preservation of the long term function, safety and use of Mullan Road and Reserve Street without the expense of expansion. The grid street network supports transit usage in the area. In all of this planning, conversations have been ongoing with the Missoula International Airport as well. They are undergoing some long term planning for their facility needs as well. This is referred to as the Airport Layout Plan Update and is being done in conjunction with FAR 150 Noise Exposure and Land Use Compatibility Study Program. This fits well with the land use compatibility and grid street network plans. The airport has expansion needs and must also look at the noise generation issue. The scheduled completion of the airport's study is April of 2002. The stated objective of the airport's study is to provide a long term usable plan and program for development at the airport and its surrounding area, including both freight and passenger service. The airport is looking at a new runway, parallel to the existing runway. The new runway is approximately 2,500 feet from the existing runway and creates a new 65 decibel noise contour. This could potentially put some proposed residential use inside that new noise contour. The airport study will resolve some of those issues. Another option the airport is looking at is placing the new runway 4,300 from the existing runway. That would make it difficult to extend streets as there would be no use for them. Under that scenario, the grid street network would be somewhat truncated. The airport is still about a year away from a decision on which runway option they will chose. The grid road network and the airport expansion must go hand in hand so as not to preclude either's development. An important part of this project has been the meetings with the private landowners, many of them still owning large tracts of land. The plan has been modified to accommodate their interests. Many stakeholders have also been involved in the process, the airport and the school being two of the main ones. The Missoula Transportation Plan Update dovetails with this grid road network planning. There were a couple of options used. One was called the Growth Management Scenario which had high density infill development and identified this study area with 6,300 homes. There was also a Land Use Advisory Scenario which had about 1,300 homes, lower density usage. A comparison was done between the two and this is a summary of that modeling work. Higher density mixed land use reduced the total vehicles miles traveled in the community by 130,000 miles per day, a 6.5% reduction in traffic generated on a daily basis. That is significant. Vehicle Miles Traveled (VMT) directly relates to dust pollution in the air. The higher density mixed land use has direct air quality benefits. It also reduces the number of bridge crossing by 12,000. By putting residential land use in the area, it shifts increased density from the Bitterroot and decreases river crossings. The summary from the transportation plan was that higher density mixed land use was beneficial to area wide traffic and should be promoted. The OPG plan is consistent with the transportation plan objectives and the benefits to overall air quality. Some summaries of the findings include that higher residential land usage in the Wye/Mullan area has definite traffic and air quality benefits to the community. A well planned grid street system is essential to allow development to occur at higher intensities and close to urban services. It provides an improved cost effectiveness for infrastructure development. The benefits of well planned mixed use are clear in terms of traffic reduction and support of alternate modes of transportation.

An audience member asked what the dotted line represented west of the airport.

Brent Campbell stated it was an extension of England Boulevard all the way to Old Highway 10. It would need to be a joint use road, probably with Missoula International Airport, if they saw the need to have it done. The funding would be difficult because there is not much opportunity for development in the area. Generally a developer would be responsible for paying for the infrastructure and the land does not lend itself to much development. Due to these factors, the extension of the road is questionable.

John Seymour, Airport Director, explained about where the airport is at and how they got to where they are at today. About two years ago, the airport undertook a program to develop an update to their 150 noise program. That outlines how the airport impacts the environs around it, noise, traffic, development, etc. The study was done in 1977 and then updated in 1986 and updated again in 1996. Because of the development that is occurring in the area, it was decided to do another full-blown update and some on site monitoring of the noise impacts. Their Capital Improvement Project (CIP) has included a project to extend the existing 7-25 runway 2,000 feet. The length had been there up until the 1960's when the government required it to be removed. When they began investigating the runway extension, they expanded the study to include an Airport Layout Plan (ALP) update. That plan lays out the future development of the airport as far as physical

runways, taxiways, buildings, etc. In the process of looking at the extension of runway 7-25 and its cost, one of their processes is to study alternatives. Out of that process came the two possible locations for relocating the runway parallel to the other existing runway. None of the airport's plan are set in stone at this point. There is a public hearing process they need to go through to decide what they will do. The noise contours shown in Mr. Campbell's presentation are computer generated models of what is anticipated. The 150 study the airport is conducting will determine the exact location of the noise contour. Several factors are used including fleet mix, type of aircraft, utilization of runways, etc. He was not sure of the accuracy of the noise contour line until their study was completed. The entire process takes about 18 months.

Brent Campbell stated the noise contour lines were extrapolated from existing lines, but it gives an idea, based on the existing line and similar use, of where the new line might be. It is not an absolute. It was used for general planning terms.

John Seymour stated that by no means will the airport run out and build a new runway today. The study is ongoing to evaluate all the possibilities. Both the County and the surrounding neighbors will be involved in the planning process to control costs and impacts to the areas. There are a lot of subdivision in process around the airport. Historically, high density subdivisions and airport do not get along real well because of the noise impacts. Missoula is fortunate that this planning can be done before these subdivisions are built to alleviate some of the impacts. The airport's CIP has always planned for an extension of or relocation of runway 7-25 by 2008.

An audience member asked if the noise contour had anything to do with the placement of the roads?

Brent Campbell stated that it did require some modification of road placement and England Boulevard was located to serve as a noise buffer between residential and industrial/commercial use. The rest of the road placement was mostly based on property division lines, land use capabilities and economics.

An audience member asked if the roads were designed for the most efficient use in relation to emergency traffic?

Brent Campbell stated that the roads were connected as best as they could be achieved, with a balance between through roads and residential usage. This is a conceptual network, showing general locations that would change through the development process. Having roads that go through will facilitate residents and emergency response better than a series of cul-de-sacs. This network provides a number of alternative routes to get to the same location.

An audience member asked what is going to happen to Flynn Lane?

Brent Campbell stated the objective is to keep Flynn Lane a local street with lower traffic volumes because of the existing residential that is there and the school. The plan is to build a parallel collector at a distance offset from Flynn Lane. It is not anticipated for Flynn Lane to be a direct connection to West Broadway. The parallel collector's use would be encouraged by use of signals. The finer the grid, the better the dispersion of traffic. The use of Flynn Lane was an important part of the this plan. Based on the MTPU, it was assumed that 10,000 new homes would be needed in Missoula in the next 20 years, at the historical 1.5% growth rate. The study area is projected to provide 4,500 additional residences, or about 45% of what would be anticipated.

Chairman Evans opened the public hearing.

Steve King, Missoula City Engineer, stated he was representing the City of Missoula Public Works Department. He was in support of the plan as proposed. He appreciated the consultation with Mr. Campbell in drafting the plan. The approach is reasonable and appropriate for the anticipated level of development. This is primarily suburban development. That development needs to share the load for these plans, right-of-way dedication, adequate streets, intersection improvements, access management, pedestrian facilities, etc. The plan also relates to many other related infrastructures, sewer, storm drainage system and water. City Public Works is mainly concerned about drainage accommodations associated with the grid road system. That would be the next logical step. The Commissioners were encouraged to work with the City on drainage plans. There are two basic levels of drainage. One is the Grant Creek drainage and the road system may need to accommodate bridge structures to handle both the road and significant flood events coming out of the Grant Creek drainage. In addition, there will be local drainage generated by all of the hard surfaces – roads, roofs, driveways – of 4,500 additional residences. Subdivision on site drainage is another important characteristic. They would encourage urban/suburban drainage characteristics which may involve storm drains and channelization. They want to support what is being done now and encourage continued development of planning in this growing area.

There being no further comments, the public hearing was closed.

There being no further business to come before the Board, the Commissioners were in recess at 2:40 p.m.

THURSDAY, JANUARY 18, 2001

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Carey was out of the office all day due to illness.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Grant – The Commissioners approved and supported by signature the interest of the Missoula County DUI Task Force to apply for a \$10,000 grant from the State Traffic Safety Bureau. This grant would help fund the "Most of Us" campaign that focuses on the prevention of driving under the influence of alcohol and/or drugs.

Amended Agreements – The Commissioners signed two Amendments, dated January 18, 2001, to the Memorandum of Agreement between Tischler & Associates, Inc. and the City and County of Missoula for an Impact Fee Study. Under these amendments, the Missoula Rural Fire District and the Frenchtown Rural Fire District will be included in the Impact Fee Study. There are no fiscal or budget implications to the City or County. The Fire Districts each have

agreed to pay the additional costs that will be incurred. The documents were returned to Cindy Klette in the Office of Planning and Grants for further signatures and handling.

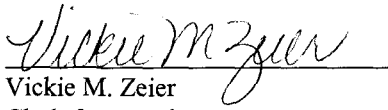
Other items included:

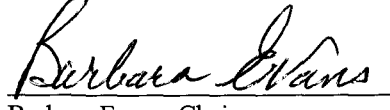
- 1) Chief Administrative Officer Ann Mary Dussault was authorized to act as Representative of Principal for the Missoula County Legislative effort. Ms. Dussault provided the Commissioners with a Legislative update.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, JANUARY 19, 2001

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Carey stopped by briefly in the forenoon, but was out of the office all afternoon.


Vickie M. Zeier
Clerk & Recorder


Barbara Evans, Chairman
Board of County Commissioners

MONDAY, JANUARY 22, 2001

The Board of County Commissioners met in regular session; all three members were present. Commissioner Carey attended several sessions of a Forest Service Conference being held at the University of Montana on January 22nd and January 23rd.

TUESDAY, JANUARY 23, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – Chairman Evans and Commissioner Carey signed the Claims List, dated January 23, 2001, batch number 1066 (pages 1-2), with a grand total of \$2,455.36. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Carey signed the Claims List, dated January 23, 2001, batch number 1067 (pages 1-5), with a grand total of \$13,986.49. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Curtis signed the Claims List, dated January 23, 2001, batch number 1068 (pages 1-3), with a grand total of \$2,176.99. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Carey signed the Claims List, dated January 23, 2001, batch number 1069 (pages 1-5), with a grand total of \$22,204.47. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Curtis signed the Claims List, dated January 23, 2001, batch number 1071 (pages 1-5), with a grand total of \$68,379.59. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Resolution No. 2001-005 – The Commissioners signed Resolution No. 2001-005, dated January 23, 2001, which adopts the collector roadway system as set out in the map attached as Exhibit A thereto as a guide for the location and alignment of collector streets in the area between Old Highway 10 and Mullan Road west of Reserve Street.

Quitclaim Deed – Chairman Evans signed a Quitclaim Deed, dated January 23, 2001, from Missoula County Airport Industrial District to Scott G. Cooney, for the premises described as follows: Portions A and B of Certificate of Survey No. 4585 located in the East one-half of Section 1, Township 13 North, Range 20 West, Principal Meridian, Montana, Missoula County, Montana. This Deed clears up a boundary relocation done in 1996. The document was returned to Deputy County Attorney Michael Sehestedt for further handling.

Board Appointments – The Commissioners approved and signed letters, dated January 23, 2001 reflecting the following appointments to the Missoula County Weed Control Board:

1. Reappointment of Bryony Schwan to a two-year term. Mr. Schwan's new term will run through December 31, 2002;
2. Appointment of Lawrence L. Anderson to a two-year term. Mr. Anderson's new term will run through December 31, 2002;
3. Appointment of Cynthia Kingston to a two-year term. Ms. Kingston's new term will run through December 31, 2002;
4. Appointment of Jane M. Van Fossen to a two-year term. Ms. Van Fossen's new term will run through December 31, 2002;
5. Appointment of Stanford G. Lucier to a one-year term. Mr. Lucier's new term will run through December 31, 2001;
6. Appointment of C.G. "Pat" McCarthy to a one-year term. Mr. McCarthy's new term will run through December 31, 2001.

The letters also stated that because of the large number of very qualified applicants, the Commissioners decided to expand the size of the Board and stagger the length of the terms to better balance out the expiration dates.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, JANUARY 24, 2001

The Board of County Commissioners met in regular session; all three members were present.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the Chief Administrative Officer meeting held in the forenoon, the following item was signed:

Easement – The Commissioners signed a Permanent Public Utility Easement, dated January 24, 2001, between Missoula County and the City of Missoula, pertaining to the North Reserve Business Center, as it appears on the Exhibit A attached. This easement replaces the previous conveyance signed November 29, 2000. The document was returned to Paul Druyvestein of DJ& A, P.C., Consulting Engineers and Land Surveyors.

PUBLIC MEETING – January 24, 2001

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Bill Carey, Commissioner Jean Curtiss, County Surveyor Horace Brown and Chief Civil Attorney Michael Sehestedt.

Public Comment

None

Routine Administrative Actions

Commissioner Carey moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$109,202.90. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Bid Award: Pharmaceuticals for Detention Center

Doreen Culver, Bids, presented the staff report.

Bids for supplying pharmaceuticals to the Missoula County Detention Center were advertised. Four qualified bids were received and opened on January 16, 2001. A & C Drug was the lowest and most responsive bidder on each item. It is the recommendation of the Detention Center to award the bid for pharmaceuticals to A & C drug. Approximately \$120,000 is spent each year on pharmaceuticals.

Commissioner Curtiss moved that the Board of County Commissioners award the bid for pharmaceuticals for the Missoula County Detention Center to A & C Drug as the lowest and most responsive bidder. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Hearing: Pyramid Lumber CDBG Application for Funding

Chairman Evans: The next thing on the agenda is a hearing on Pyramid Lumber Community Development Block Grant Application for Funding. Cindy, are you leading off?

Cindy Wulfekuhle: Sure. As Commissioner Evans was saying, the purpose of the today's public hearing is to receive comments on an application for Community Development Block Grant or CDBG funds on behalf of Pyramid Mountain Lumber Company. At the end of the hearing, the Commissioners will consider signing a resolution authorizing submittal of the application. The CDBG program requires two public hearings or meetings be held prior to submitting an application; the first one is to hear about the needs in the community and the second one is to be specific about the project or application being submitted. The County's first meeting was actually held on March 23, 2000, in Missoula, as a joint City-County needs assessment. Although it was not required, there was a second public needs assessment meeting held in Seeley Lake. What we heard when we were in Seeley Lake from residents of the area and from people that came from Florence, Great Falls, Helena, Frenchtown, Kalispell, Lolo and other communities, was overwhelming support for the Pyramid Lumber business to remain in operation and for the Commissioners to do what they could to assist in that effort. If this project is successful in its efforts to secure funding, the County will be required to follow environmental review requirements as set by the CDBG program. In this case, because the project does not involve new construction or renovation of a building or installing infrastructure, the State has advised us that the project is considered Categorically Excluded from the National Environmental Protection Act (NEPA). Now I'd like to turn it over to Dick King from the Missoula Area Economic Development Corporation. He's going to talk about the project and also how the CDBG funding fits into the proposal.

Dick King: That was quick.

Cindy Wulfekuhle: Barbara said be quick.

Dick King: We have an outline here and we might need some more copies made.

Chairman Evans: Let's let you use the portable mic, if you would, because Patty's so fussy about that.

Michael Sehestedt: We'd like to be able to record the meeting and have a verbatim record. Either the podium mic or the karaoke.

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Dick King: Before we get started, let's ... I had made 25 copies and that may not be enough, so, if we could maybe get about 10 more. We'll wait for that to get distributed and then we can go over it.

Cindy Wulfekuhle: And while we're waiting, if people could make sure they sign the sign in sheet that's going around the room. We use that for the public record.

Dick King: As Cindy said, we had a public meeting a couple of weeks ago in Seeley Lake regarding the basic needs assessment process. That was preceded by a meeting the County had in March. That's part of the process of identifying needs and determining which projects are eligible for assistance from the Montana Community Development Block Grant Program and the testimony that we received from Seeley Lake, from the roughly 200 people there, was strongly in favor of proceeding, so the County then scheduled a second hearing at which time we discussed the specific project under consideration, which is Pyramid Lumber, Pyramid Mountain Lumber Company. Does everyone have a copy. They'll be here in just a second so we'll just wait a minute. As Cindy said, my name is Dick King. I'm the director of the Missoula Area Economic Development Corporation. Our role is to assist the County and the company with a possible project regarding Pyramid Lumber. Also in the audience is Eric Hanson. Eric is the Regional Development Officer for the Montana Department of Commerce, which administers the State Community Development Block Grant Program. Eric has been assisting with this as well. When we get started, you'll see we've got a very comprehensive package and a very complicated package and we want to explain that, go through that briefly but thoroughly enough so that we can at least, you can get the gist of what's being proposed for the Commissioners consideration and then we'll turn it over for comments. After I'm done, if there's questions, please feel free to ask questions and while I'm going through, if something hits your mind as a question, just feel free to ask and I'll try to answer it. I don't want to get started without having everyone having a chance to look at this in front of them, because there's a lot of figures there. Mike, when we take testimony, should everyone use ...

Michael Sehestedt: I would have them just come up to the podium.

Dick King: They can just speak in here. Great. Super. What we have is an outline of the application that contains the basic information regarding the project. The actual application will be very lengthy, it will have detailed financial information which is confidential since we're dealing with a private company. Its financial information and its forecasts and projections, of course, are proprietary and they need to be. They are in a private business and in competition. But the project would involve an economic development package with Pyramid Mountain Lumber Company. So the first two pages summarize who the applicant is, the applicant is Missoula County if they choose to submit an application. The business that we're assisting, proposing to assist, is Pyramid Mountain Lumber based in Seeley Lake. On the second page, a quick summary of the actual application would request a total of \$400,000 from the Montana Community Development Block Grant Program or CDBG. This project would save about 85 jobs, that's roughly the current employment, and would create about 35 jobs. That's subject to a little bit of adjustment as we talk to the company about some of the projections, but right now that's the numbers we're using. There's a significant number of jobs, we're way above the minimum benefit per job. So, there's no problem with eligibility. So, of the total \$400,000, \$368,000 would be made available to the company and I'll explain how that would occur, along with other funds totaling \$7.3 million. Everybody with me so far. The next page is a table, it's part one, it says Sources of Funds Statement and has a lot of numbers and a lot of detail in there. I want to emphasize that this is all tentative, it's projected, it's subject to some minor changes and adjustments. There's a lot of math behind here, but basically we're looking at the following sources of funds. The CDBG program, as I said, would provide \$368,000 to the company. \$32,000 would be set aside to cover the County's administrative costs, that way the taxpayers of Missoula do not have to fund the administration of the project. The \$368,000 would be loaned to the company. CIT Group and Safeco are two lenders that the company has now. Their loans would be renegotiated for a new term of five years. They each have existing loans. It's proposed that those would be renegotiated and re-termed for a five year period. Bitterroot Valley Bank, based in Lolo with a branch in Milltown, would be the lead lender, the primary lender of the project and if you look at, under code, you'll see the number 3 and the number 7 following Bitterroot Valley Bank. Number 3 says USDA RD B&I Guarantee Program. That stands for United States Department of Agriculture Rural Development Business and Industry Loan Guarantee Program. They would guarantee 80% of the bank loan, if it's approved. Number 7 stands for the MBOI - Purchase of Federal Guaranteed Loan. MBOI is the Montana Board of Investments. MAEDC, going down to the next line, at \$332,000, is the organization I work for. We operate two loan funds and from those funds we propose to loan \$332,000 in partnership with the County's loan, for a total of \$700,000 from our organization and the County, if you want to add those two together. Finally, Bitterroot Valley Bank would provide a \$1 million dollar operating line of credit which would be guaranteed by SBA, the Small Business Administration. Total then is \$7.682 million dollar. A very comprehensive package. What it does is it takes, to be simple, as simple as I can, the only loans left on the books right now would be the two asset based loans for equipment that the company incurred with CIT Group and Safeco. All the rest of the company's finances would be paid off and we'd be refinancing, restructuring debt and purchasing about \$2.5 million of new equipment for the company. You can see the terms and rates of the proposed financing. If there's questions on those, I'll be glad to talk about those. Second page is uses of funds and it's a very simple table but, between the CDBG program and the bank and our organization, about \$5.3 million would be set aside for machinery, equipment and land. That would include the new equipment, refinancing part of it, taking out part of the existing credit line. The company would, in addition to the collateral they currently have available, they would also put up land as collateral, which to this date has been unencumbered. Then the working capital, there's an error as I look at it, that should be \$1,000,000, not \$100,000, as in the first table. So, again, that's the bank loan but the CDBG portion of the loan is \$368,000. That loan would have a second position behind the bank, the collateral totaling about \$7.1 million. The bank loan at \$4.6 million and then the CDBG and MAEDC loans would be subordinated to the bank loan. Those are all kind of technical financing terms, but it explains the structure. Again, the whole intent of the project is to provide stable, long-term financing for the company so they can stay in operation. Are there any questions? Yes.

An audience member asked: You said there are, in addition to these loans, there are asset loans that are currently on the books that aren't shown on the current debt list.

Dick King: There is a line of credit loan that's being repaid. I don't know the market rate.

Chairman Evans: Dick, we're either going to have to have the folks use the mic or ask you to repeat the question.

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Dick King: I can repeat the question. The question was if there were other asset loans on the books. There's two asset loans right now that have a reasonable rate and the company is negotiating with those lenders to re-amortize those loans, which is a big plus because you take the balance left owed on those and then you stretch it out for another five years. The rest of the company's debt is taken out by the package.

Michael Sehestedt: I think she was asking if they showed under table one and they are the CIT and Safeco.

Dick King: Right, those are the two existing loans that remain. It is a commitment from the private sector to do that, though.

Another audience member asked: You said, it says here that 35 new jobs are going to be created. What kind of jobs are those?

Dick King: Loren may be able to help me, too, with the answer. The company was forced to lay off about 35 people in October and reduce their work force to roughly 85. The project would allow the company to retain the 85 jobs and hopefully to hire back the 35 that were laid off. Not all of those people that were laid off are going to stay and come back to work. So the jobs are very much like they were there. However, I need to emphasize that the company is installing a very major component of new equipment, so some of the jobs that will be hired will be people to operate some of that new equipment, which is very sophisticated. A curve edge saw, Loren?

Loren Rose: A curved sawing gang edger and an optimized board edger, both highly sophisticated pieces of equipment, not so hard to run but to maintain. We need some electrical help, some technical help that we don't have right now. So that would be one or two jobs that would be in addition to the people that were laid off that would come back. Basically, their saw mill and planing mill jobs that have been eliminated. We ran 140 people at our peak, and we're at about 85 right now, so, there's a possibility of 55 jobs if we got back to where we were a couple years ago.

Dick King: Thanks Loren. By the way, this is Loren Rose who is the comptroller for Pyramid Lumber and very helpful. Yes sir?

Another audience member asked: You said that one of the objectives was to provide long-term, stable sources of credit. Was that not available prior to this time? Is that part of the reason why the company's had to say that they would be shutting down?

Dick King: Well, we all have a fond spot in our heart for Mike Mansfield, right, and one of the reason we do is when he was asked a difficult question that could take a complicated answer, his answer was "Yes." And that's mine. Part of the financing structure the company had is working capital financing from a lender out of state that was putting some pressure on the company and by taking them out and working with an in-state bank, we stabilize the financing base of the company. Does that help? Are there any other questions on the details of the package that we presented that I went over very quickly. Then I think ... do the Commissioners have any questions on the package itself?

Chairman Evans: No. The only thing that you haven't mentioned is that we do hope that there is a small business allotment for logs because it doesn't do any good to have a log saw mill if there are no logs. So you might address that a little bit.

Dick King: You just did. The Forest Service has a program where when they do sales of timber they can set aside a portion of the sale for qualified small mills. And, Loren, if I make a mistake, help me out, okay. They haven't made full use of that option. One of the reasons they haven't, of course, is that several smaller, independent mills have gone out of business. But, the Forest Service is very interested in restoring that program and using it more as they look at sale of timber in the future. Pyramid Lumber is qualified to participate in that program. It's a big part of the business plan as you look toward the future. Pyramid is qualified, right now, today.

Chairman Evans: If you have no more questions for Dick, we'll open the public hearing and take your testimony. Thank you Dick. Were you done? Would you come to the microphone because we have to keep records of our testimony on the recorder. Anyone who would care to comment, one way or the other. And we would like your name.

Ted Antonioli: My name is Ted Antonioli and I am a geologist in Missoula and I'm here as the president of the Rocky Mountain Chapter of Montanans for Multiple Use. Montanans for Multiple Use, for your information, has several chapters in Western Montana. The one in Kalispell is run by some retired U.S. Forest Service foresters. The one in the Mission Valley is mainly centered around people at the Pablo Mill, Bob Bell, who is an enrolled member of the Confederated Salish and Kootenai Tribes. Here our membership is mainly people who work for Smurfit Stone or haul chips to Smurfit Stone. Local 1509 of PACE that has Williams Trucking, works Williams Trucking, and some loggers. I have for each of the Commissioners an AFL-CIO resolution that addresses, we believe, the underlying causes of the trouble at Pyramid Lumber. It was Resolution 38, it was passed in the 1999 convention. It stated to be a Resolution Against "Zero Cut," which is, of course, the program pushed by the Sierra Club, Native Forest Network and certain other groups to completely eliminate the Forest Service Timber Sale Program. And I just want to address some of the information that's in that resolution. First of all that it doesn't make any sense to help out a saw mill if the cause of their distress is, let's say, competitive factors, that they just can't compete or go out of business. But it does make sense, and we strongly support helping Pyramid Lumber, because the cause of their distress really is government policy. It can be reversed. And I'd just like to say that, essentially what Barbara said, it makes no sense to have a saw mill unless you have logs. And what has happened to the logs that, Seeley Lake, as we all know, sits in an ocean of federal timber. Why can't they get logs to run at a profit through that mill. Why do they have to haul logs from 500 miles away to put through the mill. The reason is, I'm sure many of you understand, is that beginning in 1993, we had a 62% decline in the Forest Service Timber Sale Program, immediately decline of two-thirds throughout Montana. And, in fact, throughout the National Forest Timber Sale system, it was about the same, about two-thirds decline, immediately in '93 and '94. And, of course, we saw the consequences when the saw mill at Superior closed, again, sitting in an ocean of timber and throwing those people out of work. Now, is this industry worth saving? The most interesting documents really are on the Forest Service website, which show that in '97, the timber sale program in Montana, the Federal program generated over 8,000

jobs. It's a very essential part of the economic base, and that contrary to the assertions of those who would eliminate the program, it generates approximately \$30 million of net revenue to the Federal treasury. The reason you get that calculation is it generates \$40 million in income taxes that are paid. The people in Superior, the mills, the businesses, pay \$40 million, and on the books it runs a \$10 million deficit, but that still is \$30 million net to the U.S. treasury. So, it's something that is greatly beneficial to both the U.S. Treasury and, of course, to the economy of Western Montana. Now, I'll leave the rest of that resolution for your perusal. We urge, unfortunately there are several people in our group that couldn't be here today and they, for example, Don Serba, who is Special Products Director of the Public Based Resource Council at the mill, is gone to Washington, D.C. Reed Connell, who is the president of Local 1509 of PACE would also like to be here today, but on their behalf, and on my behalf, and on the behalf of our chapter, we want to urge the Commissioners to pass a resolution at some point that tells the Federal government of the importance of having a timber industry in western Montana. If you're going to support and keep a saw mill going, it would also make sense to make your views known that we need to get logs to go in the mills, because it doesn't make sense to have mills, as has already been said, it doesn't make sense to have mills if there's no logs to go into the mills. That summarizes my comments. Thank you.

Chairman Evans: Thank you Ted. Next person who would like to comment.

Matt Arno: My name is Matt Arno, I'm an owner of a small forestry company. We do consulting and management for small private landowners and we focus on people who want to do good forestry so that they can enjoy their forest and have it be healthy and fire safe. Many of our customers don't gain any income from cutting logs, they're gaining maybe some possibly long term income, but what they really want to do is have a healthy, good looking forest. And some of these people even pay us to do this job, but, if we can't send logs to a mill it will become so cost prohibitive that we won't be able to do work for probably anybody. Even if someone pays us, they still gain something from the products that we send to the mill. And so, from my perspective and from the perspective of the people that I work for, having small mills like Pyramid is really important and it becomes a management issue. If we don't have mills like that to help us use the products from the forest so that we can do some management, we won't be able to do any forest management. I think that goes for the Federal forests as well. We know that we need to do some management in the forests and if we can't turn them into products which we all use in this country, then we won't even be able to afford to do any management around here. So, I think it's very important to try to help these small mills especially and I think it's great that the Commissioners are willing to help with that. Unfortunately, this is a much bigger issue and it should be dealt with on a larger level, but this is a management issue. If we don't have these mills, we won't even be able to do any forest management. Thank you.

Chairman Evans: Thank you very much. Next person who would care to comment.

Fred Stewart: My name is Fred Stewart, I'm the regional economist for Region 1 of the Forest Service and would like to just comment on Mr. Arno's statement because from my perspective for the Forest Service to be able to accomplish its management, we have to have the human resources that know how to do the work in the field. As Mr. Arno does that type of work and he relies on the presence of the mill in order to keep his business going, it's very important for the people who know how to do that type of work to be available in our communities in order for the Forest Service to accomplish its management work because we don't have the crews of people to do all of the work, we contract that work out. And, indeed, our ability to get our work done is enhanced by the presence of mills that can utilize some of these products and it helps to lower the cost of work that's going to be done. So I just wanted to support the efforts that are being done to try to help Pyramid Mountain Lumber and in the 20 years that I have worked for the agency, Pyramid has been really quite innovative in the types of activity that they've engaged in to try to be a flexible, innovative mill. And it's not a dinosaur that has outlived its usefulness by any means. They've been very aggressive in terms of the types of equipment and the types of methods that they have used. So, I really support any efforts that you can do to keep them going and to help us get our work done. Thank you.

Chairman Evans: Thank you Fred. Next person who would like to comment.

William (Rett) Parker: Good afternoon. Thank you, the Commissioners, Mr. Sehestedt and Mr. King, for the opportunity to speak today. My name is William (Rett) Parker. I'm here representing myself as a member of the community of Seeley Lake. I've been a property owner and resident of Missoula County for 22 years. I'm a graduate of the University of Montana School of Forestry. I've been an employee of Plum Creek Timber Company in Seeley Lake for the last 20 years and I also serve as a trustee for Missoula County Public School District 1. My oldest son is a sophomore at the University of Montana and I'm here to wholeheartedly pledge my support for the proposal and encourage the Commission to act favorably toward Pyramid Mountain Lumber and the community of Seeley Lake. If the owners of Pyramid Mountain Lumber determine it's in their best interest to continue operating, I'm hopeful that the Commission would support that decision. Thank you.

Chairman Evans: Thank you. Next person who would like to speak.

Eric Hanson: Good afternoon, County Commissioners, my name is Eric Hanson. I'm the Regional Development Officer for Montana Department of Commerce and I cover the whole northwest corner, this whole side of the state, actually, and I've been working with Dick King. I've had the opportunity to work with Loren at Pyramid Lumber and I'd urge you strongly support this application for the CDBG Loan Application Funds. This is a really neat company, it's Montana based, it has been around for 40+ years and this program is doing what it's supposed to do. With CDBG, it's going to create and sustain jobs and especially in communities such as Seeley Lake, Eureka, Darby, we need to start focusing on helping out communities and keeping their vitality there. If there wasn't Pyramid there, Seeley Lake would probably just be a small little tourist community. So, with some form of base manufacturing there, it's really good to have that mainstay. They are the stable hold of that whole area. If Pyramid Lumber did shut down, what would they have left? So, I'd just like to urge you to let this application go through forward to the Department of Commerce. After this, there still are a lot of steps that we have to go through to make sure this project goes through. Thank you for your time.

Chairman Evans: Thank you Eric. Next person who would like to speak.

Rob Braach: Good afternoon. My name is Rob Braach. I'm a Missoula resident, actually spoke favorably on behalf of this at the Seeley Lake hearing, but speaking on, I'd kind of like to clarify a couple of comments here that were made

today and at that hearing in Seeley as well. Perhaps speak a little better since I wasn't expecting to the last time. But, we've heard the comment here that the mill doesn't do any, can't, you know, operate really, if it doesn't have any logs. And I think the same can be said, obviously, if the mill can't operate profitably in the market that exists today. So, part of this whole package I think is really kind of a three-pronged approach. You're really looking, it's not a hand out, this is a helping hand, it's a restructuring of their debt package which by taking a longer term, similar to anybody's house mortgage of 15 year versus a 30 year amortization. By stringing out the term of their debt that requires less cash flow in any given year. So that's one help. Second, the other major component of this is really the new equipment that going to be put into the plant, and that does two things. First, it should make the footage that comes out of that mill per man hour a higher number, because we have more efficient equipment. The second thing that it does is that equipment going in there increases the yield that is going to be able to come out of those logs, with the optic scanners, etc., and that, so that the logs are going to have a higher yield. So, those three components, I think, the lessening, not lessening the debt, well actually there is a little bit of lessening of debt service as well with the favorable interest rates. Additionally, that longer term is very positive. Then you look at the other two components, again, increasing the feet per man hour and the yield. If you put those three components together, you put it in place into the market conditions today and say, "can that mill make money at today's market prices," which are pretty much at an historical low, and the answer comes out as yes. I think we have a very viable idea here and I think that it makes great sense, then, to put this economic development package together and it's going to be a benefit to certainly the immediate residents of the Seeley Lake, and particularly those families that are working there and the other dependent businesses, but I think it also spreads out to Missoula County, obviously, as well, in that we have more taxable product coming out of there as well as income and that. So, I think with those comments, I wanted to make that point, that's what makes this package I think a doable project is that they can make money with this loan together and equipment in place. Thank you.

Chairman Evans: Thank you. Next person.

Cynthia Kingston: My name is Cynthia Kingston. I'm a private forest land owner and many other people have spoken eloquently about the need to try to support Pyramid Lumber. To add to that I would just say that I have had some personal experience working with the foresters from Pyramid. They're devoted to very sound stewardship principles. They do a lot of volunteer work. Some of the Pyramid foresters helped with Habitat for Humanity house this summer and I know one of the foresters, Cory Saunders, serves on the Forest Stewardship Steering Committee and also works with the Stewardship Foundation. So these people are active in the forest community and especially important to private landowners and they've been a great mentoring source to me and I do urge you to support them. Thank you.

Chairman Evans: Thank you Cynthia. Next person who would like to speak.

Karen Liechty: Hi, I'm Karen Liechty and I live up at Evaro. We're County taxpayers, have lived in the area approximately 10 years. We own forest land, we call ourselves private landowners, and I'm very nervous. We have a certified stewardship plan, we are certified tree farmers. We grow timber for production. We need this mill as a source to provide to us the opportunity to do good forest management. Sure we grow timber, but we also improve water quality, we're concerned about wildlife habitat. We're very concerned about wildfire issues and I don't need to go off on a tangent about wildfire. Without mills such as this, small mills in the Missoula and the outlying areas, we won't have a source where we can remove a lot of extra growth from our forest so that we can properly manage our property without the added expense as Matt Arno suggested. It costs money to properly manage your forest and if we don't have the mills where we can take our logs and get some economic reimbursement for our effort, a lot of landowners will not be able to remove that fiber from the forest and we'll just have additional wildfire issues to worry about. I'd like to suggest that you think about the recent election year and all the rhetoric that went around about improving Montana's economic base, to bring new business and new jobs to Montana. I suggest to you that it's a lot easier to keep good businesses and good jobs in Montana than to attract new businesses that we know very little about. Cynthia mentioned what good community forest people we have at Pyramid, and there are many out there, they're not just at Pyramid, but there are many different locations. These people are community members and they volunteer a great deal of their time to the community as a whole. I'd like to suggest that, as Dr. Laura says, "Go do the right thing."

Chairman Evans: Thank you. Next person who would like to speak.

John Ottman: Good afternoon. My name is John Ottman. I own a company called Ottman Forestry Consultants. Now isn't that original. First of all, I highly support what we're trying to do here today. But I got to tell a little bit of my background to tell you why I support it. This will tell you how old I am, when I graduated from high school, that's the last time the Sentinel Spartans won a AA football, basketball or wrestling match. So anyway, went on to get a degree in forestry and the forest has been my whole career. I opted to start my company five, almost six, years ago and basically do what Matt Arno does and also we heard about the forestry stewardship program and certain things that our own State of Montana puts out for non-industrial forest type people and that's who I totally represent. I left Missoula White Pine approximately five, six years ago and I saw the niche. And the niche is this, Pyramid Mountain Lumber is not a dinosaur, it's just that things change so fast. And the change being say from big logs to little logs to no logs. That mill currently today, I believe, Loren, correct me, is it 75%-80% of your logs are less than 9 inches, 9.6, is that the usage at your mill.

Loren Rose: No, if you go back about six months, that is correct.

John Ottman: Okay, so next time you take your Christmas tree down, just measure the small end of that Christmas tree. And I heard the term, excess growth, that's totally what I deal with. I'm not going to argue whether no cut or good forestry is right or wrong. All I know is in a matter of five years, 1999, I won't talk about last year, the fire took care of that, but in 1999, after five years, I built a business that grossed over \$10 million. 40% of my business is through Pyramid Mountain Lumber, cutting material, excess growth, boy I love that word. And that's what it is. That mill has gone from old growth to excess growth and small wood. You can't take half of the debris that I sell to that mill, you cannot sell it to Stimson Lumber, you can't sell it to Plum Creek, you can sell it to Stone Container. Literally, you can sell anything to Stone except rocks. Then again, they make pizza boxes too. I have built my business around this company. I can harp on that end of it and I am a survivor and I will survive. But, I'm telling you I have landowners from here to Great Falls to Lewistown to Billings, after last year, this isn't going to be a \$10 million business, this will be a \$20 million business, because, yes, there are good foresters and we can argue what good stewardship is, and a no cut versus whatever. That's not the issue. I'm just saying that individual non-industrial private forest landowners today can look at their forest and say

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there's excess growth. This isn't healthy. And they've lost a lot of the components of their forest. Every rancher that I deal with in eastern Montana has seen the benefits from the type of forestry, but the types of logs, I've got the logs, you've got the money, I've got the logs. And I need that mill to sustain the type of forestry work I'm trying to perform, or Matt Arno, or anybody else. I think it's a great investment, it's a great project. The State of Montana needs it, the DNRC, they sell timber sales and Pyramid's bought a lot of those. But the type of improvement that they're going to make in the mill, yes, I've read in my Journal of Forestry, and yes, that's state of the art. But if you think about, I know of other improvements they've done over the last five to ten years, and with the ever changing beliefs on how forests should be managed, I don't see how any small business could ever keep up with the changes, but I actually think this is, this will be the one that should do it. And finally, I guess, yeah, every one of those foresters, man, on the weekends, like from the Habitat house to the lot of just educational classes, they sure believe in what they do and it was neat to hear some of the landowners say, hey, there's some guys that really go the extra mile in all the community stuff. It's a good group. This is a good cause, I'm all for it. Thank you for your time.

Chairman Evans: Thank you Mr. Ottman. Next person please.

Pam Hamilton: Pam Hamilton. My husband logs for Pyramid, he's been logging there five years. I'd just to see them be able to keep going, and as this is going to affect a lot of people in Swan Valley, we keep saying Seeley Lake, but Swan Valley itself is really concerned too.

Chairman Evans: Thank you. Next person who would like to speak. Anyone else who would like to speak. Bill?

Commissioner Carey: Can I ask Loren Rose to come up. Loren, could you answer a question I have? As stated earlier, you're the comptroller for Pyramid Lumber. Straighten me out here. It seems as though, my understanding is that part of Pyramid's problem was that prices were so low you couldn't make money because the supply was so great, driving prices down. Do I have that wrong?

Loren Rose: No. You're talking about lumber prices, lumber supply. I think it's safe to say that there isn't a mill in this state that's made money in the last year.

Commissioner Carey: Because of the supply of timber being so high?

Loren Rose: No. Well, it's part and parcel to that. The lumber supply, primarily because of pressure from imports, has created a problem within the supply/demand economic model. There's just too much lumber chasing too little demand. It isn't that demand is all that bad, there is just too much supply. And, if you're operating on sales that are a year or two old, you bought that timber in a market that was maybe 25% higher than it is today. So, running at a profit, if you're not well capitalized, you don't have the reserves to get you through the valleys like we're experiencing right now.

Commissioner Carey: The smaller mills?

Loren Rose: The smaller mills, the Pyramids, the Owens and Hursts.

Commissioner Carey: Okay, so wouldn't it be then that it's not in Pyramid's interest to have more lumber supply?

Loren Rose: It would not be in Pyramid's interest to have more lumber supply, unless the demand changed. That is true.

Commissioner Carey: And is that something we're forecasting now, that the demand will change and the supply will come down, prices will go up, is that our assumption?

Loren Rose: I don't think there's been any indication that the demand is going to change significantly. There are some indications that supply will change. Western Wood Products has a website called Woodwire and almost daily there is another mill that's curtailing, whether it's for a short period of time, or a long period of time. A lot of those mills produce the products we produce. They are pine mills, they produce a lot of pine shop industrial grade lumber that we produce. We know that there is some import from the European countries that will go away, due to a natural disaster that occurred there a couple of years ago and they are getting that cleaned up and that product will quit coming to this country and a lot of that is a No. 2, 1 x 6 board and a lot of what we produce is a spruce lodgepole 1 x 6, No. 2, so that will help the market as well, so there's a little bit of weakening in the supply line but it's primarily because of mills having trouble in this market, and the imports.

Commissioner Carey: And, that's my next question. What, if anything, can be done, or do you think, should be done about the imports from Canada? Do we have any control over that at all?

Loren Rose: We have a trade agreement that expires the end of March. It's at the tail end of five years and that set quotas and if they exceeded the quotas, they paid a \$50 per thousand duty. They have exceeded the quotas and they've elected to pay the duty. The way the provinces look at timber lands and look at forest jobs is different than this country and our State and Federal lands. Up there it's all about jobs. They're typically all union jobs, all pay over \$30 an hour. It's in the provinces best interest to keep those people working, so they make timber available, they make a lot of it available and they make it available very cheaply. That's how they can produce and send down here, at a higher cost to ship it, and still be competitive in this market. That agreement expires. There is nothing in the works to take its place. We are looking at going forward and trying to figure out how we operate profitably in the market that we have right now. If we can do that, then we will give Dick King and the bank the green light to continue this process. We are well into it, the hardest variable for us to look at right now is log supply. A lot's been talked about today with log supply, the SBA program, it's still in place. Most of the forests in the next five years have a 40% to 50%, their cut will be for SBA. 40% to 50% of zero doesn't do us any good. I think the forest will do a better job in the near term with getting some volume up. The situation in the Bitterroot is a huge wealth, we've seen already the impact of the State selling 22 million feet in November and what that's done to log supply in western Montana in just two months. And the State is working on the next round of sale. The Federal government has 307,000 acres of burned timber. Unfortunately, the product that we would like to see is the Ponderosa pine which will have lost over half of the value before the Federal government can react to the fire. That's no one's fault on the ground, that's the bureaucracy that they're in the middle of. We would like to see that changed but I

think, short term, the log situation is very healthy. I think the prices are such that we will make our best effort to put a package together that allows the owners that we have now, or future owners, the opportunity to say, yes, this package is enough to get us to a break even and we'll continue.

Commissioner Carey: To what extent is the cost of electricity a concern?

Loren Rose: Well, that's a question I've fielded once today already and I had a great answer until about 9:30 this morning. We're part of Missoula Electric Co-op and they had contracted with the Bonneville Power Administration and we had a rate which I believe was set for 10 years, and maybe Jim Newberg could answer this better than I could, but there was a conversation yesterday between not only the Missoula Electric Co-op, but I believe all the electric co-ops in western Montana and the Bonneville Power Administration and now it seems there are some parts of that contract that may be open to interpretation and we were told this morning that we may have a rate increase of 75% November 1st. They are trying to arrange a meeting in Portland with Bonneville. The best guess now is that it would have to go to arbitration as to who is right on the contractual issues.

Commissioner Carey: Thank you.

Chairman Evans: Any other questions? Jean? Anyone else who would care to speak? Last call. I knew I'd get somebody else.

Jim Newberg: My name is Jim Newberg. I'm here officially just for myself. I'm here partly as I'm very much in favor of you moving forward with this project, but I'm here partly as a taxpayer. I assume that if these 135 people cannot work that somewhere down the line some of them are going to be having to receive either welfare or training that is going to cost me, as a taxpayer, money. The other thing that I'm concerned about are the price I pay for products. I'm pretty much aware that, as in the steel industry, the aluminum industry, if all of these markets go out of country that we will be in the same, they can hold us over a barrel like they do with the oil. If we ship all of our market for lumber comes from another country, sooner or later it's going to cost me, so I very much encourage you to do everything you can to help this mill survive. I'm also a rate payer in electricity. I know that those that buy their power from the company that serves Loren will have an increase if that mill goes down and that will last for the next, the loss of revenue will affect it for years and years to come. So there's a lot of ways the people will be impacted if this doesn't go through.

Chairman Evans: Thank you Mr. Newberg. Anyone else who would care to speak? Yes, sir, come to the microphone please.

Ari LeVaux: This is actually a question for whoever cares to answer it. I'm just curious, how much of land that surrounds the Pyramid mill that you generally consider the Pyramid mill, you know, where your timber mostly comes from, how much of that land is Federal versus State versus private.

Chairman Evans: Loren, can you answer that?

Loren Rose: Well, I don't think Mr. Mansfield had a good answer for this question. We have a forester in Lewistown. We bring logs from east of Roundup. We are bringing logs from Sula. We have a sale in Idaho over Lolo Pass. So I have no clue how much ownership is Federal, is Plum Creek, is private. I know in our area, to the north, the immediate north and to the northeast, northwest, the major landowner is the Forest Service, then as you go farther north and come farther south, Plum Creek, I don't know if they're the major owner and Rett might have a better feel, but Plum Creek and the Forest Service probably share in the ownership. There's very little private land right around Seeley Lake. When we get to the Continental Divide and head east and a large percentage of what Mr. Ottman delivers to us is from that country and then the land that we operate on, that is all private, with the exception of a couple of Forest Service sales on the Helena District, everything else is private. Last year, about 70% of usage came off of private timber lands. When I started there 15 years ago, about 80% or maybe better was off of Forest Service. Then we went through a spell where we had a tremendous amount of Plum Creek volume interspersed in there and now it's not uncommon to meet log trucks at our gate and one's headed north and one's headed south and neither of them stop. And that's just the way it is. I don't think ... our industry does a great job of sourcing logs to the closest mill or the mill best suited to handle that particular log. But there isn't an easy answer to the question that was posed. We would like to see more timber off of Federal and State lands. Right now, we're operating primarily on private and we're out there east of Roundup getting the necessary wood.

Chairman Evans: Thank you Loren. Last opportunity. Anyone who would care to speak?

Commissioner Curtiss: Madam Chair, I'd just to mention that we have received a lot of letters in support of Pyramid Mountain Lumber. We haven't received any comments negatively.

Chairman Evans: And they will be included as part of the record. Okay, since there's no else who would care to speak, I will close the public hearing. Are there any motions that anyone would care to make?

Commissioner Carey: I would move to support this, let's see, how do we word it? I would move to approve the submittal of a grant application in the amount of \$400,000, \$368,000 of which would be loaned to the company, Pyramid, at 4% interest, amortized over 20 years with a balloon payment at the end of the fifth year. This submittal will be for a CDBG grant.

Chairman Evans: Is there a second?

Commissioner Curtiss: Second.

Chairman Evans: Any discussion?

Commissioner Carey: Can I just say that, we toured the plant a couple weeks ago and I was very, very impressed with the operation there. I was very impressed with the people in Seeley Lake who turned out to unanimously support this grant application and I think it's quite unusual for a company that's been in the business this long to have such wide spread

support. So they're doing it right. I suppose if there's any small mill that can make it in this environment, Pyramid can make it.

Chairman Evans: Any other comments?

Commissioner Curtiss: I would agree with Bill's comments.

Chairman Evans: All those in favor of the motion, please say Aye.

Commissioners Carey and Curtiss: Aye. Chairman Evans: Aye. The motion unanimously carries.

The Commissioners then signed Resolution No. 2001-004, authorizing the submittal of a Community Development Block Grant (CDBG) application to the Montana Department of Commerce on behalf of Pyramid Mountain Lumber Company.

Chairman Evans: We will send off this request and I think our chances of getting this are fairly good and we will pursue every option open to us to try and keep this mill alive and keep the jobs intact. And I thank all of you for coming down, for coming to the hearing in Seeley Lake, and we will just pray that everything turns out well. Thank you. Is there any other business to come before the Commission? There being none, we're in recess.

There being no further business to come before the Board, the Commissioners were in recess at 2:30 p.m.

THURSDAY, JANUARY 25, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – The Commissioners signed the Claims List, dated January 25, 2001, batch number 1072 (pages 1-5), with a grand total of \$39,742.56. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated January 25, 2001, batch number 1073 (pages 1-4), with a grand total of \$42,661.92. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Agreement – The Commissioners signed a Memorandum of Agreement between Missoula County and The Salvation Army to provide voucher assistance to indigent residents of Missoula County who need assistance with winter shelter, in accordance with the protocols established by the Emergency Winter Shelter Contingency Plan for Fiscal Year 2001. The term will be December 1, 2000 through March 31, 2001. The total amount shall not exceed \$11,200.00.

Memorandum – Chairman Evans signed an Explosive Ordinance Disposal Memorandum of Understanding, dated January 25, 2001, between the Missoula County Sheriff's Office and the Lewis and Clark County Sheriff's Office, to provide mutual aid and assistance which transcends jurisdictional boundaries and which insures the prompt and effective delivery of law enforcement and emergency services (E.I. Explosive Ordinance Disposal Personnel). The document was returned to Don Morman in the Missoula County Sheriff's Department for further handling.

Request for Action – The Commissioners approved participation in the "Week of the Young Child" promotion, to be held April 1-7, 2001, and an expenditure of \$500.00 from the staff training funds to support radio ads declaring Missoula County's support of this effort. The request was returned to Patty Baumgart in Human Resources for further handling.

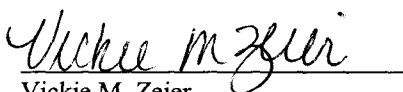
Request for Action – Chairman Evans approved Change Orders #1, #2, and #3 for Green Diamond Contracting and DJ&A for sewer installation work within Phase 1, Missoula Development Park, per the items set forth therein. The request was returned to Barbara Martens in the Projects Office for further handling.

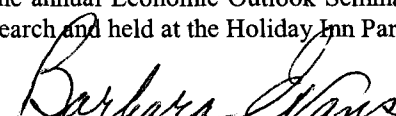
Board Appointment – The Commissioners approved and signed a letter, dated January 31, 2001, appointing Rebecca Mosbacher as a "regular member" of the Missoula Public Library Board to fill an unexpired term through December 31, 2001.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, JANUARY 26, 2001

The Board of County Commissioners met in regular session; all three members were present. In the forenoon, the Commissioners and several County staff members attended the annual Economic Outlook Seminar sponsored by the University of Montana Bureau of Business and Economic Research and held at the Holiday Inn Parkside.


Vickie M. Zeier
Clerk & Recorder


Barbara Evans, Chairman
Board of County Commissioners

MONDAY, JANUARY 29, 2001

The Board of County Commissioners met in regular session; all three members were present.

Indemnity Bond – Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming Varsity Spirit Fashions as principal for Frenchtown School District #40 Warrant #33721 issued October 16, 2000 on Missoula County Claims Fund in the amount of \$3,732.60, now unable to be found.

Indemnity Bond – Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming Zachary J. Erhardt as principal for Payroll – MCPS Warrant #89045 issued December 22, 2000 on Missoula County 78-42 Fund in the amount of \$75.26, now unable to be found.

Payroll Transmittal – The Commissioners signed the following Payroll Transmittal Sheet: Pay Period: 02 - Pay Date: January 26, 2001. Total Missoula County Payroll: \$760,292.11. The Transmittal Sheet was returned to the Auditor's Office.

TUESDAY, JANUARY 30, 2001

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Carey was out of the office all day.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Resolutions – The Commissioners approved the following seven Resolutions, dated January 30, 2001, to adopt Phase I Revisions to County Zoning Regulations, based on Growth Management Task Force revisions and as amended by the Board of County Commissioners, as shown on the attachment to each Resolution:

1. Resolution No. 2001-007 to amend Chapter 1, "General Provisions of the Missoula County Zoning Resolution";
2. Resolution No. 2001-008 to amend Chapter 3, Section 3.06.A., "Exceptions to Height Requirements of the Missoula County Zoning Resolution";
3. Resolution No. 2001-009 to amend Chapter 3, Section 3.06.B., "Exceptions to Setbacks of the Missoula County Zoning Resolution";
4. Resolution No. 2001-010 to add Chapter 3, Section 3.06.M., "Density Bonuses to the Missoula County Zoning Resolution";
5. Resolution No. 2001-011 to add Chapter 3, Section 3.06.N., "Hillside Design Standards to the Missoula County Zoning Resolution";
6. Resolution No. 2001-012 to add Chapter 3, Section 3.06.O., "Cluster Development Standards to the Missoula County Zoning Resolution"; and
7. Resolution No. 2001-013 to add Chapter 3, Section 3.06.P., "Grading, Drainage, and Erosion Control to the Missoula County Zoning Resolution".

Resolution No. 2001-006 – The Commissioners signed Resolution No. 2001-006, "Resolution Relating to \$234,000 Rural Special Improvement District No. 8467 Bonds; Fixing the Form and Details and Providing for the Execution and Delivery Thereof and Security Therefor." Said Resolution pertains to the Double Arrow paving at Seeley Lake.

Agreement – The Commissioners signed an Easement Agreement, dated January 30, 2001, between Missoula County and Qwest Corporation, which provides for a telephone line to be installed for the benefit of the Historical Museum at Fort Missoula and the Army National Guard. The subject strip of land is shown and described in Exhibit A attached thereto. The document was returned to Steve Smith in the County Surveyor's Office for further handling.

Agreement – The Commissioners signed a Land Buy-Sell Agreement between Big Sky Brewing as Buyer and Missoula County as Seller for real property legally described as Lot 10, Block 9, Phase 5, Missoula Development Park. The total purchase price is \$166,604.00. The Closing Date is May 15, 2001.

An attached Addendum to said Buy-Sell Agreement for Additional Provisions grants Big Sky Brewing the option to purchase Lot 10, Block 12, Phase 5, Missoula Development Park, as per the terms and conditions set forth therein. Both documents were returned to Barbara Martens in the Projects Office for further signatures and handling.

Request for Action – Commissioner Curtis approved and signed the annual report for the U.S. Department of Housing and Urban Development required to continue the receipt of grant funding for transitional housing provided by the Missoula YWCA. Compliance with this reporting requirement continues a funding level of \$35,313.33 for Fiscal Year 2001 (one year of three-year grant). The Report was returned to Nancy J. Harte in the Office of Planning and Grants for further handling.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, JANUARY 31, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – The Commissioners signed the Claims List, dated January 31, 2001, batch number 1075 (pages 1-4), with a grand total of \$9,035.55. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated January 31, 2001, batch number 1077 (pages 1-5), with a grand total of \$31,349.45. The Claims List was returned to the Accounting Department.

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Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated January 31, 2001, batch number 1078 (pages 1-3), with a grand total of \$3,099.69. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated January 31, 2001, batch number 1079 (pages 1-5), with a grand total of \$51,946.35. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated January 31, 2001, batch number 1080 (pages 1-3), with a grand total of \$3,371.32. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated January 31, 2001, batch number 1082 (pages 1-5), with a grand total of \$133,135.35. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated January 31, 2001, batch number 1084 (pages 1-3), with a grand total of \$9,262.36. The Claims List was returned to the Accounting Department.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the Chief Administrative Officer meeting held in the forenoon, the following items were considered:

Request for Action – The Commissioners approved and authorized the termination of the contractual relationship with Thomas R. Carter d.b.a. Technical Contracting, effective on or about March 1, 2001. There is no fiscal impact or budget implications.

Request for Action – The Commissioners approved and accepted the Draft Report (New Chapter 1) from HDR Engineering re: El Mar Estates Wastewater Facilities Study, and authorized staff to negotiate a contract for the Board of County Commissioners' review and signature to implement the public information process. The fiscal impact or budget implications are to be determined through contract negotiations and discussion prior to the Board of County Commissioners' commitment.

Agreement – Chairman Evans signed a Construction Agreement between the Missoula County Airport Industrial Board and The Montana Power Company to install, operate, and maintain a six-inch gas service line along the north side of Expressway from Grizzly Court to Trumpeter Way, Missoula Development Park, Phase 2, a distance of 1,328 feet. Two hundred feet are under Airway Boulevard. The cost for the gas extension is \$19,121.00. [DATE?]

Request for Action – The Commissioners approved a request from e-Local to extend the response time for a County offer for Lots 1-5, Block 12, Missoula Development Park, for 90 days, until May 1, 2001.

Request for Action – Per the recommendation of the Missoula Development Authority, the Commissioners denied a request by Perry Ashby, President of Wesmont Builders/Developers, Inc., to purchase 35,000 cubic yards of pit run gravel from the County pit located within the Missoula Development Park. At their meeting on January 30, 2001, the MDA unanimously recommended the request be denied for the following reasons: 1) The MDA would like to have the pit reclaimed for development, and 2) the clay material is not suitable for fill and requires special building requirements to build on.

Request for Action – Per the recommendation of the Missoula Development Authority, the Commissioners denied a request by Nelcon Contractors to purchase 3,000 to 4,000 cubic yards of pit run gravel from the County pit located within the Missoula Development Park. At their meeting on January 30, 2001, the MDA unanimously recommended the request be denied for the following reasons: 1) The MDA would like to have the pit reclaimed for development, and 2) the clay material is not suitable for fill and requires special building requirements to build on.

PUBLIC MEETING – January 31, 2001

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Bill Carey, Commissioner Jean Curtiss, County Surveyor Horace Brown, Deputy County Attorney Colleen Dowdall and Chief Civil Attorney Michael Sehestedt.

Public Comment

None

Routine Administrative Actions

Commissioner Carey moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$165,700.28. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Bid Award: Water System Improvements at the Fairgrounds (Phase II)

Doreen Culver, Bids/Motor Pool, presented the staff report.

In June, 2000, the Missoula County Fairgrounds started the first phase of the water system improvements required by the State. Those improvements have been completed. This is the second phase of the project. In January, 2001, bids were advertised. Bids were opened on January 22, 2001. Six qualified bids were received, including: Sentinel Mechanical in the amount of \$75,350; Garden City Plumbing in the amount of \$83,000; Keeney Construction in the amount of \$79,367;

Nelson Inc. in the amount of \$76,623; AAA Construction in the amount of \$103,308 and Fletcher Excavation in the amount of \$85,156.03.

Sentinel Mechanical's bid was the lowest and most responsive. The engineer for the project, Dennis Muth, estimated the cost to be approximately \$87,000. After reviewing the proposals and conferring with Sentinel Mechanical, he recommended the bid be awarded to Sentinel Mechanical in the amount of \$75,361.09.

Chairman Evans stated that the bid sheet showed a total of \$75,350.

Doreen Culver stated the bids as submitted used rounded figures. The unit cost is the prevailing amount and Sentinel refigured their bid using exact costs, which accounted for the \$11 increase. There were two bids that were quite close and most of the bids were under the engineer's estimated cost.

Commissioner Curtiss moved that the Board of County Commissioners accept the bid from Sentinel Mechanical in the amount of \$75,361.09, for Water System Improvements – Phase II, for the Missoula County Fairgrounds, as the lowest and best bidder. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Consideration: Sundown Ranch Estates (4 Lot Summary Subdivision) – Sundown Road in Orchard Homes Area

Lisa Moisey, Office of Planning and Grants, presented the staff report.

This is a request from Sundown Ranch Associates (Cristin S. Volinkaty and Debra L. Thomas) to subdivision Lot 111 of Orchard Homes Company's Addition No. 6 into 4 lots for residential use. The parcel is 4.8 acres and zoned C-RR1, Residential, with a recommended density of up to one dwelling unit per acre. The Missoula Urban Comprehensive Plan 1998 Update recommends Suburban Residential development at a density of up to two dwelling units per acre.

The terrain on this property are two flat terraces, upper and lower. The lower terrace is generally designated by the 100 year floodplain. On the plat, the applicant is proposing to develop Lot 4 wholly within the 100 year floodplain. Staff is concerned about the public health and safety if a new lot and access are allowed to be created wholly within the 100 year floodplain. To protect public health and safety, staff is recommending several conditions regarding the 100 year floodplain and the use of that area. The first condition is that the applicant redesign the subdivision to allow an access and buildable area outside of the 100 year floodplain. The second condition is that the 100 year floodplain should be labeled as a no-build area. The third condition is that new construction in this subdivision shall have the lowest floor at least two feet above the elevation of the 100 year floodplain. In addition, staff recommends an area 15 horizontal feet from the boundary of the 100 year floodplain be labeled as a no-disturbance area.

There might be some problems when an applicant comes in for a building permit as to what "no-disturbance" means. Some language changes were recommended. In the second part of Condition 3, it should read "that substantially the same ground elevation shall be maintained" instead of "no construction or disturbance of the ground may take place in the area." That should help clarify the meaning to the people at the zoning desk and help future lot owners understand what they can and cannot do. Language changes in the covenants should also be addressed in Condition 9.

Access to the property will be from Sundown Road, which is a County-maintained 20 foot road located within a 60 foot right-of-way. Sundown Road does not meet County road standards with respect to roadway width, which requires a 24 foot driving surface. The applicant has asked for a variance from this requirement and staff recommends approval of the variance given the low traffic volume on the road and the road dead-ends about .25 miles to the west. The applicant has included a statement on the plat waiving the right to protest any future RSID/SID for upgrading Sundown Road, including pedestrian walkways, so that at such time as Sundown Road needed to be improved and widened, it could be done comprehensively.

The second variance the applicant is requesting is from the requirement that all subdivisions shall have facilities for pedestrian walkways. Staff recommends approval of this variance request. This is a relatively low density development located on a low volume road which dead-ends and there are no other sidewalks in the areas to which a connection could be made. The waiver language includes pedestrian walkways.

Water to the subdivision will be provided by individual wells. Each lot will be served by an individual septic tank. The septic tanks will connect to a community drainfield with replacement area on proposed Lots 1 and 2.

Fire protection will be provided by Missoula Rural Fire District. The applicant has included in the development agreement a requirement that plans for all driveways greater than 150 feet shall be approved by the Missoula Rural Fire District.

The third variance requested is from Subdivision Regulations which require lots to be 60 feet wide at the zoning setback line. This variance applies to Lot 4, which is configured as a flag lot. Staff is recommending denial of this variance request. Given that staff is recommending the subdivision be redesigned to exclude any new lots within the 100 year floodplain, it would not be necessary to create this flag lot. Furthermore, if that lot were to remain, the access to Lot 4 could be done with an easement across Lots 1 and 2, rather than dedicated land to create the driveway access.

OPG staff recommends approval of Sundown Ranch Estates with 11 conditions, based on the findings of fact set forth in the staff report.

Nick Kaufman, WGM Group, developer's representative, was present on behalf of Sundown Ranch Associates. He could go into a long discussion about floodplain and floodplain regulations but it would not be fruitful. He asked that it be carefully documented in the findings of fact the reasons for removing the building site or not approving a lot in the 100 year floodplain.

Brian Maiorano stated that as mentioned, proposed Lot 4 is entirely within the 100 year floodplain. It is in an area of the floodplain that would be inundated by 2 to 3 feet of water during a 100 year flood. As the plan was reviewed, it was noted

there were adequate building sites outside the floodplain for all four lots. Even a Floodplain Development Permit does not adequately protect homes from a flood, but it does provide some level of mitigation. It is not as much protection as having the home built outside the floodplain. There is also a concern about more building and more development in a floodplain which can impact other properties. There are a number of other homes in that general area that are not elevated that were built before floodplain regulations. Additional homes could cause increased danger to those existing homes.

Colleen Dowdall stated Pages 11 and 12 of the staff report include the staff's recommended findings on public health and safety. Finding 4 addresses the floodplain issue. That is the finding that staff recommends the Board adopt in support of the condition to remove the building site from the floodplain.

Chairman Evans asked for public comments.

Don Stinger, 245 North Davis Street, stated he was a Neighborhood Network representative for the Orchard Homes area. This proposal is on the far west edge of the Orchard Homes area, but is still a part of the network. He was present to observe the proceedings and to see if there was any public comment from adjacent landowners. He had no problems with the proposal. He likes to keep track of what is happening in the County portion of the Orchard Homes area. There are still some County parcels east of Reserve that could potentially be developed. There is some controversy in the Target Range area about the one unit per acre recommendation. The City is proposing a sewer line which is perceived as a threat to the rural nature of the area.

Chairman Evans commended Mr. Stinger for giving of his time to government issues.

Commissioner Curtiss stated an important thing to be considered about placing a building site wholly within the floodplain included not just the house, but whatever utility vehicles, chemicals, etc., that could be present and would cause contamination to the water in the event of a flood.

Chairman Evans asked if the Board said there were to be no houses in the floodplain, did that automatically give the developer the right to move the fourth building site to a different location?

Lisa Moisey stated the condition was worded for the developer to redesign the proposal so that no house and access are wholly within the 100 year floodplain. If there is enough room to put the house outside the floodplain, then they would be able to do so, as allowed by zoning.

Commissioner Carey moved that the Board of County Commissioners approve the variance request from Section 3-2(5) of the Missoula County Subdivision Regulations to not provide pedestrian walkways or sidewalks in the subdivision, based on the findings of fact set forth in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners approve the variance request from Section 3-2(3) of the Missoula County Subdivision Regulations which require a 24 foot pavement width to the existing 20 foot width on Sundown Road, based on the findings of fact set forth in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners deny the variance request from Section 3-3(1)(E) of the Missoula County Subdivision Regulations which requires lots to be 60 feet wide at the zoning setback line. Commissioner Curtiss seconded the motion.

Chairman Evans asked why this rule was imposed? She felt the configuration of land was less important to her.

Jennie Dixon stated it was typically used to avoid the creation of flag lots and to have a certain amount of frontage on a public street. If there is less than 60 feet, it commonly has a narrow driveway access easement with the home on the flag lot. That is discouraged because there could be a house fronting the street with a house behind it, with its front facing the other's backyard, creating an awkward situation. This rule is in the Missoula County Subdivision Regulations.

Chairman Evans asked Mr. Kaufman is this would limit development of the land?

Nick Kaufman stated it would not limit development. The variance was requested so that a homesite could be built on the lower terrace. The condition that no homes be built in the 100 year floodplain removes the need for the flag lot, so the need for the variance in this case went away.

Chairman Evans asked if the variance was still required?

Colleen Dowdall stated action on the variance should still be done.

The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners approve the Sundown Ranch Estates Summary Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report, with the amendments made to Conditions 3 and 9. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Sundown Ranch Estates Summary Subdivision Conditions of Approval:

Public Health and Safety

1. Prior to final plat approval, Sundown Ranch Estates Subdivision shall be redesigned so that each lot has an access and buildable area naturally outside of the 100 year floodplain, subject to review and approval by OPG. Subdivision Regulations 1-3(9), 3-1(2), 3-2(1)(E), and 4-1(12).

2. Prior to final plat approval, the area of the 100 year floodplain shall be designated as a "no-build" zone on the plat. *Subdivision Regulation 4-1(12)*.
3. All new construction on lots in this subdivision shall have a lowest floor at least two feet above the elevation of the 100 year flood as shown on the final plat. Crawl space floors may be at the 100 year flood elevation if they contain no mechanical equipment. Additionally, an area fifteen horizontal feet from the boundary of the 100 year floodplain as shown on the final plat shall be labeled a "no disturbance" area. No construction shall occur and substantially the same ground elevation shall be maintained in this area. This requirement shall be included in the Development Agreement for Sundown Ranch Estates, subject to review and approval by OPG and County Attorney. *Subdivision Regulation 4-1(12)*.

Water and Sewer

4. The following statement shall appear on the face of the final plat:

"Acceptance of a deed for a lot within this subdivision constitutes a waiver of the right to protest a future RSID/SID for public sewer and water systems, based on benefit. The lot owner shall connect to public sewer within 180 days of when the public sewer main is available to the subdivision. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations Articles 3-1(1)(D), 3-7(2) and Health Department recommendation.*

5. All ditches located within 100 feet of any drainfield site shall be closed prior to final plat approval, subject to approval from the Missoula City-County Health Department. *Subdivision Regulation 3-1(D) and recommendations from the Missoula City-County Health Department.*
6. The developer shall show proof of contribution to the Missoula Rural Fire District's large diameter hose fund at the rate of \$100.00 per new lot, prior to final plat approval. *Subdivision Regulations Article 3-7(1) and Missoula Rural Fire District recommendation.*

Covenants

7. Article VII, Section 28, of the covenants shall be amended to include the same language as in the Weed Control section of the Development Agreement. Language changes shall be approved by OPG prior to final plat approval. *Subdivision Regulation 3-1(B) and comments from the Missoula County Weed Control.*
8. The covenants shall be amended to include provisions for a driveway or roadway maintenance agreement for the access serving Lots 2 and 3. The maintenance agreement shall be reviewed and approved by the County Attorney prior to final plat approval. *Subdivision Regulation Article 3-2(6).*
9. The covenants shall be amended to include the following language:

"All new construction on lots in this subdivision shall have a lowest floor at least two feet above the elevation of the 100 year flood as shown on the final plat. Crawl space floors may be at the 100 year flood elevation if they contain no mechanical equipment. Additionally, an area fifteen horizontal feet from the boundary of the 100 year floodplain as shown on the final plat shall be considered a 'no disturbance' area. No construction shall occur and substantially the same ground elevation shall be maintained in this area."

Language changes shall be approved by the County Attorney prior to final plat approval. The subdivider shall state in the covenants that this portion of the covenants shall not be changed without the consent of the Missoula County Commissioners. *Subdivision Regulations 4-1(12).*

Utilities

10. The following statement shall be added to the plat prior to final plat approval:

"The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable televisions, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." *Subdivision Regulation 3-5.*

11. Sewer line easements between Lots 2 and 3 and the community drainfield shall be shown on the plat, subject to OPG review prior to final plat approval. *Subdivision Regulation 3-6.*

There being no further business to come before the Board, the Commissioners were in recess at 1:50 p.m.

THURSDAY, FEBRUARY 1, 2001

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The Board of County Commissioners met in regular session; all three members were present.

Monthly Report - Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Report for the Clerk of the District Court, Kathleen D. Breuer, for the month ending January 31, 2001.

Replacement Warrant—Chairman Evans examined, approved, and ordered filed an Application for Issuance Replacement Warrant naming Heritage Professional as applicant for Accounting Warrant #368755 issued August 30, 2000 on the Missoula County 2271 Fund in the amount of \$398.00, for Invoices #221761 and #221762, which were not received in the mail. No bond of indemnity is required.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Review – The Commissioners reviewed and approved the Review of Justice Court 2 Money Handling Procedures as of December 29, 2000, submitted by Missoula County Auditor Susan Reed. The document was returned to the Clerk and Recorder for filing.

Employment Contract – The Commissioners signed an Employment Contract between the Partnership Health Center ("PHC"), a division of the Missoula City-County Health Department, and Lisa Bollen Lovejoy, M.D. Dr. Lovejoy is the Medical Director/Physician for PHC and provides clinical care services as described in Attachment A to the Contract. The total amount shall not exceed \$127,500. Employment services will commence on the first day of July 2000.

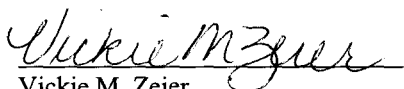
Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Fister Electric for the purpose of installing a fire alarm system at the Health Department Building (301 West Alder Street), as per the November 1, 2000 bid and Attachments A through D, respectively. The Contractor shall commence performance as soon as possible; final completion, including inspection passage, shall be no later than April 6, 2001. The total amount shall not exceed \$32,338. The document was returned to the Health Department for further signatures and handling.

Board Appointment – The Commissioners approved and signed a letter dated February 1, 2001, appointing Vickie R. Barta as an "alternate member" of the Missoula Public Library Board of Trustees, to fill an unexpired term through December 31, 2002.

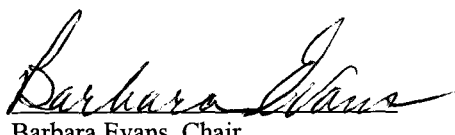
The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, FEBRUARY 2, 2001

The Board of County Commissioners met in regular session; all three members were present in the forenoon. Chairman Evans was out of the office all afternoon. In the forenoon, Chairman Evans attended a meeting of the Judicial Standards Commission held in Room 201.



Vickie M. Zeier
Clerk & Recorder



Barbara Evans, Chair
Board of County Commissioners

MONDAY, FEBRUARY 5, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – The Commissioners signed the Claims List, dated February 2, 2001, batch number 1090 (pages 1-4), with a grand total of \$13,020.12. The Claims List was returned to the Accounting Department.

Plat – The Commissioners signed the Plat and Improvement Agreement, dated January 17, 2001, for Peterson Industrial Park, a five-lot minor subdivision of Tract A, C.O.S. 4768, located in the S½ of Section 27, T 14 N, R 20 W, PMM, Missoula County, with the owner/developer of record being Jerry M. and Lois M. McGinnis. The improvement that remains to be completed is the construction of Roller Coaster Road north from Highway 10. The estimated cost is \$23,500.00. This Agreement has been secured by a Letter of Credit issued on behalf of Guarantors by 1st National Bank of Montana.

TUESDAY, FEBRUARY 6, 2001

The Board of County Commissioners met in regular session; all three members were present. In the evening, Commissioner Curtiss attended a Fort Missoula Plan Public Meeting held at the City Council Chambers.

Claims List – The Commissioners signed the Claims List, dated February 6, 2001, batch number 1087 (pages 1-4), with a grand total of \$9,866.09. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated February 6, 2001, batch number 1093 (pages 1-5), with a grand total of \$19,451.05. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Task Order -- Chairman Evans signed Task Order No. 01-07-5-01-056-0 to the Master Contract between Missoula County and the Montana Department of Public Health and Human Services that covers the period July 1, 1998 through June 30, 2005. The purpose of this task order is the continuation of the Montana State FAIM (Families Achieving Independence) Contract. The term will be July 1, 2000 through June 30, 2001. The maximum total amount payable shall not exceed \$40,000. The document was returned to the Health Department for further signatures and handling.

Amended Agreement -- The Commissioners signed an Amendment to a Development Agreement between the Missoula City-County Health Department ("MC-CHD") and the City of Missoula Redevelopment Agency ("MRA"), dated June 30, 1999. The Amendment includes the installation of a fire alarm system, and restrooms to comply with provisions of the Americans with Disabilities Act, per the items set forth therein. The completion date is amended to June 30, 2001. The costs are to be paid as follows: Missoula County: \$12,500; MC-CHD: \$5,000; and MRA: \$24,204. The document was returned to the Health Department for further signatures and handling.

Professional Services Contract -- The Commissioners signed a Professional Services Contract between Missoula County and Ryan K. Huckleby for the position of Dental Director of Partnership Health Center. The term will be January 1, 2001 through December 31, 2001. The hourly rate is \$65.00/hour with 208 hours available annually. The total amount shall not exceed \$13,500.

Agreement -- Chairman Evans signed a Detention Center Reimbursement Agreement between the Department of Justice and the Department of Corrections, Helena, Montana, and Missoula County, to apportion the costs for confinement and medical expenses of individuals detained and committed in detention centers. The Agreement becomes effective upon signature of all of the parties for a term ending September 30, 2001. The basic rate is \$47.00 per day for each inmate confined in the County Detention Center. The document was returned to Susan Hintz at the Detention Facility for further signatures and handling.

Grant Contract -- Chairman Evans signed Community Development Block Grant Contract #MT-CDBG-ED-SBIR-TA-00-03 between Missoula County, on behalf of the University of Montana, and the State of Montana, Department of Commerce, Community Development Block Grant Program ("CDBG"), Helena, Montana. Approved November 21, 2000, the Contract provides funding for activities related to a State CDBG Economic Development Technical Assistance application. The term will be November 27, 2000 through November 26, 2001. There is no cost to the County for administering this program. The document was returned to Cindy Wulfekuhle in the Office of Planning and Grants for further signatures and handling.

Contract -- Chairman Evans signed a contract between Missoula County and Opportunity Resources, Inc. ("ORI") entitled "1999-2000 Housing Investment Partnerships Program Group Home for Disabled Citizens Project." The United States Government, through the National Affordable Housing Act of 1990 established a Home Investment Partnerships Program ("HOME") and has allowed each state to elect to administer such federal funds for its non-entitlement areas. On October 4, 1999, Missoula County applied on behalf of ORI, and will sponsor the HOME grant application, and will be ultimately responsible for the project. The County will provide administrative and fiscal oversight, conduct the environmental review, and assure that the public interest is served. The Period of Affordability (as defined by the HOME Program) is 20 years, during which time ORI agrees to monitor and report on the project as required by the FYY 1999 edition of the HOME Program Administration Manual, a copy of which has been provided to the County. This Contract shall become effective upon its execution. The document was returned to Cindy Wulfekuhle in the Office of Planning and Grants for further handling.

Deed Restriction Agreement and Subordinate Deed of Trust

Chairman Evans signed a Deed Restriction Agreement and Subordinate Deed of Trust between Missoula County and Larry L. and Melinda S. Hintz in the amount of \$4,723.00 for the property located at 1136 Montana Street, Missoula, Montana 59801, for the purpose of providing HOME Investment Partnerships Program (HOME) funds to assist with down payment, closing cost and, if necessary, mortgage reduction assistance, as per the terms and conditions set forth therein. The documents were returned to Jennifer Blumberg in the Office of Planning and Grants for further handling.

Agreement -- The Commissioners signed an Agreement between Missoula County and Local Unit No. Two (Nurses) of the Montana Public Employees Association. The term will be July 1, 2000 through June 30, 2001. The document was returned to Steve Johnson in Human Resources for further signatures and handling.

Request for Action -- As recommended by the Offer Review Committee on January 25, 2001, the Commissioners approved a counter offer (\$177,725.00) by Peterson Family Limited Partnership (Quality Supply) for Lot 4, Block 3, Missoula Development Park, Phase 1, contingent on one amendment. The amendment would extend the buyer's proposed deadline requiring construction of infrastructure including streets, power, sewer, water and gas to lot line to May 1, 2002.

Request for Action -- Per staff recommendation, the Commissioners rejected a counter offer of \$431,245.50 by Patrick McCutcheon for Lot 4, Block 9, Missoula Development Park, Phase 2. The offer was rejected for the following reasons: 1) the offer is substantially below list price and 2) the buyer made the offer on the property assumption that \$3.50 per square foot was the correct price.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, FEBRUARY 7, 2001

The Board of County Commissioners met in regular session; all three members were present. In the evening, Commissioner Curtiss attended a Fort Missoula Plan Public Meeting held at the Target Range School Library.

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Claims List – The Commissioners signed the Claims List, dated February 6, 2001, batch number 1092 (pages 1-4), with a grand total of \$12,031.28. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated February 7, 2001, batch number 1094 (pages 1-5), with a grand total of \$33,441.93. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated February 7, 2001, batch numbers 1086 and 1095 (pages 1-5), with a grand total of \$118,378.06. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated February 7, 2001, batch number 1096 (pages 1-4), with a grand total of \$50,340.77. The Claims List was returned to the Accounting Department.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the Chief Administrative Officer meeting held in the forenoon, the following items were signed:

Agreement – Chairman Evans signed an Agreement for Engineering Services, dated February 7, 2001, between Missoula County and HDR Engineering, Inc., a Nebraska corporation, for services in connection with the Mullan Road Corridor Sewer Plan and RSID Formation – Phase 1. Budget implications are as follows: Task 1: Preliminary SID Development (\$32,543.35); and Task 2: Public Relations (\$28,661.99); for a total cost of \$61,205.34. The document was returned to Dan Harmon at HDR Engineering, Inc. for further signatures and handling.

Contract – The Commissioners signed a Contract between the Public Works Department of Missoula County and Alan Meyers of Sky-Hi Auction Co. to conduct a surplus equipment auction at the Missoula County Road Department site on March 31, 2001. Missoula County will be paid 91% of the total sales, less advertising costs, which are not to exceed \$3,000.00. The document was returned to Greg Robertson, Public Works Director, for further handling.

Request for Action – As per recommendation, the Commissioners approved a request by Crime Victim Advocate (CVA) staff to negotiate a rental agreement with the Office of Planning and Grants to occupy the Health Department's space currently occupied by Health Administration (west-side of basement). The CVA Program will occupy the space on a year-to-year rental agreement with the option to renew. Rental income will be a minimum of \$2,100 per year.

Agreement – Chairman Evans signed a Noxious Weed Trust Fund Project Grant Agreement, Woodworth Weed Management Group Number MDA 00-139, between the Montana Department of Agriculture ("Department") and the Missoula County Weed District ("Project Sponsor"). The purpose of this project is to control noxious weeds in the Woodworth Weed Management Group area in Missoula County. The term shall be February 7, 2001 through September 30, 2001. The Department agrees to pay the Project Sponsor the maximum amount of \$9,408, which is funded by a grant from the Noxious Weed Trust Fund. The document was returned to Alan Knudsen at the Weed Department for further signatures and handling.

Amendment – The Commissioners signed Exhibit 7a.48, an Amendment to the Missoula County Employee Benefits Plan, Vision Care Benefits, which states: "This amendment becomes effective as of July 1, 2001. If a person is a Late Enrollee, coverage begins on the first day of the first month beginning at least 30 days after you submit the enrollment form and the Schedule of Maximum Benefits Payable is reduced by 50% for the first 12 months of coverage. The Coordination of Benefits Provisions of the plan shall apply."

PUBLIC MEETING – February 7, 2001

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present was Commissioner Bill Carey, Commissioner Jean Curtiss and Chief Civil Attorney Michael Sehestedt.

Public Comment

None

Routine Administrative Actions

Commissioner Curtiss moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$475,039.64. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

There being no further business to come before the Board, the Commissioners were in recess at 1:31 p.m.

THURSDAY, FEBRUARY 8, 2001

The Board of County Commissioners met in regular session; all three members were present.

Audit Exit Conference

In the afternoon, the Commissioners and County finance personnel met with representatives from Elmore and Associates for the Audit Exit Conference.

Claims List – The Commissioners signed the Claims List, dated February 8, 2001, batch number 1097 (pages 1-4), with a grand total of \$33,670.32. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated February 8, 2001, batch number 1098 (pages 1-3), with a grand total of \$2,805.72. The Claims List was returned to the Accounting Department.

Monthly Report - Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Report for Justice Court 2, Justice of the Peace, Karen A. Orzech, for the month ending January 31, 2001.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Commitment Letter – The Commissioners signed a Commitment Letter, dated February 8, 2001, to the Missoula Area Agency on Aging to facilitate the closing on the purchase of its new building. On or before June 30, 2001, the Board of County Commissioners agrees to transfer to the Missoula Area Agency on Aging those funds projected to be remaining in the Aging Fund at the end of Fiscal year 2001. The Chief Financial Officer of Missoula County estimates approximately \$33,000 in cash will be in the Fund at that time.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Missoula AIDS Council for continuation of a longstanding contractual relationship to perform HIV prevention work that has been defined as high priority by a community planning process, and authorized by our funder, MDPHHS. The term shall be January 31, 2001 through December 31, 2001. The total amount shall not exceed \$28,070. The Health Department has a specific agreement with DPHHS for funding to support these activities; no other County funding sources are to be used.

Budget Transfer – The Commissioners signed the following three Budget Transfers for the District Court, Department 3:

- 1) Control No. 01-018, transferring \$2,511.46 from Contracted Services to Lab Services. These funds are for non-secure detention at the Youth Alternative Adventures Program at \$70 per day, plus supplies.
- 2) Control No. 01-019, transferring \$2,537.60 from Contracted Services to Salaries; and \$664.00 from Contracted Services to Fringe. These funds are money from Grant for Juvenile Probation Officer who will be working 10 hours a week for 26 weeks to help with UA tests out of Youth Court.
- 3) Control No. 01-020, transferring \$2,000.00 from Supplies (#410385) to Supplies (#420159). This is a transfer of grant money for books.

Other items included:

- 1) The Commissioners approved a Letter of Intent for Public Golf Course including: Terms and Conditions for Financing of Public Golf Course and Instructions for Submitting Proposal. There is no fiscal impact or budget implications at this time.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

PUBLIC HEARING – FEBRUARY 8, 2001

HEARING ON QUESTION OF SUBMITTING AN EXTENSION OF THE EXISTING FLORENCE PARK DISTRICT TO VOTERS

Hearing held at Florence-Carlton School District 15 Offices, Florence, Montana

The Public Hearing was called to order at 7:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Bill Carey, Commissioner Jean Curtiss and Chief Civil Attorney Michael Sehestedt. Community members present included Ward Wenholtz, Colleen Dwyer, Dave Ashworth, Leo Hansen, John Person, Margie Lubinski, Joe McKay, John Hatfield and Darrin Adler.

Chairman Evans opened the public hearing on submitting the question of extending the existing Florence Park District to include portions of Missoula County to voters of Missoula County.

Leo Hansen stated he lived in Missoula County and used to serve on the Park Board. He was active in the process to upgrade the ball fields at the Florence Park with John Person. He has no say in the management of this park because he lives in Missoula County. He was in favor of placing the question on the ballot.

John Person stated he was unable to serve on the governing board of this park district as he did not live in the district. Currently, the park district only covers Ravalli County but the Florence-Carlton School District is in both Missoula County and Ravalli County. The proposal is to have the park district boundary be the same as the school district boundary and cover both counties. It would mean more revenue for the park district, about 200 more registered voters. It would also allow Missoula County residents to serve on the park board and be involved with decision-making. If this does pass, the Missoula County people will still be assessed the Missoula County Park Levy of one mill, as well as the additional 3 mills for the Florence-Carlton park district.

Michael Sehestedt stated that was correct.

John Person asked if the Missoula County one mill could be eliminated.

Michael Sehestedt stated that could not be done. A large portion of the mill levy goes toward the Regional Park at Fort Missoula. The additional levy would benefit the park in Florence.

John Person asked if the Florence Park District had always included the Missoula County portion, would they still be assessed the recently passed one mill for parks.

Michael Sehestedt stated they would still be assessed as the levy was County wide.

John Person stated he was all in favor of allowing the question to be put to the voters.

Colleen Dwyer stated she was the president of the Baseball Association. She has enrolled her children at various activities at Fort Missoula and has been charged extra because she does not live in the City of Missoula.

Chairman Evans stated that question was recently asked of the Park Board and there is a possibility that the extra charge for out of City residents may go away.

Michael Sehestedt stated the activities and usage at all County facilities are free to all County residents, but the City has a different fee structure for their facilities.

Colleen Dwyer stated she was in favor of including the question on the upcoming ballot.

Chairman Evans stated it would be up to the local residents to convince the Missoula County voters to approve the change.

Leo Hansen stated he felt it would pass as there was a lot of time and money invested in the park.

Michael Sehestedt stated the Commissioners can only decide if this question should be put to a vote. If the Board decides to put this question on the ballot, only those registered voters affected that reside in that part of Missoula County will vote on the question. The question will specify the maximum mill levy that could be collected. If the ballot item is approved, the park district is expanded to include the Missoula County portion. He wanted this in the record because of an e-mail received expressing concern on some of these points. The Ravalli County residents within the park district will not vote on the question, only those in Missoula County that will be affected will vote. The rest of Missoula County will not vote on the question. The purpose of today's meeting is to take public testimony and allow the Board to decide if it is in the public interest to include this question on the ballot without a petition. If the Commissioners do not approve the request, the proponents, through the petition process, can still force a vote on the question.

Commissioner Curtiss stated the reason the public hearing was being held instead of using the petition method was that this question must be resolved by next week, 75 days prior to the election date.

Leo Hansen asked if a list of those who would be affected could be obtained.

Michael Sehestedt stated a voter registration list could be provided. A list of property owners could be problematic, however, only registered voters vote.

Leo Hansen wanted to make sure every one that would be affected was informed as there were some rumors being spread about the outcome of the election.

Michael Sehestedt stated the rate of taxation was fixed by the Resolution.

Margie Labinski stated that she worked with the Legislature to allow park districts to go across County lines. This question was addressed in 1995 and did not pass at that time. She felt that it would pass this time. Everybody in the school district uses the park. Her concern, as a Missoula County resident, was to see more use in this area out of the one mill that she pays for Missoula County.

Commissioner Curtiss stated that anyone could apply for matching funds through the County Park Board.

Michael Sehestedt stated that having this park district exist would not prejudice the use of Missoula County park funds. The park board tries to put the money to its best use, usually for development at existing park ground.

Margie Labinski stated she was in favor of putting the question on the ballot.

John Hatfield stated he reinforced what Mr. Hansen and Mr. Person said. The Missoula County residents feel they do not have a voice in the running of the park. He also saw that this issue was splitting the community, which was not healthy. To not put this to a vote would be bad for the community, the Missoula County residents need to have a voice on park issues.

Joe McKay stated he was in favor of putting the question on the ballot. He agreed with Mr. Hatfield in regard to the division of the community. There is a feeling that the Ravalli County residents resent the Missoula County resident for using their park which they do not pay for. It could get worse. The governing board should include representatives from both counties.

Commissioner Carey asked if this passed would the composition of the park board change.

Joe McKay stated that there were two terms that were expiring and those positions would be open to Missoula County residents.

Commissioner Curtiss stated the by-laws could be changed to allow representation from both counties.

Michael Sehestedt stated that by statute, when the park district was initially created, the first board was initially appointed and thereafter, members were elected. The existing park board might look to the Missoula County residents to fill any vacancies that occur. Over the course of a 15 year cycle of elections, the composition of the board may go from Missoula County residents to Ravalli County residents and back.

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Joe McKay stated that if there was someone on the board that stepped down prior to the end of their term, it would be up to the park board to appoint someone to fill out the remainder of the term and at that time Missoula County residents could be looked at. He felt having a required definite split of county representation was not a smart idea.

Michael Sehestedt stated that the Florence-Carlton School District would pick up part of the cost as the question would be on the school election ballot. The park district would contribute a portion of the additional cost, probably around \$50. The election would be at the polling place of a normal school election, in this case the Florence-Carlton School District's site. To answer another question in the e-mail received, there was nothing that could be done about the boundary of the Florence-Carlton School District, that was a matter to be taken up with the Post Office.

Dave Ashworth stated that he was a Ravalli County resident. The people present tonight from Missoula County have been tremendous leaders in making the park what it is today and he would hate to lose that leadership. He is strongly in favor of expanding the park district.

There being no further comments, the public hearing was closed.

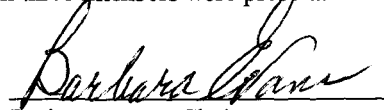
Commissioner Carey moved that the Board of County Commissioners allow the question of altering the Florence Park District boundary to include within the park district that portion of Missoula County included in the Florence-Carlton School District to appear on the May 8, 2001 school election ballot. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

There being no further business to come before the Board, the Commissioners were in recess at 8:00 p.m.

FRIDAY, FEBRUARY 9, 2001

The Board of County Commissioners met in regular session; all three members were present.


Vickie M. Zeier
Clerk & Recorder


Barbara Evans, Chair
Board of County Commissioners

MONDAY, FEBRUARY 12, 2001

The Board of County Commissioners met in regular session; all three members were present. At noon, the Commissioners attended the State of Missoula luncheon sponsored by the Chamber, with Chairman Evans giving the "State of the County" address.

TUESDAY, FEBRUARY 13, 2001

The Board of County Commissioners met in regular session; all three members were present. In the evening, the Commissioners attended the Lolo Community Council meeting held at the Lolo Community Center.

Claims List – The Commissioners signed the Claims List, dated February 12, 2001, batch numbers 1102 and 1103 (pages 1-6), with a grand total of \$17,993.06. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated February 12, 2001, batch number 1104 (pages 1-4), with a grand total of \$10,668.74. The Claims List was returned to the Accounting Department.

Payroll Transmittal – The Commissioners signed the following Payroll Transmittal Sheet: Pay Period: 03 - Pay Date: February 9, 2001. Total Missoula County Payroll: \$760,207.64. The Transmittal Sheet was returned to the Auditor's Office.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Agreement – The Commissioners signed an Employment Agreement, dated January 11, 2001, between Missoula County and Paul S. Donaldson, M.D., for services as Locum Physician at the Partnership Health Center. Funding for this on-call position is included in the Excell Leadership Grant. Dr. Donaldson's base salary is \$70.00 per hour, payable according to the schedule applied to other Missoula County employees. He will also receive room and meal allowances for each day worked, not to exceed \$80.00 per day. The contract will commence January 11, 2001, and will be subject to review at the end of six months of employment.

Resolution No. 2001-014 – The Commissioners signed Resolution No. 2001-014, dated February 13, 2001, approving and adopting the budget amendment to the Fiscal Year 2001 Operating Budget for Missoula County, Sheriff's Department, relating to the Department of Justice Technology Grant in the amount of \$718,000.00.

Bond Closing Documents – Chairman Evans approved and signed the following Bond Closing Documents relating to Rural Special Improvement District No. 8467 (Double Arrow Paving):

- 1) County Clerk and Recorder/Treasurer's Certificate and Receipt;
- 2) Certificate of Bond Registrar;
- 3) Certificate as to Organization of Missoula, County, Montana;
- 4) Rebate Certificate;
- 5) Officers' Certificate; and
- 6) Affidavit as to Signatures of Officers.

Other discussion items included:

- 1) It was approved for Greg Robertson to meet with the Board of County Commissioners to review the status of the Van Buren Street pedestrian bridge over the Clark Fork River. Mr. Robertson needs to spend approx. \$200K to repair the bridge and the City is obligated to pay all or at least half as determined by the Board.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, FEBRUARY 14, 2001

The Board of County Commissioners met in regular session; all three members were present. Following the Public Meeting, the Commissioners attended the "We Love Our Merchants" reception sponsored by the Health Department, held in Room 201.

Claims List – The Commissioners signed the Claims List, dated February 13, 2001, batch number 1106 (pages 1-4), with a grand total of \$110,328.42. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated February 13, 2001, batch number 1107 (pages 1-4), with a grand total of \$47,681.99. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated February 14, 2001, batch number 1108 (pages 1-5), with a grand total of \$25,675.34. The Claims List was returned to the Accounting Department.

At the Clerk and Recorder's Meeting held on February 14, 2001, the Commissioners approved letters reflecting their agreement to waive the penalty and interest for tax parcels for the following:

- 1) Patty Richards, 12100 Lewis & Clark Drive, Lolo, Montana 59847, for tax parcel #2403004;
- 2) Martha McNabb, 1416 Sherwood, Missoula, Montana 59802, for tax parcel #1596900;
- 3) Raymond and Ella Barrick, 1717 Arlington Drive, Missoula, Montana 59801, for tax parcel #1179255; and
- 4) Wilbur V. Martin, 2314 Highwood Drive, Missoula, Montana 59803, for tax parcel #0996060.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the Chief Administrative Officer meeting held in the forenoon, the following items were signed:

Resolution No. 2001-015 – The Commissioners signed Resolution No. 2001-015, dated February 14, 2001, directing the Missoula County Election Administrator to submit to qualified electors at the May 8, 2001 school election, the following: Voting for or against altering the Florence Park District (Ravalli County) boundary to include the Missoula County portion of the Florence-Carlton School and authorizing a maximum property tax levy of 3 mills for operation of the district.

Agreement – Chairman Evans signed an Agreement between Missoula County Office of Public Works and NTL Engineering & Geoscience, Inc., to perform geotechnical engineering work associated with the Expressway Gravel Pit Reclamation, Missoula, Montana. Preliminary observations will be undertaken in the spring (March or April) of 2001, after snow has melted. The investigation is expected to take about three to four weeks. The total amount shall not exceed \$7,200.00, and will be paid by Development Park funding.

Agreement – The Commissioners signed an Agreement, dated February 7, 2001, between Missoula County and Muth Consulting Engineers for engineering work associated with the Kim Williams Trail Rail Crossing Study. The design work will commence March 5, 2001. The total amount shall not exceed \$4,978.00, and will be paid for with ARCO funds in cooperation with the City of Missoula. The document was returned to Greg Robertson, Public Works Director, for further signatures and handling.

Request for Action – The Commissioners approved the County Park Board's recommendation to forward three requests for Weed Grant applications to the County Weed Board for Weed Grant money for noxious weed control and re-vegetation in the following parks: 1) Ravenwood Park; 2) Big Sky Park; and 3) Kelly Island Park. The County Park Board has budgeted \$7,900.00 to match the Weed Grant money for all three projects combined.

Waivers – The Commissioners denied requests from the following individuals to waive the penalty and interest on their 1999 taxes:

- 1) Christopher V. Barnes and Kathleen J. Stachowski, 10735 Sleeman Gulch Road, Lolo, Montana; and
- 2) Michael R. Tryhus, M.D., 1427 – 37th Avenue, Missoula, Montana.

The Commissioners have no authority to waive penalty and interest imposed for late payment of property taxes.

PUBLIC MEETING – February 14, 2001

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present was Commissioner Bill Carey, Commissioner Jean Curtiss, County Surveyor Horace Brown and Chief Civil Attorney Michael Sehestedt.

Public Comment

None

Routine Administrative Actions

001 0226

Commissioner Carey moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$248,823.59. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

There being no further business to come before the Board, the Commissioners were in recess at 1:30 p.m.

THURSDAY, FEBRUARY 15, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated February 15, 2001, batch number 1111 (pages 1-4), with a grand total of \$159,579.97. The Claims List was returned to the Accounting Department.

Replacement Warrant—Chairman Evans examined, approved, and ordered filed an Application for Issuance Replacement Warrant naming Stacey M. Thorson as applicant for accounting Warrant #264546 issued January 12, 2001 on the Missoula County Payroll Fund in the amount of \$222.57, for payroll which was not received in the mail. No bond of indemnity is required.

Monthly Report - Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Report for the Report of the Sheriff, Douglas W. Chase, for the month ending January 31, 2001.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Contract – The Commissioners signed a Contract, dated February 15, 2001, between Missoula County Fairgrounds and Sentinel Mechanical, Inc. ("Contractor") for completion of the Phase II of the Water System Improvements for the Missoula County Fairgrounds (bid awarded on January 31, 2001). The Contractor shall complete all work within a period of 90 days from the date of the Contract. The total amount shall not exceed \$75,361.09. The document was returned to Doreen Culver, Bidding Officer, for further handling.

Board Appointments – The Commissioners approved and signed letters, dated February 20, 2001, reflecting the following:

- 1) Appointment of Melanie L. Miller as a "regular member" of the Lolo Water & Sewer (RSID 901) Board to fill an unexpired term through June 30, 2002;
- 2) Appointment of Thomas A. Morarre as an "alternate member" of the City-County Animal Control Board. Should one of the regular members be unable to attend a meeting or should a vacancy occur, Mr. Morarre would be eligible to fill that position. His term will commence immediately and run through December 31, 2002; and
- 3) Appointment of Peggy Chilcote as an "alternate member" of the Lolo Water & Sewer (RSID 901) Board to fill an unexpired term through June 30, 2003. Should one of the regular members be unable to attend a meeting or should a vacancy occur, Ms. Chilcote would be eligible to fill that position.

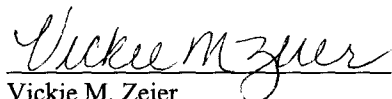
The minutes of the Administrative Meeting are on file in the Commissioners Office.

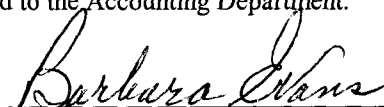
FRIDAY, FEBRUARY 16, 2001

The Board of County Commissioners met in regular session; all three members were present. At noon, Chairman Evans attended a Forest Counties luncheon held at the Holiday Inn.

Claims List – The Commissioners signed the Claims List, dated February 15, 2001, batch number 1110 (pages 1-5), with a grand total of \$42,752.57. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated February 16, 2001, batch number 1114 (pages 1-4), with a grand total of \$34,839.11. The Claims List was returned to the Accounting Department.


Vickie M. Zeier
Clerk & Recorder


Barbara Evans, Chair
Board of County Commissioners

MONDAY, FEBRUARY 19, 2001

The Courthouse was closed for the Presidents' Day holiday.

TUESDAY, FEBRUARY 20, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – The Commissioners signed the Claims List, dated February 20, 2001, batch number 1113 (pages 1-5), with a grand total of \$11,087.50. The Claims List was returned to the Accounting Department.

001 0227

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and HIV/AIDS Education and Prevention Council of Ravalli County for the continuation of a longstanding contract for HIV prevention work that has been defined as high priority by a community planning process. The Health Department has a specific agreement with DPHHS for funding to support these activities; no other County funding sources are to be used. The term will be February 5, 2001 through December 31, 2001. The document was returned to the Health Department for further handling.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Dennis Lower of D Lower Construction, Inc. for general construction work at the Department of Revenue (Motor Vehicle space). The term will be January 22, 2001 through March 20, 2001. The total amount shall not exceed \$18,180.00.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Marty Hyland of Timberline Woodworks for cabinets and counter top work at the Department of Revenue (Motor Vehicle space). The term will be January 22, 2001 through March 20, 2001. The total amount shall not exceed \$12,500.00.

Professional Services Contract – Chairman Evans signed two final Water Main Extension Contracts between the Missoula County Airport Industrial District and Mountain Water Company for the following:

- 1) Extend the County portion of the 12" water main for Phase 8, Grizzly Auto Center (Project #31000093). The effective date of the Contract is February 8, 2001. The additional cost is \$5,884.55.
- 2) Extend the 12" water main to Kestrel Court and Kestrel Drive (Project #31000091). The effective date of the Contract is January 29, 2001. The additional cost is \$11,711.89.

The total final cost for the two contracts is \$58,796.55 (\$41,200.00 already paid and \$17,596.44 remaining).

Request for Action – The Commissioners approved an Amendment to the Missoula Development Authority Bylaws "Article IV. Officers D. Removal," as per the items set forth.

Other items included:

- 1) The Commissioners approved the closure of the Treasurer's Office from 12:30 p.m.–3:00 p.m. on Wednesday, February 21st for staff attendance at a funeral.
- 2) The Commissioners discussed and approved staking, surveying, and creating a right-of-way survey for Mickelson buttonhook adjacent to Development Park.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, FEBRUARY 21, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – The Commissioners signed the Claims List, dated February 21, 2001, batch number 1115 (pages 1-5), with a grand total of \$58,662.94. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated February 21, 2001, batch number 1116 (pages 1-4), with a grand total of \$70,606.78. The Claims List was returned to the Accounting Department.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the Chief Administrative Officer meeting held in the forenoon, the following items were signed:

Resolution No. 2001-016 – The Commissioners signed Resolution No. 2001-016, dated February 21, 2001, supporting the creation of a State Park by the Montana Fish, Wildlife and Parks at the historic Travelers' Rest site at Lolo, Montana.

PUBLIC MEETING – February 21, 2001

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Bill Carey, Commissioner Jean Curtiss, County Surveyor Horace Brown and Deputy County Attorney Colleen Dowdall.

Public Comment

None

Routine Administrative Actions

Commissioner Curtiss moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$318,865.93. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Bid Award: 20 Golf Carts (Larchmont)

001-0228

This is a request to award a bid for 20 golf carts at Larchmont Golf Course.

Dan Smith, Larchmont Superintendent, stated this is a capital replacement. The golf course is replacing sixteen 1993 golf carts. Bids were opened at 10:00 a.m. on February 20, 2001, with the following results: Johnson Distributing in the amount of \$59,400.00 and Masek Distributing in the amount of \$60,430.00. Staff's recommendation is to award the bid to Johnson Distributing in the amount of \$59,400.00. The amount is under budget.

Commissioner Curtiss asked what is done with the old golf carts.

Dan Smith stated that some have already been sold and some will be traded.

Commissioner Carey asked how long carts stay in use.

Dan Smith stated those being replaced are from 1993. They try to rotate about half their carts every three or four years so they don't all have to be replaced at the same time.

Commissioner Carey moved that the Board of County Commissioners award the bid for 20 golf carts to Johnson Distributing in the amount of \$59,400, as it appears to be the lowest and best bid. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Consideration: Hamel Acres (3 Lots) – Frenchtown Area, Corner of Beckwith and Demer

Karen Hughes, Office of Planning and Grants, presented the staff report.

This is a request from Malvin and Mary Alexander, represented by WGM Group, to create Hamel Acres, a 3 lot summary subdivision in the Frenchtown area, located on the northwest corner of Demer and Beckwith streets, adjacent to Interstate 90. The applicants are requesting to divide a 31.91 acre parcel into three lots, the largest about 20 acres, another at 8 acres and the third lot approximately 4 acres. The property is unzoned and the 1975 Missoula County Comprehensive Plan designated the property as Suburban Residential with a recommended density of two dwelling units per acre. The property is also located within the Frenchtown Activity Circle. Staff recommends approval of the summary subdivision and also recommends approval of the two variance requests. One is to vary from County Subdivision Regulations for road width for Beckwith Street from 32 feet wide to its current condition. The second is a variance request for installation of sidewalks.

The subdivision complies with the Comprehensive Plan. There were very few issues that needed to be resolved with this subdivision. Staff looked at the possibility of installing sidewalks but it made more sense to do that in the future through an RSID waiver. Most of the condition are standard. The Frenchtown Fire District requested a condition to allow them to review and approve access and water supply because of the potential for future commercial development in this area.

Julie Titchbourne, WGM Group, developer's representative, was present representing the Alexanders. They concur with all staff recommendations. The future sidewalks will be covered by the RSID waiver. The recommended no access strip along Lot 3 and the first 100 feet from Demer Street west is also accepted as it is so close to the off ramp from the Interstate. The development agreement to address availability of firefighting water and control of noxious weeds is the best way to cover these issues as there are no covenants for this subdivision. The development agreement also makes the County a party with the developer for enforcement in the future.

Chairman Evans asked if the development agreement made the County a party to something it did not want to be a party to.

Colleen Dowdall stated the development agreement is basically a restriction on the land but is limited to areas where the County wants enforcement, such as weed control and fire standards. This is an attempt to take advantage of all the new legislation with regard to weed control. This will bolster the ability of the Weed Board's enforcement.

Chairman Evans asked for public comments. There were none.

Commissioner Carey moved that the Board of County Commissioners approve the variance request from Article 3-2(3) of the Missoula County Subdivision Regulations from the 32 foot width requirement for Beckwith Street, based on the findings of fact set forth in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners approve the variance request from Article 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways on Demer and Beckwith Streets, based on the findings of fact set forth in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners approve Hamel Acres Summary Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Hamel Acres Summary Subdivision Conditions of Approval:

Roads and Access

1. Prior to final plat approval and subject to review and approval by OPG, the final plat shall show one-foot no-access strips along the eastern boundary of the property adjacent to the Demer Street right-of-way and on the eastern 100 feet of the property adjacent to the Beckwith Street right-of-way. *Subdivision Regulations Article 3-2(9)(A), County Surveyor and Public Works Director recommendation.*

2. Driveway approach permit for Lot 2 shall be obtained prior to final plat approval. *Subdivision Regulations Article 3-1(1)(E) and County Surveyor recommendation.*

Fire

3. Prior to final plat approval, a development agreement, subject to review and approval by the County Attorney's Office, shall be filed with the Missoula County Clerk and Recorder's Office that states that Frenchtown Rural Fire District shall review and approve access and water supply for any future commercial development on Lots 1 and 3, based on the Uniform Fire Code, including internal access on Lot 1 and water supply for Lots 1 and 3. *Subdivision Regulations Article 3-1(B), 3-2(1)(E) and Frenchtown Rural Fire District recommendation.*
4. The following statement shall be included on the face of the final plat:

"Acceptance of a deed for a lot within this subdivision constitutes a waiver of the right to protest a future RSID/SID for public water system adequate for fire protection, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations Article 3-7(2).*

Weeds

5. The subdivider shall file a development agreement with the Missoula County Clerk and Recorder's Officer prior to final plat approval that states the following: That property owners shall maintain their property in compliance with the Montana Noxious Weed Control Act and the Missoula County Noxious Weed Management Plan. Revegetation with beneficial species shall occur at the earliest appropriate opportunity for any ground disturbance caused by construction. *Subdivision Regulations Article 3-1(1) and Missoula County Weed District recommendation.*

Utilities

6. The 10 foot electric power line easement shall be designated as a public utility easement on the plat, subject to review and approval by OPG prior to final plat approval. *Subdivision Regulations Article 3-6 and Missoula Electric Cooperative recommendation.*
7. The following statement shall be included on the face of the final plat:

"The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." *Subdivision Regulations Article 3-5(2).*

Consideration: Wornath Orchard Tracts #3 (2 Lots) – Blue Mountain Recreation Area

Zoe Mohesky, Office of Planning and Grants, presented the staff report.

This is a summary subdivision request from Tyrone and Nancy Anderson, represented by John Kellogg of Professional Consultants, Inc., to divide a 2.4 acre parcel into two lots. The property is located southwest of Blue Mountain Road along Highway 93 South, on South Wornath Road. The original lot, Lot 1-B, is and will remain residential and is 1.32 acres in size. The proposed homesite on Lot 1-A is 1.07 acres, upslope from Lot 1-B and accessed off Forest Hill Lane.

The property is zoned Zoning District #18, a single family dwelling zone, but it does not specify any minimum lot size. The 1998 Update of the Urban Comprehensive Plan designates Suburban Residential with a maximum density of two dwelling units per acre. Sewer and water services will be provided by individual wells and septic systems.

The applicant has requested a variance from the requirement for installation of sidewalks or pedestrian walkways. Staff is recommending a condition of approval that requires a statement waiving the right to protest an future RSID/SID for improvements to South Wornath Road and Forest Hill Lane, including installation of walkways and bikeways. There are presently no sidewalks in the vicinity.

The subdivision is located within the Wildland/Residential Interface. Adherence to fire protection guidelines is required. Staff is also recommending a condition that requires the reduction of fire risk through standards related to driveways, fuel management and roofing materials.

Staff is recommending approval of the Wornath Orchard Tracts No. 3, Lots 1-A and 1-B, Summary Subdivision, based on the findings of fact in the staff report and subject to 12 conditions. The conditions address roads and access, sewer and water, fire, and development covenants related to wildlife, weeds, wood burning stoves and Wildland/Residential Interface Standards. Additional conditions relate to utilities, MUTD and no build zones for slopes greater than 25%. There is a typographical error in Condition 9 that needs to be corrected. The word "Wildlife" in the second line should be "Wildland."

John Kellogg, Professional Consultants, Inc., developer's representative, was present representing Ty and Nancy Anderson. This seems to be a fairly logical division of the property, there are two different frontage to the lot, one on South Wornath Road and the other on Forest Hill Lane. The proposal conforms with the Comprehensive Plan for this area and with the zoning district designation. Zoning District #18 generally identified areas adjacent to the highway for commercial development with residential development behind the commercial. The natural slope of the site is fairly uniform and is right at or slightly over 25% from the top to the bottom. That limitation has been worked around to identify an area where a home can be built without any problems from the slope or drainage, and a site for the septic system as well. This proposal is a minor increase in density, one additional home in an area that is already designated for additional development. Through design and staff review, this proposal seems suitable for this area. Mr. Anderson is present today and is in agreement with the conditions as recommended.

MAY 2001 02:30

Chairman Evans asked for public comments.

Lucinda Hightower, a property owner in the area, asked where South Wornath Road and Forest Hill Lane were situated on the proposal.

Zoe Mothesky stated that Blue Mountain Road was to the northeast of the property. One of the ways to access South Wornath Road is off Evergreen from Blue Mountain. After making a right turn on Wornath, the Anderson property is the first driveway on the left. Forest Hill Lane is upslope and somewhat parallels South Wornath Road in this area. To get to Forest Hill Lane, continue on Blue Mountain further past Evergreen, make one 90 degree bend and where the second bend begins is the start of Forest Hill Lane, which continues uphill from there.

Lucinda Hightower asked if this was just one division.

Chairman Evans stated it was just one more home.

Lucinda Hightower stated her concern was water. It was a big concern in the area. Most of the wells don't get much more than 5 gallons per minute. Homes in the Hayes Creek area only get three gallons per minute and there is also a serious sewage problem. The ground has sheets of rock and the sewage drains through. She is concerned about the future. She knows Mr. Anderson, he is a nice neighbor, but she did not want this to set a precedent. There is another owner in the area that has 8 acres and she would hate to see four or five more homes built on this property. That would add more burden to the already bad water situation.

Chairman Evans stated that the Commissioners have no control over the water and sewer issues, they are governed by the State and local health departments. Water rights may also be involved. That is not an issue that the Commissioners can use to say yes or no to a subdivision, that is outside the land use.

There were no further public comments.

Commissioner Curtiss moved that the Board of County Commissioners approve the variance request from Article 3-2(5) of the Missoula County Subdivision to not provide sidewalks or pedestrian walkways on South Wornath Road and Forest Hill Lane, based on the findings of fact set forth in the staff report. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Commissioner Curtiss moved that the Board of County Commissioners approve the Wornath Orchard Tracts No. 3, Lots 1-A and 1-B, Summary Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Wornath Orchard Tracts No. 3, Lots 1-A and 1-B, Summary Subdivision Conditions of Approval:

Roads and Access

1. The following statement shall appear on the plat:

"Acceptance of a deed for a lot within this subdivision shall constitute the assent of the lot owner to waive the right to protest a future RSID/SID for improvements to South Wornath Road and Forest Hill Lane, including but not limited to installation of pedestrian walkways or bikeways, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land depicted herein." *Subdivision Regulations Article 3-2.*

2. A driveway approach permit for Lot 1-A shall be obtained prior to final plat approval. *Subdivision Regulations Article 3-1(1)(E) and County Surveyor recommendation.*
3. The subdivider shall submit driveway plans for review and approval by the Missoula Rural Fire District and Missoula County. Driveways shall be paved a minimum of 20 feet back from the roadway. Unpaved portions of any driveway shall be a minimum of 12 feet wide and shall consist of a suitable base material and a minimum of 4 inches of ¾ inches minus gravel surfacing. *Subdivision Regulations Article 3-2(6)(A).*

Sewer/Water

4. The following statement shall appear on the plat:

"Acceptance of a deed for a lot within this subdivision constitutes a waiver of the right to protest a future RSID/SID for public sewer and water systems, based on benefit. The lot owner shall connect to public sewer within 180 days of when the public sewer main is available to the subdivision. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations Section 3-7(2).*

Fire

5. The following statement shall be included on the face of the final plat:

"Acceptance of a deed for a lot within this subdivision constitutes a waiver of the right to protest a future RSID/SID for public water system adequate for fire protection, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations Article 3-7(2).*

6. The subdivider shall contribute \$100.00 per new lot to the Missoula Rural Fire District large-diameter hose fund. Evidence of contribution shall be presented to the Office of Planning and Grants prior to final plat approval. *Subdivision Regulations Article 3-7(2) and Missoula Rural Fire District recommendation.*

7. A Wildland/Residential Interface (WRI) plan for fuel management in the this subdivision shall be reviewed and approved by the Missoula Rural Fire District prior to final plat approval. The plan shall state that both homesites will be cleared and brought to WRI standards for vegetative reduction, including removal of fuels, removal of trees and pruning to remove ladder fuels. *Subdivision Regulations Article 3-1(2).*

Development Covenants

8. Prior to final plat approval, the Development Covenant shall be expanded to include the following statements:
- "Homeowners should be aware of the potential problems associated with the occasional presence of bears, mountain lions, deer, etc. Artificial feeding of wildlife is prohibited." *Montana Department of Fish, Wildlife and Park and staff recommendation.*
 - "Property owners shall maintain their property in compliance with the Montana Noxious Weed Control Act and the Missoula County Noxious Weed Management Plan. Ground disturbances caused by construction or maintenance must be revegetated with beneficial species at the first appropriate opportunity." *Subdivision Regulations Article 3-1(1) and Missoula County Weed District recommendation.*
 - "The installation of wood burning stoves or fireplaces is prohibited. Pellet stoves meeting emission requirements are permitted by permit. Natural gas or propane fireplaces are permitted." *Missoula City/County Health Department recommendation.*
9. The subdivider shall file a development covenant that includes standards for development in the Wildland/Residential Interface including driveway design, fuel management, recommended landscaping and roofing materials. This development covenant shall be reviewed and approved by OPG and the County Attorney's office, and filed with the Missoula County Clerk and Recorder's Office, prior to final plat approval. *Subdivision Regulations Article 3-2(6), 3-1(1)(B) and OPG recommendation.*

Utilities

10. The following statement shall appear on the plat:

"The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in over, under and across each area designated on this plat as 'utility easement' to have and to hold forever." *Subdivision Regulations Article 3-5.*

Other

11. Prior to final plat approval, the subdivider shall provide evidence of willingness to petition into the Missoula Urban Transportation District if adjacent properties become part of the Transportation District. Further, this letter shall state that the owners agree not to protest the enlargement of the Missoula Urban Transportation District. *Missoula Urban Transportation District Recommendation.*
12. The plat shall be revised to show all slopes greater than 25% as no build zones. A statement shall be included on the face of the plat that states, "Areas identified as no build zones prohibit all structures, roads and driveways." *Subdivision Regulations Article 3-1(2).*

Consideration: Ola Drive Addition (2 Lots) – East Missoula Area near Sunny Meadows

Tim Hall, Office of Planning and Grants, presented the staff report.

This is a summary subdivision request from Kevin and Andrea Price, represented by John Kellogg of Professional Consultants, Inc., to divide a 5.01 acre parcel into two lots, one lot is 1.01 acres and the other lot is 4 acres. The property is located near the Sunny Meadows subdivision, on the west side of Highway 200 just past East Missoula.

The property is on the east slope of Mount Jumbo. Both the residences are proposed to be located on the flatter portions of the property. There are some slope considerations that have been accommodated. In addition, the property is divided by two zoning districts, C-A3 and C-RR3. Both of the new homes will be developed in the C-RR3 district, which is a moderate density residential zoning district allowing up to four dwelling units per acre. The remaining lands behind the property with slopes of 25% or greater have been designated as no build areas on the plat.

The property is accessed off Highway 200 to Lerch Lane to Ola Drive, through the Sunny Meadows subdivision. The two homes will be on individual septic systems and they will connect to the Sunny Meadows Subdivision water system. Montana Power will provide the subdivision with power.

The project is requesting a variance from sidewalks and pedestrian walkways and from a road width standard for Ola Drive. Staff is recommending approval of the variance requests. The conditions relate to roads and access, fire, natural environment, utilities and easements.

The 1998 Update to the Missoula County Comprehensive Plan designates the southern two-thirds of the property as suburban residential with a recommended density of two dwelling units per acre and the northern one-third, the steeper portion, as Open and Resource Lands with a recommended density not to exceed one dwelling unit per 40 acres.

John Kellogg, Professional Consultants, Inc., developer's representative, was present representing Kevin and Andrea Price, who were both in attendance. They are in agreement with the staff report and conditions as proposed. This proposal required careful planning due to the slope of the site. The variances are being requested to lessen the impact to the site.

2001-02-22

Chairman Evans asked for public comments. There were none.

Commissioner Carey stated that the Wildland/Residential Interface Standards were not mentioned.

Tim Hall stated the upper portions of the property could be considered Wildland/Residential Interface areas. Because the dwellings are located on the lower portion adjacent to other subdivisions and the remaining portions of the property, those in the Interface zone, were designed as no build areas, the issue was not raised. There is also an irrigation ditch that comes off a watering pond for livestock that has an irrigation easement and a riparian management plan, but those were not considered big issues.

Colleen Dowdall stated there was a finding in the staff report that this is within the Wildland/Residential Interface zone and the covenants address those standards. It did not require an additional condition.

Commissioner Carey moved that the Board of County Commissioners approve the variance request from Section 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways in the subdivision, based on the findings of fact set forth in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners approve the variance request from Section 3-2(3) of the Missoula County Subdivision Regulations which requires a 24 foot road surface width to allow a 20 foot road surface width on Ola Drive, based on the findings of fact set forth in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners approve the Ola Drive Addition Summary Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Ola Drive Addition Summary Subdivision Conditions of Approval:

Roads/Access

1. Driveway and grading, drainage and erosion control plans shall be reviewed and approved by the County Surveyor's Office and County Public Works Director prior to final plat approval. *Subdivision Regulations Article 3-2(3)(C), 3-2(6) and Missoula County Surveyor and Public Works Director recommendations*
2. Driveway plans, including turnarounds for emergency service vehicles, shall be reviewed and approved by OPG and the East Missoula Rural Fire District prior to final plat approval. *Subdivision Regulation Article 3-2(6), Missoula County Surveyor recommendation and East Missoula Rural Fire District Chief recommendation.*
3. The road maintenance agreement shall be revised and approved by the County Attorney's Office prior to final plat approval. *County Attorney's Office recommendation.*
4. The subdivider shall present evidence of a filed easement agreement for Ola Drive from the public right-of-way of Ola Drive to the southern boundary of the subdivision prior to final plat approval. The agreement shall be reviewed and approved by the County Attorney's Office. *Subdivision Regulation Article 3-2(1) and County Attorney recommendation.*

Fire

5. The developer shall contribute \$100.00 per new lot to the East Missoula Rural Fire District. Evidence of contribution shall be presented to the Office of Planning and Grants at the time of final plat approval. *Subdivision Regulations Article 3-7 and East Missoula Rural Fire Department recommendation.*

Natural Environment

6. A Revegetation Plan for Disturbed Sites shall be approved by the Missoula County Weed Board prior to final plat approval. *Subdivision Regulations Article 3-1(1)(B) and Missoula County Weed Control recommendation.*

Utilities

7. The final plat shall be amended to include the required utility easement statement required by Article 3-5 of the Missoula County Subdivision Regulations.

Easements

8. The plat shall be amended to include the proposed 20 foot wide irrigation and riparian resource area easement as shown on Exhibit B in the application packet. *Subdivision Regulations Article 3-6.*

There being no further business to come before the Board, the Commissioners were in recess at 2:04 p.m.

THURSDAY, FEBRUARY 22, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – The Commissioners signed the Claims List, dated February 22, 2001, batch number 1118 (pages 1-3), with a grand total of \$137,443.61. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated February 22, 2001, batch number 1119 (pages 1-4), with a grand total of \$22,244.12. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated February 22, 2001, batch number 1120 (pages 1-3), with a grand total of \$11,767.84. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

001-017-0233

At the administrative meeting held in the forenoon, the following items were signed:

Resolution No. 2001-017 – The Commissioners signed Resolution No. 2001-017, dated February 22, 2001, stating their concurrence with the Technical Advisory Committee and the Transportation Policy Coordinating Committee that construction of a bridge over the Bitterroot River to serve the Miller Creek area is the first priority for transportation improvements in the Missoula planning area.

Agreement – Chairman Evans signed an Agreement, dated February 13, 2001, between Missoula County and Horizons, Inc. for the deliverables for the Lolo area in conjunction with the photogrammetric mapping services project for Missoula in 1999. The total lump sum amount shall be \$60,700.00. Estimated time for completion of the project is two months. The document was returned to Horace Brown, County Surveyor, for further handling.

Grant Program – Chairman Evans signed a Montana Department of Commerce Economic Development Division Community Development Block Grant Program Certifications for Application on behalf of Missoula County and Pyramid Mountain Lumber Company. The document was returned to Cindy Wulfekuhle in the Office of Planning and Grants for further handling.

Extension Request – In accordance with the recommendation of the Office of Planning and Grants staff, the Commissioners signed a letter to John Kellogg of Professional Consultants Inc., approving a 12-month extension of the plat approval deadline for the Rolling Hills Subdivision. The new filing deadline is February 26, 2002.

Agreement – The Commissioners signed an Agreement between Missoula County and Professional Consultants, Inc., ("PCI") for engineering and surveying services to develop final plats for Phases 3, 4 and 5 or portion thereof for the Missoula Development Park. Dick Ainsworth of PCI is preparing a formal timeline for the project. The total amount shall not exceed \$88,437.00. The document was returned to Barbara Martens in the Projects Office for further signatures and handling.

Notice of Hearing – Chairman Evans signed a "Notice of Hearing: Two Rivers Restoration and Development Plan", to be held at the Commissioners' regularly scheduled weekly public meeting on Wednesday, March 14, 2001, at 1:30 p.m. in Room 201 of the Missoula County Courthouse Annex, and will be continued at 7:00 p.m. that evening in the Bonner Elementary School. The hearing will consider a resolution urging the removal and safe disposal of toxic sediments from Milltown reservoir, the restoration of the confluence of the Clark Fork and Blackfoot Rivers, the restoration of associated wetlands and fish and wildlife habitat, and the creation of a regional park in the Milltown and Bonner Two Rivers area.

Request for Action – The Commissioners approved a request to provide partial funding for and contract with Water Consulting, Inc. for professional services to provide technical support developing a feasible scenario for Milltown dam removal and Clark Fork and Bitterroot River restoration. The total amount shall not exceed \$5,000.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

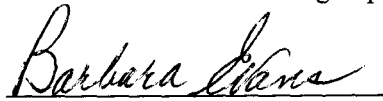
FRIDAY, FEBRUARY 23, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – Commissioners Carey and Curtiss signed the Claims List, dated February 23, 2001, batch number 1122 (pages 1-3), with a grand total of \$3,975.52. The Claims List was returned to the Accounting Department.



Vickie M. Zeier
Clerk & Recorder



Barbara Evans, Chair
Board of County Commissioners

MONDAY, FEBRUARY 26, 2001

The Board of County Commissioners met in regular session; all three members were present. In the evening, Commissioners Carey and Curtiss attended a Lolo Regional Planning Meeting, an introductory meeting for north Bitterroot Residents, held at the Carlton Community Center.

Monthly Report – Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Report for Justice Court 1, John E. Odlin, Justice of the Peace, for the month ending January 31, 2001.

Indemnity Bond – Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming Jolyn Montgomery as principal for Frenchtown School District #40 Warrant #53584 issued January 19, 2001 on the Missoula County General Fund in the amount of \$1,387.72, now unable to be found.

Indemnity Bond – Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming Sarah L. Drew as principal for Payroll Warrant #89976 issued January 19, 2001 on the Missoula County 78-42 Fund in the amount of \$115.38, now unable to be found.

Payroll Transmittal – The Commissioners signed the following Payroll Transmittal Sheet: Pay Period: 04 - Pay Date: February 23, 2001. Total Missoula County Payroll: \$766,044.25. The Transmittal Sheet was returned to the Auditor's Office.

001 0234

Agreement – Chairman Evans signed a Subordination Agreement between Missoula County, John M. Brown, and Meritech Mortgage Services, Inc. Mr. Brown, a first-time homebuyer, is assuming a third mortgage position on property located at 304 Ridgeway, Lolo, Montana (Lot 7, Block 14 of West View, a platted subdivision). The document was returned to Cindy Wulfekuhle in the Office of Planning and Grants for further handling.

Request for Action – The Commissioners approved a request to close the Missoula County Road Department Offices (Missoula and Seeley Lake) to permit employees to attend Gary Stemple's funeral on February 27, 2001. The planned closure will begin at 12:00 p.m. for the balance of the day. The document was returned to Greg Robertson at the Public Works Department.

TUESDAY, FEBRUARY 27, 2001

The Board of County Commissioners met in regular session; all three members were present in the forenoon. Commissioner Carey was out all afternoon.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated February 27, 2001, batch number 1121 (pages 1-4), with a grand total of \$13,420.96. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated February 27, 2001, batch number 1126 (pages 1-3), with a grand total of \$3,799.32. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Western States Abatement for asbestos removal pertaining to the Health Department remodeling project at 301 West Alder (2nd floor). The term will be February 5, 2001 through February 19, 2001. The total amount shall not exceed \$4,875.00. The document was returned to the Health Department for further signatures and handling.

Task Order – Chairman Evans signed Task Order No. 01-07-4-31-028-0 to the Master Contract between Missoula County and the Montana Department of Public Health and Human Services that covers the period July 1, 1998 through June 30, 2005. The purpose of this task order is the continuation of the immunization information system program (LIIS). The term will be January 1, 2001 through December 31, 2001. The maximum total amount payable shall not exceed \$10,928.00. The document was returned to the Health Department for further signatures and handling.

Agreement Form – Chairman Evans signed a Section 00500 Agreement between Missoula County and Sentinel Mechanical, Inc. for Phase II portion of water system improvements for the Western Montana Fair. The Commissioners had previously signed (on February 15th) a contract for this project; however, the agency providing the loan (State SRF) requires using their contract form. The document was returned to Doreen Culver, Bidding Officer, for further signatures and handling.

Contract – The Commissioners signed a Contract between the Montana Department of Transportation, Transportation Planning Division ("MDT") and the Missoula Office of Planning and Grants ("OPG") to allow OPG to bill MDT for Federal Transit Authority Section 5303 funds for the evaluation, selection and monitoring of technical study projects proposed by local metropolitan planning organizations or public bodies and agencies. The term will be October 1, 2000 to September 30, 2001. The contract is for a total amount of \$68,901; the Federal share is \$55,121 and the local match is \$13,780.

Memorandums of Agreement – The Commissioners signed two Memorandums of Agreement, dated July 1, 2001, between Missoula County and 1) The Lolo Community Council and 2) The Seeley Lake Community Council, for the advancement and promotion of the interests and welfare of the residents of each Community. These contracts are the annual Seeley Lake and Lolo CBO contracts. The term for both contracts will be July 1, 2000 through June 30, 2001. The total amount for each contract shall not exceed \$1,000.

Other items included:

- 1) The Commissioners approved board member Gary Nash finishing out his term on the Lolo Water and Sewer Board although Mr. Nash has moved from the boundaries of the RSID #901 District.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, FEBRUARY 28, 2001

The Board of County Commissioners met in regular session; all three members were present. Following the Public Meeting, the Commissioners left for Helena to attend the MACo Midwinter Meetings held there March 1st and 2nd.

Claims List – The Commissioners signed the Claims List, dated February 27, 2001, batch number 1124 (pages 1-5), with a grand total of \$58,858.85. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated February 27, 2001, batch number 1128 (pages 1-4), with a grand total of \$78,507.30. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated February 28, 2001, batch number 1127 (pages 1-3), with a grand total of \$18,577.88. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated February 28, 2001, batch number 1129 (pages 1-4), with a grand total of \$24,902.42. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated February 28, 2001, batch number 1130 (pages 1-2), with a grand total of \$867.15. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated February 28, 2001, batch number 1131 (pages 1-4), with a grand total of \$68,413.72. The Claims List was returned to the Accounting Department.

Plat – The Commissioners signed the plat for Dawn Acres No. 3, a subdivision located in the NE¼ of the SW¼ of Section 8, T 13 N, R 20 W, PMM, Missoula County, an area of 2.49 gross acres, with the owners of record being Stephen W. Larash & Dawn E. Aldrich.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the Chief Administrative Officer meeting held in the forenoon, the following items were signed:

Resolution No. 2001-018 – The Commissioners signed Resolution No. 2001-018, dated February 28, 2001, setting forth the conditions and specifics under which the Missoula County Auditor shall function.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and the Western Montana Gay and Lesbian Community Center to assist local youth groups to develop and provide youth-focused HIV prevention activities designated by the Region V-South HIV Prevention Advisory Committee. The term will be February 20, 2001 through December 31, 2001. The total amount shall not exceed \$1,000.

Request for Action – The Commissioners approved a request from the Lolo RSID #901 Advisory Board to implement a water metering system as recommended by the adopted Water Rate Study prepared by HDR Engineering, Inc. This approval is contingent on the review and approval of County Attorney Mike Sehestedt.

Agreement – Chairman Evans signed Amendment No. 1 to Agreement for Engineering Services between Missoula County and HDR Engineering, Inc., dated February 28, 2001. This Amendment is associated with improvements at the Lolo Wastewater Treatment Plant and revises billable rates to reflect cost of living adjustments granted to HDR Engineering, Inc. employees. The Amendment No. 1 total amount is \$15,899.83. The fiscal impact to the Lolo RSID account at this time is \$22,741.70.

Request for Action – The Commissioners approved a Montana Department of Transportation CTEP (Community Transportation Enhancement Program) Project Application for the Frenchtown Walkway/bikeway Project. The County Road Budget will provide \$62,350 matching funds for the Project. The document was returned to County Surveyor Horace Brown for further handling.

PUBLIC MEETING – February 28, 2001

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Bill Carey, Commissioner Jean Curtiss, County Public Works Director Greg Robertson, Chief Civil Attorney Mike Sehestedt and Deputy County Attorney Colleen Dowdall.

Public Comment

None

Routine Administrative Actions

Commissioner Carey moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$432,160.76. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Hearing: Petition to Abandon a Portion of an Old GLO Road from Old Spur Road – Nine Mile Area

This is a petition to abandon “an old GLO road from Old Spur Road in a southeasterly direction to the easternmost corner of Parcel II located in a portion of Section 1, Township 15 North, Range 23 West, Missoula County, Montana.”

The reasons for the request are as follows: 1) To clear up title of said parcels. Nine Mile Road serves these properties.

The following landowners have been notified: Robert A. Johnston; Janet and William Vetaly.

Scott Hollenbeck, Properties 2000, stated that he recently sold a 38 acre parcel of land to Robert Johnston who lives in Cincinnati, Ohio. In reviewing title work on the property, it was discovered there was a cloud on the title, an old GLO trail that crosses both Mr. Johnston’s property and the Vetaly property. This is possibly an old railroad spur but it is not currently in existence. The GLO road is shown running in a southeasterly direction across Parcel 1 (Vetaly) and Parcel 2 (Johnston). Both of these parcels are served by existing roads, Old Spur Road and Nine Mile Road. He respectfully requests a vacation of the old GLO road.

Chairman Evans stated that no action would be taken on this matter today. The hearing will be held, but according to statutes, there must be an inspection of the requested site by the County Surveyor and one County Commissioner.

001 02:46
Scott Hollenbeck stated he would be happy to provide directions or attend the site inspection.

Chairman Evans opened the public hearing.

Commissioner Curtiss asked if the vacation request was for only those two parcels of land?

Scott Hollenbeck stated that was correct.

There being no further comments, the public hearing was closed.

Chairman Evans stated a time would be scheduled to do the site inspection and this matter would be postponed until March 14, 2001. Based on the report from the site inspection, a decision would be made at that time.

Hearing: Pleasant View Homes #2 (197 Lot Subdivision and Planned Variation and One Lot Neighborhood Commercial Rezoning) – North of Mullan Road, East of Flynn Lane

Zoe Mohesky, Office of Planning and Grants, presented the staff report.

This is a proposal by John Diddel, represented by Ron Ewart of Eli & Associates, to create a development called Pleasant View Homes #2. It is a three part proposal, including a Planned Variation from zoning, a subdivision of the property and a zoning change for one of the lots to neighborhood commercial. The proposal is to create a 197 lot subdivision on 55.2 acres located east of Flynn Lane and about .5 miles north of Mullan Road. The property is northeast of Hellgate Elementary School and was part of the original Dougherty Ranch. The property is zoned C-RR3, a residential zoning district that allows a density of up to four dwelling units per acre. The 1998 Missoula Urban Comprehensive Plan Update recommends urban residential land use with a density of up to six dwelling units per acre.

The applicants are proposing a Planned Variation to supplement the existing C-RR3 zoning which would allow reduced lot size width and building setbacks. The Planned Variation also details standards of the landscaping plan for the site and establishes requirements for building orientation.

The applicants are also requesting to rezone Lot 42 from C-RR3 (Residential) to C-C1 (Neighborhood Commercial). The proposed neighborhood commercial site is about .5 acres in size and located near the center of the subdivision on the northeast corner of two future proposed connector roads, Mary Jane Boulevard and England Boulevard.

The proposals are all being reviewed together, however, separate actions are necessary on the Planned Variation and the preliminary plat and its associated variances. The creation of the lots in Pleasant View Homes #2 preliminary plat is necessary prior to the taking any action on the rezoning of Lot 42.

The Planning Board met on February 6, 2001 and conducted a public hearing on all the various parts of the proposal. The Planning Board recommended approval of all the subdivision variances with the exception of one. They recommended denial of the variance for the east/west pedestrian access easement width from 20 feet to 14 feet. The Planning Board unanimously recommended approval of the subdivision subject to 31 conditions. There was one change to the conditions that reflected their denial of the pedestrian easement variance request. Condition 23 restates their position that this easement be 20 feet in width.

There have been a lot of discussion about the conditions. Basically, there is agreement between the developer, the staff and the involved agencies. There have been two lengthy meetings with County and City representatives over the drainage concerns. This area may be annexed into the City within the next five years. There was some disagreement between City and County about drainage in the area, but they seem to have reached a general agreement about plans.

The original idea was to use several small park areas as drainage retention, and also a greenway, but that was not received well so alternatives were explored. The engineer from Eli & Associates did some further investigation and came up with a new plan that may still be somewhat preliminary. The subdivision is divided into two halves. There is piping that runs toward the middle of each half then both halves drain into Park 7, which would be depressed quite a bit to retain the water from storm events.

Michael Sehestedt asked what the ultimate disposition of the water would be once it reaches Park 7, does it drain from there or wait for evaporation?

Zoe Mohesky stated the developers were focusing currently on evaporation and there was some discussion about lining the basin. Staff felt it could still be reclaimed as a park once it was no longer needed as a retention basin when there was a larger drainage system in place in the area.

Michael Sehestedt stated there would be a large volume of water which would sit and be stagnant for a long time. This basin will be a final destination.

Zoe Mohesky stated that it would be a final destination initially. She would defer the answer on how long it would remain a final destination to the experts. There have been other discussions about some minor wording changes to the conditions and a memo was presented that reflected these changes. Most of changes had to do with parks and pedestrian easements. Condition 25 reflected the potential for the City to take over these parks after annexation. The Planning Board also recommended the approval of the Planned Variation subject to standards with minor amendments. The developer and staff are in agreement with the board on the content of the standards as amended with one exception. The applicant would like Part E deleted. The applicant will present their arguments during their presentation. The Planning Board also recommended approval of the rezoning of Lot 42 from C-RR3 to C-C1, subject to six conditions. There has been no public testimony in opposition to this subdivision. Hellgate Elementary School had some concerns about parking in the area in general.

Ron Ewart, Eli & Associates, developer's representative, was present, as were the developers, John and Carolyn Diddel; Wally Congdon, developer's attorney; and Jeff Pierson, an engineer from Eli & Associates. He thanked Zoe Mohesky for her work on this proposal. There have been several changes suggested that will make this a better subdivision. He felt this would be a nice development and desirable for people to live there. It will allow families to purchase a brand new home with a fairly low down payment. Many families may qualify for special government deals for first time home buyers or low income families. There are very strict covenants and lot of landscaping. There are many additional controls to the neighborhood commercial lot to make sure it is friendly. This is also pedestrian friendly. They are in agreement with the changes presented on the February 27, 2001 memo. Paragraph E of the Planned Variation standards state that if there is alley access it must be used. The developer would like that deleted so owners can have the option of accessing from either the alley or the front of the home. This would cut down on alley congestion.

Chairman Evans opened the Public Hearing.

Mike Flynn, 2275 Roundup Drive, stated he was not for or against the subdivision. He believed there was a strong need in Missoula County for affordable housing. Phase I of Pleasant View Homes is raised about 4 feet from Flynn Lane. Would this subdivision also be raised and if so, what would happen to the runoff from the subdivision. Is this designed to prevent drainage runoff from affecting neighboring properties?

Ron Ewart stated the final drainage plan will retain all of the surface water from the subdivision on the subdivision. That is a requirement and they will work to achieve that.

Wally Congdon stated that a condition of the first Pleasant View Subdivision was that they participate in some sort of regional or area drainage plan. This subdivision would also participate in such a plan. More details of that plan are now known. The developers have met with Steve King, City Engineer and Horace Brown, County Surveyor, numerous times as to whether the drainage should be on site swales, on site retention, pipe it away, store it in multiple parks, store in one park, etc. The purpose of the proposal at this point in time is to accommodate connection to an area or regional plan in the future as more of the area develops. This holding area is intended to work in the short run but in the bigger picture, that will hook up to whatever the larger system is. There is not a clear picture of what that will be yet. As the picture becomes clearer in the future, it may require amending some of the conditions at a later date. Removal of Condition E on the Planned Variation standards was requested to maximize yard space and lessen congestion both in the alleys and on the streets. It also give first time homebuyers the option to fence the back yard as a play area for their children. The alley access condition should apply to the main arterial that runs north/south so the houses that front on that would not have access from the front, but the other buildings should have the option depending on the owners wishes.

Steve King, City Public Works Department, confirmed Mr. Flynn's anticipation of continued development in the area. The City Public Works Department is in support of the continuing development and of this project. The developer has worked with the City in anticipation of annexation in the future. He felt the drainage issues have been resolved and echoed Mr. Congdon's comments that in the short term Park 7 would be a substantial drainage basin. In the long-term, it is hoped there will be a larger regional system. Short-term, the storm drain protects the streets and isolates the drainage detention to just one park. The original concept was to have all the of park areas be drainage detention with standing water during storm events. This plan leaves only the one park with water and the rest of the parks would be functional. The City was okay with drainage. The City agrees with the alley access and protecting the north/south road from direct front access. The developers approached the City for contracting for sewer extension. The Contract Sewer Committee has approved sewer connection for 151 additional lots on the Hellgate pressurized sewer system, the line that runs down Tina Drive to Hellgate School. That contract does not cover all the lots in the proposed subdivision. The remainder of the lots that would not be served under this contract would have to participate in extension of a gravity system, probably from Mullan Road. That system would be necessary in order to serve the balance of the lots. The number of units that go into the pump system needed to be limited. There is a commitment to the Dougherty family who granted the easement across their property to run this pressure line. The City committed to accommodate 200 single family residential connections as a condition of that easement. Beyond that, they did not want additional properties on this pump system. The would like to be able to abandon the pump system in favor of a gravity system. The gravity system is part of the larger comprehensive plan to serve this area.

Commissioner Curtiss asked if the additional homes, when that point was reached, be paying an RSID for the sewer system?

Steve King stated all the properties will have an expense for the sewer connection. He expected there would be less cost for going on the gravity system than for the pump system.

Commissioner Curtiss asked if those on the pump system would then be converted to the gravity system?

Steve King stated that would happen as practical. The intent is to eventually abandon the pump system and go with the gravity system.

Commissioner Curtiss asked if all the storm water was directed to Park 7, would it end up being a soggy place or an invitational hazard like a pond?

Steve King stated he thought it would be a soggy place that holds water for some period of time. He thinks it could be a pond and could stagnate. This is a drainage basin. There is also a concern with the migration of ground water. Both Horace Brown and Greg Robertson were also concerned about underground drainage. The City has recommended the park be gradually graded so it would be something that children could not fall into. With a 6:1 gentle slope, it was felt children would get stuck in the mud long before they reached water. It was not recommended that it be fenced, as that could invite children to climb the fence. He did feel it would be a soggy, wet area during storm events.

Wally Congdon stated the when they met with the City with regard to the sewer and hooking onto the pumping system, the City's commitment was to allow the remaining 151 connections. If the sewer main that goes west is located conveniently to hook onto after only 50 to 80 homes have been connected to the pressure system, it would make more economical sense to connect with the gravity system from that point forward and not use the entire 151 connections. If it turns out the sewer

main isn't installed for 5 to 8 years and the first 151 homes have been built with 40 more to go, it appeared there would be excess capacity in the pressure line that could be utilized. In theory, 151 is what they are saying, but the door has been left open if the other sewer main doesn't get installed. Or, the entire 151 may not be used if the sewer main is installed and is more economical and efficient. The timing of the sewer may also affect the timing of connecting to a regional drainage system. That timing is not known. The retention area could be used for three to five years.

Greg Robertson, Public Works Director, stated he came in on this proposal late in the game and has been trying to catch up. He has dealt with drainage systems like this for a very long time. The system the City is advocating is different than what Horace Brown has advocated for this particular development. Both of them have merits. From a water quality standpoint, Horace Brown's recommendation of pretreating the runoff before storing it in the basin makes a lot of sense. Most proactive communities are moving toward this option rather than the conventional method of using pipe. Wetlands and biofiltration are being used a lot more. That helps also for the conveyance system by getting some of the sediments and suspended solids out of the water before it goes into a pipe which reduces long term maintenance. That is where open swales are being used quite a bit, even in urbanized areas. The swales do some amount of pretreatment before containment. The City's proposal is to put all runoff into a pipe which feeds a lined lagoon and allow only transeaporation. He was not sure that was the optimal solution. With the pond being fairly deep, it does create an attractive nuisance. He would recommend the area be fenced and signed so liability is minimized. He would advocate more shallow detention. He felt the engineer had oversized the system quite a bit based on standard methods of computing runoff. The method chosen was very conservative and there are more accurate ways of determining the runoff. He did not have an easy answer. He liked Horace Brown's idea of pretreating the runoff before containment but there also needs to be a mechanism for bleed-down of the system. For the long-term, the sanitary needs and potential groundwater contamination of a lined lagoon far outweigh the issue of groundwater migration that is common in the area. The Mullan Trail Subdivision and the water impoundment above it which found its way into the subdivision was a big concern. The volumes in this proposal are a lot less significant than Mullan Trail. He would rather see the runoff pretreated and allow slow discharge of the system. That is accommodated through the design process. The conveyance Steve King is advocating is not a bad idea, but it needs to be in conjunction with some cleaning of the water prior to putting it into a pipe. The gravel used on roads can clog a pipe quickly and the County is not tooled with the equipment to clean those culverts. The City is tooled to do that and have offered their services. He would advocate cleaning the runoff before introducing it to a pipe. That can be done a couple of ways but he would rely on the engineer to come up with a suitable scheme. He would like to see a combination of both, rather than one or the other, for dealing with the storm water. The overall design scheme is good and adequate for the area. The pond volume is probably oversized however.

Chairman Evans stated she was not comfortable with a big, deep pond, especially if the County had liability. If the Board chooses the Surveyor and Public Works Director's choice for drainage, is the City still willing to allow City sewer to be added to the subdivision?

Steve King stated that was a qualified yes. He supported what Greg Robertson said, pretreatment, underground conveyance and percolating as opposed to a lined basin. The City did not propose the lined park area. He believed the volume of the detention basin was oversized. He wanted to emphasize that everything Greg Robertson said, the City is in agreement with. If there could be collaboration and mutual approval of the basic components and have the engineers work out the details, that would be agreeable to the City.

Greg Robertson felt that by working with the developer's engineer, a reasonable solution could be found that addresses water quality and long-term maintenance of the system. Utilizing a combination of both would be more economical for the developer, which is important as this is affordable housing. There are some issues of water quality that need to be addressed that are not being taken care of with the present proposal.

Chairman Evans stated she did not want homeowners to pay for something twice. She would like one system determined up front. She also did not want anything that would have County liability and the potential loss of a child in a big, deep hole. She would like to see pretreatment through swales, that works well. She hoped there could be a way found that would be satisfactory to everybody.

Wally Congdon stated that the suggestion that the City, County and engineer sit down and design the system to everyone's satisfaction was the best alternative. It may be cheaper in some ways and gives flexibility during the different phases of the development.

Commissioner Curtiss asked if there was any language change that needed to happen to make that possible?

Greg Robertson stated the general conditions provide the ability for the City, County and engineers to work out the specifics. They all agree they want a quality system. That language is already included in Condition 12.

Jerry Covault stated he lived west of Missoula off Mullan Road and he did not have anything to do with the schools. In George Bush's recent address he spent time talking about schools and education. He summed up by saying he wants no child left behind. That will take every elected official and every citizen joining in the effort. This subdivision is priced and designed for young families. The review says that no adverse impacts to the schools requiring mitigation have been identified. There is also a letter from Hellgate Elementary School Superintendent Douglas Reisig which says in part: "After further inquiry into class size and impact of the subdivision on the class size within respective grades served by Hellgate Elementary, it is possible that the influx of new students as a result of the proposed subdivision will have a significant negative impact on the academic opportunities for students enrolled in the school district. As such, regardless of what the Subdivision Findings of Fact Report states with respect to the impact on Hellgate Schools, the school district has reservations about the proposed subdivision and its impact. The school district is operating at capacity and there is no existing classroom space to add additional staff." President Bush does not want any child left behind. Montana Law M.C.A. 76-3-510 states that a local government may not require a subdivider to pay or guarantee payment for part or all of the costs of constructing or expanding capital facilities related to education. That may be true but he suggested some reasons why a subdivider should contribute to the affected school district. First, the school is an attractant to buyers. Second, there will be a huge time lag between the completion of the first houses and when property taxes will be able to help. Educational quality will suffer and the children will be left behind. Third, this county has a long history of taking care of education needs up front. When Montana first became a state, the Federal government granted to the state every

land section 16 and 36 to be used for education. The needs of schools should continue to be considered. There is another document in the state that speaks to schools, the Montana Constitution, Article 10, Section 1 – “It is the goal of the people to establish a system of education which will develop the full educational potential of each person.” He felt a reasonable person could conclude that M.C.A. 76-3-510 may be against Montana’s Constitution. He would like to see Missoula County join with school districts to challenge M.C.A. 76-3-510. He urged the Board and the subdividers to work together to do the right thing and not leave any child behind.

Chairman Evans asked what the phasing plan was to final buildout?

Ron Ewart stated the phasing plan went out five years. He felt Mr. Covault had some very good points. The developer does realize this will impact the school. Any two lot subdivision will impact a school to some degree. He hoped the Hellgate School District was planning for expansion. They should know that this whole area will be developed in the near future, it is about the only area where Missoula can grow. School budgets are enrollment driven, more children, more money. Mr. and Mrs. Diddel have talked to the superintendent. Most of the purchasers of the first 44 homes don’t have children.

Carolyn Diddel stated that out of the first 44 homes at Pleasant View, only one child was added to the school. The school was below enrollment last year and had hoped for more children from the first development. There is a diverse group in the first 44 homes, young families, singles and retired people. Some of the couples with infants will probably move out of the district within five years. They don’t feel they will overload the school. They have met with the superintendent and he does not have concerns. The school intends to expand due to the growth in the area.

Commissioner Carey asked if she had met with the superintendent after the date on his letter to the Board?

Carolyn Diddel stated they met with the superintendent February 27, 2001. There are plans to expand the school, not directly because of this subdivision, but because of the planned growth in the area. Pleasant View 1 and 2 are not adding that many children to the school.

Evan Jordon stated he was from Frenchtown. Frenchtown K-12 is in the same situation, it is bursting at the seams due to all the subdivisions that have been added recently. The school is trying to figure out how to expand to accommodate the additional students. Spring Meadows Subdivision had a similar story of the residents not adding many children to the school, but that mix has now changed and averages 1.5 children per residence. That is a large impact on the school. He endorsed Mr. Covault’s idea of mitigating the impact a subdivision has on schools. He was in sympathy with the Hellgate School District.

Wally Congdon stated there was a bigger picture than many may not be aware of. When the Hellgate Elementary School septic system failed, they received an easement from the Dougherty’s so they could hook to the sewer. At that time, the school felt having houses in the future close to the school was a good idea so children did not have to be bussed. In the ensuing nine years, the school has known that the sewer units existed and that more growth was planned for this area and they were discussing plan to accommodate that growth. There was also the problem of dealing with the Airport influence to the west. Discussions with the school have been ongoing since the sewer negotiations.

There being no further comments, the Public Hearing was closed.

Commissioner Curtiss stated that the Board understood the concerns of the schools being affected by new subdivisions, however, the Board cannot deny a subdivision based on a school’s needs. Some of the Missoula schools would be happy to have more children as three have been closed in the last two years. That shows that where people live and where children are goes in cycles.

Chairman Evans stated the law did not allow the Board to deny a subdivision based on the impact on a school. She did not care to challenge the law and there was a desperate need for affordable housing.

Commissioner Carey thanked Mr. Covault and Mr. Jordon for speaking to this issue, it concerns him as well. He would be interested in exploring how the law might be challenged but this was not the time or the place for that.

Michael Sehestedt stated that for a variety of reasons the Hellgate Elementary District was chosen for community growth. As it was noted, there is an excess of school capital facilities in School District 1. Attendance agreements or possible relocation of boundaries could be explored to solve the problem.

Commissioner Carey moved that the Board of County Commissioners approve the Planned Variation of the existing C-RR3 (Residential) zoning for Pleasant View Homes #2 Subdivision, as revised by the Missoula Consolidated Planning Board. Commissioner Curtiss seconded the motion.

Commissioner Curtiss moved that the Board of County Commissioner amend the conditions of the Planned Variation to delete Paragraph E, access to lots. Chairman Evans seconded the motion. The motion carried on a vote of 2-1 (Commissioner Carey opposed).

The motion to approve the Planned Variation with the deletion of Paragraph E carried on a vote of 3-0.

Commissioner Curtiss moved that the Board of County Commissioners approve the variance request from Article 3-2(3) of the Missoula County Subdivision Regulations to vary the right-of-way width for Sheffield Drive, Yorkshire Place, London Avenue, Stratford Lane, Fleet Street, Canterbury Lane and Camden Street from 60 feet to 54 feet, based on the findings of fact set forth in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners approve the variance request from Article 3-2(3) of the Missoula County Subdivision Regulations to vary the street pavement width for Camden Street, Canterbury Lane,

London Avenue and Yorkshire Place from 32 feet to 26 feet, based on the findings of fact set forth in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Curtiss moved that the Board of County Commissioners approve the variance request from Article 3-6 of the Missoula County Subdivision Regulations to vary from the width of public pedestrian access easements from 20 feet to 14 feet, based on the findings of fact set forth in the staff report. Chairman Evans seconded the motion. The motion carried on a vote of 2-1 (Commissioner Carey opposed).

Colleen Dowdall stated that staff had recommended amending Condition 25. She was not comfortable recommending that this could be done with regard to having common areas first with public access easement requiring dedication at some date in the future. She would like Condition 25 to read: "The plat shall specify that the park areas are dedicated as common areas except for Parks 4, 5/6 and 7, which shall be dedicated to the public." The reason for the change was that it was not feasible to have common areas with public access easements first. Common areas are privately owned parcels of land.

Zoe Mohesky stated that Condition 23 should be amended to reflect approval of the pedestrian access easement to 14 feet.

Commissioner Curtiss moved that the Board of County Commissioners approve the Pleasant View Homes #2 Subdivision based on the findings of fact set forth in the staff report and subject to the conditions in the staff report with recommended amendments to Conditions 19, 21, 22, 23 and 25. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners approve the rezoning of Pleasant View Homes #2, Lot 42, from C-RR3 (Residential) to C-C1 (Neighborhood Commercial), based on the findings of fact in the staff report and subject to the conditions in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Pleasant View Homes #2 Subdivision Planned Variation Standards:

A. Intent

The intent of Pleasant View Homes #2 Planned Variation is to provide single-family residential lots of a smaller size than that allowed in the C-RR3 zone. The allowance recognizes the need for the relaxation of larger lot single family zoning requirements, thereby making more efficient use of infrastructure, utilities and nearby community services. These standards are intended to provide adequate yard and building areas and increased landscaping to promote an aesthetic neighborhood quality. When a standard is not addressed in this Planned Variation, County Resolution 76-113 shall apply. Otherwise, these standards shall govern the development of the Planned Variation. This Planned Variation does not apply to Lot 42 (the commercial lot) in the Pleasant View Homes #2 Subdivision.

B. Space and Bulk Requirements

Minimum Lot Size	5400 square feet
(Net area, exclusive of public access rights-of-way and easements)	
Minimum Lot Width	65 feet
Minimum Yard	-
Front	20 feet
Rear	10 feet
Side	5 feet
Accessory Structures rear yard	3 feet
Corner Lots	
20 feet on street frontage with access	
12.5 feet minimum on the other (non-access) street frontage	
Setbacks to Flynn Lane and Mary Jane Boulevard are always 20 feet	
Side yard setbacks to buffer areas along England Boulevard are 12.5 feet	
Setbacks are measured from structure to nearest corresponding lot line or access easement or right-of-way line	
Maximum Building Height	30 feet

C. Landscaping

A minimum of one street tree (1.5 inch caliper, 6 foot height) centered within the boulevard per every 30 feet on average, withstanding clear sight triangles and driveway accesses, shall be planted and maintained by the adjacent property owner. Said plantings shall occur within the boulevard of the street(s) fronting the lot. A minimum of two trees or shrubs (vertically branching, 5 gallon) shall also be planted and maintained on each lot in locations preferred by the lot owner. Tree and shrub species shall be approved by the Declarant or Association prior to installation. All grass within the boulevard and any buffer area adjacent to the lot and within the individual lot shall be mowed, irrigated and otherwise properly maintained by the property owner of the lot. The developer shall initially plant street trees within the boulevard of the common area parks. The parks and greenway areas shall then be maintained by the Pleasant View Homeowners Association. Along streets fronting the lots and common areas, trees shall be spaced to maintain clear sight triangles and driveway accesses. All grass within the boulevard and any greenway adjacent to the lot shall be mowed, irrigated and otherwise properly maintained by the lot owner.

D. Building Orientation

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The front façade of all homes shall be oriented toward the street to which the lot fronts, except on corner lots, where the home may face either street. All homes on Flynn Lane and Mary Jane Boulevard shall have a front façade on Flynn Lane or Mary Jane Boulevard, respectively, and these lots shall be allowed alley access only. Front façades shall be determined by the presence of a front door and entry area, including a walkway connecting the public sidewalk to the entry, and the presence of windows on each front building wall façade.

Pleasant View Homes #2 Subdivision Conditions of Approval:

1. The Certificate of Survey creating the parcel to be subdivided shall be filed prior to final plat approval. Any remainder resulting from the creation of the parcel to be subdivided will be required to undergo subdivision review in order to obtain a legal description. *Subdivision Regulations Article 5-1(4)(B) and County Attorney recommendation.*
2. The Planned Variation shall be approved prior to final plat approval. *Subdivision Regulations Article 3-1(1)(B).*

Phasing

3. Request for final plat approval for Phase I, consisting of Lots 1-41, including Parks 1 and 2 and roads/alleys, shall occur within one year of preliminary plat approval. Final plat approval for Phase II, consisting of Lots 42-86, including Parks 3 and 4 and roads/alleys, shall occur within 3 years of preliminary plat approval. Final plat approval for Phase III, consisting of Lots 87-150, including roads/alleys, shall occur within 4 years of preliminary plat approval. Final plat approval for Phase IV, consisting of Lots 151-197, including Parks 5, 6 and 7 and roads/alleys, shall occur within 5 years of preliminary plat approval. *Subdivision Regulations Article 4-1(18).*

Roads

4. The following statement shall appear on the face of the plat:

“Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for improvements to Flynn Lane, Mullan Road, England Boulevard, Fleet Street, Stratford Lane, Mary Jane Boulevard, Sheffield Drive, Camden Street, Canterbury Lane, London Avenue and Yorkshire Place, and alleys serving the subdivisions, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land.” *Subdivision Regulations Article 3-2 and County Surveyor recommendation.*

5. A traffic study of the impact of this subdivision on the intersection of Mullan Road and Flynn Lane shall be completed prior to final plat approval. The study should address the cumulative impacts of Hellgate Elementary, the development of Pleasant View Homes #1 and this subdivision at full build-out. If warranted, the developer shall install a deceleration lane for westbound traffic on Mullan Road, accommodating turning onto Flynn Lane prior to final plat approval of Phase II. *Subdivision Regulations Article 3-1(1) and Montana Department of Transportation recommendation.*
6. Engineering plans and specifications for road, alley and non-motorized pathway improvements, including parking pods on Flynn Lane, shall be approved by Missoula County and installed prior to final plat approval for each phase. *Subdivision Regulations Article 3-2(1)(J), 3-2(8) and County Surveyor recommendation.*
7. Striped left turn lanes shall be installed at the intersection of England Boulevard and Mary Jane Boulevard. In addition, the developer shall provide for future signalization of this intersection, including the installation of appropriate infrastructure, subject to review and approval by the County Surveyor and City Engineer, prior to final plat approval. *Subdivision Regulations Article 3-2(1)(E), 4-1(12) and City Engineer recommendation.*
8. A one foot no access strip along Flynn Lane shall be added to the final plat. *Subdivision Regulations Article 3-2(1)(E) and County Surveyor recommendation.*
9. Fleet Street shall be redesigned to connect to Yorkshire Place, subject to review and approval of the appropriate fire service agency, Public Works and the Office of Planning and Grants, prior to approval of Phase IV final plat. If Fleet Street cannot connect to Yorkshire Place, then a turnaround shall be provided, subject to the approval of the appropriate fire service jurisdiction. This turnaround may be at the terminus of Fleet Street or connecting through an alley combined with the public utility easement between Lots 153 and 154 and Lots 155 and 156, as shown in the submittal packet. *Subdivision Regulations Article 3-2(E) and staff recommendation.*
10. The developer shall petition to be included in the Missoula Urban Transportation District prior to final plat approval. *Subdivision Regulations Article 3-2(1)(E) and Missoula Urban Transportation District request.*

Sewer

11. Sewer plans for the subdivision shall be approved by the City Engineer prior to final plat approval of each phase. *Subdivision Regulations Article 3-7 and City Engineer recommendation.*
12. a. A drainage system shall be installed to deliver storm water runoff from streets and alleys to storm water retention basins within the subdivision. Grading, drainage and erosion control plans shall be reviewed by the City Engineer and approved by Missoula County prior to final plat approval. The drainage plans shall include groundwater elevations and calculations for 5 and 100 year return frequency storms. *Subdivision Regulations Article 3-4, 4-1(12) and City Engineer recommendation.*

b. The plat shall include a certification by the consulting engineer that the drainage design will effectively retain any additional drainage that results from the subdivision on site or release it in a manner that will not substantially increase the peak runoff normally present before the subdivision. *Subdivision Regulations Article 3-4 and County Attorney recommendation.*

c. The following statement shall appear on the face of the plat:

"Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a future regional RSID/SID for storm drain construction based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations Article 3-4 and City Engineer recommendation.*

13. a. The applicant shall provide a certification by a licensed engineer establishing that drainage facilities and irrigation ditch control structures are adequate to divert water from a 100 year flood event from Grant Creek, subject to approval by the Office of Planning and Grants, prior to final plat approval. Further, the Developer shall present evidence that the remaining ditch system would be adequate to convey the 25 cubic feet per second (cfs) expected to be present during a 100 year flood, subject to review and approval by the Floodplain Administrator, prior to final plat approval. *Subdivision Regulations Article 3-1(2), 4-1(12), Floodplain Administrator and City Engineer recommendation.*
 - b. The applicant shall provide a study by a licensed engineer or hydrologist indicating whether a 100 year flood event on Grant Creek or subsurface flow in the old drainage system is likely to cause flooding on the site, subject to approval by the Office of Planning and Grants, prior to final plat approval. In the event that flooding appears likely, plans for floodproofing the subdivision shall be provided prior to final plat approval, subject to Floodplain Administrator approval. *Subdivision Regulations Article 3-1(2), 4-1(12) and Floodplain Administrator recommendation.*
 - c. The covenants shall be amended prior to final plat approval, subject to County Attorney's Office approval, to state that the property is within the former drainage system of Grant Creek and that in other areas flooding has occurred outside of the designated floodplain. The statement shall say that the County has not reviewed the subdivision to the extent that guarantees can be made about the potential for high groundwater or flooding on the property. *Subdivision Regulations Article 3-1(3), 4-1(12) and County Attorney recommendation.*
 - d. Any engineer's certification called for in this approval shall include an indemnification of Missoula County for any damages that may result to landowners, homeowners or public infrastructure as the result of a claim against Missoula County for approval of this subdivision, based upon the engineer's certification. The engineer shall also provide evidence of coverage by errors and omissions insurance for the design, study or activity certified, in amounts deemed adequate by Missoula County, prior to final plat approval. *Subdivision Regulations Article 3-1(2) and County Attorney recommendation.*
14. Homes in the subdivision shall not have basements. *Subdivision Regulations Article 3-4 and 4-1(12).*

Fire Services

15. Fire hydrants shall be installed or guaranteed prior to final plat approval for each phase of development. The locations shall be approved by the Missoula Rural Fire District or appropriate fire agency. The fire hydrants shall be maintained by the Homeowners Association and the covenants shall be amended to reflect this provision prior to final plat approval. *Subdivision Regulations Article 3-7(1) and Missoula Rural Fire District recommendation.*

Airport

16. An aviation easement shall be recorded for this subdivision, in compliance with the Airport Influence Area Resolution, subject to Airport Authority review and approval, prior to final plat approval. *Subdivision Regulations Article 3-1(2) and Airport Authority request.*

Weeds/Agriculture

17. A Revegetation Plan for Disturbed Sites shall be approved by the Missoula County Weed Board prior to final plat approval. The developer shall file a development agreement stating that unsold lots shall be seeded with a permanent grass cover after roads and utilities are installed. *Subdivision Regulations Article 3-1(1)(B).*
18. The applicant shall provide evidence that filing the irrigation ditch on the property will not impact agricultural water users on adjacent properties. Such evidence shall be approved by the County Attorney's Office prior to final plat approval. *Subdivision Regulations Article 4-1(12).*

Parks

19. Park Numbers 5 and 6 shall be combined and moved to a location on the plat in the block containing Lots 188-194. *Subdivision Regulations Article 3-8(3) and City Parks and Recreation recommendation.*
20. Improvements to the park areas, common areas and buffers and greenway areas within each phase, including grading, turf and irrigation and boulevard improvements including trees, shall be installed prior to final plat approval of each Phase, subject to review and approval by the Office of Planning and Grants. A development agreement shall state that the developer shall provide all maintenance of the park and common areas until enough development to support the Homeowners Association has taken place. The development agreement shall be filed prior to final plat approval, subject to County Attorney's Office approval. *Subdivision Regulations Article 3-8, City Parks and Recreation and staff recommendation.*
21. All greenway corridors and walkways shall be identified on the face of the plat as "public pedestrian easement," including the portion of the walkway on the western edge of Park 1. *Subdivision Regulation Article 3-8, City Parks and Recreation and staff recommendation.*
22. All greenway corridors and public pedestrian easements shall be signed for pedestrian use only and motor vehicle barriers shall be placed at every intersection with a public road, subject to review and approval by the Office of Planning and Grants. Covenants shall state that these areas are strictly for pedestrian use. *Subdivision Regulations Article 3-2(1)(E), City Parks and Recreation and staff recommendation.*

23. The east/west non-pedestrian easements shall be a minimum of 14 feet wide and include a 5 foot concrete sidewalk near the center of the easement with grass areas on both sides of the sidewalk. *Subdivision Regulations Article 3-6 and staff recommendation.*
24. Side slopes around the perimeter of Parks 4, 5/6 and 7 shall be approved by City Parks and Recreation and these parks shall be graded 2-3% to drain storm water to one end. If a storm drainage system is required and approved, the drainage system in the parks shall be reassessed for capacity needs. The depressions proposed for the parks shall be reduced to account for more water being directed to other areas. *Subdivision Regulations Article 3-8, City Parks and Recreation and staff recommendation.*
25. The plat shall specify that the park areas are dedicated as common areas, except for Parks 4, 5/6 and 7, which shall be dedicated to the public. *Subdivision Regulations Article 3-8(3) and staff recommendation.*
26. The following statement shall appear on the face of the plat:

"Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for inclusion in a maintenance district for parks, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land."

Covenants

27. The covenants shall be revised to include a statement that "homeowners accept the responsibility of living with wildlife and are responsible for protecting their vegetation from damage." *Subdivision Regulations Article 4-1(12), Montana Fish, Wildlife and Parks and staff recommendation.*
28. The covenants shall be revised to include the following language: "The proposed development is within the Air Stagnation Zone. The installation of wood burning stoves and fireplaces is prohibited. Pellet stoves which meet emission requirements or natural gas or propane fireplaces may be installed subject to a permit from the Missoula City-County Health Department." *Subdivision Regulations Article 3-1(1)(D) and Missoula City-County Health Department recommendation.*
29. The covenants shall be revised to include the following language: "The 100 year floodplain shown on the FEMA maps is located within the former irrigation ditches across the property and homeowners may be required to obtain Federal flood insurance or seek a letter of map revision for the floodplain if their home is located in the area of the former ditch." *Subdivision Regulations Article 4-1(12) and County Attorney recommendation.*

Pedestrian Access

30. Sidewalk plans in compliance with the Americans with Disabilities Act shall be reviewed and approved by the County Surveyor, City Engineer, City Parks and Recreation and the Office of Planning and Grants, prior to final plat approval. *Subdivision Regulations Article 3-2(5) and City Parks and Recreation recommendation.*
31. The developer shall install a crosswalk on Flynn Lane serving Hellgate School in a design and location to be approved by the County Surveyor, prior to final plat approval of Phase I of the subdivision. *Subdivision Regulations Article 3-2(2)(F), 4-1(12) and staff recommendation.*

Pleasant View Homes #2 Subdivision, Lot 42 Rezoning Conditions of Approval:

1. Trash receptacles must be screened on all four sides from public view and from view of residential lots by an enclosure such as a wall, fence or plantings which will effectively screen them from public view.
2. Roof-mounted mechanical equipment or antennas shall be screened from adjacent public streets. Assume a viewing point at the centerline of the street which is 5 feet higher than the building floor grade.
3. All building façades shall incorporate at least three of the following design alternatives.
 - A. Provide color variation in the building façade, including building trim and accent areas.
 - B. Provide building façade modulations, such as projections, recesses, off-set planes, overhangs, arcades and/or clearly defined, highly visible pedestrian entrances encompassing at least 75% of the first story of the building façade. No uninterrupted length of the façade shall exceed 50 feet.
 - C. Vary exterior materials and provide textural diversity. Predominant exterior building materials should not include smooth-faced concrete block, tilt-up concrete panels or prefabricated steel panels.
 - D. Incorporate windows, doors and other transparencies to encompass at least 20% and no more than 60% of the first story of the building façade.
 - E. Provide varied rooflines and multiple roof planes with at least three or more roof slope planes.

Section 8.08 of the Missoula County Zoning Resolution and Missoula Urban Comprehensive Plan policies and proposals, Page 85.

4. A landscaping plan shall be reviewed and approved by OPG in conjunction with a building permit for Lot 42. Prior to the issuance of a Certificate of Occupancy for this lot, a 5 foot landscaped buffer, consisting of grass and trees, 6 feet in height and 2 inch caliper at planting, and shrubs, 5 gallon at planting, shall be installed around the perimeter of the site. The landscape perimeter buffer adjacent to the park and the residential lots shall also be planted along the length of these property lines adjacent to the building, parking lot and driving areas with an evergreen hedge, 5 feet tall at planting. This landscaping is in addition to the required parking lot landscaping in Section 3.02 of the Missoula County Zoning Resolution. *Section 8.08 of the Missoula County Zoning Resolution and Missoula Urban Comprehensive Plan, Pages 30, 45 and 76.*
5. Bicycle parking plans shall be reviewed and approved by OPG in conjunction with a building permit for Lot 42. Prior to issuance of a Certificate of Occupancy for this lot, bicycle parking shall be provided for the commercial uses

at a minimum of 50% of the motor vehicle parking spaces. These bicycle parking facilities may be of Class II grade which is defined as stationary racks to which the user can lock the bicycle frame and both wheels with a U-shaped or cable lock. *Section 8.08 of the Missoula County Zoning Resolution and Missoula Urban Area Comprehensive Plan goals, Page 51.*

6. Lighting plans for any non-residential use shall be submitted to OPG for review at time of building permit application. Exterior lighting shall be shielded or recessed so that direct glare and reflections are contained within the boundaries of the property and shall be directed downward and away from adjoining properties and public rights-of-way. Light fixtures shall not exceed 15 feet in height. No lighting shall blink, flash or be of unusually high intensity. *Section 8.08 of the Missoula County Zoning Resolution and Missoula Urban Comprehensive Plan, Pages 30, 45 and 76.*

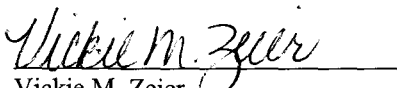
There being no further business to come before the Board, the Commissioners were in recess at 2:50 p.m.

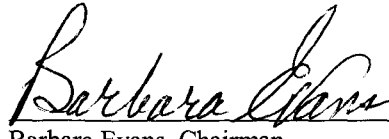
THURSDAY, MARCH 1, 2001

The Commissioners were in Helena attending the MACo Midwinter Meetings on Thursday and Friday, March 1st and 2nd. On Thursday afternoon, the Commissioners and Peter Nielsen of the County Environmental Health Department met with the Director of the State Department of Environmental Quality regarding Milltown Dam.

FRIDAY, MARCH 2, 2001

The Commissioners were in Helena attending the MACo Midwinter Meetings on Thursday and Friday, March 1st and 2nd.


Vickie M. Zeier
Clerk & Recorder


Barbara Evans, Chairman
Board of County Commissioners

SATURDAY, MARCH 3, 2001

On Saturday at noon, the Commissioners gave a presentation at a meeting of the Western Montana Retired Teachers and School Personnel held at the Senior Citizens Center.

MONDAY, MARCH 5, 2001

The Board of County Commissioners met in regular session; all three members were present. Commissioner Curtiss attended various sessions of the Firewise Conference held at the University of Montana from March 5th through the 7th.

Monthly Report - Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Report for the Clerk of the District Court, Kathleen D. Breuer, for the month ending February 28, 2001.

TUESDAY, MARCH 6, 2001

The Board of County Commissioners met in regular session; all three members were present. In the afternoon, Commissioner Curtiss attended a Health Board Strategic Planning session held at the Holiday Inn.

Claims List - Chairman Evans and Commissioner Carey signed the Claims List, dated March 5, 2001, batch number 1136 (pages 1-3), with a grand total of \$10,083.63. The Claims List was returned to the Accounting Department.

Claims List - The Commissioners signed the Claims List, dated March 6, 2001, batch number 1133 (pages 1-4), with a grand total of \$23,982.86. The Claims List was returned to the Accounting Department.

Claims List - The Commissioners signed the Claims List, dated March 6, 2001, batch number 1135 (pages 1-4), with a grand total of \$38,156.71. The Claims List was returned to the Accounting Department.

Claims List - The Commissioners signed the Claims List, dated March 6, 2001, batch number 1133 (pages 1-5), with a grand total of \$36,683.46. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Resolution No. 2001-019 - The Commissioners signed Resolution No. 2001-019, dated March 6, 2001, a resolution of intent to rezone property described as Lot 42, Pleasant View Homes #2, located in the W½, Section 7, T 13 N, R 19 W, P.M.M., located east of Flynn Lane and ½ mile North of Mullan Road, from "C-RR3" (Residential) to "C-C1" (Neighborhood Commercial), subject to conditions.

Resolution No. 2001-020 - The Commissioners signed Resolution No. 2001-020, dated March 6, 2001, approving a planned variation for property described as Pleasant View Homes #2 Subdivision, excepting Lot 42, located in the W½, Section 7, T 13 N, R 19 W, P.M.M.

Letters - The Commissioners signed letters, dated March 6, 2001, to Special Districts canceling an election when the number of candidates is equal to or less than the number of positions to be elected, pursuant to Montana State Statutes. Letters were sent to the following: (1) Seeley Lake Rural Fire District; (2) Missoula Irrigation District; (3) Frenchtown Irrigation District; (4) East Missoula Rural Fire District; (5) Frenchtown Rural Fire District; (6) Missoula Rural Fire District; and (7) Seeley Lake Swan Valley Public Hospital District. The letters were returned to the Elections Office for further handling.

Task Order -- Chairman Evans signed Task Order No. 01-07-5-31-002-0 to the Master Contract between Missoula County and the Montana Department of Public Health and Human Services that covers the period July 1, 1998 through June 30, 2005, for the coordination of the Healthy Child Care Montana. The term will be July 1, 2000 through January 31, 2003. The total amount payable shall not exceed \$197,520. The document was returned to the Health Department for further signatures and handling.

Amended Contract - The Commissioners signed an Amendment to Missoula County Contract with Community Care to provide three additional tobacco cessation programs for area high school students, and increasing the compensation to a maximum of \$8,305. The document was returned to the Health Department for further signatures and handling.

001-0246

Contract – Chairman Evans signed Contract No. 01-07-2-21-013-0, between Montana Department of Public Health and Human Services and Missoula City County Health Department, for Outreach for Children's Health Coverage Programs. The term will be January 1, 2001 through December 31, 2001. The total amount shall not exceed \$54,000.00. The document was returned to the Health Department for further handling.

Budget Transfer – The Commissioners signed Budget Transfer Control No. 01-021 for District Court #3, transferring \$933.00 from Contracted Services (Transfer In) to Transfer Out (Supplies) to supply line-grant approval. These funds are for home arrest services.

Request for Action – The Commissioners approved a request from the Sheriff's Department to set a new policy standard for "no fee refunds of \$2.00 or less". This standard has already been implemented in the Treasurer's office.

Request for Action – The Commissioners approved a request from Ellen Brown at the Health Department that one of the Commissioners say a few words at the "Kick Butts" celebration at the YMCA on April 4th, 2001, in conjunction with Tobacco Prevention Week. Chairman Evans agreed to speak at the event.

Request for Action – The Commissioners approved a request and signed submittal documents for continuation of the Rural Domestic Violence Program Grant, a federal grant from the Office of Justice Programs. The Request was returned to Leslie McClintock in the Office of Planning and Grants for further handling.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, MARCH 7, 2001

The Board of County Commissioners met in regular session; all three members were present. In the evening, Chairman Evans and Peter Nielsen of the Health Department met with residents of Bonner regarding Milltown Dam.

Indemnity Bond – Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming Dalmation Fire & Safety (of Alberta, Canada) as principal for East Missoula Rural Fire District Warrant #77001752 issued October 18, 2000 on the Claims Fund in the amount of \$8,288.00, now unable to be found.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the Chief Administrative Officer meeting held in the forenoon, the following items were signed:

Budget Transfer – The Commissioners signed Budget Transfer Control No. 01-005 for the Office of Planning and Grants, transferring \$2,700.78 from Contracted Services to Contingency (\$2,200.78) and Supplies (\$500) to create a supply line and to move contingency monies around to facilitate expenditures.

PUBLIC MEETING – March 7, 2001

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Bill Carey, Commissioner Jean Curtiss, County Surveyor Horace Brown, County Public Works Director Greg Robertson, County Clerk and Recorder/Treasurer Vickie Zeier, Chief Civil Attorney Mike Sehestedt and Deputy County Attorney Colleen Dowdall.

Public Comment

None

Routine Administrative Actions

Commissioner Carey moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$178,187.53. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Chairman Evans suspended the Board of County Commissioners Public Meeting and called the meeting of the Planning and Zoning Commission to order. Planning and Zoning Commission members include Commissioner Evans, Commissioner Curtiss, Commissioner Carey, County Surveyor Horace Brown and County Clerk and Recorder/Treasurer Vickie Zeier.

HEARING: PLANNING AND ZONING COMMISSION

Appeal of Administrative Decision to Deny a Building Permit in Zoning District #9 (Redler)

Dave Loomis, Office of Planning and Grants, presented the staff report.

Citizen Initiated Zoning District #9 was established on December 27, 1958, in the area bounded by Spurgin Road on the south, Seventh Street on the north, Hiberta Street on the east and the section line between Sections 30 and 25 on the west, almost to Tower Street. The District was amended on July 12, 1973 to regulate "trailer houses, mobile homes, modular homes, tents, shacks, garages and out-buildings" as structures that "shall not be used temporarily or permanently as a residence."

The owners of Lot 22 of the Webber Addition in Zoning District #9 (923 Gladis), Mike and Lisa Redler, requested a determination of zoning compliance for a proposed modular home. Because the language of Zoning District #9 was specific, Deputy County Attorney Colleen Dowdall issued Zoning Opinion 01-1, concluding that "the zoning restriction limiting mobile homes and modular homes in Zoning District #9 is not preempted by Federal law or state law." The opinion further concluded: "The home seeking zoning compliance does not meet the zoning requirements of Zoning

District #9. The applicants should be denied a zoning compliance permit and should be advised of their right to seek a variance from Planning and Zoning Commission of the prohibition against mobile or modular homes in this district."

The applicants have applied for that variance. First, the Planning and Zoning Commission will hold a public hearing and make a recommendation to the Board of County Commissioners. The Board of County Commissioners will then make a determination if the variance may be granted.

Prior to 1977, mobile homes were not required to be built to the standards of the Uniform Building Code or Uniform Fire Code. Locating older mobile or modular homes in single family neighborhoods could have been a threat to the public health and safety and would be contrary to the public interest based on the language of ZD #9. Today, mobile homes and modular homes are built to safety standards that do not pose the same threat to the public health and safety as the older units. This subdivision is essentially built out. There are other single family houses of various character, including a couple of very old mobile homes, placed prior to the prohibition in 1973. Because of these facts, the authorization of this would not be contrary to the public interest, as noted in Finding 1.

Finding 2 has to do with unnecessary hardship. The applicants propose to place a manufactured home of over 2,000 square feet on a permanent full sized basement with foundations and a 30 x 30 attached garage. It would be consistent in style and size with the existing homes in this particular neighborhood. The applicants have stated that the cost of building an onsite house would exceed, by about \$20 per square foot, the cost of placing this modular home. The additional cost would impose a substantial hardship. The conclusion is that the literal enforcement of the regulation of ZD #9 would place an unnecessary hardship on the applicant.

Chairman Evans opened the public hearing.

Mike and Lisa Redler came forward. Mike Redler stated that at this point in their lives, they felt they could not afford a stick built house. The home they have located would fit in with this particular neighborhood and would not detract from it. The house is newer by about 20 years than most of the existing homes. This will be placed in such a way as it would be hard to recognize as a mobile home. They requested the Commission grant their variance request.

There being no further comments, the Public Hearing was closed.

David Loomis stated the Redler's letter to the County Commissioners acknowledges the three older single wide trailer houses in the subdivision and other various designs, and numerous single level ranch style homes, significantly similar to their home.

Commissioner Carey stated he was impressed with the Redler's submittal, it was very thorough and effective.

Horace Brown stated that most of the manufactured homes that are built today, except for the center joint, do not look like manufactured homes and they are as safe as a stick built home. He did not see any problem with granting the request.

Commissioner Carey moved that the Planning and Zoning Commission recommend approval of the variance to Zoning District #9 to allow a modular house at 923 Gladis Drive. Horace Brown seconded the motion. The motion carried on a vote of 5-0.

Chairman Evans recessed the meeting of the Planning and Zoning Commission and reconvened the Board of County Commissioners Public Meeting.

Commissioner Curtiss moved that the Board of County Commissioners accept the recommendation of the Planning and Zoning Commission and approve a variance to Zoning District #9 to allow a modular house at 923 Gladis Drive. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Hearing: Canyon Creek Village Subdivision (229 Lots) – Reserve Parcel B, Missoula Development Park

Nick Kaufman, WGM Group, developer's representative, was present representing Westmont Builders and Developers and Perry Ashby. Perry will make a presentation today on Canyon Creek Village. Canyon Creek Village is a traditional neighborhood design. Perry Ashby and Jamie Hoffman had compiled a presentation that addresses the design elements incorporated in Canyon Creek Village. This is not a carbon copy of someone else's traditional neighbor design. It was designed grass roots, looking at buildings, sizing lots around buildings, looking at the concept of a transitional neighborhood between a major employment center and residentially zoned land. Included in the development concepts is other information gathered from other professionals relative to what makes a neighborhood.

Perry Ashby stated he was the developer of this project. The project began about three years ago with Scott Hollenbeck's idea that this parcel might be suitable for residential land. Many people, other than his company, have taken ownership of this project. There have been many suggestions to refine the details, including design, covenants, layout and street systems. Other "smart growth" projects around the county were also looked at to further refine the concept. It is difficult to create a community on small 3 to 5 acre parcels. This 35 acre parcel was a great opportunity to create such a community. Some of the units facing west would be "live/work" units, with retail or professional on the lower level and a living space above. It is hoped that residents could walk to those units to utilize the services. Most of these units face west because they are adjacent to commercial property and provides for transitional zoning. There is a central park to serve the community and the general public, and other smaller parks. There are over 7 acres of park. This is a walkable community although vehicles are supported, with garages that are accessed from alleys. The homes are nostalgic in design, similar to the University District. The project has approximately 4 miles of sidewalks.

Nick Kaufman stated that over the past few years, the Missoula community has looked at growth management performance standards, a growth management plan to re-entice development back into the urban area in a type of development which contains a social component relative to an "outdoor room" or streetscape. This is how homes are related and tied to the street, the street is not designed just for vehicles. This allows for social contact between homes and residents while providing adequate room for emergency vehicle travel and parking.

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Perry Ashby stated the theme for the development was nostalgic, with a good feeling. It has sidewalks with boulevards and trees. The design guidelines used go directly to the core of current smart growth, including street calming ideas. The street width will be 29 feet, face to face of curb, which allows parking on either side and two driving lanes. Front porches are covenanted into this project. All homes will have porches of a minimum size that are functional. Another element of traditional design is that the main floor level of the home is raised approximately 2 feet above the sidewalk. People walking on the sidewalk don't look directly into the main window facing the street allowing the residents some level of privacy. The main road going into the development has a central planted area down the middle of the street and has "bulb-outs" which allows traffic to flow smoothly while offering some protection to vehicles parked. There is a portion of the project to the north that will have 36 multi-family dwelling units. People feel more comfortable using a sidewalk if there is a boulevard that separates them from the street. Having very wide streets with sidewalks directly adjacent to the curb do not promote the feeling of neighborhood and safety. They are proposing to build a community with houses closer to the street, front porches, boulevards and narrower streets. The narrower streets tend to slow traffic while at the same time allowing bicycling. That is another theme of smart growth. Trees in the boulevard and houses with front porches create a very pleasing design. It is easy to use planting to set the sidewalk away from the main thoroughfare. People will use sidewalks if they feel safe. Retired or elderly people living in a neighborhood become part of a neighborhood watch. This goes back to the walkable approach and being part of the neighborhood. Trees can be placed to not block the line of sight on corners. Progressive design allows for a 35 foot corner radius which shortens the linear distance for pedestrian crossings. There are a lot of alleys in the subdivision which have a wider paved width of 10 to 12 feet. They will have good design with plantings to avoid the "trashy" look and feel of a traditional alley. There are portions of the subdivision that are cottage or bungalow style. They are the most affordable homes in the project. It is an example of density and affordability with good design. There will be easy access points to all the parks in the development, with dedicated easements between houses, again using the walkability theme. They will provide at least six different house styles, with floor plans reversed, and also lots of different color themes and architectural appeal to provide individuality.

Nick Kaufman stated that in traditional neighborhood design, the end of a street is anchored with an open space or park or community building. A community building is being proposed in this development.

Perry Ashby stated that the community center will have a teen or youth center, a workshop and a place to congregate which could be used for a wedding or reception or worship. The center will be for the people of the community. The live/work units will reduce vehicles miles traveled. Another import facet of Canyon Creek Village are the architectural guidelines. Jamie Hoffman is responsible for the bulk of these. They developed guidelines and a theme so this could be insured throughout the subdivision. They are not hard and fast rules, but there will be an architectural control committee and it is the intent to pursue the design presented as a theme throughout the development. There are different railing styles, porch styles and roof systems that will be acceptable. The idea is to develop a theme and a feeling without using hard and fast rules.

Jamie Hoffman stated that Missoula's Consolidated Plan was written two years ago and adopted by the City of Missoula. There was a demographic study of growth in Missoula over 5 years that showed an increase of 3,600 households. Forty-six percent of them will low and moderate income households. 1,656 units of low to moderate income housing have to be produced in the next five years. That means that more than 6 developments such as Canyon Creek need to be designed, approved, constructed and occupied in the next three years to meet projected demand. This project goes a long way toward representing a model for the kind of project that will meet the housing needs of Missoula.

Nick Kaufman stated that the Urban Area Comprehensive Plan map included in the submittal shows the Missoula Development Park and land designated for residential use at 6 units per acre. In between them is Canyon Creek Village which is a transitional mixed use development to connect the two. It shows how important residential can be next to a major employment center. Three years ago this property seemed a long way out, however, Canyon Creek Village is the exact same distance from the Courthouse as Chief Charlo School is. Infrastructure is in place including Mountain Water, sewer, Mountain Line, etc. The Smart Growth group and OPG have reviewed this project and made some excellent suggestions that have been incorporated. A question that is asked quite often is where the name came from, there is no canyon and there is no creek. The name came from the famous Canyon Creek cattle herd.

Denise Alexander, Office of Planning and Grants, presented the staff report.

Mr. Kaufman and Mr. Ashby gave a fairly comprehensive presentation on the proposal and the Commissioners have been briefed on the plan as well. In order to make this project happen, the applicants have requested a Comprehensive Plan Amendment, a rezoning and a subdivision of the property, known as Reserve Area B of the Missoula Development Park preliminary plat. They have proposed to amend the Missoula Airport Development Park Master Plan to include a mixed use residential and commercial neighborhood land use designation and to amend the land use of the property in question from Reserve Area Parks and Open Space to this new designation. They are also requesting to rezone the property from the current Community Commercial Zoning District in the Missoula Development Park Special Zoning District to the Canyon Creek Village Planned Unit Development Zoning District. If the Comprehensive Plan amendment and rezoning are approved, the applicants are also proposing to subdivide the property as shown through the use of a Planned Unit Development Subdivision. The development proposal provides for a range of sizes of single family lots, live/work lots that will accommodate mixed uses with neighborhood commercial and office uses combined with residential units and there will be an area for multi family development with 25% of the net lotted areas developed in park land. There is also the new proposal for the public facilities lot. The stated purpose of the Comprehensive Plan Amendment Rezoning and Subdivision is to provide a transitional zoning between the east edge of the Airport Development Park and the next property to the east that is zoned for residential development. The neighborhood commercial uses in Canyon Creek Village zoning will provide services to both the proposed and future residences in the area and to the employees in the Airport Development Park. The residential development will also provide a place to live within walking distance for employees of the Development Park. Staff is recommending approval of the request based on the findings of fact in the staff report and the recommended conditions of rezoning and subdivision. There was a public hearing held on this request by the Planning Board on February 20, 2001. The Planning Board recommended approval of staff's recommended motions and conditions by an 8 to 1 vote. The applicants brought forward several new ideas to the Planning Board which were reviewed subsequent to their meeting. These were a public facilities lot in the central park, a common parking area for the live/work units and additional live/work unit lots. The memorandum dated March 6, 2001 contains the most recent

recommended conditions of approval, eight rezoning conditions and 23 subdivision conditions, the Resolution of Intent for the Comprehensive Plan Amendment and the text for adoption, and the Resolution of Intent for rezoning along with the most recently revised zoning district standards.

Chairman Evans opened the public hearing.

Nancy Leifer stated she was present as the coordinator of data needs for housing in the Missoula area. She had some updated information about how this project fits into Missoula's affordable housing needs. Currently, rental vacancy rates in Missoula have dropped to around 1% or less. This project has components that would help the situation. Mr. Ashby has informed her that the smaller units would be available for prices ranging from just under \$80,000 to just under \$100,000. In 2000, the median sale price of a house in Missoula was \$134,000. Even the lower cost neighborhoods that she works with had a median sale price of \$101,000. These units would be very useful in meeting the housing needs of low and moderate income families. About 45% of the population makes less than 80% of median income based on 1990 data. These houses are priced very well. It is a struggle to find homes for the lower income families and these homes will really help. She presented a table that compares how these different units would look in terms of percent of median income to purchase compared to what the median cost home would be. The single largest contributing factor to the increase in housing costs in Missoula has been the price of land. This project's location and density is affordable because the land cost is spread out over a number of units.

Bob Morgan, Montana Board of Housing, stated he was the manager of the single family program. He was in support of this project. Montana Board of Housing's purpose is to help low and moderate income families get into safe, sanitary, affordable housing. As Ms. Leifer mentioned, the median price of a house in Missoula last year was \$134,000, with the average home being \$150,000. Of new construction, the average cost was \$180,000, with the median being \$170,000. These are extremely affordable homes, well built and very nice. It's a remarkable accomplishment to do this without any Federal or State grants. Mr. Ashby is to housing what Mr. Ford was to the automotive industry.

Bruce Brensdal, Executive Director for the Montana Board of Housing, read a letter from Maureen Rude, Director of the Montana Partnership Office for Fannie Mae: *"Attached is a brief flyer about Fannie Mae and how it works in the housing marketplace. I went to work for a company last year to bring a local effort to Fannie Mae's work in the United States. Fannie Mae is a for-profit, stockholder owned corporation, with a government charter. That charter requires us to invest in every state, all the time, regardless of the economy, as well as requires a certain percentage of our loans to be made to lower and moderate income individuals and in underserved areas. My job is to find investments for the company to make, as well as to work with local housing leaders and lenders on affordable housing projects. I have been involved in the affordable housing business for almost 10 years, working with lenders, Realtors, non-profit organizations, builders and others interested in affordable housing. My involvement has primarily been from the financing perspective. In the past few years, it has become apparent that special financing programs have not worked as well in some areas due to a lack of stock of housing in the price ranges affordable to the people the financing products are targeted toward. Missoula is a good example of such an area. I began working with Perry Ashby on this project a year or so ago when I was still at the Board of Housing. I was excited about the project then, and have remained so as I feel this project will provide good quality housing at an affordable price. I think Perry has done a good job of working with all of the various interests (including the Smart Growth and non-profit sectors). He has spent a lot of time and effort trying to put together a project that addresses many needs: land use, higher density, parkland, innovative design and affordable prices. Over the years, I have talked to a lot of builders who have wanted to build units in an affordable price range. Whenever I do, I check local real estate listings to see what is available in the range the developer has suggested the project's units would be listed. After talking to Perry, I checked Realtor.com®, and out of almost 400 listings in the Missoula area, there was one home that was under \$100,000 and was less than five years old. A large percentage of the units in this project are scheduled to be sold in the below \$100,000 price range. I am sorry I could not be with you today for the hearing on this project. I urge your support of this worthwhile housing project. I would be happy to answer any questions any of you have in regards to Fannie Mae or this project, and can be reached at (406) 443-6940, ext. 6942."* The Board of Housing is a State agency that is governed by a seven member board appointed by the Governor. Our main purpose is to issue tax exempt bonds and use the proceeds of those bonds to purchase mortgages from banks who go out and lend money to people in communities around Montana, including Missoula. Last year, the Board of Housing did over a \$131 million in mortgages. Out of that, \$20 million was done through their recycled programs. In the recycled programs, they targeted families with an average income range of \$20,000 per household. The programs target families with very low incomes. The regular programs target families with an average income of \$32,000. The mortgages are targeted toward very low and moderate income people. The project that Mr. Ashby is proposing will provide affordable housing combined with an affordable interest rate they offer of about 5-7/8%. He supports this project and hoped for a favorable vote by the Board.

Scott Hollenbeck, Real Estate Broker with Properties 2000, stated that he has been closely involved with Mr. Ashby and Mr. Kaufman since the inception of this project. Three years ago this began as a concept and idea. A lot of hurdles have been cleared and the finish line is just ahead. He thanked the Missoula Development Authority, Denise Alexander and OPG staff for their hard work. Some of the concepts were new and possibly foreign. He was hoping they would be accepted. As a Real Estate Broker in the Missoula area for the last 18 years, his experience with individuals searching for housing under \$100,000 has been that there is nothing to show them, or if there is, get in the car now or it will be gone if they don't get there in a hurry. The housing stock that has been available has included older fixer-upper homes, mobile homes hopefully on a foundation or moving to outlying communities like Clinton, Frenchtown or Florence. If this is approved, it is their goal to supply affordable housing with the assistance of the State Board of Housing. If all this is done, it is his belief that it will allow individuals and families that are renting today to buy a home for an equal or lower monthly payment.

There being no further comments, the public hearing was closed.

Commissioner Carey asked Mr. Ashby to talk further about the Architectural Guidelines? With a development this large, design would be crucial. How much control does he have over the design and how will they work?

Perry Ashby stated that the complete Architectural Guidelines book was enclosed with the application packet. He would have 100% control over the design. An Architectural Control Committee is being formed which he will preside over. In his opinion, with this type of density, design of the homes and the outdoor room environment is absolutely vital to the final

product. Although the University District has been used as an example of the nostalgic feel they want to achieve, those trees started out small. It will take many years to create that feel at Canyon Creek Village. There are minimum tree sizes and over the years, this will be evolving. It would not be immediate, but good design and good landscape planning will cause this to happen over time.

Commissioner Carey stated he was impressed with Bridge Court, Mr. Ashby's other recent project in Missoula. It was his understanding that the density in Canyon Creek would be less than that.

Perry Ashby stated Bridge Court Village is 13 units per acre, it is 2.2 acres with 29 units. Canyon Creek Village has a density of approximately 7.5 units per acre.

Commissioner Curtiss stated the homes would be raised from street level. She asked about handicapped accessibility to a home, would there be adequate room to install a ramp and still have a nice front porch?

Perry Ashby stated there was adequate room and also a provision in the covenants that addresses handicapped access.

Denise Alexander stated the single family homes subdistrict called for the finished floor elevation of the homes to be 26 inches above street grade, unless the site plans are designed for handicapped accessibility. That is true also of the bungalow units.

Chairman Evans asked if there were any requirements added to keep the alleys looking nice?

Perry Ashby stated they were currently in a refinement process with the covenants and they are an evolving document. There are provisions to ensure that the siding and roofing materials on the garages, assuming they are built at a later date, conform to the adjoining home. There are covenants to make sure alleys do not become a blighted portion of the project. He did not know if that was already in the covenants, but will be there in the final version.

Chairman Evans stated that calling them alleys draws a negative connotation. Perhaps another term could be used, such as the rear entrance or central road.

Horace Brown stated he lives on an alley and he felt the cleanliness and looks of an alley depends on the people that live in the neighborhood. When he first moved in to his area, the alley was a mess, but over time the people that have moved in have taken more pride in their property and the alley has been cleaned up. The best way to keep an alley clean was to keep it open all the way through. The worst alleys are the ones that are blocked off. If they are the major access to a home, they will stay a lot cleaner.

Commissioner Carey stated he would like to applaud the developer and his representative for doing a very creative job. This will set a new standard for affordable housing. He was glad to see that design was such a critical part of the subdivision, that is important to high density development. This is a wonderful project and he wished them much success.

Denise Alexander stated that the March 6, 2001 memo contains the Comprehensive Plan Amendment motion, the rezoning motion and the rezoning conditions of approval. Condition 9 of the rezoning has been struck out due to a discussion at Planning Status. Condition 13 of the subdivision, the RSID waiver for the traffic signal, has also been struck out. There may be some discussion about Condition 12 as well, the traffic calming devices. Condition 14 has been added regarding the street names as discussed at Planning Status.

Horace Brown stated he would like to have Subdivision Condition 12 deleted. In most cases, traffic calming devices are either obstructions or speed bumps and are not allowed in the County. They are an accident waiting to happen. On Condition 15 regarding the installation of a traffic signal at the intersection of Vigilante Drive and Expressway, he would like to add that no cut will be allowed across Expressway, nor can anything be pushed under Expressway in order to accommodate the light. It has been discussed but is not included in the wording of the condition.

Greg Robertson stated he concurred with Horace Brown that Condition 12 be deleted. Normally in developments of this nature, a traffic study would be required. A traffic study would either validate or negate the need for certain types of improvements, traffic calming devices being one of them and the other being the need for a traffic signal. While this subdivision is fairly sizable, it does not approach the need for a traffic signal. The requirement to have the intersection set up for signalization at a future date is not warranted. He would request that Condition 15 be removed as well.

Commissioner Curtiss asked if the traffic calming devices were not wanted because of plowing?

Greg Robertson stated that was one reason, it makes it difficult to work around. The design by Mr. Ashby and his representatives was done very intelligently and was well thought out. They have already incorporated certain traffic calming methods into it. There is no basis for the City to ask that further devices to be installed. The bulb outs that are already included in the design work very well but he would like to avoid the intersection islands, they have proven to not be very effective.

Commissioner Curtiss stated that at Planning Status it was mentioned that, in regards to Condition 15, a traffic signal could be provided for in the future on Vigilante Drive.

Nick Kaufman stated that based on their understanding, Condition 15 would put improvements in Vigilante Drive, there would be no improvements on Expressway.

Chairman Evans stated that on Condition 14, the Commissioners have never been the governing body to approve street names. That should be done through the Surveyors Office. She had no problem with the Commissioner providing input to that decision, but she did not want to change the overall policy of the Board.

Denise Alexander stated the usual review by the Surveyors Office was only that the name was not being used somewhere else. She felt the Board wanted more input in the discussion of street names.

Commissioner Carey suggested changing the wording to read "approved by the County Surveyors Office with input from the County Commissioners Office."

Commissioner Curtiss commended all those involved in this project on the design standards and architectural guidelines. This project has brought to the forefront the older style of neighborhood that does not have a big yard. People want very much to own their own home and a big yard is not needed. There is plenty of park space included for kids to play.

Chairman Evans echoed what the other Commissioners said. There is little affordable housing in this community and she commended Mr. Kaufman, Mr. Ashby and Mr. Hoffman's commitment to provide it.

Commissioner Carey moved that the Board of County Commissioners approve the proposed amendment to the Missoula Airport Development Park Master Plan as shown in Attachment A, based on the findings of fact in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners rezone the property generally described as Reserve Parcel B of the Missoula Development Park Preliminary Plat, more particularly described by the metes and bounds description contained in the submittal packet, from "Community Commercial" to "Canyon Creek Village Planned Unit Development Zoning District" based on the findings of fact in the staff report and subject to the standards contained in Attachment B as amended, and the recommended conditions of approval, deleting Condition 9. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County of Commissioners approve the Canyon Creek Village Planned Unit Development Subdivision based on the findings of fact in the staff report and subject to the recommended conditions of approval, deleting Condition 12, Condition 13 and Condition 15 and amending Condition 14. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Perry Ashby thanked the Commissioners for being visionaries and seeing the need for affordable housing and being able to tie good design with affordability. It is his goal to bring that fruition. He also thanked Denise Alexander and Jennie Dixon for all their hard work on this project in working toward a common goal. Ms. Alexander did an incredible job on this project.

RESERVE AREA "B" COMPREHENSIVE PLAN AMENDMENT

Missoula Airport Development Park Master Plan

Comprehensive Plan Amendment

The Need for an Amendment to the Missoula Airport Development Park Master Plan

In the 1975 Urban Comprehensive Plan, the area north of the airport, between West Broadway and Interstate 90 (over 400 acres), was designated as "Rural, Medium Density Residential." Portions of the area were zoned for residential use. Only a small area, about 60 acres encompassing Momont Industrial Park, was designated as "Light Industrial."

The 1990 and 1995 Urban Comprehensive Plan Update placed what is now the Missoula Development Park within the Urban Service Area. In 1996, the County Commissioners adopted the Missoula Airport Development Park Master Plan, which called for commercial and industrial uses of varying degrees over the entire site. This plan replaced previous plans and changed the land use designation of over 400 acres of land previously designated for residential use. The 1998 Urban Comprehensive Plan Update designated the site as being within the Primary Urban Growth Area.

The Missoula Airport Development Park Master Plan identified two "Reserve Areas" within the master plan. The land use description for the "Reserve Areas" from the Missoula Airport Development Park Master Plan is "Reserved for future undetermined uses." Criteria to be considered for designating land uses on the "Reserve Areas" include coordinating with future road construction and utilities and formulation of development controls with consideration of on-site and off-site development. The area specifically proposed for plan amendment is a portion of Reserve Area B. There are a number of reasons to request a Comprehensive Plan Amendment:

Site Capability

There is no mention of the soils, topography or drainage relative to the land use recommendations in the Missoula Airport Development Park Master Plan. Reserve Area B has the most broken topography on the site with slopes up to 8%. Three drainages cross the site and the soils are expansive silts. These physical characteristics severely limit the potential of Reserve B for commercial and industrial use. Amending the Missoula Airport Development Park Master Plan to allow transitional, mixed-use residential on Reserve Area B provides an opportunity for development that can be designed sensitive to the land capability of the site. Residential development can incorporate the natural features of the site into the design. The rolling topography adds interest to a residential design.

Site Suitability

The Missoula Airport Development Park Master Plan did not address the cultural aspects of creating a new employment center on land previously planned for residential development such as existing land uses, adjoining zoning, connections to residential areas, transition between residential areas and the Missoula Development Park, and connections within the Missoula Development Park that would allow employees to access common areas and future services. Amending the Missoula Airport Development Park Master Plan to allow transitional, mixed-uses at the east end of the Development Park and mixed use residential on Reserve Area B would provide a logical transition between the commercial and residential land. This would, in turn, allow for connections to the Missoula Development Park from the residential areas to the east rather than creating a barrier between the commercial and residential areas.

Land Use Compatibility and Integration

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The Missoula Airport Development Park Master Plan does not address housing in and adjacent to the plan area. The plan does talk about residential uses along Butler Creek Road but fails to mention residential uses north, across Interstate 90, the residential uses west of the airport and, most importantly, the residential zoning adjacent to the entire east portion of the Missoula Development Park. Amending the Missoula Airport Development Park Master Plan to allow transitional, mixed-uses at the east end of the Development Park and mixed use residential on Reserve Area B would recognize the relationship between an employment center and a source of labor, integrate mixed uses into the area and encourage service providers to locate in the Missoula Development Park. It would also define the boundary for commercial development, reduce the propensity for inappropriate "commercial and industrial creep" into residential areas, and set the standard for residential development to the east.

Support Services

The Missoula Airport Development Park Master Plan does not address needed service industries for the future users of the Missoula Development Park. "During interviews with existing businesses in and adjacent to the park, concern over the limited number of supporting business services (i.e., computer and machinery repair, copy services, restaurants, etc.) in the area was consistently expressed." (Page II-2)

If the plan were to have included a discussion of transitional zones, as proposed with this amendment, between the Missoula Development Park and the adjoining residentially zoned land, it may have recognized that many of the "supporting business services" also provide service to residential areas. This would in turn, by encouraging appropriate residential use in transitional zones (adjacent to existing residentially zoned land), increases demand for support services and accelerates market viability for such uses. Such a strategy compliments both the residential and industrial uses.

Mixed Use – Residential and Commercial Neighborhood

This plan amendment adds a land use designation to the Missoula Airport Development Park Master Plan known as "Mixed Use – Residential and Commercial Neighborhood." The proposed land use designation is described below.

This designation is proposed for areas that may sustain a variety of uses. Performance standards are implemented to provide compatibility between uses. The uses include parks and buffer areas, a range of residential uses, offices or small scale commercial and retail uses that can be developed within a complex or with other uses.

Objectives of the Mixed Use – Residential and Commercial Neighborhood

- Protect the value of the "University, Business and Technology" land use designation west of Reserve Area B.
- Protect the value of the "Urban Single Family" land use designation east of Reserve Area B.
- Allow a variety of land uses including residential, office and small scale commercial in a pattern that will provide a transition in Reserve Area B from the planned "University, Business and Technology" to the west and "Urban Single Family" area to the east.
- Develop performance standards to ensure compatibility between land uses.
- Design streets to connect to existing streets and encourage the establishment of a grid system street and alley pattern. Street design should also provide options for connection to future streets to the east and west.
- Provide street trees along boulevards adjacent to curbs.
- Provide suitable buffering that can be accomplished with a combination of the following: construction techniques, appropriate setbacks, landscaping, building orientation and visual screening along Interstate 90, where residential uses adjoin Expressway, and adjacent to the Light Industrial zone.
- Provide connections to park areas so that adjoining residential and commercial neighborhoods have access.
- Encourage well-designed neighborhood commercial uses that act as a transition and provide goods and services to the residential neighborhood as well as to the employees in the commercial and industrial neighborhood.
- Transitional development is especially needed adjacent to Community Commercial and Light Industrial zones. Transition can be accomplished with any or a combination of the following: construction techniques, setbacks from adjacent potentially non-compatible uses, landscaping (including trees and berms for visual screening), building orientation, and transitional type uses. Transitional type uses are multi-family development, neighborhood commercial and/or work/live development and appropriately designed residential.
- Non-motorized improvements, including boulevard sidewalks and a trail system, should be established in order to connect Reserve Area B to DeSmet School, commercial activity along Reserve Street, and places of employment. Consideration should also be given to potential future connections to areas yet to be developed.
- Encourage neighborhood elements that fit within a mixed-use neighborhood and help to build a community, such as diverse housing types, meeting places, outdoor recreation places, public trails, childcare facilities, church, community gardens, and personal services businesses.

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Area of Plan Amendment

The Missoula Airport Development Park Master Plan, on Page V-15, identifies "Two development Reserve Areas ... at both the southern and northern ends of the park." The area specifically proposed for plan amendment is a portion of the southern Reserve Area north of Expressway, also known as Reserve Area B on the Missoula Development Park Preliminary Plat adopted by the BCC on September 25, 1996. Please refer to a portion of the Missoula Development Park Base Map on the following page for the proposed location of this designation. This area is identified with the understanding that land use designations shown on the Missoula Development Park Base Map, the official land use map for the Missoula Airport Development Park Master Plan, are not intended to be interpreted as strict legal descriptions but to indicate general areas to guide policy application.

**CANYON CREEK VILLAGE
PLANNED UNIT DEVELOPMENT ZONING DISTRICT****A. INTENT**

The intent of this district is to allow for residential mixed-uses in a transitional area between residentially zoned land and land zoned as Community Commercial within the Missoula Development Park. This Planned Unit Development seeks to preserve the value of land adjoining this district while providing for residential and mixed uses as a transition between a developing employment center at the Missoula Development Park and potential residential development to the east. This district provides performance standards for traditional neighborhood design within the Primary Urban Growth Area. The development of the site shall be consistent with the development plan approved by the governing body.

B. GENERAL STANDARDS**1. Bicycle parking facilities:****a. Bicycle parking facilities shall be provided for all Multiple-Family Units according to the following:**

- (1) Each rental unit shall have Class II facilities to accommodate residents and guests at a ratio of one (1) space per dwelling unit. (Class II bicycle parking facilities are defined as stationary racks to which the user can lock the bicycle frame and both wheels with a U-shaped or cable lock.)

b. Bicycle parking facilities shall be provided for all Live-Work Units according to the following:

- (1) The individual owner shall provide, install and maintain Class II facilities for customers at a minimum rate of two (2) bicycle spaces per business (see definition of Class II facilities above).

c. Bicycle parking facilities shall be clearly designated, safe, and convenient locations and shall not impede pedestrian access. The bicycle parking facilities shall be no more than fifty feet (50') from an entrance to the building for which the bicycle parking spaces are intended.**2. Lighting standards**

The following lighting standards shall apply to each business establishment and multi-family building within the Canyon Creek Village PUD:

a. Exterior lighting shall be limited to external lighting of signs and safety and security lighting only. Lighting shall be shielded or recessed so that direct glare and reflections are contained within the boundaries of the property.**b. Lighting fixtures shall be a maximum of twenty feet (20') in height and shall be directed downward and away from adjoining properties and public rights-of-way.****c. No lighting shall blink, flash, or be of unusually high intensity in order to avoid excessive lighting.****d. The owner shall provide a lighting plan at time of building permit submittal.****3. Landscaping****a. Boulevard Landscaping**

- (1) The boulevard(s), less the pedestrian walkway(s), shall be landscaped with 100% living material, consisting of grass and one and one-half inch (1.5") caliper (at time of planting) boulevard deciduous street trees, placed every thirty feet (30').

- (2) All vegetation shall be kept alive and maintained. If the vegetation dies, it shall be replaced within one (1) year.

b. Highway Buffer

- (1) Along the frontage of Interstate 90, a combination of building setback, building construction, building orientation, landscaping, or the option of walls or fencing shall be used to mitigate potential noise impacts from the Interstate Highway. Landscaping shall include planting groupings of conifers and deciduous trees (minimum 1.5 inch caliper). Plantings may occur, with proper approvals in public rights-

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of-way or in park or common area. HUD noise guidelines may be used to demonstrate sufficient mitigation.

- (2) Landscaping shall be maintained, and those plantings which fail to survive shall be replaced within one year.

c. Live-Work Parking Lot

- (1) Off-street parking shall be buffered with a visual screen no less than three feet (3') in height consisting of a fence, wall, or landscaping, or a combination thereof along the entire parking area perimeter visible from a public street, park or residential lot. Should landscaping be used to meet this requirement, it shall be provided at seventy-five percent (75%) year round opacity at time of planting.
- (2) Landscaping, in an amount equal to ten percent (10%) of the paved area, shall be placed within the parking lot.

4. Additional standards

- a. Except as provided in this chapter, all applicable portions of the County Zoning Resolution No. 76-113 as amended (or in the City of Missoula Zoning Ordinance upon annexation of the property) shall apply.
- b. Every structure, except for multi-family structures and bungalow dwellings that do not adjoin a public street or park, shall have its main entry facing a street frontage, or a walkway or park, if the lot fronts on a walkway or park. The main entry shall be determined by the presence of a front door and entry area, including a walkway to the entry, and the presence of windows on the front building wall facade.
- c. Any garage with access to a public street shall have a minimum twenty foot (20') setback from the property line.

C. PARKS AND OPEN SPACE

- 1. Dedicated parks, and landscaped boulevards within the public right-of-way, shall be maintained by a perpetual RSID or SID.
- 2. Structures shall be limited to accessory buildings for the parks and open spaces.

D. SUBDISTRICT NO. 1

Subdistrict No. 1 shall include lots for Single-Family Homes, Center Boulevard Homes, Park Frontage Homes, Private Lane Single Family Homes and Garage Front Load Homes as designated on the attached Lot Layout plan. (See definitions section of the Zoning document.)

1. Space and bulk requirements:

Minimum lot area		2880 square feet
Minimum lot width		Thirty-two feet (32')
Minimum required yard	front	There shall be a front yard having a depth of not less than seven feet (7') and not more than ten feet (10'). Open porches, or decks, or their stairs may project into the front yard up to a maximum of three feet (3')
	side	Not less than three feet (3')
	rear	There shall be a rear yard having a depth of not less than three feet (3') for primary and accessory structures
Maximum building height		Thirty-six feet (36')

2. Permitted uses

- a. Single-Family Dwellings
- b. Accessory Buildings
- c. Accessory Dwelling Units (ADU's), as defined in the adopted zoning, will only be allowed upon complete build out of Canyon Creek Village, with written approval of the Homeowners' Association and with written permission from the Governing Body and verification of sewer capacity for said Accessory Dwelling Units.
- d. Day Care Home
- e. Community Residential Facility for nine (9) or fewer persons
- f. Home Occupations

3. Architectural building design standards

- a. Finished Floor Elevation: The ground floor elevation (first finished floor above grade) shall be a minimum of twenty-six inches (26") above the gutter line grade of the street fronting the lot, unless the site plan or building plans are specifically designed for handicapped accessibility.
 - b. Maximum Building Coverage: The maximum building coverage (exclusive of decks, porches and patios) of a lot or parcel shall not exceed sixty percent (60%).
 - c. Single-family dwellings shall have a roof pitch from 5:12 to 14:12 (rise over run) for the major roof mass of the dwelling. Shed roofs, porches, and bay windows may have roof pitches no flatter than 3.5:12, unless the roof is also an upper balcony.
 - d. Every single-family detached dwelling shall have a main entry porch that is visible from the primary street frontage or park. The porch shall be at least seven feet (7') deep, open on at least fifty percent of its perimeter, and shall be at least 60 square feet in floor area.
4. Off-Street Parking
- a. All Single-Family Homes, Center Boulevard Homes, Park Frontage Homes, and Private Lane Single Family Homes shall provide a minimum of two (2) off-street parking spaces that shall be accessed from the alley.
 - b. All Garage Front Load Homes shall provide a minimum of two (2) off-street parking spaces that may be accessed from a public street.
5. Landscaping
- a. Trees shall be planted on each lot at the minimum ratio of one (1) tree per lot.

E. SUBDISTRICT NO. 2

Subdistrict No. 2 shall include lots for Bungalow Homes as designated on the attached Lot Layout plan.

1. Space and bulk requirements:
- | | | |
|-------------------------|--------------------|--|
| Minimum lot area | 1520 square feet | |
| Minimum lot width | None | |
| Minimum required yard | front | There shall be a front yard having a depth of not less than seven feet (7'). Open porches, decks, or their stairs may project into the front yard up to a maximum of three feet (3') |
| | side | None |
| | rear | Three feet (3') for primary and accessory structures. |
| Maximum building height | Thirty feet (30'). | |
2. Permitted uses
- a. Any use permitted in Subdistrict No. 1, except Accessory Dwelling Units.
3. Architectural building design standards
- a. Finished Floor Elevation: The ground floor elevation (first finished floor above grade) shall be a minimum of twenty-six inches (26") above the gutter line grade of the street fronting the lot, unless the site plan or building plans are specifically designed for handicapped accessibility or elderly housing.
 - b. Maximum Building Coverage: None
 - c. Twenty-five (25) square feet of floor area storage shall be provided for each dwelling unit, exclusive of living space within the dwelling. These storage areas shall be attached to the dwelling or carport.
 - d. Bungalow homes shall have a roof pitch from 5:12 to 14:12 (rise over run) for the major roof mass of the dwelling. Shed roofs, porches, and bay windows may have roof pitches no flatter than 3.5:12, unless the roof is also an upper balcony.
4. Off-Street Parking
- a. All Bungalow Homes shall provide a minimum of one and one-half (1½) off-street parking spaces per unit when parking is located on an adjacent common area, or a minimum of two (2) parking spaces when provided on-site. All parking shall be accessed from a public street or alley.
5. Landscaping
- a. Trees shall be planted on each lot at the minimum ratio of one (1) tree per lot .

F. SUBDISTRICT NO. 3

Subdistrict No. 3 shall include Flexible Multiple-Family lots as designated on the attached Lot Layout plan.

1. Space and bulk requirements:

Maximum gross residential density		Twenty-five (25) dwelling units per acre
Minimum lot width		Twenty feet (20').
Minimum required yard	front	Seven feet (7').
	side	None.
	rear	Three feet (3') for primary and accessory structures.
Maximum building height		Forty-three feet (43').

2. Permitted uses

- a. Any use permitted in Subdistrict No. 2
- b. Multi-family dwellings.
- c. Condominiums (subject to appropriate subdivision regulations).
- d. Town homes.

3. Architectural building design standards

- a. Finished Floor Elevation: The ground floor elevation (first finished floor above grade) shall be a minimum of twenty-six inches (26" above the gutter line grade of the street fronting the lot, unless the site plan or building plans are specifically designed for handicapped accessibility or elderly housing.
- b. Maximum Building Coverage: None
- c. Twenty-five (25) square feet of floor area storage shall be provided for each dwelling unit, exclusive of living space within the dwelling. These storage areas shall be attached to the dwelling or carport.
- d. When primary structures are placed on the same lot, a minimum separation between the endwalls of structures shall be six feet (6').

4. Off-Street Parking

- a. All multi-family residential uses shall provide off-street parking at a ratio in accordance with the Missoula County Zoning Resolution (or the City of Missoula Zoning Ordinance upon annexation of the property).
- b. Multi-family parking shall not be placed between the street frontage and the building or buildings. No more than fifty percent of the multi-family required parking may be placed in a side yard that is visible from the street.
- c. Parking Buffer Landscaping
 - (1) A visual buffer is required to screen off-street parking from public rights-of-way. Landscape buffers shall not be less than four (4) feet in height, except when the zoning officer authorizes a reduction to improve sight distance along streets or highways. Visual buffers shall consist of plantings, and shall provide at least fifty (50) percent effective screening at the time of planting.
 - (2) Landscaping may consist of a combination of deciduous or conifer shrubs and trees, natural ground cover, benches, fountains, decorative walls or other elements producing pleasing aesthetic landscaped areas. The trees and shrub sizes shall meet the following minimum sizes:

Tree (Shade)	Eight (8) feet high or 1.5 inch caliper
Tree (Ornamental)	Four (4) feet high or 1 inch caliper
Tree (Evergreen)	Three (3) feet high
Shrub (Dwarf)	Fifteen inches high
Shrub (Flowering)	Two (2) feet high
Shrub (Evergreen spreading)	Eighteen (18) inches wide
Shrub (Evergreen pyramid)	Three (3) feet high
Hedge	Fifteen (15) inches high
 - (3) The landscaping shall be installed prior to the governing body or its designated agent issuing the certificate of occupancy. If completion of the project is too late in the year to install the landscaping, the certificate of occupancy may be issued on the condition that the landscaping be installed prior to May 1st. Failure to comply with such conditions shall constitute a violation of the zoning regulations.

G. SUBDISTRICT NO. 4

Subdistrict No. 4 shall include lots for Live-Work Units as designated on the attached Lot Layout plan.

1. Space and bulk requirements

Minimum lot area		3180 square feet
Minimum lot width		Thirty-two feet (32')
Minimum required yard	front ¹	Seven feet (7')
	side	None
	rear	Twenty feet (20') except covered parking shall have a rear yard setback of seven feet (7').
Maximum building height		Forty-three feet (43')

¹ For Lots G1 through G6, the front yard shall face Vigilante Drive. The rear yard shall face Bandit Blvd.

2. Permitted uses

- a. Live-work units that contain, in conjunction with a residential dwelling or dwellings within the same structure, any of the following commercial uses on the main floor of a building and second floor of a building higher than two stories:
 - Retail Trade and Service (except automotive repair or service)
 - Personal Service
 - Professional or Business Office
 - Eating Establishments, except Drive-in Establishments
- b. Multi-family structures without a commercial component as described in Subdistrict No. 3 subject to review and approval of the Governing Body. During its review, the Governing Body shall determine if the applicant has shown that neighborhood commercial development of the structure or lot is economically infeasible, and that denial of a permit for multi-family without a commercial component would constitute a hardship.

3. Architectural design standards

- a. Finished floor elevation shall be on grade with the sidewalk.
- b. Maximum Building Coverage: None
- c. Landscaping: There is no landscaping requirement except that the portion of the lot that is not used for the structure, sidewalks or parking shall be landscaped with living vegetation and ground cover. Sidewalks may be widened in front of Live-Work Units up to the building setback provided boulevard trees are planted in tree wells in the sidewalk.
- d. Signage: The only signs permitted shall be wall signs or projecting signs no larger than twelve (12) square feet, mounted on a single frontage on the building between seven feet (7') and ten feet (10') above the elevation of the ground floor of the building.
- e. Trash receptacles must be screened on all four sides from public view and from view of residential lots by an enclosure such as a wall, fence or plantings which will effectively screen them from public view.

4. Off-Street Parking

- a. All Live-Work Units shall provide a minimum of fifty percent (50%) of required off-street parking spaces based on the Missoula County Zoning Resolution (or City Zoning Ordinance upon annexation of the property) for each use.
- b. Parking shall not be placed in front of the buildings.
- c. Required parking may be provided off-site on adjacent live-work lots within 500 feet (500') of the live-work unit it serves.

H. SUBDISTRICT NO. 5

Subdistrict No. 5 shall include a Community Facilities lot as designated on the attached lot layout plan.

1. Space and bulk requirements:

Maximum lot area		15,000 square feet
Maximum lot width		One Hundred and Forty Feet (140')
Minimum required yard	front	There shall be a front yard having a depth of not less than ten feet (10') and not more than twenty feet (20').
	side	None.
	rear	None

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Maximum building height

Thirty-six feet (36') except for height exceptions allowed in Missoula County Zoning Resolution #76-113 as amended.

2. Permitted uses

- a. Parks and Open Space
- b. Community Gardens
- c. Accessory buildings for parks, open space, or community gardens

3. Conditional Uses

- a. Community center
- b. Day Care Center
- c. Library

4. Special Exceptions (or Special Uses upon annexation of the property)

- a. Church

5. General regulations

- a. All uses in this subdistrict shall comply with the standards contained in this section and are exempt from the special design standards in Chapter 4 of the Missoula County Zoning Resolution #76-113 as amended.
- b. Day care centers must be properly licensed by the State of Montana.

6. Architectural design standards

- a. A primary entrance shall be provided which is clearly defined and highly visible facing the street.
- b. Trash receptacles must be screened on all four sides from public view and from view of residential lots by an enclosure such as a wall, fence or plantings which will effectively screen them from public view.

7. Off-Street Parking

The minimum off-street parking requirement in a. and b. below shall apply to structures with a gross floor area greater than 3,500 square feet. Structures with a gross floor area of 3,500 square feet or less shall not be subject to off-street parking requirements.

- a. Off-street parking for a day care center shall be provided at the rate of one space for every eight (8) persons for which the center is licensed, plus one (1) space for each two (2) employees. Regardless of the amount of off-street parking required, adequate drop-off and pick-up area areas shall be provided.
- b. Off-street parking for a community center, church or library shall be provided at a minimum of fifty percent (50%) of required off-street parking spaces based on the Missoula County Zoning Resolution (or City Zoning Ordinance upon annexation of the property) for each use.
- c. There shall be no off-street parking located any closer to the front property line than the building.
- d. Off-street parking shall be buffered with a visual screen no less than three feet (3') in height consisting of a fence, wall, or landscaping, or a combination thereof along the entire parking area perimeter visible from a public street or park. Should landscaping be used to meet this requirement, it shall be provided at seventy-five percent (75%) year round opacity at time of planting.

8. Landscaping

- a. At least ten percent (10%) of the total lot area to be developed shall be landscaped. The portion of the lot that is not used for the structure, sidewalks, outdoor plaza or courtyard, or parking shall be landscaped with living vegetation and ground cover.
- b. Landscaping, in an amount equal to ten percent (10%) of the paved area, shall be placed within the paved interior vehicular use area. Interior parking lot landscaping contributes to the total required on-site landscaping.

I. DEFINITIONS

1. Accessory Dwelling Unit (ADU)

- a. Accessory dwelling units are intended to increase the community's supply of affordable housing in areas already served by public infrastructure, without dramatically changing the character and stability of existing residential neighborhoods.

- b. An ADU shall only be approved on a parcel that contains one (1) single residential dwelling unit, and no more than one (1) ADU per parcel shall be permitted.
- c. An ADU may be created in one of the following ways:
- (1) Within or added to the primary dwelling unit, or
 - (2) Within or added to a garage.
- d. The owner of the property on which the ADU is located shall maintain legal residency in either the primary dwelling unit or the ADU. For the purposes of this section, the property owner may be either the deed holder or a contract purchaser. A new Zoning Compliance Permit must be obtained for the ADU whenever the property changes ownership. Should the property owner cease to reside in either the ADU or the primary residence, the Zoning Compliance Permit for the ADU shall be revoked.
- e. No additional land area is required beyond the minimum lot size specified in the zoning district in which the ADU is located; however, the property on which the ADU is located shall not be subdivided so as to separate the ADU from the primary residence.
- f. Accessory Dwelling Units (ADU's), as defined in the adopted zoning, will only be allowed upon complete build out of Canyon Creek Village, with written approval of the Homeowners' Association and with written permission from the Governing Body and verification of sewer capacity for said Accessory Dwelling Units. *(Governing Body's approval not only based on sewer capacity)*
- g. An ADU shall be permitted only when both it and the primary dwelling unit are connected to the city sewer.
- h. The maximum building coverage of a lot or parcel containing an ADU shall not exceed sixty percent (60%). Included in the building coverage are carports, and all enclosed buildings. Not included in the building coverage are porches, patios, exterior stairs, decks, balconies or walkways.
- i. The ADU shall have one (1) paved off-street parking space provided, in addition to the required off-street parking for the primary dwelling unit. Access to the parking for the ADU shall be from the rear of the lot.
- j. Any new construction or remodeling of an ADU shall be compatible with the primary dwelling unit by using the same siding material and color, roof pitch, door and window style and placement. Where a separate entrance for an ADU is incorporated into the primary dwelling unit, it shall be located on the side or rear of the primary structure.
- k. An ADU shall provide separate bathroom and kitchen facilities, separate living space independent from the primary dwelling unit and have no more than one bedroom.
- l. The maximum size of an ADU is six hundred (600) square feet; and, the minimum size of an ADU is two hundred and twenty (220) square feet. Further, an ADU shall not exceed one-half (½) the living space of the primary dwelling unit.
- m. New construction of ADU's shall be approved by the Building Inspector and the Fire Department to meet the requirements of the Uniform Building Code and Uniform Fire Code. An application for an ADU within an existing structure shall be accompanied by a letter from a qualified real estate professional, including, but not limited to, licensed real estate agents, appraisers, engineers, architects, or certified property inspectors, certifying that the ADU meets the requirements set out in 24CFR Section 982.401 Housing Quality Standards (HQS).
2. Building coverage
- a. The measurement of percentage building coverage on a lot includes all enclosed buildings, including carports. Not included in building coverage are porches, patios, exterior stairs, decks, balconies or walkways.
3. Building types
- "Single-Family Detached Homes."** These homes are located throughout Canyon Creek Village. The homes face the streets and have alley auto access. (Designated as "A" lots on the plat.)
- "Bungalow Homes."** These homes are located in three areas of Canyon Creek Village, along the north park, along the central park and along the western boundary of the site. The homes are detached and attached, and feature bungalow designs reminiscent of the "Craft Homes" of a previous era. They feature common parking areas in the two cluster sites and street access parking for the bungalows along the western boundary. (Designated as "B" lots on the plat.)
- "Center Boulevard Frontage Homes."** These dwellings consist of single-family detached homes that front onto Canyon Creek Boulevard. The homes face onto the street to create the setting for the neighborhood. Canyon Creek Boulevard is designed with a center landscaped boulevard and narrow one-way lanes to either side of the center boulevard. The street has "In-Set" parking lanes against the residential lots to provide parallel parking on the street. The homes have alley access. (Designated as "C" lots on the plat.)
- "Park Frontage Homes."** These single-family detached homes occur along the central park and face into the park. A walkway separates the front yard of the homes from the park. Auto access is from an alley. (Designated as "D" lots on the plat.)

"Private Lane Single-Family." These detached residences occur just north of the park along Expressway. The design was chosen so the sides of homes rather than the backs of homes would face Expressway. The homes have front yards facing each other with a central sidewalk located along the common front yard line. Private lanes provide rear access to the garages. These private lanes also act as "Woonerfs" in that they are narrow private access lanes that allow auto access of such low volume and speed that the residents use them for walks and recreation such as basketball. (Designated as "E" lots on the plat.)

"Garage Front Load." The single-family detached lots designated as a "Garage Front Load" in Canyon Creek Village have garages that will be "Back-Set" on the lot meaning the front of the garage will set further back from the street than the front of the home. Design considerations prevented these lots from having alley access. (Designated as "F" lots on the plat.)

"Live-Work Units." This style of mixed-use, attached or detached, structure provides for a residence above the first floor and a business on the main or second floor. (*To be consistent with standards section on Live-Work Units*) These units are incorporated along portions of the western edge of Canyon Creek Village adjoining Missoula Development Park and along the southeastern edge adjoining land zoned Light Industrial. They are intended to serve both the residential neighborhood and the employees of the Missoula Development Park. They also provide a buffer between the non-residential uses and the residences of Canyon Creek Village. "Live-Work Units" face into the street to encourage the integration, rather than the separation, of the residential and non-residential areas. They are in easy walking and biking distance for residents and employees. It is hoped that the cost savings of incorporating a residence with a small commercial venture will make the commercial venture more viable and they will be introduced more quickly into the neighborhood. (Designated as "G" lots on the plat.)

"Flexible Multiple-Family." These attached, or detached, dwellings are located along the northerly portion of Canyon Creek Village adjacent to the north park. There are two lots shown on the preliminary plat of Canyon Creek Village with a total allowed density for the combined lots of thirty-six dwellings. This area has flexibility in design and build-out. The lots may be used for a variety of uses ranging from single-family detached dwellings such as bungalow or patio homes to single-family attached homes such as town homes or condominiums, as well as apartments. (Designated as "H" lots on the plat.)

"Community Facilities" A public or semi-public use including a meeting hall open to the community or for neighborhood membership, church, library or uses providing neighborhood benefit such as exercise room, community garden, tool library or the like. Residential uses are prohibited at this site. The site is located so that the structure will anchor the view at the end of the entrance boulevard. Structures are intended to be prominent buildings that employ additional mass and height, civic architectural design or other distinguishing features.

Canyon Creek Village Planned Unit Development Zoning District Conditions of Approval:

1. The Comprehensive Plan Amendment for Reserve Area B shall be filed prior to filing of the resolution to adopt the Canyon Creek Village Planned Unit Development Zoning District.
2. The Lot Layout Plan shall be revised to increase the distance between the I-90 right-of-way and the northern boundary of Canyon Creek Village PUD to a minimum of 70 feet. The site development plan Sheet P2 shall be revised to reflect this design change. This revision is subject to the review and approval of the Projects Office, the Design Review Committee and OPG prior to filing of the resolution to adopt Canyon Creek Village Planned Unit Development Zoning District.
3. The Lot Layout Plan shall be revised so that Lots E-15 and E-16 are reconfigured to provide at least a 20 foot setback between the lot lines and the southeast park boundary line.
4. Development in Canyon Creek Village shall be consistent with the character of the revised Lot Layout Plan and site development plans and floor plans shown in Sheets P1, P3, P4 and P5 of the submittal packet and revised Sheet P2.
5. The zoning district standards shall be amended as illustrated in Attachment B.
6. A plan shall be submitted for street lighting at the intersections of Canyon Creek Boulevard/Expressway, Vigilante Drive/Expressway and Vigilante Drive/Jesse James Lane. This plan shall be subject to review and approval by OPG prior to final plat approval of Phase I. A Lighting Improvement District shall be created for installation and maintenance of the streetlights.
7. A final landscaping plan which includes evergreen trees and shrubs for buffering in Park 10 and the landscape buffering easement adjacent to the west bungalow lots shall be reviewed and approved by the Projects Office, the Design Review Committee and OPG prior to final plat approval of Phase I. The landscaping in the 15 foot buffer easement adjacent to the bungalow lots and Park 10 shall be installed prior to final plat approval or the cost for installation of the landscaping shall be included in the public improvements guarantee.
8. The Architectural Guidelines shall be amended to include elements that will apply to buildings constructed on the community facilities lot which encourage employment of civic architectural design and distinguishing features. The revisions to the guidelines shall be reviewed and approved by the Projects Office, the Design Review Committee and OPG prior to final plat approval of Phase I.

Canyon Creek Village Planned Unit Development Subdivision Conditions of Approval:

1. The Comprehensive Plan Amendment for Reserve Area B shall be adopted prior to final plat approval of Phase I. *Subdivision Regulations Article 3-1(1)(B).*
2. The Canyon Creek Village Planned Unit Development Zoning District shall be adopted prior to final plat approval of Phase I. *Subdivision Regulations Article 3-1(1)(B).*

3. A revised Master Plan conforming to the conditions of approval of the PUD rezoning and subdivision shall be submitted prior to final plat approval of Phase I. *Subdivision Regulations Article 4-1(15) and staff recommendation.*
4. The Phasing Plan on the submitted preliminary plat is adopted as shown. Phase I final plat shall be approved within one year of approval. Phase II and III final plat shall be approved within two years of approval. Phases IV and V final plat shall be approved within three years of approval. Phases VI and VII final plat shall be approved within four years of approval. Phases VIII and IX final plat shall be approved within five years of approval. Phases X and XI final plat shall be approved within six years of approval. Phase XII final plat shall be approved within seven years of approval. *Subdivision Regulations Article 4-1(18) and staff recommendation.*

Airport

5. An avigational easement shall be obtained for the property in compliance with the Airport Influence Area Resolution prior to final plat approval for Phase I. *Subdivision Regulations Article 3-1(2) and Airport Authority request.*
6. The following statement shall appear in the covenants and on the face of the plat:

"This property is within the Airport Influence Area and subject to the requirements of the Airport Influence Area Resolution." *Subdivision Regulations Article 3-2(2), 4-1(12) and Airport Authority request.*
7. The covenants shall be amended to include information about airport noise. This amendment shall be subject to review and approval of the Airport Authority prior to final plat approval for Phase I. *Subdivision Regulations Article 3-2(2) and Airport Authority request.*

Roads

8. Road engineering plans and specifications for improvements within the subdivision shall be approved by Missoula County or the appropriate jurisdiction prior to final plat approval of each phase. *Subdivision Regulations Article 3-2(1-6, 8) and County Surveyor recommendation.*
9. Grading, drainage and erosion control plans shall be approved by Missoula County or the appropriate jurisdiction prior to final plat approval of each phase. Drainage improvements shall be installed with each phase of development in a schedule to be approved by Missoula County or the appropriate jurisdiction. *Subdivision Regulations Article 3-4 and 4-1(12).*
10. Vigilante Drive from Expressway to Jesse James Lane shall be widened to a 36 foot back to back of curb surface width. *City Engineer and OPG recommendation.*
11. Vigilante Drive from Jesse James Lane to Doc Holiday Lane and Doc Holiday Lane shall be widened to a 32 foot back to back of curb surface width. *City Engineer and OPG recommendation.*
12. Canyon Creek Boulevard is an approved street name in this subdivision. Final street names for the balance of the subdivision shall be reviewed and approved by the County Surveyors Office, with input from the County Commissioners Office, prior to final plat approval of each phase.
13. The developer shall petition for annexation into the Missoula Urban Transportation District prior to Phase I plat approval. *Subdivision Regulations Article 3-1(1), 3-2(1) and MUTD recommendation.*

Pedestrian Facilities

14. Curb, gutter, sidewalk and boulevard improvements on the north side of Expressway shall be installed with Phase I. *Subdivision Regulations Article 3-2, 1998 Urban Comprehensive Plan Update, City Engineer and staff recommendation.*

Parks

15. The trail easement through Phases IX, X and XII shall be removed from the Plat. *Subdivision Article 3-6 and staff recommendation.*
16. Improvements to the parks, boulevards and common areas shall be installed concurrently with the approved subdivision phase where the improvements are located. An RSID/SID shall be created for maintenance of all park areas and street boulevard plantings. A development agreement shall be filed that states the developer shall provide all maintenance of the parks, boulevards and common areas until enough development to support the Homeowners Association and RSID has taken place. The development agreement shall be filed prior to final approval of Phase I, subject to County Attorney's Office approval. *Subdivision Regulations Article 3-8 and staff recommendation.*

Fire

17. Fire hydrant locations shall be approved by the Missoula Rural Fire District prior to final plat approval of Phase I. *Subdivision Regulations Article 307 and Missoula Rural Fire District recommendation.*
18. An all-weather access for emergency vehicles shall be developed on the linear park in Phase VII. Final design of the access shall be reviewed and approved by the Missoula Rural Fire District prior to final plat approval of Phase VII. *Subdivision Regulations Article 3-7 and Missoula Rural Fire District.*

Plat

19. The linear and triangular park areas in Phase VIII and the linear park area in Phase VII shall be labeled "Park" on the Master Plan and the final plat for those phases. *Subdivision Regulations Article 3-8(3) and staff recommendation.*

Covenants

20. The following revisions shall be made to the covenants prior to final plat approval of Phase I:

001-0202

- a. Remove reference to the City of Missoula Leash Law from Article IV, Section 19.
 - b. Add a statement that homeowners must accept the responsibility of living with wildlife and be responsible for protecting their vegetation. *Subdivision Regulations Article 4-1(12) and FWP recommendation.*
 - c. The covenants shall be amended to include reference to the community facilities lot and uses.
21. Article V(1) of the proposed covenants shall include the following sentence: "No covenants or sections thereof relating to maintenance of private driveways, lanes or common parking areas, living with wildlife or design guidelines may be changed without prior written consent of the governing body."

Live/Work Lots

22. The block with lots A-16 through A-32 may be platted as shown on the December 7, 2000 preliminary plat submittal or this block may be platted with Live/Work G lots facing Vigilante Drive as shown on the proposed plat revision dated February, 2001.

There being no further business to come before the Board, the Commissioners were in recess at 2:55 p.m.

THURSDAY, MARCH 8, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – The Commissioners signed the Claims List, dated March 8, 2001, batch number 1139 (pages 1-4), with a grand total of \$19,250.93. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated March 8, 2001, batch number 1143 (pages 1-5), with a grand total of \$64,967.80. The Claims List was returned to the Accounting Department.

Indemnity Bond – Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming Eileen Zak as principal for Missoula County Public Schools Warrant #43300 issued February 21, 2001 on the Miscellaneous General Fund in the amount of \$457.50, now unable to be found.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Payroll Transmittal – The Commissioners signed the following Payroll Transmittal Sheet: Pay Period: 05 - Pay Date: March 9, 2001. Total Missoula County Payroll: \$764,947.05. The Transmittal Sheet was returned to the Auditor's Office.

Resolution No. 2001-021 – The Commissioners, pending approval of MDA, signed Resolution No. 2001-021, dated March 8, 2001, a resolution of intent to adopt the Reserve Area "B" Comprehensive Plan Amendment, which is an amendment to the Missoula Airport Development Park Master Plan & Strategic Implementation.

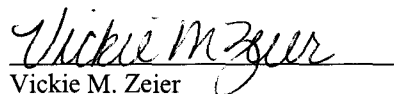
Resolution No. 2001-022 – The Commissioners, pending approval of MDA, signed Resolution No. 2001-022, dated March 8, 2001, a resolution of intent to zone property described as Reserve Parcel B of the Missoula Development Park Preliminary Plat located in the NW¼ of Section 1, T 13 N, R 20 W, P.M.M., and more particularly described by a metes and bounds description on file at the Office of Planning and Grants to the Canyon Creek Planned Unit Development Zoning District subject to conditions.

Exemption Affidavit – The Commissioners signed an Exemption Affidavit for boundary relocation relative to Missoula County (Missoula Development Park) and Nurture, Inc., per the parcel described therein. The document was returned to Barb Martens in the Projects Office for further handling.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, MARCH 9, 2001

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Curtiss was out of the office all day due to illness. In the forenoon, Chairman Evans and Commissioner Carey participated in a tour of the Missoula Children's Theatre and received an update from MCT staff.



Vickie M. Zeier
Clerk & Recorder



Barbara Evans, Chairman
Board of County Commissioners

MONDAY, MARCH 12, 2001

The Board of County Commissioners met in regular session; a quorum of members was present. Chairman Evans was out of the office all day.

TUESDAY, MARCH 13, 2001

The Board of County Commissioners met in regular session; all three members were present in the forenoon. Commissioner Carey was out of the office all afternoon.

Site Inspection

In the afternoon, Commissioner Curtiss accompanied County Surveyor Horace Brown on a site inspection of an Old GLO Road off Old Spur Road in the 9-Mile area for the request to abandon a portion of the land.

Claims List – The Commissioners signed the Claims List, dated March 13, 2001, batch number 1144 (pages 1-5), with a grand total of \$17,338.68. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated March 13, 2001, batch number 1146 (pages 1-5), with a grand total of \$64,799.16. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated March 13, 2001, batch number 1147 (pages 1-2), with a grand total of \$16,683.36. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated March 13, 2001, batch number 1148 (pages 1-4), with a grand total of \$22,631.52. The Claims List was returned to the Accounting Department.

Monthly Report – Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Report for Justice Court 1, John E. Odlin, Justice of the Peace, for the month ending February 28, 2001.

Monthly Report – Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Report for Justice Court 2, Justice of the Peace, Karen A. Orzech, for the month ending February 28, 2001.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Resolution No. 2001-023 – The Commissioners signed Resolution No. 2001-023 dated March 13, 2001, including \$30,900.00 as part of the formal Fiscal Year 2001 Operating Budget and Fiscal Year 2001 Revenue Estimates for Missoula County, as per the items set forth.

Request for Funds – Chairman Evans signed a Request for Funds from the Montana Department of Commerce Community Development Block Grant Program - Economic Development, Technical Assistant Grants, in the amount of \$30,900.00. Project activities include completion of the final two modules of the Basic Business Skills Course via the Internet by the University of Montana. The document was returned to Cindy Wulfekuhle in the Office of Planning and Grants for further handling.

Request for Action – Chairman Evans signed the annual report for the U.S. Department of Housing and Urban Development required to continue the receipt of grant funding for transitional housing provided by Turning Point's SHARE House. The document was returned to Nancy Harte in the Office of Planning and Grants for further handling.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Deer Creek Excavating for the removal of 14 trees on Whitetail Drive and Black Bear Drive of the Double Arrow Subdivision, Phase II, Seeley Lake, Montana. The term will be March 24, 2001 through April 6, 2001. The total amount shall not exceed \$600.00.

Request for Action – Based on the fact that the utility companies have agreed to the vacation, the Commissioners signed a letter to Stan Feist of DJ&A, approving his request to vacate a portion of the utility easements within Lots 4, 5, 8 & 9, Block 4 of Missoula Development Park, Phase 1,.

Option Agreement – The Commissioners signed an Option Agreement, as recommended by the Offer Review Committee, with one amendment, between Missoula County and Wayne Paffhausen for the purchase of Lots 7 and 8, Block 13, Missoula Development Park, Phase 5. The option will be for a period of 90 days. The total amount for Lot 7 is \$158,935.00; the total amount for Lot 8 is \$117,933.00. The amendment states that the Grantee and Grantor will consider negotiations for performance based rebate or tax consideration on land purchase to both parties' satisfaction based on actual site plans and business plans. The document was returned to Barb Martens in the Projects Office for further handling.

Request for Action – The Commissioners approved a request from the Buildings and Grounds Department to purchase a 1997 GMC 4x4 pickup that is being sold by the Sheriff's Department. The purchase price is \$6,000.00.

Other items included:

- 1) Due to unavailability, the Commissioners will send regrets and a thank you for an invitation to attend the Western Area Weed Council meeting in Polson, Montana, on March 22, 2001.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, MARCH 14, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – The Commissioners signed the Claims List, dated March 13, 2001, batch number 1138 (pages 1-4), with a grand total of \$50,456.12. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated March 13, 2001, batch number 1141 (pages 1-3), with a grand total of \$10,792.21. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated March 13, 2001, batch number 1149 (pages 1-4), with a grand total of \$13,825.26. The Claims List was returned to the Accounting Department.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the Chief Administrative Officer meeting held in the forenoon, the following items were signed:

Grant Application – Chairman Evans approved and signed a Grant Application from Swan Ecosystem Center for ArcView software to make GIS maps for a community Firewise management plan and landscape assessment. The document was forwarded to Anne Dahl at Swan Ecosystem Center, Condon, Montana.

Resolution No. 2001-024 – The Commissioners signed Resolution No. 2001-024 dated March 14, 2001, including \$25,000.00 as part of the formal Fiscal Year 2001 Operating Budget and Fiscal Year 2001 Revenue Estimates for Missoula County. The funds pertain to the Public Defender's Office and the Youth-In-Need-Of-Care Grant.

Waiver – The Commissioners approved a request from Kimberly R. Haines to waive the penalty and interest charged in the amount of \$77.61 for property taxes on parcel #3023604. A refund check will be issued by the Treasurer's office.

Deeds – The Commissioners approved a memorandum from Doreen Culver suggesting that Tax Deeds be taken on the following properties: 0211158; 1123107; 1755400; 1426404; 2431509; and 5812083.

PUBLIC MEETING – March 14, 2001

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Bill Carey, Commissioner Jean Curtiss, County Surveyor Horace Brown and Chief Civil Attorney Mike Sehestedt.

Public Comment

None

Routine Administrative Actions

Commissioner Carey moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$280,745.04. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Decision: Petition to Abandon a Portion of an Old GLO Road from Old Spur Road – Nine Mile Area

This is a petition to abandon "an old GLO road from Old Spur Road in a southeasterly direction to the easternmost corner of Parcel II located in a portion of Section 1, Township 15 North, Range 23 West, Missoula County, Montana."

The reasons for the request are as follows: 1) To clear up title of said parcels. Nine Mile Road serves these properties.

The following landowners have been notified: Robert A. Johnston; Janet and William Vetaly.

The public hearing on this matter was held February 28, 2001. A site inspection was conducted by County Surveyor Horace Brown and County Commissioner Jean Curtiss on March 13, 2001.

Horace Brown stated there was very little of the old road showing. He wanted it to be clear that no right-of-way was being vacated on the existing road. This road, when it did exist, is north of that. He did not have a problem with granting this petition.

Commissioner Curtiss moved that the Board of County Commissioners approve the petition to abandon "an old GLO road from Old Spur Road in a southeasterly direction to the easternmost corner of Parcel II located in a portion of Section 1, Township 15 North, Range 23 West, Missoula County, Montana." Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Hearing: Platts Family Transfer

Michael Sehestedt presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described in Tract B, COS 986, located in Section 23, Township 19 North, Range 17 West, Missoula County.

Gordon Platts has submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is 63.74 acres in size located in the Lindbergh Lake area, accessed by the existing private road serving the properties on the east side of Lindbergh Lake. Mr. Platts proposes to create an approximately 7.4 acre parcel on the western portion of the property for transfer to his son Douglas Gordon Platts. He intends to sell the remainder parcel.

The history of the parcel is as follows:

Parcel History	Year	Exemption Used	Applicant	Intended Recipient
COS 986 created 3 parcels greater than 60 acres in size	1976	Parcels greater than 20 acres	Richard and Jane Hickey	N/A
COS 1426 boundary relocation with Lot 56 of Diamond L Bar Ranch Second	1978	Boundary relocation	N/A	N/A
Amended plat boundary relocation with Lot	1988	Boundary relocation	N/A	N/A

59 of Diamond Bar L Ranch Third				
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According to the records kept by the Missoula County Surveyor, the applicant has not previously used the exemptions to the Subdivision and Platting Act.

Chairman Evans opened the public hearing.

Dick Ainsworth, Professional Consultants, Inc., was present representing Gordon Platts. Mr. Platts owns one lakefront lot on Lindbergh Lake and this 64 acre piece behind the lakefront lot. He would like to dispose of the 64 acres, but his adult son has requested a portion of it before it is sold. Mr. Platts would like to convey approximately 7.5 acres to his son and sell the remainder. To the best of his knowledge, this was a legitimate family transfer.

There being no further comments, the hearing was closed.

Commissioner Carey moved that the Board of County Commissioners approve the request by Gordon Platts to create a new parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Hearing: Davis Family Transfer – POSTPONED TO MARCH 21, 2001

Hearing: Two Rivers Restoration and Development Plan

Chairman Evans: The next thing on the agenda is a hearing on the Two Rivers Restoration and Development Plan. I would like to make it very clear to everyone in the audience that the Commissioners have not made a decision that we're planning to shove down anybody's throat. We are here to listen to your testimony and so I will open the hearing and Peter will give us a presentation.

Peter Nielsen: My name is Peter Nielsen, I'm Environmental Health Supervisor, Missoula City-County Health Department. I've been representing Missoula County on this particular issue. Here today to hold a public hearing on a resolution that the County Commissioners have proposed to adopt which calls for removal of the Milltown Dam, the sediments located behind it, creation of a regional park at the confluence of the Blackfoot and Clark Fork Rivers, consistent with the proposed Two Rivers Restoration and Development project which is depicted on these maps and there's also some in other locations around the room. There are also some resolutions on the front table for anyone who wants to read exactly what it is the Commissioners are proposing to adopt. I'll be very brief, I know there's a lot of you here that wish to speak but I have been requested to give you some basic information so you know what it is you're commenting on. The County has been involved with this particular site since 1981 when one of our sanitarians from the Health Department collected a water sample that detected very high levels of arsenic in the public water system at Milltown. We have been interested for these years in environmental and public health issues. These issues include arsenic contamination of ground water, the copper and other metals that are located in the sediments. From mine wastes in the sediments behind the dam there are periodically scoured and removed from the reservoir and cause damage, extensive damage, to fisheries downstream. We also have become concerned over the last few years with other environmental issues including the fact that dam blocks fish passage and provides habitat for Northern Pike which is an invasive, predatory species that causes problems for the fishery. So, we have proposed a different vision of the future here. One of the things that we noted in conversations with various parties over the last several years, these folks had a pretty good picture of what they had out there today, they had a very good vision of what they had at this present time and what was lacking was an alternative view of the future of what might be possible if the dam and sediments were to be removed. So we have proposed, with the assistance of O'Neill, Zimet Architects and Recreation Engineering and Planning from Boulder, Colorado, the Two Rivers Restoration and Development project. This project would result in the removal of the Milltown Dam and would result in the removal of sediments in the main reservoir area above the dam and below the Old Milwaukee Railroad Bridge located in this location. This is consistent with Alternative 7A that's been identified in the feasibility study which EPA has been conducting for the site, and EPA will comment on that soon. The plan would result, we believe, in cleanup of the ground water in the area, and the surface water in the area, restoration of fisheries including restoration of fish passage and connectivity between the Blackfoot and Clark Fork Rivers which has not been connected for almost 100 years now, reduction, substantial reduction if not near elimination of the breeding habitat for Northern Pike in this particular location, restoration of several miles of natural stream course, restoration and improvements of the wetlands, more long term recreational and health benefits for County residents, more jobs, more property taxes and more long term economic benefits for the community. The plan includes, as I said, removal of the dam and the sediments located behind it, restoration of a natural stream course channel on both the Clark Fork and the Blackfoot at the location here, the confluence of those two rivers. There would be no change, essentially, in the stream course, in the ground water or wetlands in the area above the Old Milwaukee Bridge, in this area. This is where the change would occur, in this area on the map. The plan includes many good ideas that have been advanced, and some implemented, by other parties including recreational plans developed by Montana Power Company and Bonner Development Group over the recent years. It also includes development of whitewater improvements here at the confluence and this idea was generated by, about a year ago, there was much more serious evaluation of the feasibility of dam removal and what would happen if the dam were to be removed and one of the things that came out of those discussions through conversations with the Army Corps of Engineers, was that if you lower the grade and remove the dam, you'll have the river seek a new channel, a new grade upstream, both up the Blackfoot and up the Clark Fork, and that could potentially affect some of the bridges up in this area and could potentially affect some of the riparian habitat and other features and have undesired consequences. So the Army Corps of Engineers suggested creation of drop structures, they were concrete, stairstep drop structure design which would have been highly functional, very expensive, but of very little value to the community, in fact they would have presented, essentially, a safety hazard. So when we saw that plan we felt that we could do better than that and that we certainly could try to do better than that in Missoula and Milltown, Montana. And so we contacted folks in the recreation industry and got a hold of Gary Lacey, from Recreation Engineering and Planning, whose designed, conceptually, whitewater improvements for this area, to do those drop structures in a way that provides a long term recreational asset for the community. These have been done at many other communities around the west, some of these are depicted in the photographs and news articles that are behind this gentleman with the camera by the window. The plan also includes development of an historical museum, a developed park named Riverside Park which was the original name of the community of Milltown in 1893, and other features including visitor's center, amphitheater, trails and bridges and

other features. We feel that the plan presents a very strong, once in a lifetime opportunity to do something very special for the community, that's why we've proposed it. The resolution, I won't read you all of the "Whereas," because I know you all have things to say, but I will read the THEREFORE, BE IT RESOLVED "that the Board of County Commissioners of Missoula County hereby urges the Atlantic Richfield Company, the Montana Power Company, the United States Environmental Protection Agency, Federal Energy Regulatory Commission, the US Fish and Wildlife Service, the State of Montana and other responsible parties to cooperate with the people of Missoula County to remove and safely dispose of the toxic sediments in the Milltown reservoir, remove the Milltown Dam, restore the confluence of the Blackfoot and Clark Fork Rivers and the associated wetlands and fisheries, and create a regional park and wildlife refuge." And one last comment on this, all of this, of course, would be contingent upon our ability to be insured that this can be done in a safe manner, without making things worse either for surface water or ground water or any other features. We are aware that one of the water providers in the community has raised concerns about short term impacts to ground water and we will insist that those be confronted directly and resolved before we move forward with any such plan and we're very adamant about that. That's the end of my presentation.

Chairman Evans: Thank you Peter. I'm going to apologize to all of you. This is ridiculous that we have you sitting on the floor. I'm sincerely sorry we don't have enough space here or enough chairs. We don't get this many people very often and these is the biggest room we've got. We will accept information testimony either now or at the end, however you would like to do. We have John Wardell from EPA here, we have Mark Wilson from US Fish and Wildlife and we have Mack Long from Montana Fish and Wildlife. We also have folks from Montana Power and ARCO here. So, John, how would you prefer to do this?

John Wardell: Why don't I go at the end.

Chairman Evans: At the end, that would be fine. Then we will accept public comment from the public. We have a hand microphone here and I'm going to ask Horace if you would hand this microphone back to the folks who want to talk because climbing over each other is going to be entirely too difficult. If you can reach the podium, that would be great, we'd like your name and your opinion on our proposal.

Bob Luceno: I'll go first so that I can free this chair up, I'm going to leave after I'm done and someone sitting on the floor can have my chair. My name is Bob Lucino, I've lived in Missoula for 22 years, I live at 333 Brooks Street. And I simply want to say a few things, that I'm in full support of this resolution. One of the, maybe I just haven't been paying attention, I haven't come to any previous hearings, but I've also been concerned about seismic activity and its possible impact on that dam. I remember last spring there was an article in the newspaper, the Missoulian, and I can't quote but, we all know there's faults all around this valley. This particular article talked about a fault along the Mission Range and that it was just a question of time before there'd be a significant earthquake in the Missoula metro area. I'm not a scientist, but it probably wouldn't take much more than a 5 point rattler to put a nice crack in that dam and more cracks and so I think it's obvious to all of us, it's not "if," it's simply "when." And so seismic activity is something I'd like to see more discussion about from possible some scientists on the dam. I know after being in business myself that when one company buys another company they try to understand the liabilities and assets. Certainly Denny Washington tried to understand what he was buying but we know that recently there were additional liabilities for him that have come out in the fore that have caused the stock of the Washington International Group to plummet and I think that ARCO, when ARCO looked at, you know, the properties that they understood that there was a dam there. I'm not, I don't know what they knew about the arsenic, but the point is when one business buys another business from a little mom and pop store to a large international corporation, multinational corporation, they are responsible, in my opinion, for the liabilities, and this clearly is a liability that they purchased and I view it as their responsibility. You know, when Meriwether Lewis went through this valley, he even made some comments on this exact area that we're talking about, anyone that knows the Lewis and Clark journals. Paraphrasing, I think he referred to this area as a nice area suitable for development and if he knew what we were talking about 200 years down the road, I think he'd want to see this dam removed and so I'm going to finish my remarks by saying I'm choosing to see the "M" on Mount Sentinel and "L" on Mount Jumbo in a different way. For my right now I think it's time for the dam to be moved and I think it's time for the dam to leave in a responsible manner, it's no longer needed for Marcus Daily to generate his electric power at the mill. So, thank you very much.

Chairman Evans: Thank you Bob, the next person who would like to speak, if you would raise your hand or let Bob know so that he can pass the microphone on.

Greg Munther: My name is Greg Munther, I live at 1295 Lena Lane in Missoula. I'm a retired Fisheries Biologist and Natural Resource Consultant. I'm here to testify in support of the Two Rivers Plan and associated dam and toxic waste removal. It was the corporate giants that willingly and knowingly used our rivers as sewers for the toxic waste as they dominated the legislature and the media a hundred years ago to control this state. Now again, it's the corporate giants that would like to feed misinformation to confuse the public and divide them into fighting factions that allows these huge corporations to avoid the responsibility of cleaning up after themselves. They would relish the indecision about local governments and lack of clear actions on the part of superfund agencies. The public was overwhelmed by corporations a hundred years ago and our dam resources, or our public resources have paid the price. We are both an aging dam and toxic waste that continually degrade the river resources below. Dam removal would allow restoration of the migrations of native species of fish in trouble, including both the West Slope Cut Throat and the Bull Trout. It is time for people to demand responsible stewardship of the Clark Fork. It is not a question of whether the dam will be removed, but rather when. This aging structure has become a liability to all concerned. More efficient power plants will be on line before this dam is removed. The question is only whether we have the corporate money via superfund to pay for the removal or whether we delay until it becomes the financial responsibility for us, the individual taxpayers, once again. Like so many mining legacies before, Zortman Landusky, which needs \$40 million right now for reclamation, or the Mycorse Mine in the Upper Blackfoot, which continues to bleed wastes into the Blackfoot River, the public has paid time and time again for corporations trashing our rivers and mountains. Corporations have trashed some of Montana's best natural resources while making huge profits. Montana's public resources deserve better. Let's make the Clark Fork a healthy, productive asset for all Montanans. Thank you.

Chairman Evans: Thank you Greg. Next person? Whoever can get to the microphone first.

Bill Rossbach: Hello, my name is Bill Rossbach. For the last five years, six years actually, I've served on the Missoula City-County Consolidated Health Board. I'm currently the Chair of the Health Board. I want to say that from the day I began on the Health Board, one of our primary concerns has been the Milltown Dam. In our capacity as a Health Board, we have the responsibility for the aquifer protection under an aquifer protection ordinance that we have. On that basis, we have consistently taken the position, through numerous resolutions, that all reasonable steps should be taken to remove the toxic sediment behind that dam and have the dam removed. Just for the record then, I would, I've gone back and found one of our earliest resolutions in this respect and that was adopted by this board on the 21st day of March, 1996, and I'd like to just read into the record some of the issues that we raised then and I would like to raise them again. And this is quoting from the resolution of that date: "Whereas, the ground and surface waters of Missoula County are among our most valuable resources; and, whereas, the Milltown to Hellgate aquifer has been found to be hydrologically connected to the Missoula Valley sole source aquifer, in fact, an extension of the Missoula Valley aquifer; and, whereas, approximately 5.5 trillion gallons per year of arsenic contaminated ground water leaves the reservoir sediments and carries approximately 7,000 pounds of arsenic per year into the Milltown area; and, whereas, a plume of arsenic contaminated ground water in excess of state and federal standards extends downstream into the Milltown to Hellgate aquifer, which is now known to be an extension of the Missoula Valley sole source aquifer; and, whereas, the state natural resource damage litigation program has released a report which states that without effective source removal, the discharge of tens of thousands to hundreds of thousands of acre feet of contaminated ground water per year will persist from the Milltown Reservoir for hundreds of year; and," then many of you remember that in 1996 there was this scouring episode with the dam and this was the reason for this particular resolution as a result of some studies that Mr. Nielsen and others did, we learned that there was very high contamination downstream from the dam as a consequence of that, the next whereas would be: "whereas, recent monitoring of an ice floe and flooding event demonstrated severe violations of copper, zinc, lead and cadmium, aquatic water quality standards below the dam; and, whereas, the metal concentrations observed in the river below Milltown Dam during this event demonstrate that the reservoir sediments pose a direct and long term threat to the biological integrity of the Clark Fork River." I'm not going to read the rest, but I'm going to, just go then to our resolution: "Be it resolved that the undersigned favor an alternative that will provide permanent and effective remediation of contamination from the Milltown Reservoir site and do not find acceptable any alternative which would allow continued discharge of contaminants at levels exceeding state and federal standards into the Clark Fork River. Be it further resolved that the undersigned oppose the long term on site storage of contaminated sediments behind the Milltown Dam." I think it is important to note that just recently it has been made public that the arsenic standards, for example, are being tightened way down because now current scientific research indicates that arsenic is much more toxic than previously considered. Arsenic is one of the primary components of this and as the prior speaker and I know, arsenic is, Mr. Munther just coincidentally was an expert witness for me in the first Milltown Dam litigation approximately 20 years ago, that arsenic is one of the major components of that sediment and is a chronic problem in the Clark Fork River. On that basis, I would urge you, as the chair of the Health Board, to take the position and adopt this resolution. Thank you very much.

Chairman Evans: Thank you Bill. Next person?

Dennis Workman: My name is Dennis Workman. I live at 5449 Prospect Drive. Today I'm speaking as a citizen, I'm a retired Fisheries Biologist. I spent many years with Fish, Wildlife and Parks. In the years before I came to Missoula, in 1979, I spent a lot of time on many other rivers in Montana, collecting fisheries information, the Big Hole, the Madison, the Beaverhead and others, and so I came to Missoula with the knowledge of what a river might, you might expect to see as a fish population in a river like the Clark Fork. When I began collect that kind of information on the Clark Fork, I could tell that there were problems here, because the populations were much lower. And so, right from the beginning, I've had information, we've collected information around Milltown Dam and there's a lot better information now. But, from the very beginning in Missoula I've felt that the metals have been, were the major problem here. And now that there are many real good studies that have been, I think that's confirmed and that metals seem to be the primary culprit in keeping our fish populations below what they should be and I really feel that, and having watched Milltown, the operation of Milltown and its effects on fish population and probably the most dramatic was the ice scouring in 1996, the ice scouring in 1996 was probably the most dramatic thing, but over the years, just small draw downs and those sorts of things seem to keep those populations below the dam much below what they should be. And so I have come to the firm conclusion that if we're ever to see the fish populations in the river around Milltown Dam and up the river, we have to have cleanup, we have to have removal of toxic sediments. And so I'm fully in support of the resolution and the Two Rivers project. I think that the County is taking the right course in being a leader in the community in this thought. I fully support the resolution. Thank you.

Chairman Evans: Thank you Dennis. Next person?

Dave Ryan: Hi, my name's Dave Ryan, I live at 519 Whitney Lane in Missoula. I'm in full support of this resolution. It appears to address all the environmental concerns that have been raised and I just want to testify as to the unique recreational opportunities that this plan would provide. I've been floating rivers in this area for over 35 years and I've had the opportunity to see an incredible explosion of interest in floating and an area like this would just draw people from a huge area, probably internationally famous once it was fully developed. Because of that unique recreational opportunity that would be provided, I think this plan is really excellent because it address the environmental problems and provides a unique recreational resource, turning a liability into a real plus. That's all I have to say.

Chairman Evans: Thank you Dave. Next person?

Michael Metz: Hi, my name is Michael Metz and I'm Chairman of the Missoula County Water Quality Advisory Board. Basically, if you don't know, the Water Quality Advisory Council, excuse me, is a voluntary citizens committee comprised of 20 local professional with various backgrounds in law, hydrology, soils, geochemistry, fisheries, wetlands, toxics, etc. Our purpose is to provide technical advise and expertise to the Water Quality District Board on water quality issues involving Missoula County. I was asked to speak today on behalf of the Water Quality Advisory Council to extend our strong support for the Commissioners resolution for the removal of the sediments and the dam. It is our opinion that the removal of the sediments and the dam will have positive environmental and economic effects for Milltown and the entire Missoula watershed. We feel that the Commissioners resolution is far-sighted and courageous decision to support what most citizens agree is the only logical solution to the Milltown Dam dilemma. While some businesses and community leaders may be upset, and I'm sure you're going to hear that later tonight at Bonner, regarding the loss of tax revenue that

would accompany the removal of the dam, I personally feel, and I think many people on the Water Quality Advisory Council also feel that such short term economic impacts will surely be mitigated by the long term positive environmental effects of such an undertaking. Removing the toxic sediments and the dam will not only greatly enhance water quality, but will also allow for the restoration of natural wetland and riparian areas. Both these obvious outcomes of sediment and dam removal will increase the property values of adjacent and nearby lands. Increased recreational opportunities, fishing, boating, bird, wildlife viewing, these will also provide the community and local business persons additional opportunities to recoup any revenues lost through taxation. At the last meeting of the Water Quality Advisory Council, recent questions generated at previous public meetings regarding the Two Rivers Restoration and Development project were shared and addressed. If you don't mind, I'd like to address just a couple of those questions, because again, I'm sure you're going to hear it tonight and we'd like to let you know what we think about those concerns. The first concern was the Milltown Water Users Association public water supply will become contaminated due to dam and sediment removal. I'm not a hydrologist, although I played on TV, but the hydrologists on the Council agree that currently the arsenic plume is being pushed, basically, up the Blackfoot River by the fact that there's a lot of water behind the dam and that creates a lot of pressure and the toxics are in the sediment and that flows down through the sediment. What keeps the arsenic plume from getting up the Blackfoot River is basically the flow of the Blackfoot River holding it back. Once you remove the dam and you remove all that pressure behind the dam, the flow of the Blackfoot River will actually, according to our hydrologists, probably push that plume back down and further away from the well. Again, I'm not a hydrologist, but if there are ones in the room, feel free to ask them about that, because that's their response to that concern. Another concern that hydrologists, again, are better addressed to speak to this and I can give you this sheet too, if you want to, is there a seal in place which currently prevents the movement of the arsenic from the sediments into the ground water. A lot of people believe that by putting in the piling for the highway, they broke that seal and that's how the ground water contamination first occurred, and again, the hydrologists say no, that there is no seal and that that flow is constant and again, by removing the sediments, the best way to stop the arsenic contamination is, logically, remove those sediments. So, again, in support of that. Another concern, does the dam currently provide any flood storage capacity and will downstream flooding potential increase due to dam and sediment removal, and the answer to that is no, the dam does not provide any flood, its purpose is basically to hold back water in low periods. It doesn't provide any significant flood storage capacity. In fact, if there was a really, a major flood event, a 500 year flood or I think FERC's measurement is the quarter of the worst possible flood, which is close to the 500 year flood, the dam would probably fail, which would be worse than not having the dam there in the first place for a flood. So, no, there are no flood control concerns, in fact the only concern, again, was the one we all felt in '96 when we worried about it failing. So, we again, just to reiterate, we wanted to bring up those points and answer them for you because the Water Quality Advisory Council support the Commissioners resolutions to support the removal of the contaminated sediments in the Milltown Dam. It is clearly in the best interest of the entire Missoula watershed to address this problem now. It should have been addressed a long time ago. Thank you for your commitment, Commissioners, to improving the quality of Missoula's water and environment.

Chairman Evans: Thank you Michael. Next person?

Dick Baird: My name is Dick Baird, I'm here representing the Missoula Whitewater Association. The Association supports the resolution for the reasons I think that Dave Ryan has already made clear. There's been an enormous growth of whitewater recreation in the Missoula area in the past, well, several, ten years or twelve years that I've been boating, certainly. Whitewater recreation facilities in the area are now actually becoming crowded. Peter Nielsen put up here the pictures from the various whitewater parks that have been constructed in Colorado and they've been stunningly successful, they attract an enormous amount of use. A study, for example, of the whitewater park in Golden, Colorado, indicated it had 13,000 user days per year. Now that, of course, it is next door to Denver, we have to recognize that, but there are also many other whitewater parks in the Denver area. So these facilities have been very successful and I think that providing whitewater recreation opportunities will be a real service to an important part of the community. I think we also strongly support the notion of an integrated recreation development, not just the whitewater park. And the reason for that is that I think that an integrated recreation development, where equestrians and hikers and anglers and whitewater recreationists and everybody else can be together makes for a real community asset. We learn from one another, we share one another's enthusiasms, and so forth and I think that that is one of the things that makes this a real public good. The Association is aware of the significant financial implications in terms of tax base, cost of installation, cost of management, and we're heartened by the fact that in the Missoula area there are numerous examples of private/public cooperation to manage recreation resources. An example would be the Pattee Canyon ski trails or the Equestrian Park or the work of LIMB (Low Impact Mountain Bikers). We are anxious as an Association to enter into that kind of relationship with public authorities and other groups to help with not only the management, but with the financing both of construction and the ongoing operation of this facility. I think we recognize the necessity of addressing those financial implications and participating as a group of recreationalists in their solution. Thank you.

Chairman Evans: Thank you Dick. Next person?

Dave Harrington: Dave Harrington, I've lived here about nine years and I didn't bring anything prepared today, but I'd like to say that I'm fully in support of this. The two main points that I see is first, I know there's some science issues as far as when oxygen hits that material and will start to move apparently, so I know the science isn't there yet, but I would like to just say that, you know, for a little extra effort now, it would really pay off exponentially in the long run. And second, as far as boating goes, when I moved here about nine years, you know, there were about 15 boaters, Dick being one of them, and now there's several hundred. I don't even know everybody now. But this, it's a really unique opportunity because of the volume of water here could really provide for, like, a world class facility where even world championships could be held, which is unique for North America, because the only other spot in the country, or not in the country but on the continent, is Ottawa, Canada. So it just provides a really unique opportunity. Thanks.

Chairman Evans: Thank you Dave. Next person?

Arvid Hiller: Good afternoon, I'm Arvid Hiller, the General Manager of Mountain Water Company. I offer these comments in conjunction with the comments I made last Friday at the Chamber of Commerce meeting. I guess I'm concerned that if you look at the resolution, there isn't a comment about the concerns that are almost added as an afterthought by Mr. Nielsen, about the concerns of the drinking water and I would suggest to you that Mountain Water Company is just not a public water supply, we are the major one that supplies 50,000+ of the population in Missoula. In conjunction with that, I have asked our legal counsel to prepare a letter that I would like to read to you real quickly,

because I think it has implications here. I will reiterate what this letter says. Mountain Water Company has no position as to the removal of the dam, removal of the sediments, leaving the dam, leaving the sediments, but I would like you to pay attention to this because while we find ourselves not being able to take a position on those subjects, we do have a position on retaining the water quality that is our charge for this community. Mr. Steve Brown, legal counsel, writes: "We are legal counsel, Mountain Water Company. As you know, Mountain Water owns and operates the water system that supplies water to the public in the Missoula metropolitan area. The source of supply for this system is a network of wells that draws water from the Missoula aquifer. The recharge area of the Missoula aquifer includes the Milltown Reservoir area. Mountain Water is concerned about the Commissioners endorsement of the proposed Two Rivers Restoration and Development project. As we understand the project, it presumes that the Environmental Protection Agency will select dam and sediment removal as the final remedy for the Milltown Superfund Site. This remedy has not yet been selected, nor is it clear that this remedy even is appropriate. Mountain Water has retained University of Montana professors William Woessner and Johnny Moore to provide advice as to the hydrologic threats posed by the various alternatives being considered for Milltown. Last December, Mountain Water sent the EPA comments from professors Woessner and Moore that raised serious questions as to whether enough information currently is available to meaningful recommend dam and sediment removal as a preferred alternative. Mountain Water provided a copy of this letter to the Missoula City-County Health Department. At this point, Mountain Water Company's concerns as raised through professors Woessner and Moore have not been resolved. Even though these questions remain pending, the County has proceeded to endorse the Two Rivers project. Until Mountain Water can be assured that the dam and sediment removal will not cause a short term or a long term risk to the Missoula aquifer, Mountain Water cannot support the Two Rivers proposal because it requires dam and sediment removal. So long as unanswered questions exist as to whether dam and sediment removal will threaten the aquifer, Mountain Water does not understand how the County can support this project. Instead, the better approach seems to be let the EPA remedy selection process run its course before making recommendations about post remedy land and river uses. Mountain Water is not necessarily opposed to the Two Rivers proposal. However, in the context of the superfund process, the proposal is currently premature. EPA will not take the project into account in selecting the remedy. Instead, the remedy will be selected based upon a consideration of various alternatives that deal with the dam and the sediments. Until that decision is made, the Two Rivers proposal only serves to skew the remedy selection process. Finally, Mountain Water has advised the EPA that if an improper analysis used to select a remedy for Milltown and an alternative is selected that causes adverse impacts to Missoula's groundwater, Mountain Water will hold responsible any parties who contribute to the degradation of this valuable resource. To that extent, the Two Rivers proposal improperly influences the Milltown remedy selection process. Mountain Water may consider legal action to either recovery damages or to prevent the remedy from being implemented. Thank you for the opportunity to make these comments." I have these in written form to give to the County Commissioners and a couple extras for staff, if you will. I really want you to consider this as a premature action that has to look at all of the possibilities and all of the questions and the research that needs to be done to answer those questions before a proposal like this would be, or resolution, would be appropriate. Thank you.

Chairman Evans: Thank you Butch. Next person.

Norman Olson: Norman Olson, 435 Brooks, Missoula, Montana. I've been a citizen here in Missoula for 30 some years and I see some concerns here that I'm concerned about in the removal of materials and I hope this has been very seriously looked at. The other thing that I have a concern about, I just came back from down in Arizona and the very thing that I'm concerned about is the electrical power. Nothing has been said what effect the electrical power from this dam will have in this area. They're having, where I was located most of the news came in from California and California is having brown-outs, they're scared what's going to happen this summer because of the air conditioners that will be turned on. They don't expect to have any new power plants in service for another five years. And my concern is right here, are we seriously looking at what power effects this small dam may have on the total picture of power in this area. I haven't seen or heard anything on that. And I'm really concerned about that because that's going to affect the citizens here as well as the commercial buildings and commercial plants that are here. You have brown-outs, it'll affect your appliances in your home which could cause burn outs in electric motors, whatever that may be. What about your computers, what about different things of that nature that it can affect. There's nothing been said about that part of it and I'd be interested in seeing that. Thank you.

Chairman Evans: Thank you Mr. Olson. Next person?

Darrell Geist: Good afternoon, my name is Darrell Geist, I reside on Wyoming Street. Just a few quick comments. The resolution is pretty good, I would include an amendment that would incorporate cleanup of the wells that have been contaminated and also the aquifer, that seems to be threatened as well by the superfund site that ARCO has, is liable for. And I would also point out that MPC, the power company, through operation of the dam, is a liable superfund partner because by virtue of the fact that it's operated, it is pushing those contaminants into the ground water and into the aquifer, so I think they have a legal obligation to step forward and also remove the dam. We're behind the proposal to completely clean up, removed the sediments that are contaminating the area throughout the reservoir, the complete restoration of the area and the Two Rivers plan, it's not very often that you see a, one of the largest US superfund sites in the world become a vision that compatible, I think, with the community and I'm four-square behind the Two Rivers proposal. And I would just remind Montana Water Company that they should be concerned about supplying a clean and safe supply of drinking water to the community and get behind proposals that best serve their customers. Thank you.

Chairman Evans: Thank you Mr. Geist. Next person?

Chris Nelson: My name is Chris Nelson, I live at 1438 Harrison Street in the lower Rattlesnake, and I've been a fishing, fly-fishing outfitter in western Montana for going on 26 years now, and we all understand the importance of tourism here in western Montana, and in Montana in general, it's now the number two money producing industry. I'm in favor of removal of the Milltown Dam and restoration of the rivers because it will provide an additional quality recreational use for both boaters and fisherman and we could lay claim to having a unique situation of having a quality trout fishery within a few miles of a major city, something that very few cities in this country can lay claim to. Both the Clark Fork and the lower Blackfoot have the biological potential to be world class fisheries that could bring a great deal of interest and money into the community and I think that the removal of these, this dam and these sediments would go a long ways to providing a quality living environment for all of us in Missoula.

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Chairman Evans: Thank you Chris. Next person?

Todd Frank: Hello, my name is Todd Frank. I own a business in Missoula called the Trailhead and I, for maybe very obvious reasons, have a vested interest in continuing outdoor recreation in western Montana. It seems to me to be fairly obvious that the right thing to do is to do the science first and then make the decision about whether to remove the dam or not based on that. I know there are some concerns about that and I think they're concerns of lack of good scientific information. I use the reservoir now to take clients out to test boats so it's not as if I don't have a vested interest in also keeping it. I, however, look at the potential that we would have strictly from a business standpoint and as a community member standpoint to open this thing up and create a whitewater park and to me it would be a huge boon to my business. You know, the potential for me is almost unlimited. I know there's been discussion about, you know, putting a rowing course on the reservoir as it exists and I would argue that you should drive around Missoula and look at how many whitewater kayaks are on top of cars. There's probably more whitewater kayaks on top of cars in Missoula than there are rowing shells in all of western Montana or all of western United States. So, I wholehearted support it as a business owner and a citizen of the community. Thank you.

Chairman Evans: Thank you very much. Next person?

Ralph Combs: My name is Ralph Combs, I'm a homeowner, independent business person here in Missoula. Been here for six years or so. Thank you very much for taking the time to allow the public to discuss this. A couple issues. Definitely in favor, full favor, of removing the dam, however, I think that fisheries should be considered first before recreation. Removing the dam would create an ideal whitewater situation anyways. I don't think there's necessarily the need to sell it in that way. Second, I think electrical production and use from the dam is a non-issue. It is so minimal that it can be made up elsewhere. Mountain Water concerns, I think they should be more concerned with having an entire system clean rather than what effects will be borne out by removing the dam. I also would encourage, having been in the well business at one point in time, ARCO and BP to jump on this and take advantage of the PR that they can use down the road as a result of this. As I said, I'm in full favor of dam removal and thanks for the time.

Chairman Evans: Thank you Ralph. Next person who would like to speak?

Len Schombel: Can you hear me? I'm Len Schombel, I'm a retired petroleum geophysicist and have been concerned with the Milltown Dam about ten years now and I can't speak for Meriwether Lewis, but I can speak for myself, and I'm heartily in favor of the dam removal, the sediment removal. Couple of points. Number one, I think the concern about seismic activity, which was mentioned, is a real concern. As probably a lot of you know, the Milltown Dam is located on a projected extension of the Clark Fork fault. And, admittedly, this is an inactive fault, but who knows what will happen down the road. The second thing is, if one were to take the cored hole data at the dam which I've done and map it carefully you can see a possibility of a second fault zone oriented east/west and I think, very probably or possibly, the Blackfoot River has swung around and is following this second fault zone so you may have the intersection of two fault zones beneath the dam. Another small point, the dam at present generates something like two megawatts of power and that little bit of power ain't going to cause any brown-outs if it disappears from our area because we, in Montana as you probably know, produce more power than we use. So I think that is a, not a real concern. Mountain Water, in my opinion, is sort of looking at their own end of the horse. I'd be a lot more concerned about what will happen to the water supply in Missoula if the dam were kept in place. The arsenic is continuing to move out of the reservoir into the ground water and then, in my opinion, is very slowly creeping downstream. And at the present time, there's at least one area I know of on top of the Missoula aquifer where we have a lot of arsenic contamination in the very top of the aquifer and I would suggest Montana Power be more concerned about that than the hypothetical case of what might happen during the course of sediment and dam removal. Thank you.

Chairman Evans: Thank you Len. Next person?

Ginger Gillin: My name is Ginger Gillin, I live at 8050 Springtime Road. I'm a past president of the Montana Chapter of the American Fishery Society and I've been asked to give testimony today on their behalf. The Montana Chapter of the American Fishery Society is a non-profit, scientific organization representing almost 200 fisheries biologists, fisheries managers, stream ecologists, students and anglers, many of whom work and recreate in the upper Clark Fork basin. On behalf of the MCAFS, I would like to applaud your continued efforts to protect and restore river resources in Missoula County. Along these lines, we fully support your proposed resolution. This cleanup and restoration effort would be one of the most important natural resource conservation actions ever taken in our state and the Two Rivers Restoration and Development project offered by Missoula County appears to be a well conceived plan for accomplishing it. This plan would not only benefit fish, wildlife and the Clark Fork River system as a whole, but also a range of recreationists, residents of Missoula County, and the local economy of the Milltown/Bonner area. The impacts of Milltown Dam on the Clark Fork and Blackfoot Rivers are well documented and unequivocal. The fisheries benefits of Milltown Dam removal and reservoir cleanup would be tremendous. These benefits include enhancement of imperiled native fish population such as the West Slope Cut Throat Trout and Bull Trout and many other species. Specific benefits include unobstructed fish passage for thousands of migratory river fishes that are currently blocked as they attempt to move upstream and downstream at the dam, elimination of the reservoir environment which currently supports a strong hold of illegally introduced Northern Pike and acts a source for their further expansion, elimination of concentrated toxic reservoir sediments which have chronic and acute effects on Clark Fork River fish populations and other aquatic organisms, eliminate the risk of catastrophic dam failure which would expose the downstream aquatic environment to millions of cubic yards of toxic reservoir sediments, restoration of more natural, functional river processes and aquatic habitat, and expanded recreational opportunity in the Milltown area through enhanced fish populations, increased access and elimination of a major obstruction for water recreationists. These and other benefits of Milltown Dam and Reservoir removal far outweigh the costs for fish, wildlife and recreation as long as a safe and effective method for removing reservoir sediments can be implemented. We are confident that engineers and reclamation experts can accomplish this task. We also recognize that opponents of dam and reservoir removal are concerned about impacts to existing wetlands and the economy of the Bonner area. The current plan proposed by Missoula County would actually expand the amount of functional wetlands and provide a range of recreation and tourism opportunities on which the local community could capitalize. In summary, we applaud and support your proactive efforts in dealing with a solution to the situation at Milltown Dam that would benefit fish, wildlife and recreational resources of the Clark Fork watershed. Thank you.

Chairman Evans: Thank you Ginger. Next person who would like to speak?

Geoff Sutton: Hi, I'm Geoff Sutton, I live at 445 Edith. I'm here both as a downtown business person and President of the Board of the Clark Fork Coalition and we would like to thank the Board of Commissioners for calling this meeting, the public hearing, and all the individuals who have testified. We've been active in this from the beginning and we support the project as proposed but we also hope that the EPA takes into consideration the reasons that we're asking the dam to be removed, which are ground pollutants, fishery problems, all sorts of technical things that need to be looked into as far as the cleanup. As a downtown business person, I can support this on many of the merits of the proposal but in regards to the actual EPA decision, feel that it, you know, has to be based on the science based aspects of the removal of the sediments. Thank you.

Chairman Evans: Thank you Geoff. Next person who would like to speak?

Steve Schombel: Hi, I'm Steve Schombel, 2200 Applewood Way. Just wanted to say a few words on behalf of the West Slope Chapter of Trout Unlimited. We have been looking at this dam situation for over ten years. While I can't say that we have had an opportunity to see in details the Two Rivers plan, I can state with great confidence that the West Slope Chapter is in favor of thorough cleanup of the sediments and dam removal. Our main concern is the native fish passage. We just do not believe under the current situation, no matter how much you spend, no matter what kind of ladders you build, that you can have adequate downstream and upstream passage of Bull Trout now, with the reservoir full of Northern Pike. On a personal level, I'd like to say that I just don't believe the dam is safe, no matter how many reassurances we have had from engineers, it seems every year or so another problem crops up. First there was a crack on the north end and that was leaking. Then we had the ice jams in '96. Now they say they can fix that by putting in a rubber dam. And after that, we've had several years of big trees trying to get through the radial gates and they have to draw down the reservoir. Recently, there's been a lot of leaks appearing. Now they've reassured us that everything can be fixed up, it will be fine again, but I think the Milltown Dam is getting to be like an old used car. It's breaking down every month or so, so maybe it's time to get rid of this old car instead of putting more money into it. Thank you.

Chairman Evans: Thank you Steve. Next person who would like to speak?

Brenda Cast: Hi, my name is Brenda Cast and I live on Devonshire Lane in Missoula County. I would just like to say that I am in favor of your resolution and I think the fisheries are very important, I think the recreational and economic opportunities are very important, but I really think where it's at, the nitty gritty of all this is the health benefits of getting rid of the dam. Heavy metals have been implicated more and more in recent research in numerous health problems. As we're aware, there's arsenic behind the dam, there is also copper, there's 19,000 tons of zinc, 143,900 tons of iron, 70,000 tons of cadmium and 9,200 tons of manganese. We're all pretty aware of the effects of arsenic, but I would like to speak to the nutritional effects of heavy metals in our diets, in our water, in our water system. I'd like to speak particularly about cadmium and manganese. Cadmium and manganese are both considered trace elements. We only need a trace of them in our systems. The recommended daily intake from manganese is 10 milligrams. That's a very, very minute amount. If the water that is flowing through the dam is flowing over these toxic metals and it is affecting the fisheries, as we have heard, it has to be affecting the human beings also. I'd like to report on particularly one aspect, iron, since that's most of what's back there is iron. In the United States, approximately 50 percent of Americans have too much iron, and the technical term for it is iron overload. Every human being is different, but iron overload can result in accelerated aging and increased risk of heart disease. An excess of free iron creates excess free radicals in our systems, and I think we have all heard about free radicals. Only 10% of the iron we ingest is absorbed into our system and the excess free iron has been linked to Parkinson's Disease. Iron overload has been found in people with psychiatric problems. An excess of iron stores in our central nervous system and in a study published in 1991 in the American Journal of Geriatrics, it reported on seven psychotic patients who, when treated for iron overload, showed a diminished amount of psychotic behavior. That diminished psychotic behavior continued way past, you know, the point where they were getting any other treatment for anything else, as long as they kept their iron levels down. In terms of manganese, high exposure to manganese has been linked to what is called manganese madness. In the early 20th century, miners of manganese often demonstrated a disease called this manganese madness. The symptoms of this were very similar to CJD (Crutzfield-Jacobson Disease) which we are now seeing linked with many, many problems, health problems in the US. I would just like to say, you know, leaving the dam there just seems like an accident waiting to happen. I also am concerned about seismic activity, I think worldwide we're seeing an increase in seismic activity and I don't believe that anybody can tell us that, you know, they can guarantee that that dam will withstand an earthquake. Should there be a quake, all of that will come flooding down in the Missoula aquifer and it'll be too late to do anything about it then. I'd like to thank the County Commissioners for their resolution, I think it's a good idea, but mainly I am interested in seeing the dam and the sediments removed.

Chairman Evans: Thank you Brenda. Next person who would like to speak?

Bob McGiffert: My name is Bob McGiffert, I live at 16 Parsons Drive. I've lived in Missoula for 36 years. We all know that I represent nobody except myself today. We all know that the dam will fail someday, whether it's from earthquake or flood or whatever. Question then is are we going to let our grandchildren and great grandchildren deal with the poisons that will pour down the river when that happens or do we do something about it now. I'm very much in favor of the cleanup, I support the resolution. Thank you very much.

Chairman Evans: Thank you Bob. Next person who would like to speak? Next person who would like to speak?

Ted Antonioli: I'm Ted Antonioli, I live at 5907 Longview. I'm here today representing the Rocky Mountain Chapter of Montanans for Multiple Use and we do not believe that this resolution is timely. There's been some comments on the electric power. That is enough electric power to power two or three thousand homes. It is significant and it's important to note that it's very low cost power. The power that's produced from hydro, because you don't have fuel that you have to feed into the plant, is as low of cost power as you can get, especially after your dam has been amortized. So, and I think it's important to have some, you know, even though it's a small amount in terms of the total supply, it's important to have low cost components of power in the rate base. If the dam is torn out, we heard these proposals that Montana Power Company will be liable, Montana Power Company, in part, will have to pay. And so, there's a double whammy, you lose the low cost power and then the rate payer is going to have to pick up the cost, the portion that borne by the Montana Power Company. Where do people think power companies money comes from. It comes from the person whose paying

their electric bill. So, it's kind of a double whammy. Now, on the taxes, the FAQ may be accurate in so far as it goes, but it doesn't present the whole picture. Instead of, it states the taxes that go into the schools, well the total taxes in 1999, because I got these figures from the Treasurer here in Missoula County, is \$362,707.34, substantially more, just so people realize that's not the total. And as you know, and it shows in the fact that the amount of electric, of power, of taxes from the power plant will be declining. Well, that's because the legislature jiggled around the way taxes are paid. They changed around, put some on capacity, you're probably familiar with this, but really, I think you owe the taxpayers of Missoula County a full accounting of the taxes from year to year, not the figures that are in the FAQ, a full accounting. We're concerned about certain of the environmental issues, I think there's more to be discovered through science on the environmental issues. We've heard from Mountain Water and there's other concerns we have. The toxic metals currently are being buried under cleaner sediments that are coming down the river. They're cleaner by virtue of the cleanup that is taking place in the upper Clark Fork River. So, kind of the interface between water and sediment is becoming cleaner over time as the upper Clark Fork is cleaned up. And so, do we really want to stir that up. Another factor is, I'm a geologist by training, and wetlands such as there at the present time, are an excellent way to fix metals. They are constructed at great cost in places like the Mycorse Mine, ASARCO put in wetlands, and the purpose of them is to grab the metals and fix them. And do we really want to tear out those existing wetlands that are doing that job at the present time. I think there's very sensitive issues that really need to be resolved before this kind of a resolution should go forward. That's all my comments.

Chairman Evans: Thank you Ted. Next person who would like to speak? Next person who would like to speak?

Jack Mauer: Jack Mauer, 516 Chickadee Lane, Victor, Montana. I represent the Bitterroot Chapter of Trout Unlimited and I'm also the FOAM Regional Director, which is Fishing Outfitters Association of Montana for Region 2. I feel that the benefits of removing the dams and sediment are great, it could enhance not just the immediately below the dam, but a hundred miles to and from above the dam. That dam does not act like a fisheries enhancer. If I were, I'm also a fishing outfitter. If it were a dam like the Kootenai or the dam on the Big Horn or Missouri, we'd have an incredible fisheries down there, but because of the toxics, because of the poisons, we have suppressed populations. But here's an opportunity to enhance close to a hundred miles of fisheries downstream. In some of our outfitting and guide meetings, we're talking about social conflicts on the river. We're talking about places to go, we need more options. Here's an option for Missoula. 2,500 trout per mile, what a benefit to the community. Instead of having 500 mile of trout per mile below Harper Bridge, Huson, some of the finest water, trout water I guide on, we'd have 2,000 trout per mile possibly, not just to mention populations of other fish that are equally enhancing to a whole variety of wildlife. The Blackfoot is on the rebound right now, yet here is a dark cloud over the Blackfoot River. Pike introduced, breeding like rats, cockroaches, in the Milltown Reservoir, we need to take care of this problem. We need to take the bull by the horns and we need to look carefully at all the considerations that we've talked about, people have commented today. But the structure is archaic. We don't want to put money into rebuilding a structure like this. So, I am in favor of the resolution, I think our Fishing Outfitters Association of Montana is in favor of the resolution, so is the Bitterroot Chapter of Trout Unlimited. Thank you.

Chairman Evans: Thank you Jack. Next person who would like to speak?

Chris Cerquone: My name is Chris Cerquone and I work for the Missoula Water Quality District and the Missoula City-County Health Department and I'm here today to comment on behalf of the District as well as a member of the Water Quality Advisory Council. Recently there's been some concerns, I guess, and questions brought up at some recent meetings and I'd like to try to address some of those questions on behalf of the District and the Council. One of the first questions, I guess, that's been brought up is will Milltown Water Users Association well be affected if indeed the dam were removed and the sediments were removed and staff at the District as well as folks at the Council sort of looked at this particular question and, I think, feel that a resounding no, that that well would not be affected. Elimination of the dam will certainly lower the water level in the Clark Fork River but the unnaturally high level behind the dam currently drives water through metal-laden sediments and into the underlying aquifer. It creates elevated ground water flow velocities which drive the contamination down gradient toward Milltown users well, which is currently located upstream along the Blackfoot River. If you were to look at that map, it's, if you see the town of Milltown, the wells are located right up in this area right here. The plume doesn't reach the well now because ground water out of the Blackfoot drainage which comes down out of that drainage physically prevents water that's moving in ground water out of the Clark Fork drainage to actually get to those wells. And by removing the dam and sediment, essentially we're going to lower the head of water in the Clark Fork drainage such that the influence of the Clark Fork is even going to be less than it is today, which is going to allow the Blackfoot drainage to have more influence on ground water flow and in essence possibly what we might see is any ground water plume that's there is actually going to shrink a bit to the south because of the extra flow coming out of the Blackfoot as compared to what's currently coming out of the Clark Fork and the Blackfoot. So we don't feel that we can envision the likely scenario associated with dam and sediment removal by which the threat of contamination to that well would increase. Another comment that's been brought up, or a question I should say, is there a current seal in place that's holding contamination there. Is there is seal that was penetrated by the pylons that were put in by the Interstate, and we looked at that issue and currently there are probably some fine sediments in the reservoir that have been deposited there over the years that provide a very crude or limited barrier to water movement from the Clark Fork River through the sediments and into the aquifer. If we remove those sediments, we're likely to see water move a bit more freely into the aquifer in the area where there currently are sediments which would be removed, but overall there would be less water moving into the aquifer. A couple reasons why. One is that, again, you're dropping that head roughly 12 feet behind the dam right now. So, while the water may move more freely into, through the gravels, it's going to be moving under lower velocities under less gradient, because you're dropping such a significant head. The other thing is that the water that's moving into the aquifer as compared to today's water that moving into the aquifer would be dramatically much better quality. And I'm talking about the long term, okay. Maybe in the short term there could be some concerns on whether you're going to stir something up, but we're talking very short term here. In the long term, you're going to have water that's going to be coming through that system with those sediments gone that's going into the aquifer, it's going to be a much higher quality. And I think it's important to realize that right now we have sediments that are behind that dam that hold 2,100 tons of arsenic, not pounds, tons of arsenic, and on an annual basis it discharges 7,300 pounds of arsenic into the aquifer. We remove the sediments, we remove the dam, we're going to be improving things and we going to allow the restoration process for this whole system to begin. Related to the seal on I-90, I'm not sure where that comment came from but there is no indication that there is a seal in the system, in the aquifer, in the geology from ground surface to ground water in the many holes that have been drilled out there related to this site. The assessments performed at the dam

clearly indicate that the aquifer becomes contaminated as water from the Clark Fork flows through the contaminated sediments behind the dam, which pick up the arsenic and other metals as it percolates downward into the aquifer. There's no known source of contamination that I'm aware of, that we're aware of, near the I-90 bridge. The area of highest arsenic concentrations are immediately below the reservoir and upstream of these bridges. The other comment that's come out is if the dam sediments are removed, will wells in Piltzville be affected. And I think the answer to that question, we believe the answer is no. Piltzville is located, if you see where the old right-of-way for the Milwaukee Railroad goes across, Piltzville is about three-quarters of a mile to a mile upstream. Under the alternative 7A which we're talking about here, you have a check structure right there at that particular point which is going to maintain head about that point upriver. Essentially, you're going to maintain the same water level that's in the river now above that point. Essentially you're going to maintain the same ground water levels above that point. So wells that are up above that particularly three-quarters of a mile to a mile up that, should not have any effect in their water levels. That's what we believe. Does the dam currently provide any flood storage capacity was another comment that's come up and will downstream flooding potentially increase due to dam and sediment removal. Again, we think the question is no, the dam does not provide any significant flood control. In fact, if you look at the emergency action plan, it was prepared by Montana Power Company, it states that it's a run of the river plant with virtually no storage. Interestingly though, if the dam remains in place and it were to fail, this potential exacerbate a flooding situation and that's been called out in many reports, including that report. That is, with the dam in place, if we were to have a flood such that it would cause failure of the dam or a situation that would cause failure of flooding the dam, the dam would act to actually increase a flood wave down gradient. Flood estimates, FERC has classified Milltown Dam as a high hazard dam, based on it's stretch of life and property in areas downstream of the dam that would be inundated if the dam were to fail. It's also really important to remember that if we remove all these sediments and we remove the dam and we restore it with wetlands, that the wetlands will probably provide more flood control capability than the dam currently provides today, with is virtually nothing. That's my comments. Thank you.

Chairman Evans: Thank you Chris. Next person who would like to speak? Next person? Is there anyone else who would care to speak?

Tracy Stone-Manning: My name's Tracy Stone-Manning, I'm the Director of the Clark Fork Coalition. It's probably no news that we wholeheartedly support this proposal. Mostly I want to say for the record that we'd very much like to thank the Commission for their leadership on this. It is refreshing to work with government, a delight to work with government and I thank you for having the broader vision on this whole effort, looking a hundred years out, I expect the citizens of Missoula County will say, boy that Board of County Commissioners did a good thing. So, thanks so much.

Chairman Evans: Thanks Tracy. Next person who would like to speak?

Gary Hughes: My name is Gary Hughes and I'm living at 1615 Sunflower here in Missoula, and I'm a student at the University of Montana and one of my focuses is on the political economics of many environmental issues. I would like to commend the Commissioners of this County for taking such a visionary stance on this issue. The resolution that you're passing and the parties that you have indicated should be encouraged to cooperate with the citizens of the County, that sort of language is something that people in communities all throughout the Americas are trying to do with large companies of this nature. There are issues that are similar to this, especially with energy industry companies that are exploring for oil and natural gas and the fact that you are standing up like this is something to be commended and that will have a very positive light on Missoula. So, I thank you for that and I am definitely in support of your passing this resolution. Thanks.

Chairman Evans: Thank you. Next person who would like to speak?

Nathaniel Hitt: My name is Nathaniel Hitt. I live at 1030 Cooper Street in Missoula. I'm the President of the Montana Chapter of the Society for Conservation Biology. I would simply like to say that I support the passage of this resolution. I think it's appropriate and I'd like to commend the Commission for their thoughtfulness and their progressive proactive approach to this serious issue. Thanks for your time.

Chairman Evans: Thank you Nathaniel. Next person who would like to speak? Is there anyone else who would care to speak?

Dan Jimenez: My name is Dan Jimenez and at 435 Ernest Drive in Stevensville. As a chemical engineer that's worked at superfund sites in the past, I would just want to wholeheartedly thank the Commission on this proactive approach to a very serious issue. As a citizen and a whitewater recreationalist, I also want to thank you for keeping the public and just keeping our interest at the forefront. So, I just want to say thank you and that I'm in full support of the proposal.

Chairman Evans: Thank you Dan. Next person who would like to speak?

Megan Boltwood: My name is Megan Boltwood, I live at 3700 Rattlesnake Drive. I'm a graduate student at the University of Montana and I've been looking at dam removal cases across the United States and actually will be beginning my thesis up in Alaska looking at dams up there. And I would just like to add that there's a real opportunity here to set a precedent in the dam decommissioning movement. And I think that that is something needs to be considered, is that this is a national issue and that that this is something that is going to happen again somewhere and here in Missoula we can set a precedent. Thank you.

Chairman Evans: Thank you Megan. Next person who would like to speak? Next person who would like to speak?

Janice Shayberg: Hi, I'm Janice Shayberg and I'm from 5050 Mallard Way. I'm concerned about several things. I'm concerned with the polluted water in the wells around the Milltown Dam. I own several pieces of property very close to Milltown Dam, I lived there for a number of years myself. Even though I have moved personally away from there now, I live further up in the Clark Fork River and it's in my back yard as well and I'm also concerned with my well there with contaminates filtering down the river. I'm concerned also with someone mentioned the faults, I was there living in that area in 1996 and I was very concerned about the dam removing my buildings from my property if it would have failed. So, I would like to say that I am in favor of what you are doing. I worked as a volunteer in a Third World country for part

of a year and contaminated water was a very big concern while I was there and so I'm very concerned about what is happening to Missoula and thank you for your leadership in this area.

Chairman Evans: Thank you Janice. Next person who would like to speak? Is there anyone else in the audience who would like to speak? Then I'd like to ask the folks who have some personal interest here, we have the Montana Power, we have ARCO, we have EPA, we have US Fish and Wildlife and we have Montana Fish and Wildlife, and I want to give them all the opportunity to speak. Would you like to start Jim, or Sandy, who would like to start?

Sandy Stash: Thank you for the opportunity. My name is Sandy Stash, I'm Vice President of ARCO Environmental and I'm North American General Manager of the Environmental Remediation for BP, which acquired ARCO about a year ago. What I'm going to talk a little bit about is the company's position on the resolution, but as well on the whole issue in front of us with the Milltown Dam. And I guess I'd like to start by saying first of all that I would respectfully suggest that folks involved in this discussion take a careful look at the nearly 15 years of scientific data and analysis that have been gathered on this project. I am somewhat troubled by some of the facts, or I should say non-facts, that seem to be floating out around this. Well in excess of \$10 million has been spent on environmental risk assessment, engineering work on the superfund site alone, and Jim will speak a little bit more to some of the FERC issues, and I am fearful that a lot of that is for naught because I'm concerned that a lot of that isn't finding its way into the public debate and I think that may be a function of anything that goes on for 15 years, you probably lose some information along the way. But I would respectfully suggest, particularly for the County leadership, that a lot of that information be looked at, because at the end of the day, from ARCO's perspective, when we look at the various options in front of us to deal with this issue and we carefully weigh them against the superfund criteria, I guess a couple of things kind of reach out and grab us. And one of them, first of all, deals with risk. When you look at, and to simplify the discussion because there are something like seven or eight alternatives on the table, but at the end of the day, it comes down to removal of sediments or management of sediments in place with certain enhancement to the dam. The long and short of it is, as it relates to long term risk, we feel that whichever of the two big alternatives are chosen, the long term risk is going to be the same. And some of that is, and I'm going to contrast this some of the other places in the Clark Fork, we are very fortunate here in the Milltown area that we do not see the levels of risk for metals that we see, certainly, 120 miles upstream in the Butte and Anaconda area. And as such, in our view, and I think it's carefully weighed out in various documents out there, whether we remove the sediments or we leave them in place, the long term risks are going to be the same. Which brings me to the short term risks, and that is in a removal scenario, the short term risks will be exponentially higher than the short term risk of managing the materials in place. And basically, at the end of the day, we think that's the most important factor that needs to be considered. Secondly, I think there's been a real lack of discussion on the issue of removal. And I'm going to call it sort of underestimating the down side of removal. And this is not an untypical debate, by the way, I manage these types of projects, unfortunately, way too many of them, for the company across the country, and I think this is a frequent discussion and I think we all like to believe that these problems that were created at a time when we less sophisticated on how to manage facilities and industry, that these materials can simply be picked up in a very clean way and moved somewhere else. And I think, particularly when you're talking about six million cubic yards of slop, which is what we have here, organic ooze, whatever you want to call it. I think there's a couple of questions that have absolutely not been answered, and I'll call them kind of the how, what, where, when. First of all, please do not underestimate the difficulty in moving these materials by trucks. I have personally \$700 million worth of experience moving things around in Montana and I cannot underestimate the impacts to the community of trucking this much material. And I'll add that most of the trucking we've done up in Butte and Anaconda we've done with mining haul pack, 50 cubic yard, not on city streets. That's not going to be possible here, they will be smaller trucks and I won't even go into the gory details of how many trucks that would involve. Secondly, I think how long this is going to take, and the one example I can point to because I think it's the most relevant, is, and we're not doing it, is the Silverbow Creek cleanup for about half the material that we're talking here. That cleanup will take the State of Montana, I think the latest estimate I've heard and Mr. Wardell can correct me if I've got this wrong, but I think the latest estimate I'm hearing is somewhere between 10 to 14 years. So using those kind of numbers, this is an impact for a very long period of time. And finally, I don't think we've addressed the where and with all due respect to the work you guys have done, looking at possible places this can go, in my experience, and we've got some very localized experience in Butte and Anaconda, people think removal is great until they find out that it's near their neighborhood or their school or their business. And regardless of the facts on that, I think that the whole issue of where this material will go has been underestimated. I'll add, Peter, I know one thought that always comes up is opportunity upriver and I guess I think that would be one of the more interesting public meetings I ever went to if the proposal is made to move this material from Missoula up to Opportunity. Let me just touch briefly on an issue of cost benefit, because again I think there may be some bad information out on that. A cost benefit analysis was actually done on removal versus in place and interestingly it was done by the State of Montana in the Natural Resource Damage lawsuit which was referenced earlier. There was a piece of that not referenced earlier, and that was the conclusion made by the State of Montana, and to remind everybody in the NRD lawsuit, ARCO was sued for \$765 million, and I can, and this, by the way, is over and above the cleanup. In that \$765 million, there were a lot of what we viewed, frankly, as kind of crazy projects. Digging up millions of cubic yards of material in addition to what EPA would require, removing an Interstate highway in Butte, vis-à-vis the Pole Plant. And with all those types of what we felt were extreme, far reaching remedies, the one place the State of Montana decided that it was not cost effective, in other words the benefits for the cleanup versus the cost were not cost effective, was the Milltown Dam. In that \$765 million claim, of which we settled a good portion of, the state made a determination that removal didn't make sense. I know, I've heard that, well that was before the ice jam in 1996, I respectfully disagree because we settled that lawsuit in the '96-'97 time frame, so the then Governor and then Attorney General were very aware of the ice scour and still made this decision on cost benefit. I do understand that that is a different set of criteria than EPA face, but I raise that just, I guess, as a reminder to folks that we have been through this analysis and no, it was not an analysis by the company or companies, it was analysis by the State of Montana in a Natural Resource Damage lawsuit. I guess in closing I do want to talk about what, and I always feel bad on this, I don't mean to start a discussion with negatives, I guess I do want to talk a little bit about what the company is committed to. And I mentioned this earlier, and frankly, I'm very proud of what we, as a successor to the Anaconda Company, have been able to accomplish over the last 15 years with the Environmental Protection Agency and the State of Montana. We are in this cleanup well over \$700 million, and to remind everyone, this was a company we purchased, stupidly I'll add, but purchased in 1977, operated for a couple of years and have borne the full brunt of what Anaconda did and didn't do across the country. We're very proud of our work here in Montana, and our work here has always had three prongs. First of all that everything we would do would be protective of human health in the environment. Secondly, to the degree that we're able, we will do everything we can to make sure those cleanup, that huge investment of money, actually provides for economic development in this state, something that I think we all agree we much need. And finally, that with that huge

expenditure of money we would also do whatever we could to improve the quality of life. And I'm very proud of a number of projects that I'm sure until I'm very old I'll be happy to go out and see some of those things that I've had, been able to have a personal involvement in. Let me talk about that three prong commitment, vis-à-vis this site. Clearly, it is our strong belief that the best way we can protect human health and the environment at this site is figure the very best way to put this dam in the best condition we can for the long term and I'll add, provide for it in perpetuity. I know I hear frequently, well, you know ARCO went away, BP could go away, MPC was in the power business, now they're in the electrical business. We take very seriously our in perpetuity commitments. This is not the only in perpetuity commitment we're going to have. I think all you need to do is drive to Butte and look at the Berkley Pit situation and realize that we will be working with EPA in the coming years to figure out exactly how, from a financial and an operational standpoint we can provide in perpetuity for the management of these facilities. And we take that very seriously and we fully expect to stand behind that commitment. Secondly on the economic development, I think the very best thing we can do to provide for economic development is to do whatever we can to enhance and support affordable power. All you got to do is pick up any newspaper in the state over the last four months and you realize what is most hampering our abilities in the state right now is affordable power. And no, I don't choose, or I don't wish to overstate the power production, but clearly the thought of pulling one megawatt out of the State of Montana right now to us seems very, very irresponsible. And I think further, to contrast recreational enhancement against something like power, we don't think that's even a fair comparison and we've probably done more recreational development with golf courses and everything else. As much as we would like to hope that our golf course in Anaconda replaced the loss of the industry in Anaconda, it doesn't work that way and with all due respect to your proposal, I don't see any scenario where this would replace the tax base or the economic potential that a hydroelectric facility does. And finally, and then I'll be quite, on the improvement of the quality of life, we have, in the last 10 years, provided some resources to enhance the quality of life. We granted \$50,000, in fact, to this Commission a couple of years ago to improve the Kim Williams Trail and we've provided other grants in the community. We remain committed, as we know the power company is through their FERC license, to do whatever we can to enhance the quality of life, the recreational opportunities at that dam, or at that facility, and we see a lot of possibilities for that as we move forward with what we feel is the best solution. And I thank you for having me.

Chairman Evans: Thank you Sandy. Jim, do you want to go next?

Jim Stillwell: Sure. Good afternoon. My name is Jim Stillwell and I represent MPC as the Milltown Project consultant. After hearing the comments, I thought I would discuss briefly a few of the safety issues regarding Milltown Dam. As most of you know, Milltown is very tightly regulated by the Federal Energy Regulatory Commission. In 2001, and this is a very timely thing, MPC will be hiring a third party independent consultant to perform an in depth analysis which is referred to as the FERC Part 12 Five Year Inspection. This inspection basically will look at every aspect of dam operations and will result in a report that's submitted to FERC and any problems associated with the facility will be addressed by FERC. That particular document, which will be completed in the latter part of this year, will be available for public review. Previously, MPC has hired consultants to look at stability analysis and the overtopping evaluation of, for the facility. The Milltown facility must meet FERC standards for resistance to the Probable Maximum Flood or PMF. The PMF for Milltown is 271,000 cubic feet per second (cfs) of river flow. This is about, oh, just by eyeball estimate, it's about 15 feet over the top of the current dam. The highest previous recorded flow at Milltown is approximately 50,000 cfs, so the standards for the facility are at a theoretical five times the previous maximum flow in the river system. MPC will be making some improvements next year to the right abutment portion of the dam, due to its lower erosion resistance to flooding compared to the rest of the dam that sits on bedrock. An enhanced right abutment area will basically direct flood flow over the main portion of the dam. I agree with Mr. Antonioli's comments about the power production because Milltown is, believe me, an operational electric generating facility. It's average production is about 2,000 kilowatts of power which could supply approximately 2,000 homes or an equivalent commercial usage. This power produced at Milltown is feed directly into the distribution in the Missoula area, so it's really pretty much confined to the immediate area for use. This power may be very important to certain users in the Missoula area in the future. Basically, MPC welcomes the opportunity to answer questions for the operation of the dam or safety related issues at any time. We appreciate calls on this so as to present the accurate technical information so it doesn't get misrepresented, which is easy at times considering the nature of all the different questions and issues with the facility. Basically, I appreciate the opportunity to stand up here and talk today and anyone that would have any questions on Milltown operations or safety, I would be glad to answer them after the session is over. Thank you.

Chairman Evans: Thank you Jim. We have Mack Long from Montana Fish and Wildlife and I'll ask Mack to speak next, if he would? And then Mark Wilson and then John Wardell.

Mack Long: Thank you. Madam Chair, members of the Missoula County Commission, for the record my name is Mack Long, and I'll hold the microphone now. We've reviewed the Two Rivers Restoration and Development project and would like to provide the following comments. Currently, FWP cannot comment on the actual feasibility of removing the 6.5 million cubic yards of toxic sediments. Our expertise is not in the technology and practicality required to make recommendations in that discipline. We would, however, like to comment on the fish, wildlife and recreation component of the proposed plan. If safe removal and storage of sediments can be accomplished then it would be an unequivocal benefit to the future status of fish, wildlife and recreation resources in the Blackfoot and Clark Fork Rivers. The dam was designed to supply power to the mill at Bonner. It has historically acted as a trap and filter for contaminated sediments. At the current time, it is only minimally accomplishing this action, allowing as much as 95 tons of toxic sediments to pass downstream of the dam annually. During run off, toxic metals are passed downstream as far as Alberton. Fish kills have been documented downstream of the dam as a result of metal releases from the reservoir. The reservoir has allowed an illegal introduction of Northern Pike to establish in the reservoir habitat. Our fisheries biologists data has repeatedly shown that Northern Pike, which are not indigenous to western Montana waters, have had, and will continue to have negative impacts on trout and native non-game fish. Currently, the dam prevents upstream fish passage for migratory fish and limits downstream movement as well. Returning the rivers to a more naturally functioning system would allow fish passage, natural flow events to occur and improved river health. From a wildlife perspective, there are several species of furbearers such as beaver, mink and muskrat that occupy the Milltown Reservoir area. In addition, numerous birds, waterfowl and raptors occupy this area. Some temporary disruption would occur to wildlife during construction of the project, however, we feel that all these species would remain or return and continue to use the area if the proposal is designed to be wildlife friendly and substantial wetland habitat remains or is created. We are aware that should the proposal come to fruition, that Northern Pike anglers would lose an angling opportunity. However, as I stated above, this was an illegal introduction and has been detrimental to other fish populations. We would hope that waterfowl hunting

opportunities be included in the overall design. Currently, the opportunity exists and should continue. The proposed plan would provide excellent opportunities for floaters, rafters, canoers and kayakers. The whitewater section would provide a valuable recreational opportunity and economic benefit for the community. We would like to explore a cooperative approach between the County and FWP to acquire the Weigh Scale location along Highway 200 for additional access. In addition, we would like you to explore the possibility of providing an access location for local motorboat owners to enjoy and utilize the area as well. Motorboat operation is presently allowed and allows them the opportunity to use their boats locally to fish and recreate. The confluence of the Blackfoot and Clark Fork Rivers has historical significance that should not be overlooked. In conclusion, FWP has identified numerous advantages that the plan would provide to the fish, wildlife and recreational resources and the public who enjoy them. If the plan were carried forward, FWP would welcome the opportunity to be a partner. Thank you.

Chairman Evans: Thank you Mack. Mark?

Mark Wilson: Honorable Commissioners, my name is Mark Wilson. I'm the Field Supervisor for the US Fish and Wildlife Service, located over in Helena. I've also worked for 18 years as an environmental contaminant specialist for the US Fish and Wildlife Service and have years worth of experience dealing with superfund issues similar to this one. In collaboration with state fish and wildlife management agencies, the US Fish and Wildlife Service is the nations preeminent manager of fish and wildlife resources, along with a broad array of important habitats upon which this natural resources depend. Our mission is to work with the states and other Federal agencies, tribes and local governments, private groups and individuals to conserve, protect and enhance fish, wildlife and plants and their habitats for the continuing benefit of American people. I'm here today representing the Service in support of Missoula County Commission's resolution to remove Milltown Dam, safely dispose of the contaminated sediments, restore the aquatic habitats located at the confluence of the Blackfoot and Clark Fork Rivers to a more natural condition and to establish a regional park for the benefit of various citizens. The Service operates under a number of legal authorities which have application to the Milltown Dam situation. These include, but are not limited to, the Migratory Bird Treaty Act, the Bald Eagle Protection Act, the Endangered Species Act, the Fish and Wildlife Coordination Act, the National Recreational Fishing Policy and Executive Order 12-12962 pertaining to recreational fishing. Although in recent years the Service has perhaps been most widely noted for efforts pertaining to the conservation of threatened and endangered species of fish, wildlife and plants, we also have proud traditions related to protecting migratory birds and their supporting habitats, including the promotion and regulation of recreational hunting for waterfowl and other migratory bird species, and we are also advocates for the development, protection and enhancement of recreational fisheries, especially as it relates to the restoration and improvement of aquatic habitat conditions conducive to providing and maintaining healthy, self-sustaining fish populations. The existing situation at Milltown Dam results in serious adverse impacts both regionally and nationally, to nationally significant fish and wildlife resources, as well as raising concerns for public health and safety. The Service's concerns with Milltown Dam include, first, the dam is barrier to tens of thousands of migratory fish, including the nationally threatened Bull Trout, which also has important cultural significance to local Indian tribes, as well as the state sensitive West Slope Cut Throat Trout which was also recently under consideration for inclusion on the Secretary of Interior's list of threatened and endangered species. Other important recreational fish species include the Rainbow and Brown Trout and Mountain Whitefish which are prevented from migrating upstream to suitable spawning sites in the Blackfoot River system which has national and perhaps international significance in terms of its recreational trout fishery. The dam also blocks spawning migration for native non-game species of fish such as the Large Scale Sucker, Long Nose Dace and Red Side Shiner, which provide forage for game fish and wildlife such as wading birds and Bald Eagles. These non-game fish species also have ecologically significant roles in the overall maintenance and well being of healthy rivering systems. The Milltown Dam also, as has been noted several times today, produces a biological blockage of sorts due to the fact that the impounded reservoir upstream from the dam provides shallow, cool, heavily vegetated aquatic habitat conducive to the propagation of Northern Pike, a voracious predatory fish that has been illegally introduced into the Blackfoot and Clark Fork River systems. These fish are numerous enough to be a serious threat to all species of juvenile fish, in particular that result from reproduction higher in the watershed that are instinctively trying to attempt to migrate downstream. The six and a half million cubic yards of contaminated sediment currently impounded upstream from Milltown Dam can pose a potential periodic hazard to important fish and wildlife resources at all ecological trophic levels of the Blackfoot and Clark Fork River systems, and this can occur for miles upstream and downstream from the site of Milltown Dam. For example, even at very low concentrations, larval and juvenile life stages of fish are especially sensitive to the toxic effects of copper. Arsenic and toxic metal residues pose a direct toxicity threat to fish and wildlife that reside in these aquatic systems and an indirect threat to aquatic and semi-aquatic species that may ingest the contaminated sediment through feeding activities or which consume other fish, wildlife and plants that have accumulated and/or biologically incorporated these constituents into their tissues. For example, a wintering Bald Eagle located several miles above the site of Milltown Dam could be adversely affected by eating a contaminated Large Scale Sucker that has been foraging through the area of contaminated sediment above the dam prior to migrating upstream and becoming prey for the Bald Eagle or some other species of fish-eating migratory birds. The toxic ground water plume migrating off the site is not only a threat to public health due to contamination of aquifers used for domestic wells, but it also has the potential to adversely affect fish and wildlife resources because of its tendency to surface in springs and seeps and to infiltrate surface water in streams and wetlands. We also believe that there is suppression of certain segments of the local and regional economy related to recreational angling, which would be related to fishing equipment, sales, guide services, restaurants, hotels and so forth. And there is other community benefits which we think are being suppressed that could be readily provided by a healthy, fully functional rivering system. Removing Milltown Dam and the associated toxic sediment would enhance recreational angling by allowing the passage of thousands of adult fish to suitable spawning sites higher in the watersheds of both the Clark Fork and Blackfoot Rivers. Restoring the aquatic habitat to a more natural rivering condition could also remove most of the habitat that is especially conducive to the production of Northern Pike, greatly reducing their present over-populated condition. This would allow a far greater survival of all juvenile fish species that attempt to migrate to areas downstream from their spawning sites higher in the watershed. The current situation at Milltown Dam also results in unrealized economic benefits related to recreation, tourism and environmental education. The lack of a public park containing some historical and ecological interpretation of the Blackfoot River, as well as other regionally significant features of the Milltown Dam site fails to take advantage of the stream of economic benefits that are potentially available from tourists who have interest in history and angling who travel down I-90 and who would stop to have a look at the river that memorialized in the book and movie "A River Runs Through It," by Montana author Norman McLean. The fact that people don't stop to fish and tour the area results in unrealized local economic benefits to local restaurants, hotels and other businesses, in particular the ones that cater to tourism and recreation activities. Benefits also go unrealized in the form of revenues from the sale of fishing licenses and from excise taxes on fishing equipment and

supplies that the Service returns to Montana Department of Fish, Wildlife and Parks, for fisheries management projects and enhancement and education projects statewide. For the reasons listed above, the Service supports the Missoula County Commission's resolution to remove Milltown Dam along with the associated contaminated sediments and to establish a regional park for the purposed of recreation and historical interpretation. The conceptual plans that we've seen discussed in the media would appear to be a far more economically and socially beneficial use of the site than what currently exists. The whitewater recreational facility concept, for example, would not only provide economic benefits for the local area, but would also resolve the fish passage problems affecting a nationally threatened fish species and regionally significant recreational fishery and important native fish populations of both the Clark Fork and Blackfoot Rivers. We acknowledge that there will be short term, and we believe ultimately, minor impacts of the environment and some local recreational interests associated with implementation of the Missoula County Commission's proposal. There may be some turbidity increases and other short term adverse effects to water quality associated with removing the dam and contaminated sediments, as well as the lose of some of the beneficial ecological functions providing by rivering wetland habitat. The Service also recognizes that there will be some loss in locally available lake-type boating, waterfowl hunting and angling opportunities for Northern Pike and other cool water fish species. The Service believes that these impacts are relatively insignificant in the larger scheme of environmental, social and economic benefits that stand to be gained from implementation of the Commission's resolution. Furthermore, all of the impacts that we currently are aware of can be mitigated relatively easily. We encourage the Missoula County Commission to consider incorporating a broad range of both recreational and conservation features into any future design concept for the proposed park. In addition to historical interpretation and a whitewater facility for kayaks and so forth, the Service encourages you to consider incorporating facilities suitable for conservation education, for example, putting an underwater viewing windows into one of the structures that used to create in-stream rapids for kayaking. It would also be beneficial to have a body of water particularly suited to angling instruction for things like flyfishing classes and especially to provide fishing opportunity for children. An area such as this would be advantageous for holding National Fishing Week celebration activities during the first week of June each year, as well as similar events for National Hunting and Fishing Day that is in late September. Thank you for the opportunity to comment on this resolution.

Chairman Evans: Thank you Mark. John?

John Wardell: Madam Chair and Missoula County Commissioners, for the record my name is John Wardell. I'm with the EPA Office in Helena and being the last speaker, I'll be mercifully brief and just offer a few points. One, we very much appreciate being asked to attend these public meetings. As we've talked before, as you realize one of the criteria that EPA will have to use as part of its decision-making process is community acceptance and we look forward to hearing from Missoula County both from a governmental level and encourage the citizens as well to comment on the remedies as we move through the selection process. The second thing, I guess, I would comment on is we've generally decided that all of the alternatives, be they dam in place with a pneumatic crest or removal of the sediments and the dam, are all feasible. We think that they can be engineered properly. The issue from our perspective largely becomes one of cost. And lastly, it's our goal to move through the decision-making process as expeditiously as possible. We'd like to have a proposed plan in front of the folks for public comment near the end of this summer. With that, thank you very much.

Chairman Evans: Thank you John. I will give anyone else in the audience who would like to speak, the opportunity and if there is no one who would care to have anything more to say, we will recess until 7:00 p.m. this evening at the school in Bonner. Thank you all for coming. Again, I apologize for the crowded conditions.

There being no further business to come before the Board, the Commissioners were in recess at 3:35 p.m.

The Public Hearing on the Two Rivers Restoration and Development Plan was reconvened at 7:00 p.m. by Chairman Barbara Evans. The hearing was held at the Bonner Elementary School Gymnasium. Also present were Commissioner Bill Carey, Peter Nielsen, Brian Maiorano, Sandy Stash, Jim Stillwell, Mark Wilson, John Wardell and Patty Rector.

Chairman Evans: We really appreciate your coming this evening. The purpose of this meeting is to present to you a proposal that we have we'd like you to consider. It is not a decision that we want to shove down your throat, I want you to know that. We're here to hear what you have to say. I would ask you that when you testify that you come up to the little table and in order for us to record it, we need to have you talk right into the mic so if you'd pick it up or get it very close to your mouth, we would appreciate that very much. I would also ask you that you make no personal attacks on anybody. I'd like this to be a civil proceeding. There is a sign up sheet going around. We'd ask you to fill your name and address in on it. The way we're going to do the meeting this evening is Peter Nielsen from the Health Department will give a presentation. Brian Maiorano will give a few remarks and then John Wardell, who is from the EPA, stationed in Helena, will give some comments and the reason we're having John give his comments early is he has to travel back to Helena and he doesn't need to stay here really late, so rather than wait 'til everyone is finished talking, we will let him sneak out if he needs to go. So we'll turn it over to Peter and then after everyone has had their say, we will open it for your comments.

Peter Nielsen: Good evening, my name is Peter Nielsen. I'm representing the Missoula City-County Health Department and Missoula County on this issue. We are here tonight to take testimony on a proposed resolution that the County Commissioners have proposed to adopt. A resolution to urge the removal and safe disposal of toxic sediments from the Milltown Reservoir, removal of the Milltown Dam, the restoration of the confluence of the Clark Fork and Blackfoot Rivers, the restoration of associated wetlands and fish and wildlife habitat and the creation of a regional park in the Milltown and Bonner Two Rivers area. The reason that we have historically been involved in this particular site since 1981 or so is because of environmental and public health issues. We got involved initially when one of our sanitarians collected a water sample out here in the community that revealed the initial findings of high levels of arsenic in a public water supply system out here. And that was the initial reason that we got involved. Since that time, in 1981, we have become concerned with a number of other environmental and public health issues, including the sediments that are located behind the dam that periodically are scoured from behind the dam. They contain copper, which is toxic to fish, harmful to other aquatic life downstream. So that has been a concern that has emerged in more recent years. Other environmental issues have come to the forefront including the fact that the dam blocks passage of fish from downstream to upstream and the fact that the dam has provided habitat for an invasive predatory species, the Northern Pike, which has had some big impacts on fisheries here and potentially can spread to other areas. So those are some of the reasons that we have been involved. Over the last couple of years we've made an observation I think that we saw that folks had a pretty good image in their mind of what they had out here today but the images that had been portrayed of what might be, what might result

from dam and sediment removal, we didn't feel were entirely accurate or that people didn't have any image of it all, of what it might be, what it might turn out to be. So we decided that we would try to create a picture and these are the pictures that we have proposed of the Two Rivers Restoration and Development project. The drawings were produced for us by O'Neill Zimet Architects in Missoula, assisted by an engineering company in Boulder, Colorado, known as Recreation Engineering and Planning. One of the things that started out this effort was about a year ago a lot of groups started to pressure EPA and other agencies take a more serious look at dam removal. And up until that point it has always been an option, one of many options on the list for how to clean up the site, but really had not been a very intensive evaluation yet of what it would entail. When that happened, when we started to look, EPA did contract with the Corps of Engineers and there was other parties involved. Corps of Engineers proposed what are called drop structures located a little ways up the Blackfoot and a little ways up the Clark Fork River to protect what would happen when you lower the dam and lower the grade, you would lower the grade of the river, the river would seek a new grade upstream as well. So the concern was, potentially affecting the bridges upstream on the Blackfoot or potentially affecting the area up in the upper area above the Milwaukee Bridge and having unintended consequences. So they proposed these drop structures which were these concrete stairstep like structures that were intended to drop the flow of the river of 12 feet or so over a short distance. And when we saw that we figured that we could do something, if we were to do this, that would be of more value, long term value, to the community. And that's when we contacted Gary Lacey from Recreation Engineering and Planning who has designed numerous stream restoration and whitewater improvement projects for communities throughout the western United States. Some of his projects are depicted on the poster board over here on the left. He's worked in Denver and Vail and Steamboat Springs and a number of other communities and in contacting those folks, they've all been very enthused about what he has produced for them and the kind of attractiveness that these projects have created for their community. So anyway, to make a long story short because I know everybody wants to speak here, to summarize what the project does that we're proposing is that the fundamental first goal is to clean up the ground water and clean up the surface water at the site, to restore fisheries, to restore fish passage, to eliminate or substantially limit the Northern Pike problem in the area, restore several miles of natural stream course to restore and improve the wetlands and to provide long term recreational and health benefits for County residents. We feel that the proposal has the potential to do all these things in a better fashion than the other alternatives that have been suggested so far and in addition to that create more direct economic benefits, more jobs, more direct property taxes and more long term economic benefits for the community. The project includes dam and sediment removal, sediment removal in the lower reservoir below the Old Milwaukee Railroad Bridge. This is consistent with the alternative number 7A that the EPA is considering as part of its focused feasibility study. It includes many good ideas that other folks have had for recreational development in the community, including plans developed by Montana Power and the Bonner Development Group and others. Includes, as I mentioned, the whitewater improvements, historical museum, visitors center, trails, bridges and many other aspects. So that's just a quick summary of the project and I think Brian wanted to speak briefly to a number of the floodplain related issues.

Brian Maiorano: Hi, I'm Brian Maiorano, I'm the Floodplain Administrator for Missoula County. The only thing that I'd like to say is address a common myth that we've heard a lot, is there's a lot of people who think that Milltown Dam provides flood protection for communities downstream. I want to say unequivocally, that that is not the case. The Federal Emergency Management Agency, the Army Corps of Engineers and Montana Power itself have looked at the whether or not the dam would prevent floods downstream and it does not. So, taking it out is not going to have any, make any increasing, increases in flood danger downstream. That's I want to say. Thank you.

Chairman Evans: I should have introduced the folks at this table, I apologize for not doing that sooner. On my right is Sandy Stash with ARCO/BP Amoco, John Wardell from EPA, Jim Stillwell from Montana Power, Mark Wilson, US Fish and Wildlife, I'm Barbara Evans, Bill Carey, Peter Nielsen and our secretary Patty Rector. John?

John Wardell: For those of you who don't know me, I'm John Wardell, I'm the Director of the EPA Office in Helena, Montana. Those of you here may know Russ Forba, he's been our site project officer for several years and he's located in our office. I'd like to make just a couple points. One of the criteria that we use when we select a remedy for cleanup at the Milltown Reservoir will be community acceptance. And this meeting is one of we hope to see several between now and late this summer where we will listen to our input. But, beyond that I would also encourage you to contact us individually at our office in Helena and I'm happy to leave, or Barbara Evans certainly has a phone number that you can get from her then you can reach us there. As I say, Russ Forba is the project officer and he's down in this area very frequently. The second thing I'd like to point is that we're trying to reach a decision on cleanup in the next several months. It may seem like we've been at this forever and perhaps we have, but the time is fast approaching to make a decision. And if we can keep to our schedule we would like to come to you all in the late summer with a proposed plan for cleanup and again there will be a public participation process involved with that where we would solicit your input at that point in time. With that, I'm pleased to see that all of you are here and I look forward to hearing your comments. Thank you very much.

Chairman Evans: Thank you John. In order to have some idea of the amount of testimony we're going to have, would those of you that intend to testify, please raise your hands, give me an idea how many want to talk? Okay, I think we can handle that. I don't like to put time limits on anyone. If everyone wanted to talk, we might have to do that, but since not everyone does, we won't put a time limit on you, but we would ask you if you want to agree with the previous speaker that you just tell us that cuz we don't need to hear it three or four times in order to hear it. So, with that, those of you who would like to give us your opinions, ask us questions or whatever, please come up to the microphone, tell us your name and tell us what you think.

Bruce Hall: I knew the longer I sat there, the worse this would become. I appreciate everyone coming here. My name is Bruce Hall, I'm the Executive Director of Bonner Development Group. How many local people do we have here, just by raise of hand please. Stand up instead of raising your hand. Local meaning you live in Bonner or Milltown, excuse me, I'm sorry, I'm sorry, I'm sorry. Well a few people sat down, that's okay. You know, as our group has been involved in this, none of us ever had any expectation that there would be consensus with what happens at Milltown. It's a very convoluted, it's a very complex issue. What I see happening is it coming between communities, it's coming between neighbors, it's coming between family members and it's getting pretty sensitive in that light. You know, I was reading the Missoulian today and some of you may have seen this article about Travelers Rest. Rosalie Cates is quoted in here as talking about this project at Travelers Rest that she says, you have a community based organization working to preserve a resource that's right in the heart of their town and you have this tremendous historical story, and I guess what I'd like to

suggest to you, at least people that I want to say I represent, is that Milltown is much the same for this community as Travelers Rest is for Lolo. Just recently, Bonner Development Group has conducted some surveys, because quite honestly we didn't have a sense about our own membership, what they thought about Milltown, far less a community, so as a group of directors that have worked in this community for the past seven years, we knew what we thought. So it led us to do a poll of our membership which we did about two weeks ago and we had about 82% of those response cards come back with 87% of our membership in favor of keeping the Milltown Dam in place. We went a step further by securing a listing of names and addresses through the County Elections Office for Precincts 21 and 22 and submitted a similar survey. As of today, we've received 35% of those survey cards back with 78% of those people indicating that they want to see Milltown Dam kept in place, with 21% wanting to see it removed. So I, it gives me some confidence to be able to say that I think I'm not just speaking for myself or 12 people that meet on a monthly basis, we had 400 people from Precincts 21 and 22 respond, in addition to just under 100 people from BDG that responded to this so I'd like to think that there's some power behind that. I guess I would start off by complimenting the project and how it looks, I told Peter this is the third time I've sat through these and I told Peter a week ago that imitation is the sincerest form of flattery, then we feel really good out here, because almost everything that's on this plan or plans that BDG has been engaged in for the past seven years and had a lot of success with. The only caveat, of course, is that the dam was to be removed. I just have some statements here that I'd like to go through real quickly and then I'll take a seat. I think that the County plan falls short of the community's vision of recreation at Milltown as identified in the community action plan. It is therefore not supported by the Bonner Development Group for the following reasons. First it does not recognize the asset of existing multiple use recreational features of the reservoir. Two, it does not recognize the significance of the dam and reservoir as a community historic landmark. Three, it ignores the importance of the Milltown Dam as a critical aspect of the community tax base. Four, it underestimates the energy generation capabilities of the facility. Mr. Nielsen presented this plan a week ago on Wednesday to the business community of Bonner/Milltown at which time it received a cool reception. The plan was not accepted as a salvation for economic development as presented by the County. As a community organization, Bonner Development Group's favors a remedy for Milltown that preserves the critical tax base, considers facility use that includes power generation and recreational development, is protective of the wetland environment and reduces the releases of contaminated sediments from the reservoir through dam modification and operational practices. Thank you.

Chairman Evans: Thank you Bruce. The next person who would like to speak? And would you face us?

Kyle McClure: Yes, happily. My name is Kyle McClure. I would like to suggest that when Lewis and Clark came through, they did not leave six and a half million cubic yards of toxic sediments behind and I would like to urge the Commissioners to adopt this resolution. If the EPA is going to clean up the mess behind the dam, I see no reason why they shouldn't do it right. Thank you.

Chairman Evans: Thank you. Next person? I'll ask them to speak more into the microphone. If you still can't hear, Gary, would you raise, if you can't hear, would you let me know.

Gary Matson: Test, test, test.

Chairman Evans: Is that better?

Gary Matson: I wasn't sure which way to face here, I guess I'll face this way.

Chairman Evans: Well, I think it's important they hear too, so turn however they can hear you best.

Gary Matson: Does it make any difference which way I face?

Chairman Evans: Okay, face them, face the audience, yes.

Gary Matson: Hi, I'm Gary Matson, I live over in the Flat, I've lived here for a long time, raised my family here and I have a business here and I support the County's proposal for partially removing the Milltown Dam and completely removing the toxic sediments in the reservoir. You could permanently fix the problems of ground water and river contamination. It could do the most good for the most people for the longest time. I do think that we need more assurance that the technology for cleanup will be successful and not make the situation worse. I'd just like to talk briefly about the Bonner Development Group survey that asked recipients to vote for or against the County's clean up proposal for the Milltown Reservoir. 79% voted against it. It was a biased survey listing only negative impacts of the proposal, lost tax base, lost recreation opportunities, lost of the dam as a historic landmark. Of course, with only this biased information in the survey, citizens could vote only one way. None of us wants to lose these things. If the survey had been unbiased, it would have included positive impacts of the proposal. The loss of the dam would have little effect on the school district tax base, there would be new recreational opportunities, improved wildlife habitat and the dam powerhouse would be preserved as a historic landmark. If the survey had given an unbiased comparison of the alternatives, the vote surely would have been different. BDG has every right to conduct a biased survey, they are a special interest group with major financial support from ARCO. ARCO has every right to support any special interest group that favors their preferred option for the Milltown Reservoir. ARCO prefers to leave the sediments in place, saving hundreds of millions of dollars in cleanup costs. Just as BDG and ARCO have every right to promote their preference, citizens have every responsibility to learn as much as we can about the various proposals to clean up the reservoir. We need to honestly weigh benefits against risks and do our part in selecting the best option. The superfund process gives us a once-in-a-lifetime opportunity to clean up the reservoir and we shouldn't pass it up. As a biologist, I like to share the wonders of nature with my three year old grandson and I like to show him spiders and bugs and beer and berries on the bushes and things like that. But his favorite thing is caterpillars and it's not the little wiggly caterpillar, it's the big yellow one with the blade on the front and pushing dirt. And so we spend more time watching those caterpillars than we do any of my bugs and spiders. So my dream for the reservoir is go with Michael to the reservoir and say, look, Michael, those caterpillars are cleaning up the reservoir, and then, when he's a grown man, go back with him and look at it and say, isn't that beautiful, Michael, where they've cleaned it up. Now that's my dream for the reservoir.

Chairman Evans: Thank you Gary. The next person who would like to speak?

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Susan Reneau: I'm going to face you because I came to talk to you, I didn't come to talk to the audience and I think they can hear me. I agree with this proposal except I think the park and all the frivolous ideas are lovely, but I do think they're frivolous. And, as a taxpayer and someone whose been deeply involved with water, because I live in an area on the other side of the valley that's been deeply affected by a lack of water, not polluted water, but a lack of water. I'm always interested in anything to do with water, because without it, the west would die. We have a very serious problem behind this mill dam and ARCO was taken to court and was told to clean it up. And I wanted to ask you if it is true that everything in this resolution should be paid for by ARCO or are we, as taxpayers, going to have to foot the bill? Barbara?

Chairman Evans: What we would like to do is find other sources of revenue so that we can reduce the costs to ARCO, reduce the costs to Montana Power, but not put any of those costs on the County taxpayers.

Susan Reneau: Okay, so is that in writing? I mean, is that going to be a guarantee to the taxpayers?

Chairman Evans: There are never any guarantees, but I do not see Missoula County having any money to clean this up and we've made that very clear.

Susan Reneau: Good, because I support that and I will scream loudly if I think anybody but the people who are responsible for cleaning this up, clean it up.

Chairman Evans: That's one of the reasons we want it done, because Missoula County can never afford to clean it up and we don't ever want to be in that position.

Susan Reneau: And I totally agree with you.

Chairman Evans: Thank you Susan.

Susan Reneau: The other point, or whatever, the question that I wanted to ask is who would pay, because I don't think the water park and all that is the responsibility of ARCO, I really don't. Whose going to pay for that?

Chairman Evans: We're hoping to raise private money to do that.

Susan Reneau: Okay, so that would not be, we're not going to see it come up on our taxes?

Chairman Evans: No.

Susan Reneau: Okay, then I might support that one if we don't see it on our taxes. But only that and then I'll scream if you make it come true. Oh, I'm sorry. I'm Susan Reneau. I'm from Hayes Creek and I hate taxes.

Chairman Evans: Thank you Susan. Next person who would like to speak?

Randy Christie: My name is Randy Christie. I own a piece of property that's in the direct path of the toxic plume. I have a little bit of experience as an amateur prospector, I've done a little excavating, I understand ground hydraulics. Now, two meetings back when we met at the restaurant over by the Town Pump some questions were brought up. First one's to the EPA. When is your feasibility study going to come out that says whether it's even feasible to take this dam out?

John Wardell: May or June of this year.

Randy Christie: Okay, that's one of the things we brought up at that meeting was that people were making a decision to get rid of this dam before the initial study was done. That's the first one. The next question that was answered at that meeting that should be answered now again, is you pull that dam out, you change the ground hydraulics, where does that poison plume go? Does it move downstream, you've got no more back pressure behind the dam to push it down through the sandstone and filter it. It backs up and it goes in that river and it goes downstream. Every bit of it that's already in the sandstone, I think that's understood. I think there's some things about this that haven't been thought through. I notice that in the heavy metals listed, you list copper, silver. Now as an amateur prospector, I know if you find copper and silver, you find gold. If they found gold, which they did, they absorbed that with mercury. Now, if you've got copper, zinc, arsenic, everything else sitting behind that dam, there's also mercury and if you got ten tons of mercury, you've got nine tons of gold. And that can be recovered out of those sediments and without spending government money, that would just about pay for replacing the dam. And I notice nobody comments on these items. Now, somebody's going to get money to clean that up and we'd all like to think that sediment's going to go in a concrete vault somewhere and be buried. But the bottom line is the person that takes that out can separate a lot of those materials out and resell them. There's still a big market for lead, huge market for lead. And there's a lot of things like that that have not been looked into. We're worried about making another Disneyland. Now I'll hit something else. Eight months ago we were told that a megawatt of electricity sold for a little over \$123,000 and that Montana Power could not make money off this dam because that's all they could get for one megawatt. If I'm not mistaken, there's four turbines. If I'm not mistaken, each turbine produces two megawatts. One of them doesn't operate simply because there's a log caught in the intake. Now, eight months ago at \$123,000, that means that same megawatt gets about \$260,000 now, or I haven't been watching my electric bill, so if all four turbines were put back in shape, you could literally cut the power lines at Clinton and East Missoula, produce the power for this valley and have plenty to sell to the grid for a profit. I don't think anybody's looked into that possibility. And I would like to thank you for listening to me, I hope.

Chairman Evans: Thank you. Next person?

Ron Wilkerson: Thank you for the opportunity to speak before you tonight. My name is Ron Wilkerson, I live at 4655 Highway 200 East. I'm retired, have been for about 13 years, living in the Marshall Grade area since that time. My 38 year career was with the electric power industry. I have a degree in Electrical Engineering and for a period of time I held the position of Environmental Manager for the Bonneville Power Administration, the Federal power marketing agency in the northwest. I managed the preparation of two multi-million dollar environmental statements, including the controversial Cole Strip Units 3 and 4 Projects, including the transmission line, the generating facilities and the waste

disposal and so forth. I can understand the interest of the Missoula County Commissioners to promote a local activity that brings economic benefits and that pleases many local interests. It seems to me, however, that we are getting the cart ahead of the horse. We have had and we know that we have a serious situation in the reservoir with potential harm to human health. EPA has the responsibility to propose the course of action which will minimize the danger to human health and so forth. We all should participate with them to ensure that EPA does fully and accurately evaluate the impacts associated with each viable alternative. Certainly we must agree, EPA should choose the one which minimizes the overall impacts. I don't think anyone can disagree to that. Obviously, there are some serious impacts associated with dam removal and extraction of the sediments, including air pollution and use of non-renewable fuels. The technical evaluation that the EPA is involved in is, I know, very detailed and very complex. Once the decision is made by EPA to take a particular action, and that would be after public involvement where all of us would have an opportunity to participate, all the interest groups, governmental bodies and so forth, then it's appropriate to promote, the County Commissioners to promote tailoring the course of action, the activities, as much as possible, to bring about residual benefits in the project area, to the extent that they're feasible. The proposed resolution sounds great, but there appears to be very little evidence, at this point, that it would yield the lowest overall impact on the environment. Let's seek the best science first and then apply the politics. Thank you for the opportunity to comment.

Chairman Evans: Thank you. Next person?

Al Bellusci: My name is Al Bellusci, I live at 4150 Edgewood Drive, I'm also the President of Bonner Development Group. When Bruce asked the people to stand up who were from this community here, I noticed many people stood up and then sat down because they weren't from this area. And I'd like to give you a little bit of history and to really introduce you Bonner Development Group. We formed about five years ago as a not-for-profit community based organization. We also looked at other forms of community groups, one of which was a Community Council, which, and I believe that's the right name, you can correct me if I'm wrong, but they've been formed in places like Lolo, Seeley Lake and we visited with those folks and we felt that we could not probably do the best job for our particular area as a Community Council. There are certain advantages to being a not-for-profit group and the one is we can tap into grants and request funds from local industries. We investigated our area for local corporations, we found that there's ARCO, there's Montana Power, there was one of the telephone companies, there's also Montana Rail Link and we requested and approached those folks for donations to help us in our goal of actually developing an economic base in our area and I will say this, that ARCO has been extremely generous to us. Montana Power has been very helpful to us. Montana Rail Link has been extremely helpful to us. And individuals in our community, several who have contributed well over several thousand dollars for the work that we. And most of all I'd like to talk about just the eighty-some individuals, active individuals in the Bonner Development Group who work their butts off and I mean, we have hired professional people to do the things that we want to do in this community, professional landscape architects, professional engineers who are designing the bridge crossing the Clark Fork River at the Old Milwaukee crossing. And the hours that individuals have put in in creating the landscaping at the Memorial Park. For two years people loaded up buckets of water, milk cartons of water and on a weekly basis went out and watered the fifty-some plants that were planted in that particular area. We only lost one in a period of two years. The same goals for the developments at the North Shore Trail Head in, it doesn't show it in this site, but there is already approximately three-quarters of a mile of improved trails designed by professional individuals and installed by contractors. And when we do a job, we do it very professionally. And one of the things do, and when people come into this area and proposed certain things such as they did at the golf course that's going here on Bandmann Flat, they came to us with a business plan, I mean it was that thick. It was prepared by professional, it had the projected costs and the projected profits. This plan doesn't show any of that. There hasn't been a business plan prepared for this plan, it's all speculation, what that will do for this community. And I say if you're going to present a plan for the community, do it like everybody else does, come up with a business plan, come up with a financial plan. And I think then you'll get the proper reception. This particular plan, what bothers me about it, is we talk about the sediment removal and we talk about the safe disposal of these sediments. Bonner Development Group wants safe disposal of those sediments. We think that will be done by science. Science is rapidly moving in this area. Colleges and universities and the University of Montana have scientists working and finding ways of doing this without the really invasive impact that goes on with pick and shovel type removal. And what bothers me about this plan, we know it costs the County about \$10,000 to produce this. And I would have hoped that the County would have spent \$20,000 studying the safe disposal of those sediments in this area. I've had people approach me saying, well what are they going to do with the sediments? Nobody knows. Are they going, and I've heard discussion that they're going to go maybe out here to the old Bauer Landfill, right on the river, and then we take them out of the river and put them near the river. That doesn't make a hell of a lot sense to me. And one thing we have right now, we have a responsible financial party who is responsible for those sediments and that's ARCO. If we pull them out of there, dispose of them within the County, you know who takes the responsibility of those sediments, you and I. And we don't have the deep pockets to do that. Thank you.

Chairman Evans: Thank you Al. Next party? (Audience applause). Please, I'd rather you didn't do that. Next party who would care to speak?

Triel Culver: Good evening. My name is Triel Culver, I live at 1941 East Broadway Street in Missoula, Montana. Just happens to be as the crow flies about three miles down the Clark Fork River from here. I live right on the shores of the Clark Fork River. I'm here to speak to you not only as a citizen of Missoula County but also as a regional coordinator for an organization called American Whitewater. American Whitewater is a national organization, we have members in Missoula, the City itself, Missoula County, throughout the State of Montana and throughout this country. The mission of the American Whitewater is to conserve and restore America's whitewater resources and to enhance opportunities to enjoy them safely. I appreciate you taking the time to listen to me today, and I'm directing my comments to you because you asked for public comment and that's why I'm here. One thing I want to point that unique about American Whitewater and how we may be different than other conservation organizations that may speak here tonight, is that we are the only national organization dedicated exclusively to the conservation, restoration and enjoyment of whitewater rivers. Our focus on conservation, access, safety and events is derived not only from our enjoyment of these rivers, but out of a recognition of their relative scarcity and unique problems. Less than 1% of the river miles in the United States have rapids that rate as Class II or more, in other words rapids that are considered to be whitewater. So our resource is very, very limited. And that's why we're very, very interested in the Two Rivers proposal and support it wholeheartedly, because it restores a very, very valuable resource to us. The main point I'd like to address here and it has to do with all the alternatives to the Two Rivers proposal are that we're talking about a superfund cleanup and having worked in superfund litigation before, I know this is our one opportunity to address the issues here and if we don't address them correctly and appropriately now, we're

not going to get a second chance. And, most importantly, ARCO may not be around five years from now, 10 years from now. We have ARCO here today, they're the responsible party and they may not exist further down the road. And the reason that point is so important is because as you look at superfund cleanups and how they progress, companies go bankrupt at certain points in time and right now we have the ability to find a feasible scientific solution to the Milltown Dam. And if we wait until some later date, we may not have a feasible solution because the finances simply aren't there. Another point I'd like to make is with respect to the people speaking for or against the Two Rivers Restoration project. It really doesn't seem to be a black and white issue and especially from the point of view of American Whitewater. We're interested in hearing and actually one of the people who gave public comment tonight, I appreciate her comments, she said she was just concerned about the contaminated sediments and she wasn't concerned about this, these what she considered to be more frivolous aspects of the proposal. And American Whitewater is very concerned that we don't link the two very separate and distinct issues together. People may be opposed to Milltown Dam removal on one hand and yet they may also be in support of a whitewater park, and vice versa. People may be in support of the removal of Milltown Dam, because it's the most scientifically feasible and thorough solution, and yet opposed to the whitewater park. So I think it's important when people give comments to you, you figure out where they're coming from with respect to those two different issues. The points I'd like to make are, and I think the Bonner Development Group astutely made the point that there's no business plan here for this whitewater park. Well, I understand the constraints that certain people who have been working on this project are under, certainly government employees have a whole plate full of projects in front of them and to be able to offer to you a full business plan as to what a whitewater park can potentially bring in in revenue to a community is an extensive undertaking and certainly if ARCO is willing to give money to the Bonner Development Group to investigate potential economic avenues within the community here, they certainly could give money to our organization or another organization to potentially look into a business plan and give you some hard facts and figures on exactly or precisely what a whitewater park could bring to this community and the community of Missoula. For example, Boulder, Colorado, which has a whitewater, the estimate there is that it brings in \$2 million in tourism revenue per year. Durango also has a similar one, a whitewater park was recently built on the Cohee River in Tennessee with respect to the Olympics in Atlanta. Let's get some facts and figures on those and if ARCO is truly interested, or whoever the other parties are, are interested in replacing the tax base here, let's have some investigation with respect to what the actual numbers are that a whitewater park could generate. I think it's also important to recognize that whitewater kayaking, rafting and canoeing are some of the fastest growing sports in America. Last year the Outdoor Recreation Coalition of America did a survey that showed out of 14 outdoor activities, thirteen were declining in participation. The only one showing an increase in popularity was kayaking, while activities like hiking, camping and biking decreased in the number of participants. Whitewater parks are a fairly recent development and it's kind of like, if you're the first person on the block to get one, you have a much greater potential to exploit them and generate revenue and with respect to your ability to do, we're at a very good time right now, whitewater parks have not been in existence for very long and if you get one now, you'll get regional recognition, national recognition and potentially, even international recognition and the potential for revenue there is great. I want to keep this fairly short, so I'll wrap it up. Just stating that I agree that science should come first and politics later. Unfortunately, they're intertwined and therefore I think it's important and I appreciate the efforts of Mr. Nielsen and the Two Rivers proposal to make sure that we don't disregard the recreational interests that are right here within this community and also the economic revenue that can be generated from those recreational interests. We're only going to have one attempt at solving the Milltown Dam when we have someone with the financial size and capabilities of a potentially responsibility party like ARCO and I don't think we should squander that opportunity. Thank you.

Chairman Evans: Thank you. Next person who would like to speak? (Audience applause). I'd really rather you didn't do that. Next person who would like to speak.

Nick Himber: Yes, I've heard about science and ...

Chairman Evans: Could you give us your name?

Nick Himber: Nick Himber. I live over here at 8500 Zaugg. And as far as science, they don't have a good track record. And if you go over there to the dam and kick a sleeping dog, it'll bite ya. Stir that stuff up and we'll get more of it.

Chairman Evans: Thank you. (Audience applause). I'd really rather you didn't do that, please. Next person who would like to speak?

Bruce Farling: Commissioner Evans and Commissioner Carey, I'm Bruce Farling, Executive Director of Montana Trout Unlimited. I represent 2,500 conservation minded anglers in Montana, including about 400 who live in communities along the Clark Fork below Milltown Dam, and where I reside myself, and what I will say is that a lot of those members are pretty nervous, because we're looking at a 93 year old wood and crib dam with 6.5 million cubic yards of metals contaminated sediment behind it and we're a little bit nervous about it. I've given you some written comments and I'm not going to talk in great detail about fisheries tonight because I know that you've heard quite a bit already from Montana Fish, Wildlife and Parks, the Montana Chapter of the American Fishery Society and they can make more compelling and authoritative arguments of why removal of the dam and sediments is by far and away the most beneficial option for fisheries, but what I did want to take the opportunity to do tonight, Commissioners, is congratulate both of you for your vision and your courage for coming up with this proposal, because what you've done is you've done something that's a little too rare in today's political arena, and that is you've looked at not just this generation, but you've looked at the next generation and the generation beyond that and generations through perpetuity. You want to solve a problem today and given the context we have in Helena right now, we've got a bunch of people scrambling to figure out how to fund things for the next year or two with Band-Aids. I think that you guys have really done something fairly unique here and I wanted to compliment you. After twenty years, this is not a matter of whether we should pull the dam out, this is a matter of how we should pull the dam out, and how we should do it in a cost effective, efficient and the least disruptive way. And I've been here for all twenty and I remember those headlines back in 1981 or 1982 when we first discovered arsenic in these wells out here and I think we probably looked at the problem enough and I think it's time to go ahead and start getting with a removal option. Couple of other points. All of a sudden I've noticed that the, a lot of people are bringing up the issue of power and that the power represented by this dam out here may be one of the partial solutions to resolving this sort of electrical generation chaos that Montana finds itself in right now. Before we get too carried away, we need to consider the context here is that one to three megawatts, and there's a little bit of controversy about how much you can produce at Milltown, represent a fraction of a fraction of 1% of all the power generation that was conveyed from Montana Power to PP&L. For comparison purposes, the Kerr Project on the Flathead River is 180 megawatts. The two dams on

the lower Clark Fork that Avista has at Cabinet Gorge and Noxon are combined 700 megawatts. Milltown Dam is not going to solve any perceived power problem that the State of Montana has today, especially given the fact that we generate twice as much as we consume in state. Finally, what I wanted to, just sort of point out, is I really do appreciate a lot what the Bonner Development Group has done and I know Bruce and I like Bruce and he's got a great first name, by the way, and I'm somewhat surprised that they haven't embraced because virtually all of the benefits of this proposal that you're putting forth here are exceeded, I mean, you exceed the benefits that they have proposed with some of their alternatives for leaving the dam and the reservoir in. We go with the removal proposal, you're going to have a much better fishery, guaranteed, number one. And just for, again, some comparison purposes, wild trout fishery in the Madison, upper Madison River is worth \$30 million a year to the State of Montana. The wild trout fishery in the Missouri River below, in that small stretch below Halter Dam is worth \$18 million to the State of Montana. And those aren't by numbers, those are the state numbers. And it's going to be a lot more beneficial to local communities economically than the pike fishery we have out there right now. We're going to have higher quality wetlands from a biological diversity perspective, we're going to have equal if not better recreation, it will be a lot more diverse, it will be rivering recreation, there will be a trail system, apparently there will be parks, we will have historical preservation because what you're proposing here is leaving the powerhouse and part of the dam, you'll have some interpretive features relative to that. And finally, the economic activity associated with just the removal efforts is going to be huge in that relative to what it will produce in salaries and in taxes. Finally, once the restoration is complete after the removal I believe that the taxable value of a lot of the property around this reservoir is also going to increase. This is totally win/win and one thing I don't want to do is I don't want to sort of underestimate the, you know, the difficulty of pulling a dam out and pulling these sediments out but we've been doing this in the United States for 150 years. We've been dredging rivers and harbors, the technology is there, there will be some disruption, it will be short term, but again, you guys are looking to the future, multi-generational approach and that's the way I continue to urge you to look. Thank you.

Chairman Evans: Thank you. Next person who would like to speak?

Dan McCaffery: My name's Dan McCaffery, I'm an environmental engineer. I live on South Third Street West in Missoula. I wanted to point out that I believe that the dam and sediments should be left in place until the upstream portions of the Butte superfund site have been remediated. If we remove the sediments now, who can say that a flood won't transport more contaminated sediments from the Butte area and deposit them back behind the dam. If we remove both the sediments and dam now a flood could flow contaminated sediments on downstream past Milltown to presently clean areas. Common sense dictates that in a river system you begin cleaning the upstream area first and work your way downstream. I doubt that ARCO will remediate this area twice, nor should we expect them to. Thank you.

Chairman Evans: Thank you. Next person who would like to speak?

Dennis Sain: I'm Dennis Sain. I live at 3610 Rattlesnake and my family's been in this country for over a hundred years so I'm not a new comer. And what I would like to know is this proposed dream whitewater park and cleaning up the, going to follow the same thing that happened at Mill Willow Bypass up at Warm Springs. I was on that job and the contaminants were just hauled and piled in a pile. Somebody's going to have to deal with them in a future date. And the stream rebuilding was just a plain canal type thing, didn't look like a real stream when it was done. It's, and you're talking about getting rid of the pike, the pike are here to stay whether you like it or not, I mean, they're in there, you can take the dam out, the pike are going to be there. Because I fished at Plains, the pike are in the river all up and down the Plains and that's fast water, a lot of that, so, your fish problem is here to stay. And where you going to dump this hazardous waste, not in my back yard, I hope, I mean that's the NIMBY principal is going to take place here, you've got to have some way to properly dispose of this. Thank you.

Chairman Evans: Thank you. Next person who would like to speak?

Barbara Marxer: My name is Barbara Marxer. I'm a Missoula County resident. I'm a nurse. I live at 5245 Karen Court, here in Missoula. I believe that this project presents us with a very unique opportunity. I am in support of the proposal. I realize that this is a very complex and difficult project, however, I believe that the ultimate benefit of restored water quality, improved wetland habitat, improved aesthetic value, wonderful recreational opportunities for our community and long term economic benefit make this a very worthwhile project to pursue. I do hope that the best possible science will be utilized and I place my faith and hope and trust in you as public servants to do that and to ensure that the toxic waste is carefully and disposed of in a way that won't harm our community or our environment in any way. Thank you.

Chairman Evans: Thank you. Next person who would care to speak?

David Dittloff: My name is David Dittloff. I'm here today in two capacities. First I am the Conservation Director of the Montana Wildlife Federation, the state's largest hunting and fishing organization. I'm also a local resident, live about a mile as the crow flies, at 7250 Zaugg Drive in the Riverside neighborhood. Montana Wildlife Federation supports this resolution for six reasons. I'll try and be brief with each. The first is the obvious human health implications. I have a one-year-old and a three-year-old. I live in the neighborhood. This is my backyard, this is a major superfund site. Arsenic in ground wells is scary stuff. We sure have a filter on our tap, but that doesn't cover everything. The human health should be the leading component of that removal of the contaminated sediments eventually is going to be necessary if we're going to protect human health in this area. Second reason involves fisheries habitat. By removing the contaminated sediments in the reservoir, we'll improve downstream water quality and fisheries and fishing opportunities. Major concerns, the obvious example is the ice floe in February of 1996. Samples from downstream below the dam showed that there were 400 parts per billion of copper in the vicinity. The state limit is 18 parts per billion. This had obvious implications for the trout fisheries. A biologist from the Montana Department of Fish, Wildlife and Parks found that there's a 62% decrease in the number of catchable sized Rainbow Trout and juvenile trout were down 71%. That's an obvious, that's an obvious hit, that's an obvious economic impact. While our fisheries are important to our local economy, they're important to our way of life from an angling perspective. While not as extreme, there is obviously some contaminated sediments washed down, particularly during the high spring runoffs on a regular basis, not quite to the extent to the ice floe or a hundred year flood would do it. The third reason involves removal of the dam. Fish, Wildlife and Parks estimate that there's 35,000 fish that congregate at the head of the dam. Rivers are systems as ecology and science progresses, we recognize that there's an obvious, while it might seem trite, interconnected to this. Fish unable to go upstream to the tributaries, fish born in the upstream tributaries unable to go downstream below the dam has obvious

implications. Our trout populations would benefit drastically by removal of the dam from that perspective, just by the blockage itself. Fourth reason Montana Wildlife Federation supports this involves the pike issue. I like fishing for Northern Pike. That being said, there are areas that are more appropriate for Northern Pike fisheries than this local area. We have some of the most renowned trout streams in the nation in western Montana. Pike population severely impact those trout populations. They are predatory fish. Trout can't withstand the pressures over a long haul that Northern Pike present. Recently a biologist from Fish, Wildlife and Parks netted 13 pike, three of those pike had trout in their bellies at that time. There are thousands of pike in the reservoir, easy enough to do the math, to consider the implications on trout populations. Fifth reason for Montana Wildlife Federation to support this involves wetlands. The County's Floodplain Administrator, who we heard from earlier tonight, estimates that drawing down the water in the reservoir would uncover about 50 acres of functioning wetlands habitat. Benefits for geese, ducks, other water fowl and other wildlife would emanate from that. Sixth reason involves public access. The idea of a public park, the trails, wildlife refuge system, it's important. We not only want to improve the fisheries habitat, we want to make sure we have access to that fisheries habitat so we can take advantage with angling opportunities and whitewater, for that matter. All this being said, I have one caveat and one suggestion. The caveat has been mentioned earlier, removal of the dam and toxic sediments needs to be done in a scientific manner that protects human safety and the safety of the fisheries habitat downstream. Disposal of those sediments applies to that as well. The suggestion involves the tax base. There is a share of revenue that goes to this school here and Hellgate that is generated from the mill, from the dam. We suggest that the Commission finds creative ways to offset that reduction in tax base. I think there are many opportunities to do such. I'd be glad to talk with folks in a future on that. That being said, Montana Wildlife Federation is supportive of this proposal. We strongly encourage you to pass it. Thank you.

Chairman Evans: Thank you. Next person who would like to speak?

Trent Baker: Hi, my name's Trent Baker and I live at 825 Cooley in Missoula. I'm speaking today on behalf of myself and on behalf of the Missoula Whitewater Association, not to be confused with the American Whitewater Association, whose comments I appreciated and would like to agree with. I would like to say first of all that I want to thank the Commissioners and Peter Nielsen for the work they've done on this project and also for the opportunity to speak to you today. I want to say that the Missoula Whitewater Association supports this project and that one of the reasons we do so is the fantastic growth in the whitewater recreation industry that was spoken about earlier has increased the pressure on the existing whitewater resources around the Missoula area and as an example of that and the potential that this project has for recreational use and revenues for this area, I would like to point out that I can't tell you how many numbers of times I've driven past the Milltown Reservoir on my way in the springtime up to Blackfoot to go kayaking or to visit one of the play spots like the Ledge for instance up there and seen no boats on Milltown Reservoir and pulled into the parking lot at the Ledge and gotten in a line with 15 to 20 other kayakers in the eddy there at the play wave at the Ledge. So, I want to point out that these kind of resources will be utilized and will be beneficial to the local communities, both Missoula and Bonner and Milltown. I don't think we can really separate the economies of these places and the benefit to one is a benefit to all. I would point out the experience of the Colorado communities, the Golden whitewater park was estimated to have 13,000 user days per year. Now, granted, this is next to or near a large metropolitan area, Denver, but it also has, there are also a bunch of other competing whitewater facilities in the area which there are not here. I think the prospect for competitive events and things like that also really demonstrate the potential benefits in terms of economics that this project could have on the local communities. I also want to discuss for a moment the idea that the whitewater portion of this development is a frivolous thing. I think while it may be an extra, I would hesitate to call it frivolous, because I think it has several purposes. One, it can act as a lever for investment in this project, providing this type of recreational opportunity is one way to encourage investment in the project as a whole. I also want to say that we recognize as a, we recognize the value of the current dam as a tax base to the local community and we also recognize that our members as whitewater users would be receiving a disproportionate benefit from this development and that we would like to pledge our support and our desire to help out in the future in terms of offsetting some of the economic or tax base loss and I think one way we can do that is through the kind of public and private cooperative relationships that you see in areas like the Pattee Canyon Ski Trails where a private groups helps to manage and maintain the facility and I think there are plenty of groups, whitewater groups as well as the interests that represent the fishery people who would be willing to help out and help fund the management and development of this project. And just to close up, I would like to say that we are in full support of this project as the Missoula Whitewater Association and I am also personally in favor of it.

Chairman Evans: Thank you. Next person who would like to speak?

Bob Greil: Hi, I'm Bob Greil. Loud isn't it. I tell you what, I think it's wonderful everybody's come out here from all these representative groups out of Missoula, kind of forgot I live in Bonner and that's what I thought this meeting was about was Bonner tonight. I'm a little upset cuz I represent a group too, and it's the people that live along side of the river right underneath the dam. And we've got to drink this water. Right now it's safe. It's been sitting there for a long time, we watch what's going on all the time with the tests that are taken by Land and Water. We're watching what happening with the arsenic. Apparently at this point it does not seem to be moving. Maybe the resolution isn't strong enough to detect it, but what we're finding out from the science and the better known science and the better based science is right now the arsenic isn't moving. Now, what I'm told, and I find this kind of interesting, that the one group that really aren't, that does not seem to be here tonight is Mountain Water and they're in charge of most of the aquifer of Missoula. But what I have heard from Mountain Water is they do not support this at all, taking these sediments out at this time. The reason is the science doesn't exist to get them out safely. I don't want to have to sue Missoula for my water. I don't know what the rest of us are going to do. I think it's wonderful we want to save the fisheries. I think it's great that we love whitewater rafting, even though you'd get what, six rapids in twelve foot drop. I don't know, I think I'll still go to Alberton Gorge. At any rate, I'm a little upset and I want to say I am quite upset actually, more than a little, with the flooding, once again, of an environmental groups and all the special interest groups that got their little agenda but the fact of the matter is 80% in that poll stated they want to leave it alone, leave the dam where it is for the fact that we don't want to die from the water. And we live there, we drink it, it's right here in our community, we fight all the time and we're tired of that type of runaround. We got pushed once before, five years ago here, this community stood up and got tired of it. I'm not sitting here telling you I want to leave sediments in, if there was a safe way of taking those sediments out, I drink this water, it's my family. We've got eight wells, I got all of our family, grandparents, everybody live here. You think we wouldn't want to have this stuff taken out if they could do safely. But they can't, that's the point. And just the fact that we're going to jump on board this really fast because somebody's got some money here that we can get hold and we'll go do it right away, regardless or not if the damn thing cannot be straightened out right, then what the hell are we doing with

it now. Sorry, I get excited. Anybody here from Bonner/Milltown, once again, just those people that actually are in this community. I'd like to hand the mic to one of those folks so they could maybe repeat what they'd like to say about it. But we're drinking it. I'm sorry, I shouldn't get excited. I just have a feeling that what's going on here tonight is that some groups would like to be the first in the northwest to pull a fisheries dam out. I think that's what more important, rather than the people. Thank you.

Chairman Evans: Next person please?

Dave Harrison: Apparently there's not lithium in that water, that calms you. Anyway, my name's Dave Harrison and I'm a local business owner from Missoula and I want to express my support for this project but I always want to say, as it gaining support, I'm noticing a lot of propaganda and a lot of false things and for those of you against this, I really want you to, you know, look into the information more. You know, there's a big issue about power, you know, we seen in the Independent there's a big story where they listed it at three megawatts, we've seen it in the Missoulian at two megawatts, we've seen it that in the Missoulian, Montana Power said that it was enough power to power all of Stone Container. This article is from the February 28th issue of the Missoulian, which was only a few days before that article came out, where it was talking about Stone Container bringing in the big generators and it operates on 50 megawatts so Montana Power is obviously trying to jump in now and quash this effort. You know, three megawatts wouldn't even light Stone Container. Also, we've heard that a megawatt of power is \$123,000 tonight. This is also from February 28th, it listed at \$280 a megawatt. So, obviously that dam's not worth anything as far as power goes. And it's also a liability. Whether we want to leave it because we don't have the science or not, it's coming out, those sediments are going to be moving, whether it's now or 50 years from now or 100 years from now, it's all coming down. So, we can take a proactive approach now and try and fix it. I wish very strongly that ARCO would have donated, you know, the \$180,000, or whatever, almost one hundred and eight or a little over, to the science to research that instead of to Bonner Development Group in order to protest it. Just makes no sense to me, we're putting the money in the wrong places. The science, you know, it might not be there right now, I know there's some issues with, you know, once the oxygen hits it that it could move, but we should, you know, should look into it and again, I'm just really in support of this. Thanks.

Chairman Evans: Thank you. Next person who would like to speak?

Chuck Teague: I'm Chuck Teague of 10180 Highway 10 East. I've lived on the bank of this river for a little while, of course it was when Lewis and Clark went through. It's moved quite a bit since then. My grandmother lived on the river bank down here in Milltown and the river is underneath I-90, so some of the sediment can never be removed unless we get rid of the freeway. So, you guys are here and we appreciate your opportunity to come and have us help advise you what you ought to do. And, we have a hard time in that because we find that we have not been given the information that would tell us that they can safely remove this sediment without making things worse for the people in Missoula and the people downstream. We have not been told that they can safely remove it, nor where they're going to put it. And these I hope you will assure that you find out before you endorse doing this. They also have told us and it was mentioned tonight that sediment's still coming down and this dam helps store that, helps keep it from coming down the Clark Fork. We haven't talked about fish ladders as a feasible or unfeasible opportunity to improve the fisheries. I'm no fishery biologist, but Montana Power told us they were willing to do that and were waiting for Fish and Wildlife to give them a plan. I don't know. You guys should find out. I think there are three steps to this. One is removal of the sediment. I don't think there's anyone here who wouldn't be tickled to death if it would just disappear right not and then we could just talk about the dam and whitewater. But those are two more decisions. And I think you need to look at them as three decisions. The sediment, the dam and the whitewater. The removal of the dam, if I were selling a proposal, I'd do just what these folks have done and say it's rickety, it's wood, it's going to fall apart. But, I also hear that it's safe and there are a lot of dams no weaker than this that are in existence and will be for a hundred years. I don't know. What I read in the paper says that it's safe, that the cracks are normal, they can be fixed, don't panic. I don't know. But it doesn't sound like it's too unsafe to me. There also is a value to a placid pond of water and I read in the paper that there's a lady on the Scull that makes use of this placid pond of water and I've been there in my canoe and it's fun. And, while wildlife may enjoy a reconstructed river, I see a lot of geese and a lot of ducks and a lot of muskrat enjoying it right the way it is and that artificial wildlife area has been that way for 80 years. I don't know how long it takes to be natural, but it doesn't seem too artificial to me. The whitewater proposal is exciting. I am enthused that there's some new thinking here on what we could do to improve recreation, improve our river, improve the values in the area. I think it's great. I am not very comfortable it's all that feasible. If you are a whitewater enthusiast from Chicago would you come out to whitewater along this little stretch of Clark Fork, the Blackfoot. I don't think it's big enough or spectacular enough, the view isn't that spectacular. You still got the river bank, you still got the railroads, you still got the towns, it's not an alpine chalet village here, I don't know how we're going to attract people as a tourist Mecca, maybe so, maybe whitewater's enough, but it's pretty small, I don't know if these dams will withstand the ice dams, ice floes that we're worried about bringing down pollution and taking out our dam, will these riffle dams withstand it. I don't know. And, one other thing that needs to be considered in this plan. Upstream. This river is not very compliant. It has for decades, for centuries gone where it wanted to go. I'm a half mile from the river now, it went, I live on the river bank when Lewis and Clark came. When the railroads came, they forced it on the other side of the valley. But, in my life, in sixty some years of walking along this river, it has changed channels many, many times. And places where I used to swim is now sand bar. Places where I used to hunt ducks is, doesn't exist any more. So, this plan is good but have they considered where the river's going to go. You're going to build a park and you're going to have wetlands and you're going to have whitewater, you've got to channel that river so it isn't going to stray or it won't work. I hope that it all works well, but you guys have a tough chore ahead of you in deciding what it is you're going to do and I don't think you have the answers to make those decisions. I hope you will get them before you make those decisions.

Chairman Evans: Thank you Mr. Teague. Next person who would like to speak?

Tracy Stone-Manning: My name is Tracy Stone-Manning, I'm the Executive Director of the Clark Fork Coalition. We're about a thousand citizens that care about water quality in the Clark Fork basin. Bob, we came out here last July to the River City Grill and you hollered at me then and you're hollering at me tonight, but the one thing I heard you say is something that we actually agree on, and that those sediments should come out of here if there's a safe way to do it. Well, the Environmental Protection Agency tells us there's a safe way to do it, so we're, by God, supporting that because we think that that's the very best solution, not only for Milltown, but the Clark Fork River basin as a whole. I have some interesting numbers to share with the Commissioners that they've not yet heard. The Center for Population Studies at the

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University of Montana did a survey in December of Missoula County residents, and the survey provides a confidence level interval of plus or minus 7%, at a 95% confidence level. And you know, it was pretty interesting numbers. Generally, 94% of the people polled say they're concerned about water pollution. Specifically at Milltown, 79% say they're concerned about arsenic, copper and other metals pollution in the reservoir. Again, generally, 92% are concerned about the effects of pollution on fish and wildlife. Specifically at Milltown, 89% are concerned about protecting habitat for native trout. These are not unexpected numbers for Montanans. And if you can imagine these numbers also translate into support for cleanup. 68% of those polled support cleaning up the reservoir. 18% haven't made up their minds yet and 14% didn't support it. As politicians, I'm certain you would close to kill for favorability ratings of those huge proportions. We're with the 68% who want it cleaned up. We really believe that scientifically and economically, the very best solution for Milltown is to clean up the reservoir, remove the sediments, put them in a safe repository, after all, they're in a repository now, it's just not safe. It's right in our back yard and it's not safe. And then of course, we think the final step would be to remove the dam and kudos to the County for coming up with the step after that, which is economic development. We really appreciate this proposal, we support this proposal. Thanks for hearing us out.

Chairman Evans: Thank you. Next person who would like to speak?

Keela Cross: Good evening. My name is Keela Cross. I come from four generations native Montanans. I'm a whitewater enthusiast, a river enthusiast, a special education teacher at Sentinel High School. And there are a couple issue I want to address. First of all, I really want to thank you for taking the time and doing this. Thanks a bunch. I guess the first thing I want to say is there's a saying that says, Ignorance is Bliss. Well, we can't afford ignorance. And I think everybody agrees that those sediments need to come out. We could wait until people start dying, but I don't think anybody here wants to do that. So we need to do it now, while we have the money and while we have people that say we can. Second of all, I want to speak to you as an educator who works with children. And I think this is a really unique opportunity that nobody has really presented tonight that can get our young people involved. And, we can present them with recreation and opportunities to not only see Montana, our wetlands, but also to be involved. Somebody mentioned why would people want to come here for this little stretch of river. And, I would like to familiarize you with Big Fork. Big Fork has a whitewater festival and it is an international attraction and it probably brings the most revenue to that little town in one time in May. And that could do a lot for our community. It also could potentially bring us money to our schools, which I think is a really hot topic right now and something that needs to be explored. But, this is a good idea and I think lots of people have mixed emotions right now about it, but it does bring the greatest good for the greatest people and it is immediate, it's proactive and we Montanans, we can't afford to sit around and wait for disaster.

Chairman Evans: Thank you. Next person who would like to speak?

Jim Green: My name is Jim Green, I live at 1917 Missoula Avenue. I want to thank the Missoula County Commissioners and Peter for their efforts in leading our county toward an appropriate state decision regarding Milltown Dam. Rather than recite the lengthy list of the many commonly known reasons for removal of the dam, I will mention only four summary reasons, clean water, a healthy fishery, strong economies and safe communities. The sensible obvious solution to achieve these goals is to take out the sediments and remove the dam. If you think about it, as I know you have, it only makes sense. The Clark Fork valley is our home. We monitor our individual homes for fire, carbon monoxide and radon. If our sewer pipes become clogged, we call a sewer repairman immediately to remove the foreign material and the threat and health and welfare. The Milltown Dam is similar. It clogs the Clark Fork River and holds dangerous foreign chemicals which threaten our source of life, our water supply. Those chemicals in the dam should be removed. I support the resolution.

Chairman Evans: Thank you. Next person who would like to speak?

Jeff France: My name is Jeff France, I own a retail business, sporting goods, in Missoula. I'm not a biologist and I'm not a geologist, and even if I was, I probably wouldn't waste my time talking about environmental concerns here. Doesn't seem to be a big priority in Montana. But, economically, all I can do is attest to the success and growth of whitewater kayaking and the whitewater industry in this area. Our business has grown, probably three fold. We were pretty much non-profit for six months out of the year until we started selling whitewater kayaks. I would have to agree it's a frivolous activity, but for some reason people find it enjoyable and they buy a lot of merchandise as a result. But I think the real economic benefits here is not going to be whitewater kayaking, it's going to be whitewater rafting. I've been to places back east that are way more remote to a populated center than Bonner is, showing up to think I was going to spend the day on a quiet river and whitewater, and there was at least 50 to 100 rafts each carrying 15 to 20 people, each paying \$40 to \$50 to go down a whitewater stretch. It's short, granted, but for people that are coming where from places that there isn't any whitewater, this is a gold mine, this is an experience. I would compare it to Disneyland and I don't know if you've ever been to California or Florida, frivolous places like this for entertainment, it's a big economic center. I support it personally for that reason. I think it is proactive. I think there are a lot of loopholes. I think the Bonner Development association has pointed out a lot of valid points. There's a lot more information that needs to be disclosed to everybody. I think a lot of the economic viability needs to be pointed out. You guys are going to lose a lot of tax base. I think that's a valid concern. And I don't see why the people of Bonner would support it until they get assurances that those issues are going to be addressed. But I do believe we could associate fees with the use of river for rafting companies, guiding companies, commercial companies. This is not a crazy idea. This is something that goes on all around Colorado, California. In fact, just about every small mountain town in Colorado right now is boasting of a whitewater park. They have festivals that bring in huge revenues one week a year for, you know, a party similar to Big Fork, but they have ongoing access to exciting whitewater. It's not really that far out there, we're not reinventing any wheels here, this is something that has become standard practice at almost all populated areas where there's white water interest. Thank you.

Chairman Evans: Thank you. Next person who would like to speak?

Jack Brown: My name is Jack Brown. clean the mess out behind it and let the dam there. As far as them putting another park in, well, we need some parks, I'll tell you, I live right down there, I have a beach right on the river and any day of the week in the summer, you can go down there and pick up beer bottles, all kinds of trash, and everything else that people's thrown out there all the time and don't gather up. You and I can look out my back window and see the girls and the guys swimming on the other side of the river without any bathing suits on. Now, is this what we want, is that what we need more parks for. Thank you.

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Chairman Evans: Thank you.

Dave Maach: I'm not sure how I feel about skinny dipping, it's kind of a mixed thing. I'm Dave Maach, I represent the first 9,000 feet of the river directly below the Turah Road bridge, the farm there, so this is below me but I think I have an interest in. I've been listening to all of what's going on, it's kind of interesting. Personally, I see a dam that produces no emissions and costs no money and is producing a certain amount of power. I hate to see that lost. I'd love to see, like everybody else, the pollutants cleaned out of there but I look at what is the pollutant, and we're talking about copper, iron, nickel, zinc, it looks to me like the recipe for the mineral supplement that I take. A lot of those to us are not dangerous. Yes, I understand there, yes, I'm sorry there's arsenic in the wells, you can still bathe in that water, you can still flush your toilet with that water, I happen to have coliform bacteria in my well up there because I have cattle, so I can't drink my water either. I can do everything else with it and maybe that's it. You know, in 1908 thank God that dam was there cuz otherwise this stuff would have been shotgunned all over the lower Clark Fork and it's there, we know where it is. If you pick it up and take it someplace else, you'll still know where it is but it will still exist, it isn't going to change. If you drop, what, that dam's what 45-50 feet, if you drop that water level I'm looking at five or six, maybe more, square miles of gorgeous, very well established wetland which, fortunately, people don't have a lot of access to, therefore, the animals out there are very, very well protected. Once you get people in that area, it's going to drive them out of there, that will no longer be a breeding area for your ducks or everything else that's there, for the moose that we happen to know lives there, for the wildcat that just about at the edge of that map, big old mountain lion lives there. And when you drop that water level and dry that land out I'm afraid that most of the wells in Bonner will probably go dry. You're going to have a serious problem there because those wells are based on existing water level and once you drop it, everything's going to go down with it and that, you know, this stuff has leached out and arsenic's funny stuff. Go down and buy a tomato stake, you know, treated, pressure treated wood for a tomato stake, that is arsenic. It binds up in the soil very tightly. It doesn't come into your tomato plant planted right next to it, so it's funny stuff. Yes, it does eventually in small quantities get into the water and that's, you know, a problem. Obviously, you need a fish ladder. Put on the north side of that dam, you've got a lot of dirt, it would be very easy to put a fish ladder in there. It's not a big deal. It would solve a lot of problem, you know, we're talking about just stepping it down, every 100 feet, 18 inches or so and running some water through it and the fish eventually would get used to it. I have mixed feelings about Bull Trout. Have you ever eaten a Bull Trout. Some of you guys that have been around here for awhile have, right, yeah, okay. A Bull Trout is a shark, it's a fish killer. It eats thousands of game fish a year. If you've ever caught one, cut it open, you know what it's full of, so, yeah, they're indigenous but, you know if you want a good fishing thing, great. This is not whitewater area, as much as I love canoeing and whitewater and rafting and, you know, tubing down it and whatever. This is bottom land, it's been here for thousands of years. I live 4,000 feet off the river up there and that river was behind me sometime in the past and has come and gone and come and gone and everything that's coming down it has come and gone. It's going to do what it wants to do and everybody has to come up here and tell you of their credentials, okay, I'm a biology teacher, I have my degrees also include physical geology and littoral science which is behind the high and low tide on ocean fronts. When that river chooses to move, it will move, like the gentleman said earlier, it was over by the highway when his grandmother was here, and when it chooses to be, it will be again. So doing all this reconstruction is going to cause all kinds of problems. Yes, I'd love to see the fish have free access, yes I'd love to see the pollutants removed, but at least we know where they are right now, maybe we keep an eye on them. And the other problem I see because I have friends involved directly, as soon as you do this, yes, maybe somebody else is going to fund it, but you're going to have to have police there, you're going to have to have fire and rescue people there, just as you do on the lower area now, and eventually, I fear that this is going to look like McCormick Park. And this isn't McCormick Park, this is a pretty nice wildlife area. It would be my hope that everything would be done to maintain it as a very nice wildlife area.

Chairman Evans: Thank you. Next person please?

Robert Starr: My name is Robert Starr and I live probably closer to this reservoir than anybody in here. I overlook this reservoir and people talk about the whitewater like that's going to bring in boating. At this time, I sit up on the hillside and I look down on this reservoir and there's hardly a day goes by that the ice, when the ice is off of that, that there isn't boats there right now. There was boats there fishing two days ago. So, it isn't like it isn't used by people and the way it's generated in this drawing, I can hardly imagine that I've seen every year probably 200 swans come in and land. I don't see room for them on there. I don't know where they're going to fit or where they're going, you know, stay to go on. Most of you people probably have never sat up on the hillside and watched what happens in this reservoir. The amount of otters, beaver, all types of aquatic life, birds, there's geese and ducks by the hundreds down there, they all wake me up in the night, and you can make your whitewater park, but you're not putting a place for them.

Chairman Evans: Thank you.

Steve Berry: Steve Berry, East Front, Missoula, Montana. I'm definitely in favor of this proposal but like the other people have said, there's some definite things that need to be thought about. You need to think about private property rights, but what kind of disturbs me is that we can come into a place here and we can talk about this but why can't we talk about this when we're dealing with a company that said to us, when the geese went into the Berkley Pit, it was caused by grain. I mean, come on, you lied on TV. I really question that, and we can question whether environmental groups have the money or who has the money, but this company that this lady works for is owned by BP Amoco and they made over \$12 billion dollars last year. That is an absolute astonishing, an astonishing amount of money. If they put one percent of \$12 billion dollars into this community, which would be great, in a more intelligent form than funding propaganda to get people all riled up and worked up and all upset with each other, when the fact is that we definitely just need to somehow figure out how to clean this up. It's arsenic, it cause cancer, people die from cancer, cancer is not a good thing. And it makes me just absolutely outraged that a company can do this to people and then cause controversy with propaganda. This has been going on for a hundred years in Montana. It's like a Third World corporate colony. It's time to take things back to the people and stop buying into this propaganda. Look objectively at all the options. I personally am in favor of this. It doesn't mean that I'm God or that I know everything, but it definitely means that I've looked at it slightly objectively and I see, anytime I see a company that has that much money start trying to inform people about thing, I get a little concerned. And I hope you would too.

Craig Messerman: Craig Messerman, 147 South Easy. I support the proposal and what I really want to caution everybody about is handing this off to our grandchildren. Mother Nature is going to take this dam from us someday with a 500 year

flood. The floods of '97 didn't even come close to a hundred year flood. It's going to go and someday that will be a problem for the whole lower Clark Fork. The dam does not hold back the sediments laden with metals that come from the Blackfoot, from Rock Creek, from the Clark Fork. They all have peaks in sediment in metal loads during spring runoff. And they go right through as it is. In 1997, the Salish Kootenai Tribe commissioned a study of the Mission Mountain fault and discovered that it is an active fault and it squarely puts us in the heart of the intermountain seismic belt. So a 7.0 earthquake on the Mission Mountain fault could complicate things as well. And I finally want to thank the Commission for an excellent plan. In my classroom at Sentinel High School, we're just setting up our stream tables and for as long as it, you know, as long as I'm teaching, as long as this is still here, this will be a lesson to a hundred students a year as they work with their stream tables and maybe one of them will come up with a great solution. Thank you.

Chairman Evans: Thank you. Next person?

Brian Riggers: My name's Brian Riggers, I live in Florence, so, not here in Missoula but I do work here in town and I wasn't intending to speak here tonight but a couple of things that have been said recently made me feel like I should say something. One of those is I'm struck by the misinformation and misinterpretation of things tonight and it's not that, you know, that there aren't several sides to things, but what I'd like to ask people to do is try to be somewhat objective when you look at the different sides of this project. I support the concept of getting rid of the dam. A little bit of background, I am a fisheries biologist and I work in the streams and rivers around town. That's what I do. I've been here for about 10 years. When I grew up, I grew up in Idaho, and I grew up at the headwaters of the Clearwater and Salmon Rivers, where I'm sure everybody familiar with the dam situations on the Columbia River, and as a kid I knew it was fairly easy to see that the dams were a big problem to fish there. Doesn't have to go to school to become a biologist to realize that, I knew it when I was 10 years old. I came here and starting working in Montana and there are several problems that fish face in Montana, but one of the biggest things fish face here are dams. And it's a huge issue, it's something that we can't sidestep and I'm not trying to belittle the other points people have made about the sediments behind the dam, the public health, the economics, those things, but I want to really emphasize that having a block in a river system is an extremely big deal to fish. And you don't get the chance to do something good for fish to remove that big of a thing for fish that often. This is one chance to do that and I think the foresight to develop a plan that actually looks at getting rid of that dam is very commendable and I'd like to support that and I'd like to just re-emphasize when we look at all these points to try not to just grab something that looks good to your specific viewpoint and say this is a fact because the bottom line is a lot of the facts that have been portrayed tonight aren't necessarily facts. They're things that we like to see because they support our viewpoints. One fact that is a fact is that dams and fish don't coexist, fish that need move upstream and downstream. And it's a real big deal, so, so, that's, I guess that's about all I wanted to say and appreciate the chance to comment.

Chairman Evans: Thank you. Next person?

John Smith: Hello, my name is John Smith. I've lived here in Milltown since 1976. I had about three homes in this area and in the early '80s I believe it was, we had a lot of people from the college come out here and they started doing water tests. Now, to my understanding the Clark Fork floodplain would come down and we lived to this, east of Hell's Bar and that area you could turn a sprinkler on, let it run 30 minutes to one hour and it would stain, permanently, white paint on the side of a house. I lived in Brown's house over there which was a white colored house, I'm sorry, a green colored house, and it just permanently rusted the side of it. Now they done tests and drilled holes all the way up and down out here. Now we live over here on Laguna now, we lived there about 20 years. They tell us that the floodplain coming out of the Blackfoot displaces the Clark Fork water so we're not being permeated by this but to my understanding, like they say, I'm not a geologist or anything, that they remove that dirt out there, or that sludge, right here on that side of the highway, the water has permeated back in the rock strata and it's just sludge in there. This is 80 to 100 feet deep. So that whole area, they would not only have to dig out the entire reservoir, they'd have to dig out and remove all those houses on that side. So this is what appears to me and right now, like one of the gentlemen said, if they remove that dam, we're going to have our water table just rushing out of the Blackfoot so what'll happen, they've got a well over here, I believe there's 25 houses on it. That well furnishes Milltown water basically. So what happens if they pull that dam and then your water table is going to be like a stream running through there. I think that is one thing they should consider. Thank you.

Chairman Evans: Thank you. Next person?

Elvin Fitzhugh: My name's Elvin Fitzhugh, I live on Scott Allen here in Missoula. I represent myself but I have a pretty long history with recreation associated with Milltown Reservoir. I worked for MPC for, well since 1985 and left the company a few years ago. In any case, I'm not real sure about the purpose of tonight's meeting, if it was to solicit comments about the proposed plan or if it was to put the proposed plan out to solicit comments for dam removal, so I was a little confused there. In any case, from a recreation perspective is what I'd like to talk about. On Milltown Dam, or excuse me, the reservoir, there's been a tremendous amount of flat water boating opportunities that this community, Milltown, Bonner, Missoula, have exercised for many, many years or decades. A number of years ago we worked with Fish, Wildlife and Parks to implement a no wake zone on the main body of the reservoir because of conflicts associated with non-motorized boaters and motorized boaters, and also the number of motor boats that were getting close to the dam. So, we worked jointly with Fish, Wildlife and Parks to implement those closures, not because there weren't users, but because of the number of users and we were trying to work with the various groups to enhance each others experiences on the reservoir. Everybody seemed genuinely pleased with that. Along came the Bonner Development Group, they had a whole new twist on recreation. They actually wanted to further enhance opportunities out here. Given the reservoir's in place and they met with fairly stiff opposition and I don't know if it was disbelief that someone really cared about the community enough to provide opportunities for those who really wanted to be out here, hiked the Kim Williams Trail, be on the other side, enjoy the water fowl. If those of you who don't think it's a very nice environment, go out there someday and experience it. And Bruce has been saying that years, he's drug me out there many, many times and it's unbelievable. I'm not talking about sediment or dam removal, I'm talking about the resource as it is today. Recently, there's been an interest in rowing. Monica Tranel has initiated that. When I say recently, that's probably three to four years. We worked with her to help get her established out there. She's an Olympian. Missoula Reservoir, Milltown Reservoir is really the only flat water based recreation opportunities within a short driving distance of this community. They've taken advantage of it. Mike Johnson years ago, they trained for the Peaks to Prairie and the other canoe triathlons that they do. For many, many years Milltown has provided those opportunities. They're not flat water, or excuse me, whitewater, they're flat water. We look at diversity of opportunities in the Milltown and the Missoula area. I heard the gentleman talk about the

Missoula Whitewater Association. I worked with Ralph Yule to get that started way, way back and I can remember talking to Ralph about Milltown. He didn't like it because that's where the flat water guys went, okay. So, we got him hooked up on the Alberton Gorge or he got us hooked up and people had to thank Montana Power for the efforts that they've done in locking up the Alberton Gorge from subdivision, from urban sprawl, but primarily to provide whitewater floating opportunities in a very pristine type area. That area is really capable, in my mind, of having the same attributes as a wild and scenic river. People are not going to come here and float this little seven diversion dams in lieu of floating the Alberton Gorge. If we think they are, we're kidding ourselves. I am not saying people won't be here, it's not going to be the same numbers of people in metropolitan Denver versus metropolitan Missoula, the population base isn't there, but the aesthetic appeal isn't there. It's a fabricated resource, it won't have the same draw. One of the things that I've been confused over for a number of years is, and, excuse me, what is the projected time frame for something like this to be implemented. It would certainly follow dam removal and from what I've heard, we're looking at 10, 12, 15 years out before that happens. I propose that I would probably be dead before something, as wonderful as this may be, is really implemented. What do we do with the public and the resource in the meantime. Do we scare them from using it or do we help them enjoy it. Missoula County was granted, what, a \$50,000 grant for extending the Kim Williams Trail to Milltown, what, in 1994, 1995. I'm not sure what the status of the dollars are but I've always been curious where they went. They certainly haven't been used to extend the trail to Milltown Reservoir and they haven't been used to help the Bonner Development Group extend its efforts to draw people there. Bonner Development Group pursued and was received a public trail easement on the south side of the reservoir in concert with their proposed bridge, but yet it doesn't seem like there's a big push from Missoula County to assist that. The \$50,000 is small, but if it were used as matching funds, which is what I believed it was proposed to be used for, it would warrant a tremendous amount of funds for recreation opportunities. In any case, I'm curious why Missoula County doesn't actively promote recreation out here now. The EPA's conducted tests that says it's okay, it's safe, you'd have to eat tons of this stuff on a daily basis to be sick, we've got the public out there, so, I'd like to see the County not only have this plan, but have one that includes the reservoir in its current state along with the recreation, to satisfy the opportunities that are there today. So, thank you.

Chairman Evans: Thank you. How many more people would like to testify? Would you raise your hands so we can get a feeling for. Very good. Thank you. Go ahead.

Thomas Yule: Looks like I'm almost bringing up the rear. I came here mostly to listen to my neighbors tonight. Most of you know me, my name is Thomas Yule, by the way, I'm Ralph Yule's son, and I like to kayak as much as anybody. You can look out there, my car's got a rack for three of them. But I have respect for my neighbors and I hope they, I have a love for my neighbors too, and we all would like some clean water. My concerns with the project is if we're going to do it, we need to do it right. I don't want a bunch of cooked numbers, I don't think any of us do, and I appreciate the council coming out here and sharing, giving us this forum and listening to us. I don't know if the EPA is going to run over us and do what they want to do in spite of what our feelings are. I can see some good things about this proposal. I can see some things that I am concerned about. I think the biggest issue here is can you pull it out safely. You know, that's the big issue and that's my concern. I've taken my canoe and I've paddled all up this area and it's gorgeous, it's one of the nicest stress management seminars I've attended. There's Brown Trout up in there, there's Rainbow up there. If you're worried about the pike, take the limits off of them, let the Fish and Wildlife Park, Fish and Wildlife Department quit talking out of both sides of its mouth. If it's a bad fish, take the limits off them and don't clang you \$50 if you have more than 15. That will settle the pike issue. If you want pike, then keep the limits on them. I really got on a roll, didn't I? And I've appreciated the comments from my neighbors because I've wanted to know what they've had to say and I can appreciate the concerns that the Bonner Development Group has and I can appreciate the concerns Mr. Brown was talking about, the litter and the garbage. I not only whitewater kayak and canoe but I snorkel, in spite of this six million dollar hip I have, but you can go down the Blackfoot River and I can tell you about some heavy metals in the bottom of that river, from Johnsrud Park down. I could make a fortune if I had the ways to pick it all up. I'm talking about all the beer cans. When you snorkel the Blackfoot River and you get down there and look at it, there's enough heavy metals down there, I could cook some numbers there. But basically, I'd like to see some whitewater there but I don't have to have it if it's going to be too much of a risk, I'd like to see if they've actually, have they core sampled this? I haven't seen anybody actually take a core sample down into that sediment and see what's there. We can make estimates, we can guesstimate, but have they, do you know, have they gone in and core sampled that sediment. Does the council know any of this?

Chairman Evans: I can't answer that, but I'm not the Health Officer.

Thomas Yule: Have they core sampled the actual sediment?

Peter Nielsen: Yes.

Thomas Yule: Okay. That's one thing that wasn't brought out in the news. The other thing, maybe it would be a good idea, and this is the proposal that has come to my mind, when an engineer wants to build an airplane, how does he know if it's going to fly or not. They used to make a model, exact same shape and size and see if it flew. Why don't we spend a mere \$100,000 and make a model, drop that water level with the same type of sediments, we could take those core samples, let's make a scale model of it and see what happens. We have the technology and we could do this and we could have some more knowns before we make a decision. That's basically what I have to say. Thank you. We need more information.

Chairman Evans: Thank you. Next person?

Bev Himmeler: I'm Bev Himmeler, I live over in West Riverside, on Zaugg. I've had cancer for 18 years. The only reason I bring that up is because we, because of that, had our water tested for all the arsenic scare was on. And there was minimal arsenic in our water. I've had it checked every year since. We went through reverse osmosis and I know a lot of people around here did. And for the last five years my tap water, away from the reverse osmosis, has been just as pure as the reverse osmosis. And I have checked that, have had that checked by my son-in-law who is state water testing. So, as far as the water's concerned, I see that there's, I don't really see a problem. Now maybe I'm just in a fantastic area there. So I'll give you that one. But, I'm thinking here about the gentleman that spoke earlier about the four turbines here that could produce electricity. I'm been listening to the news, of course, like everybody else does, more or less spotty, but, I'm looking for a chart here, I've been hearing how California, and the statement was made on the news last night, that California is totally at the mercy right now of environmentalists. They have potential for electricity there, the

environmentalists made them take out the turbines or whatever it was that they had there because they said they weren't safe, rather than to repair them and make them safe. If we have four turbines here, and also they said California isn't got any water this year, they're not going to have any water, they're not going to be able to wash their hair every week, every day, or whatever, but a few years ago, unless it has changed, we pretty much lost our main federal water rights and any water here that they need, California can have. My husband and I drove cross-country semi for 15 years, I drove, and he's still driving part time. We watched big pipelines being put in from Washington, from our water supply here, to California. Now what ever happened to that, I don't know, but from what my understanding is, that is put in place, whether it's being used right now or not, I don't know. But now we have another thing going, we have 50% of our snowfall, we have a water problem and the electricity problem has already been brought up. If they can't produce electricity and they don't have water to produce what electricity they can, they may use their wind turbines or whatever you want to call them things, and they may not. But they have the right, it's my understanding, correct me if I'm wrong, they have the right to take what they can get from Montana and Idaho and Washington. So, to me, if the dam isn't creating any hazard, I see no reason for it to come out and the fisheries, as far as they're concerned, what are they going to do about these fisheries, sure they would bring money and they would produce fish, but are they going to be like they did up there at Holter Lake, are they going to be fish that, nice trout and stuff up there, but they can't reproduce. That's what the fisheries putting in there, trout that won't reproduce.

Chairman Evans: Thank you.

Roy Smith: My name's Roy Smith, I live over here on Woodhill Court, it's just off of Rustic Road and you say you want to dig up the junk yard there, the garbage pit and put all this sediment up there, that's actually a half a mile from my house and it just don't make sense to me that you got this one junk pile that's you're going to take somewheres else in the County, because somebody else is going to complain out it being in their back yard and then you're going to bring all this contaminants that downstream from me and put it upstream from me, and maybe my water's only 40 feet deep and it comes out of the Bonner mountain here, but, maybe it will change, we don't know. I just wanted to say that.

Chairman Evans: Thank you. How many more would like to speak. We have three and then I'm going to cut it off, because we'd also like you to hear from the folks at the table. Go ahead please.

Maggie Teague: Hello, I'm Maggie Teague and I live in Piltzville. I used to live in Missoula and lived there for 25 years, so. Everything's practically been said, if I go back two hours, I think your purpose was to present this plan and ask that you could have a decision made on it before the year was out. Am I correct, is that what that you wanted to vote on this plan before the year was out.

Chairman Evans: We wanted to hear what you have to say and we will hear a record of decision from the EPA before the end of the year and part of their decision-making includes public comment.

Maggie Teague: Okay, so I would comment that this is far sighted of the Commission to address this and this is a very interesting and a very attractive plan. I think you're jumping the gun to try and make a decision until we've got the feasibility study, until, as everyone says, we know if it can be removed. Perhaps the technology isn't there now, but it may be in the future and perhaps waiting for the technology to catch up with the problem may be one possible solution. I'm very concerned about polarization. A young man a few speakers back did talk about that and one of my last neighbors did talk about being respectful of each other and what each others wishes are in this community. Having lived in Missoula very close to the riverfront for 25 plus years, watching that turn into an absolutely gorgeous park like setting, I would respectfully ask the Bonner Development people here, and I'm a member also, to evaluate what a park like that could do for our community as a focal, rallying point. Already the trail head is awesome, already, I mean I can't wait for those trails to go in, but I would ask everybody to kind of keep an open mind on that and I would certainly ask you guys to wait for the feasibility and be really, really sure of what we're doing here. Thank you.

Chairman Evans: Thank you. The gentleman back here.

Scott Johnson: Hello, my name is Scott Johnson. Thank you for the opportunity to speak. I really appreciate the opportunity for public comment period. I appreciate the opportunity for a public comment period. I would like to bring, I apologize for not being here for the first hour and a half of this session, I'm a family man and I was taking care of my family and I may have not heard some of your comments and I may reiterate some of them. I would like to come from the standpoint of where we're going to be 100 years from now, 50 years from now, we have a large sediment pool sitting behind the dam. The sediment pool may not be causing infinite damage at this time, it may not be causing people to be sick today, it will and is causing contamination of our ground water aquifer at this time. Regardless of the fish impacts, I am a fisherman, I care about fish impacts. I'm a hunter, I'm also a homeowner and landlord. I care about the impacts to residential property and to everybody. But this issue impacts larger people than just the people that live on the shore of Milltown Dam in Bonner. It impacts the entire Missoula aquifer which is the largest aquifer in the western states and is a very clean, prolific aquifer that also impacts our agriculture, our recreation and an infinite quality of life here that impacts us all in greater or lesser degrees. The opportunity we have today is to stand up and fight for our rights and say listen, we have a business here, a business, a corporation, that has contaminated our way of life that has piled up sediments in front of our houses, so to speak, that has impacted and will continue to impact not only our lives but the lives of generations to come in this valley. The Commissioners sit in front of us now with the opportunity to make an impact, to say yes, our voice needs to be heard. The EPA needs to listen to the local people here, regardless of the recreational opportunities, whether it's still water, whether it's flat water, whether it's trout or pike, whether whatever, the fact is your health, your long term health of this environment and the water, you need every living being need water. It's a basic fundamental right to have clean water. This water is leaching into our ground water aquifer. It will continue to leach into it. It will continue and continue and continue, whether litigation starts now, whether this is, you know, what is the last big thing, Libby? Do you need another, what is that, in Niagara Falls, where they had the big contamination water with H.R. Grace also. This is another issue that's similar to that, where you have something that's festering, that's festering and festering. Do you deal with it now or do you deal with it 50 years from now. The dam and sediments behind it should be removed, regardless of the plan that takes place afterwards and regardless whether it's flat water or whitewater or whether this house or that house, these are decisions that need to be continually reassessed and dealt with, but the fact is that this is a poison that's sitting in your environment. We need to address it. Thank you.

Chairman Evans: One last speaker and then we're going to call it closed so you can hear these other folks.

Randy Christie: Not running for a public office. I did want to point out a couple of things that I heard that I wanted to make sure were clarified. A gentleman said that you don't start in the middle to fix something, he's absolutely correct. These sediments are still coming down from Phillipsburg and Clinton and the mining areas up there where they originated. They did not originate behind the dam. To actually clean these poisons up, you need to go to top of the river and start cleaning up there and move your way down. Unfortunately, here in America, we have a bad habit of whoever touched it last was responsible for it. Now, one of the other things was a comment was made that the dam is directly endangering the fish. If that was so, by 1915 there would not have been any trout in these streams. The dam itself in a way caused that problem. What actually caused the problem with the fish is that an illegal species, a species not from this area but from the northern Midwest, was illegally introduced into your water system. The dam didn't cause that, that was done by an irresponsible fisherman. But I think people should realize that, we keep going back to the fish and the dam. The dam did not kill the fish off. That dam's been there since, what, 1907, somewhere in there. It would have only taken five or ten years to completely kill the species off if that dam kept them from spawning. So they have to have another way of getting in there. But I thought that should be pointed out and I don't, I may be wrong on this, but I don't believe ARCO responsible for what's there. As I understand it, they purchased that and kind of got stuck with it, if I'm not mistaken. If I'm wrong, please correct me.

Chairman Evans: I can't speak for ARCO.

Randy Christie: Well, wasn't their representative here?

Chairman Evans: Yes and she will be allowed to speak very shortly.

Randy Christie: Well, I hope I'm right on that, I'd hate to misspeak myself. I apologize for getting up twice.

Chairman Evans: Thank you. One of the questions that has been asked of the EPA this evening is whether or not the contaminants can be safely cleaned up and I will allow John Wardell to answer that.

John Wardell: Let me comment on three things and I beg your indulgence in this. From the EPA's perspective, we believe that it's safe to physically remove the sediments from behind the dam without causing unacceptable degradation of the Clark Fork below the dam. Others may not share that, we will present our information in the feasibility study and we strongly encourage you to take a look at that carefully and provide us your feedback. There's some other points that came up and let me just take two of them very quickly. One issue that we've been asked to take a look at is if the dam's removed and obviously the water level in Clark Fork falls, what does that mean to the arsenic that's presently in the ground water plume and we will try to take a look at that because there are some concerns that if the dam's removed and the level of the water falls that it will somehow affect distribution and ultimately the flow of arsenic in that ground water and will it be different than what we see today. And the third issue is if you take the sediments out, where do you take them and who gets stuck with them. And that's the third issue we'll be taking a look at and we invite your comment in that area as well. Thanks very much.

Chairman Evans: Thank you John. The next speaker I would like to call on is Sandy Stash from ARCO.

Sandy Stash: Thank you and I appreciate the chance to speak not only this evening but also earlier today and I'll apologize ahead of time, either the folks that were in Missoula may have heard my comments earlier today. I guess, first of all, I'll start with the fact it's been a long time since ARCO's been insulted for how much money we've spent in the area. For the record, we've spent over \$700 million dollars on the ground and I guess I just need to assume that the gentleman who accused us of spending money on propaganda not clean up must have spent \$800 million on the ground cleaning the environment because I don't know why otherwise we would have been insulted in that way, frankly. But let me start on a little bit more, little bit more positive note. The company does have a position and we firmly believe that the best thing to do for the environment is to leave the dam in place with certain enhancements. And let me talk a little bit about that. First of all, and again, I think earlier this evening there was another comment about why the company has spent money, or hasn't spent the money collecting the necessary information to make the decision, and again, for the record, the company has actually spent in excess of \$10 million dollar studying this problem over the last 15 years. The concern I have is I'm not really sure a lot of people have read that material, or you wouldn't be hearing some of the kind of comments you heard. We have studied every critter you can study in this reservoir and I would invite everyone to read the EPA issued risk assessment that made some very, very definitive statements about what the risks at this reservoir are and are not. And the risk they found was not in the reservoir, indeed, we're blessed, and I do say that because of the problems we face in Butte and Anaconda, with a situation that does not pose a lot of risk. The risk that is posed is one of how to manage sediment and we think that the proposal that we've got does a very, very good job of that. But let me talk a little bit more about that. What you face here is a decision between leaving sediments in place or removing them. From our view, looking at the long term risk, we can leave the sediments where they are or remove the sediments and from a long term risk perspective, they are equal. In other words, it is equally protective to leave the sediments where they are or remove them. Which leads us to think about short term risks and I can guarantee you that the short term risks to the environment are much greater for a removal option than for leaving those materials in place. Which leads me to my second point, which is one of removal and a gentleman spoke earlier at the Mill Willow Bypass. I too, and I will add that a great amount of these \$700 million dollars that we've spent have been on what is called in Butte muck, suck and truck technology, and I think that the whole discussion of removal in this particular instance has, that the down side of a massive removal has been grossly underestimated. And I call it the how, what and when questions, none of which I've heard answered. How we're going to do this. Six million cubic yards of slop is a lot of material. And again for the gentleman that's on these types of jobs, you're not going to using the big 50 ton haul packs we're using in Butte, because this is going to be on highways in small trucks. And I won't even go and tell you how many truck loads that is. I also, from the how long, and the best thing that I can point to is not an ARCO operated operation, but the State of Montana is removing roughly half of this material on Silverbow Creek and they will spend somewhere between 10 to 14 years doing that. So don't underestimate the amount of time it's going to take for this undertaking. The other question is where. I've actually had the pleasure of siting repositories. I will feel a lot more comfortable with the 13 or 14 locations that the County has identified where this material might go when I talk to the people in the neighborhoods near those areas and I hear an overwhelming support for accepting that material. And I say this and I don't mean it, and apologize if it sounds

threatening, I'm just telling you there's a reality check with moving material. Nobody wants it in their back yard and I can tell you that right now and that's true in Butte, Montana, where everybody's got it in their back yard. Let me talk a little bit too, and it's one that, we, as a big company, you kind of hesitate to talk about, and that's called a cost benefit, because frankly I've been doing this long enough to know people don't really care how much it costs a big company. But, interestingly, on this project, we didn't have to do a cost benefit analysis, it was done by the State of Montana. And this is something that's not advertised a lot but some of you may remember that over the last 20 years, ARCO was sued for \$765 million dollars for natural resource damages over and above the cleanup. And the interesting thing about that number is it included costs for stuff that you almost wouldn't believe. At the Montana Pole Plant, part of that \$765 million dollars was to remove an interstate highway to get at 50,000 cubic yards of soil. There was, and excuse me for saying this and with all due respect to the attorneys from the State of Montana, there was crazy stuff in that number. You need crazy stuff to generate a number that big. Interesting, guess what the one project that wasn't even crazy enough for that claim. The one project they looked at was Milltown Dam and they said, you know, should we sue ARCO, you know, let's make it \$865 million or \$965 million and sue them to remove the sediments in the Milltown Reservoir. Guess what they decided. They decided that the benefits of removing those sediments were not great enough to justify the cost of suing us for that. We settled that lawsuit folks, the State of, and basically for that lawsuit that was in part of the \$118 million dollar settlement we made a few years ago. I raise that only because, and I think you may hear from my colleague for US Fish and Wildlife, you can talk to the Salish Kootenai Indian Tribe, everybody that sued us for NRD didn't think that the cost of removing those sediments was, didn't think that the cost was, that they should spend the money because the benefits weren't great enough. Let me just close off quickly, cuz I know it's been a long evening. Let me tell you what the company is committed to. In that \$700 million dollars that we spent, by the way, we'll spend about another, about another \$70 million this year, we've had a three prong commitment. First of all, that is whatever we would do would protect human health and the environment. The second is to the best of our ability in spending that money we would provide economic development. Our thought there was it would be a sin if we spend this kind of money and we don't provide some economic development benefit to the community. And thirdly that we would do the best we could to improve the quality of life. Why I think our proposal does the best at all three prongs is first of all, to protect human health and the environment, we are going to do the best job we can at that by leaving that reservoir and dam in place. That's the best way I can think of of protecting human health and the environment. Additionally, upgrading certain aspect of it and frankly, providing in perpetuity, that's the law, in perpetuity the financial assurances to be sure that that dam stays in place in a safe way forever. And we will be required to do that just as we'll be required at the Berkley Pit and every other project here in Montana. Secondly on economic development, and there again, I've probably done more economic development in the recreational than anybody else in this part of the country. We've built a \$20 million dollar golf course in Anaconda, we've built golf fields, we've built trails, and I'll tell you right now folks, as much as I'd like to say that recreational has the ability to surpass or to be greater than an industrial facility and economic development, it just ain't true. That dam is an asset, that dam provides electricity and I think the thought of anyone suggesting taking one megawatt of power out of the State of Montana right now is irresponsible. And finally, on the quality of life, yes we are committed to a number of efforts in this area. The very first money we granted in this area was \$50,000 to Missoula County to extend a trail. We've also committed money to Rocky Mountain Elk Foundation, we committed money to Bonner Development Group. And we're pretty proud of that and we see the efforts done here in the ground by grassroots groups, something we want to continue to provide our resources to as part of an ultimate cleanup. And I thank you very much for your indulgence in listening this evening.

Chairman Evans: Thank you Sandy. The next person we will hear from is Jim Stillwell, representing Montana Power.

Jim Stillwell: Hello. I'm Jim Stillwell, I work for Montana Power as Milltown project consultant and have been associated with this project in environmental, to safety and environmental issues for the last 14 years or so. What I'd like to discuss basically and very briefly here tonight is some of the safety issues associated with the Milltown Dam. As most of you know, MPC and the Milltown project are very tightly regulated by the Federal Energy Regulatory Commission. This year, MPC will hire an approved, independent consultant to perform a thorough engineering analysis of the project. This inspection, which is called the FERC Part 12 Inspection, is done every five years. The completed inspection report will be submitted to MPC and to the FERC and any deficiencies that are noted in that report will be managed by MPC. I think the nature and the timeliness of this five year inspection is very useful for the issues that are at hand, to thoroughly assess that particular facility at this point in time. Over the last two years, MPC and its engineering consultants have completed a stability analysis and overtopping evaluation on the project. Milltown project is required to meet the operational standards for resistance to the Probable Maximum Flood or PMF. The Probable Maximum Flood value at Milltown as determined by FERC guidelines is 271,000 cubic feet per second of river flow. Just to give you idea how much water that is, that would be the river flowing approximately 15 feet above the top of the dam. The highest previous recorded flow at Milltown was about 48,000 cfs, that was back in the 1908 flood, so obviously we're looking at FERC standards, safety standards for flood flow that is five times the previous recorded high flow, approximately five times more. MPC will be making improvements to the right abutment portion of the dam next year based on overtopping evaluation study. The right abutment portion is more prone to erosion from overtopping in the theoretical flood compared to the rest of the dam because it, the rest of the dam that sits solidly on bedrock. Improvements to the right abutment will eliminate overtopping and direct flows over the main part of the dam which is a very solid structure. Of course, MPC will successfully repair the dam apron cracks that have been the topic of extensive news coverage lately. Again, Milltown is an operating, operational electrical generating facility. There are four operational turbines and generators at Milltown. There's a fifth that has been out of service because of some maintenance problems. The average production at Milltown is about 2,000 kilowatts, that is enough power to supply about 2,000 homes with power or equivalent commercial usage. This energy may be very important to certain local users of power in the near future. MPC welcomes the opportunity to answer any questions on operational aspects or safety issues related to Milltown at any time. We certainly welcome your call and I appreciate the opportunity given to us by the Commissioners to talk on some of these issues. Thanks.

Chairman Evans: Thank you Jim. I've asked Commissioner Carey to read into the record a letter from Montana Fish and Wildlife that was unable to be here tonight, from Mr. Mack Long.

Commissioner Carey: It's dated March 14, 2001. Madam Chair, members of the Missoula County Commission, for the record my name is Mack Long, Montana Fish, Wildlife and Parks Regional Supervisor for west central Montana. We have viewed the Two Rivers Restoration and Development project and would like to provide the following comments. FWP cannot comment on the actual feasibility of removing the 6.5 million cubic yards of toxic sediments. Our expertise is not in the technology and practicality required to make recommendations in that discipline. We would, however, like to

comment on the fish, wildlife and recreation component of the proposed plan. If safe removal and storage of sediments can be accomplished then there would be an unequivocal benefit to the future status of fish, wildlife and recreation resources in the Blackfoot and Clark Fork Rivers. The dam was designed to supply power to the mill at Bonner. It has historically acted as a trap and filter for contaminated sediments. At the current time, it is only minimally accomplishing this action, allowing as much as 95 tons of toxic sediments to pass downstream of the dam annually. During run off, toxic metals are passed downstream as far as Albion. Fish kills have been documented downstream of the dam as a result of metal releases from the reservoir. The reservoir has allowed an illegal introduction of Northern Pike to establish in the reservoir habitat. Our fisheries biologists data has repeatedly shown that Northern Pike, which are not indigenous to western Montana waters, have had, and will continue to have negative impacts on trout and native non-game fish. Currently, the dam prevents upstream fish passage for migratory fish and limits downstream movement as well. Returning the rivers to a more naturally functioning system would allow fish passage, natural flow events to occur and improved river health. From a wildlife perspective, there are several species of furbearers such as beaver, mink and muskrat that occupy the Milltown Reservoir area. In addition, numerous birds, waterfowl and raptors occupy the area. Some temporary disruption would occur to wildlife during construction of the project, however, we feel that all these species would remain or return and continue to use the area if the proposal is designed to be wildlife friendly and substantial wetland habitat remains or is created. We are aware that should the proposal come to fruition, that Northern Pike anglers would lose an angling opportunity. However, as I stated above, this was an illegal introduction and has been detrimental to other fish populations. We would hope that waterfowl hunting opportunities be included into the overall design. Currently, the opportunity exists and should continue. The proposed plan would provide excellent opportunities for floaters, rafters, canoers and kayakers. The whitewater section would provide a valuable recreational opportunity and economic benefit for the community. We would like to explore a cooperative approach between the County and FWP to acquire the Weigh Scale location along Highway 200 for additional access. In addition, we would like you to explore the possibility of providing an access location for local motorboat owners to enjoy and utilize the area as well. Motorboat operation is presently allowed and allows them the opportunity to use their boats locally to fish and recreate. The confluence of the Blackfoot and Clark Fork Rivers has historical significance that should not be overlooked. In conclusion, FWP has identified numerous advantages that the plan would provide to the fish, wildlife and recreational resources and the publics who enjoy them. If the plan were carried forward, FWP would welcome the opportunity to be a partner. Thank you.

Chairman Evans: This evening, the US Fish and Wildlife is represented by Mark Wilson.

Mark Wilson: My name is Mark Wilson. I'm the Supervisor of the US Fish and Wildlife Service Office in Helena, Montana and I want to thank everyone for your patience tonight and also for the calm and thoughtful comments that you've provided. They've been very helpful to me. I testified earlier this afternoon over in Missoula, so I think I'll face you folks, these folks have already heard what I wanted to say. And I'm also going to skim my comments here too, so, you know, we can get through this in the interest of time. In collaboration with the states, the US Fish and Wildlife Service is the nations preeminent manager of fish and wildlife resources and the habitats upon which they depend. I'm here today representing the Service in support of Missoula County Commission's resolution to remove Milltown Dam, dispose of the contaminated sediments and to restore the confluence of the Blackfoot and Clark Fork Rivers to a more natural condition. Although in recent years the Service has been most widely noted for efforts pertaining to the conservation of threatened and endangered species of fish and wildlife, we also have proud traditions related to protecting migratory birds and their supporting habitats, including promotion of and regulation of recreational hunting for waterfowl and migratory birds. We're also advocates for the development and protection and enhancement of recreational fisheries, especially as it relates to restoration and improvement of aquatic habitat conditions that are conducive to providing self-sustaining fish populations. The existing situation at Milltown Dam results in serious adverse impacts to both regionally and nationally significant fish and wildlife resources and it also raises concerns for public health and safety. Our concerns with Milltown Dam are those that you've heard raised tonight, I'll just lightly touch these. The dam is barrier to tens of thousands of migratory fish, including the nationally threatened Bull Trout, which is also important as a cultural resource to local Indian tribes. And then there's also the sensitive West Slope Cut Throat Trout which was recently under consideration for inclusion on the Secretary of Interior's list of threatened and endangered species. Other important recreational species include the Rainbow and Brown Trout and Mountain Whitefish which are prevented from migrating upstream to suitable spawning sites in the Blackfoot River system. The dam also blocks spawning migrations for many non-game species of fish such as the Large Scale Sucker, Long Nose Dace and Red Side Shiner, which provide forage for game fish and they have many other ecologically significant roles in the maintenance and well being of healthy river systems. It has been frequently mentioned tonight that the Milltown Dam provides what I term a biological blockade due to the fact that there was an illegal introduction of Northern Pike and there's presently an overpopulated condition in Milltown Reservoir of this voracious species, and the problem is that fish that spawn upstream have juvenile fish that try to migrate downstream instinctively and many of them don't make it through the reservoir because of the Northern Pike. Then there's also the six and a half million cubic yards of contaminated sediment. These sediments can pose direct and indirect hazards to fish and wildlife and that's been pretty well covered tonight. The toxic ground water plume is also a concern, not only to public health but also has the potential to affect fish and wildlife resources because of its tendency to surface in springs and seeps and also to infiltrate into streams and wetlands. There is also some suppression of elements of the regional economy related to recreational angling, through the sales of fishing equipment and guide services, hotel and restaurants accommodation and so forth. And then there are other community benefits that are suppressed that could be provided by a healthy rivering system. Removing the Milltown Dam and the associated toxic sediment would enhance recreational angling by allowing the passage of thousands of adult fish to suitable spawning areas higher in the watersheds of both the Clark Fork and the Blackfoot Rivers. Restoring the aquatic habitat to a more natural rivering condition would also remove most of the habitat that is especially conducive to the production of Northern Pike, greatly reducing the present over-populated condition and this would allow for a far greater survival of species of juvenile fish that attempt to migrate downstream. One other thing that hasn't really been touched on quite as much tonight is that the current situation at Milltown Dam also results in unrealized economic benefits related to recreation, tourism and education. The lack of a public park containing some historical and ecological interpretation of the Blackfoot River, as well as the other significant features at the site fails to take advantage of the stream of economic benefits potentially available from the, you know, tourists that are traveling down I-90 that have an interest in history or culture or recreational angling. Many of them are aware and would like to stop and have a look at the river that memorialized in the book and movie "A River Runs Through It," by Montana author Norman McLean. The fact that people don't stop to fish and tour the area results in unrealized economic benefits to local restaurants, hotels and other businesses that cater to outdoor recreation. Benefits also go unrealized in the form of revenues from the sale of fishing licenses and from excise taxes collected on fishing

equipment that the Fish and Wildlife Service returns to the Montana Department of Fish, Wildlife and Parks, for fisheries management projects and education projects statewide. For all of the reasons that I've just listed, the Service does support Missoula County Commission's resolution to remove Milltown Dam and the associated contaminated sediments. We acknowledge that there will be some short term, although we ultimately believe, minor impacts to the environment associated with the proposal. There may be some turbidity increases and other short term adverse effects to water quality associated with removing the dam and the sediment, as well as some loss of beneficial ecological functions that are provided by rivering wetlands, although we also expect that to be temporary. The Service recognizes that there will be some loss in locally available lake-type boating, waterfowl hunting and angling opportunities for Northern Pike and cool water fish species. The Service believes that these impacts are relatively insignificant in the larger scheme of environmental, social and economic benefits that stand to be gained. Furthermore, all of the impacts that we are currently aware of can be mitigated relatively easily. We encourage the Missoula County Commission to consider incorporating a broad range of both recreational and conservation features into any future design concepts for the proposed park. In addition to historical interpretation and a whitewater facility for kayaks and so forth, the Service encourages the Commission to consider incorporating facilities suitable for conservation education. This could be something like a window in one of the structures used to create in-stream rapids so students could look underwater and see what, you know, the bottom of the stream looks like. It would also be beneficial to have a body of water particularly suited for angling instruction for say flyfishing classes and so forth and especially to provide fishing opportunity for children. An area such as this would be advantageous for holding National Fishing Week celebration activities during the first week of June each year, as well as similar events for National Hunting and Fishing Day in September. Thank you for the opportunity to comment on the resolution and we're also available for questions.

Chairman Evans: Thank you Mark. Do we have the sign up sheets anywhere. We would really like to get those. Thank you. Peter, would you like to sum up for us please.

Peter Nielsen: There's been a lot of, I've heard a lot of concern tonight about the sediment removal, whether it can be done safely. The, I want to let you know that I've done a lot of thought and research into that. I've looked into the impacts of dredging activities and the first thing you should realize is that not all of this material would be dredged, much of it would be removed by conventional equipment without being in the water, because they would lower the pool and they would reach the accessible material without being in the water. The remaining about half or so, this is the currently thinking on how they'd do it, would be removed by a cutter head suction dredge. There have been estimates presented in ARCO's feasibility study draft of how that might be really serious in terms of the amount of impact. I found other information from sources like the Army Corps of Engineers, from projects that had been done in other parts of the country. You know, dredging has been done for a long, long time. We've been doing it in rivers and harbors and streams all around the country. In fact, reliable sources have told me, and I found very good information that shows that dredging can resuspend less than 1%, some cases close to zero percent of the sediment that is dredged. So you can, so you have a very small amount, now that can be significant of course if all of that were to reach the river, but then, what you have then is multiple containment barriers to contain the sediment that is dredged. You have multiple silk curtains, you have sheet piling, coffer dams. Remember when they did this, the sediment, the repairs on the dam to the spillway in 1987. They put a coffer dam right out there and they did this sort of thing, they removed a whole bunch of sediment from right behind the dam. So, it's kind of difficult to swallow when you hear folks saying it can't be done, they did it, they did a lot of it then. I want you to know that, you know, I have thought about this a lot, I have compared it what I saw with my own eyes in 1996 when I was out there and took the samples of the river in '96. The river was running so turbid that it was basically silvery-gray in color, it was just chock-full of stuff. You know, the samples that we took which were confirmed on the same day by the United States Geological Survey, showed concentrations of copper in those, in the water above 400 parts per billion, while the safe standard for fish was 18. So, it was way high, way polluted, okay. There's no, there's no comparison here, of how much impact you're going to have with dredging compared to what you have with that kind of ice scouring event and that sample that we took was before the ice came down the Blackfoot and they did the big draw down. So that's a routine sort of ice scouring breakup that we have on a routine frequency about every five to ten years around here, it's a very common occurrence. If those sediments are left in place, they're going to have to have a permanent exemption from State water quality standards at Milltown Dam, they will always continue to periodically violate the standards. The dam doesn't protect the river downstream. There's some logic to cleaning things upstream, certainly there's been a whole lot of cleanup already done, but the stuff that comes down goes through. What the dam actually does is make it worse. It stores it up for some period of time, you have some build up for two or three years and then you have a whole bunch of release in a big slug. And it's those big slug events that have the big impact on the fish. So, the dam doesn't protect the river. The dam doesn't protect people downstream and all you have to do is look at the numbers that Fish, Wildlife and Parks has come up with, 56 to 86 percent reductions in fish populations after that '96 event, depending on species and age class. The Clark Fork trout populations are only about 20 percent of what they ought to be. And the reason is this periodic hammering that it receives from sediment scouring, not only from Milltown, but areas upstream which need to be cleaned up also. As far as the ground water goes, I want you folks to know I think it's really too bad that we had two hearings. We had a hearing in Missoula this afternoon and we had a hearing here. There was information that I took back from the meeting we had last week here with several folks, questions that folks had about the ground water. And, we relayed those questions to a technical advisory committee, a committee of scientific volunteers that advise the Health Department on water quality issues and they answered some of those questions for you. I'd like to find a way to get that information to you in a better format, maybe more directly from them. But, you know, their assessment is no, you will not have an impact on the Milltown Water Users Association well if you remove the dam and sediments. No, that will not happen, there is no scientific justification for that. Now, if you remove the dam and the sediments from this area, the removal is going to happen in the area below the Old Milwaukee Bridge. There's been a question about the wells in Piltzville going dry. The idea on this whole thing is to control the grade of the river and that controls the grade of the ground water and the river upstream of there, as well. So, you won't have a change in the ground water levels upstream. That's how the project is being designed under alternative 7A. As far as the water getting worse after removing the sediments, it's a little difficult for me to understand how that could happen. I do understand the arguments that Mountain Water has presented, we're meeting with them tomorrow morning. We disagree. And just so you know, EPA also disagrees and their expert disagree. I've been pressuring to get a meeting so we can all resolve these questions, we got to get it resolved, but we disagree. There's 21,000 tons of arsenic in this pond. And there's 7,300 pounds of arsenic every year released into the ground water. You're not going to clean up the ground water without removing the source of the contamination. It's not going to happen. As far as where to dispose the sediments, we identified 12 potential sites and we just identified sites that had enough acreage, had either rail access or potential slurry line access. That's not to say the sediments are going to any one of those, but there are sites. ARCO would have had you

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believe that there weren't any sites with sufficient acreage until we did that work, that was just last summer. There's also the opportunity ponds near Anaconda where other removals have taken their waste material too. Now, material has been removed upstream of us along Silverbow Creek, the Mill Willow Bypass, the Colorado tailing site in Butte, and it's been removed to other locations and it's been done safely. And it's been stored safely. It's been done. The current location where this stuff is, this is the worst possible place, it doesn't meet any standards of how you should dispose of this stuff and how to site a waste repository for it. You got ground water and surface water pollution at the confluence of two renowned rivers impacting the fishery, there's no restriction on access or anything. So, you know, the waste would not pose a threat if they're located in a properly lined and capped landfill. And for example, that has been done by ARCO at other sites upstream of you. It's been done at the Anaconda Old Works Golf Course. It's been done at the Clark tailing site in Butte. Dam safety, I'm not here to tell you the dam's going to break tomorrow or anything, but there's been some, I have some disagreements with how it's portrayed. The dam is classified as a high hazard dam by FERC, the Federal Energy Regulatory Commission. That high hazard classification is based on it's potential for loss of life and property during a large flood downstream. It's also classified as a significant hazard because of the contaminants in the sediments. It's built in 1907, it's a timber crib structure which has been fortified with concrete. But it's an older structure. The north end of the dam is not built on bedrock. It is built on a geological fault, not an active fault currently but there are active faults in our region. The last Part 12 survey that they did five years ago revealed that the middle section of the dam has a minimum, has less than the minimum 1.0 safety factor for earthquakes and that's not widely distributed information, but it's true. That's the minimum safety factor for a low hazard dam. The actual, the new regulations that FERC is proposing to adopt would require safety factor of 1.3 for a high hazard dams, so it wouldn't meet that. They also did a safety factor evaluation in their ice jam study which we just got a hold of recently and we're just in the middle of looking at, but those safety factors were from 1.07 to 1.19. Adequate for a low hazard dam that doesn't handle, that's not a tailing dam. You know, this is a dam that holds back processed mine wastes. It has to meet a little higher standard. The recent leaks indicate deterioration of concrete. The dam is not going to be maintained in perpetuity. People have been asking for guarantees tonight, guarantee me the water's not going to get worse, guarantee to me that my wells aren't going to go dry. One guarantee I can give you, if you leave it there, eventually there's going to be some major event, whether it's a large flood or a large earthquake or a large ice jam or vandalism to the rubber dam that they're proposing, you will have a very significant release of sediments if not a catastrophic release of sediments, at some point in the future it will happen. And that will have very significant impacts downstream, not only on fisheries but potentially on drinking water wells and property downstream. As far as electrical generation goes, folks have said, well we can add more generators, but you're limited by the amount of water that's out there. They're limited to that today, there's two generators out of the four that are running today. That's still, that's power, they're producing power, but it's not the full capacity, it's about one megawatt today. If you put fish ladders in, you going to have less water to turn the turbines. But they're running the thing at a loss, at today's rates, they report a \$190,000 annual loss to the Public Service Commission and maybe they can make a profit at higher rates but we know we can't pay those. Stone Container can't pay them. The other information I want you to be aware of is that, based on the information in the feasibility study, not my own numbers, but their numbers, they would require \$10 million to \$15 million dollars to upgrade the facility for safety, for floods, for fish passage, etc., and it would cost about the same amount to take it out. So, here we have a dam, it would cost the same amount to fix or take out, it loses money and causes environmental problems. You add it up. Folks have, I should have said this earlier tonight, but I did say that, you know, it was the Corps of Engineers ideas to come up with the drop structures, we didn't come up with this as some sort of gimmick to sell the project. It was because you have to control the grade. This, our idea was to do this in a way that provided better long term benefits for the community. And I think that's what this proposal is all about, that the County is trying to get at here and I think it's good that we talk about it. Too often folks at superfund sites around the country have never been happy with the outcome. The companies haven't wanted to pay all the money and the communities didn't like what they got in the end. We're trying to do something different here that would give us a more positive outcome. We were willing to work to try to bring in outside money to make some of the extra things happen so that we could come up with more of a win/win. Maybe even reduce some of the opposition from the companies that are being asked to pay such a large portion of the bill. That's the idea.

Chairman Evans: Peter, we're about out of tape.

Peter Nielsen: Thank you.

Chairman Evans: I didn't mean to embarrass you but I wanted everything you had to say on tape. I'd like to tell all of you we will still accept written comments, you can send your comments to the Commissioners Office, we'd be happy to have them. And we thank you all for your patience and your civility.

There being no further business to come before the Board, the Commissioners were in recess at 10:10 p.m.

THURSDAY, MARCH 15, 2001

The Board of County Commissioners met in regular session; all three members were present. In the evening, Commissioner Curtiss attended the In-Service Board Training Workshop at the Library conducted by Geoff Badenoch of the Missoula Redevelopment Agency.

Claims List – The Commissioners signed the Claims List, dated March 15, 2001, batch number 1153 (pages 1-2), with a grand total of \$62,102.87. The Claims List was returned to the Accounting Department.

Monthly Report - Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Report for the Report of the Sheriff, Douglas W. Chase, for the month ending February 28, 2001.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Notice Letter – The Commissioners signed a notice letter to Tom Carter, dated March 22, 2001, terminating a Memorandum of Agreement between Missoula County and Thomas R. Carter d.b.a. Technical Contracting. The termination is effective March 26, 2001. In order to provide a reasonable transition period, Missoula County agreed to

extend the Agreement for an additional 30 days, through April 24, 2001, under conditions set forth therein. The document was returned to Ann Mary Dussault, Chief Administrative Officer, for further handling.

Letter – The Commissioners signed a letter to Richard F. Cebull, United States Magistrate Judge, dated March 15, 2001, advising Judge Cebull that Hal Luttschwager, County Risk Manager, has full authority to act on behalf of Missoula County to settle the matter known as Davis v. Raffety, et al., CV-99-110-M-LBE.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Recreation Engineering and Planning for conceptual drawing work and travel to Missoula associated with the Two Rivers Project. This phase of work will be completed by July 1, 2001. The total amount shall not exceed \$10,000.00. The document was returned to Peter Nielsen in the Health Department for further signatures and handling.

Memorandum – The Commissioners signed a Memorandum of Understanding (“MOU”), dated March 15, 2001, between Missoula County and Brown Bear Resources (“BBR”). The Memorandum establishes MOUs between the County and several state, tribal, federal and private groups and agencies to achieve common goals and objectives in promoting the cultural, social, economic and natural resources found in and around the County. The costs of the project through August 1, 2001 will be paid in full by BBR with the exception of any costs incurred by Missoula County for legal and Chief Administrative Officer review of documents and any costs associated with related meetings. Included in this exemption is any expense incurred by Missoula County or its employees on this project.

Board Appointments – The Commissioners approved and signed letters, dated March 19, 2001, reflecting the following appointments to the Larchmont Golf Course Board of Directors:

- 1) Reappointment of Chuck Seeley to a three-year term as a Second Alternate Member. Mr. Seeley’s new term will run through March 31, 2004;
- 2) Reappointment of Lois Anderson to a three-year term as a Member. Ms. Anderson’s new term will run through March 31, 2004.

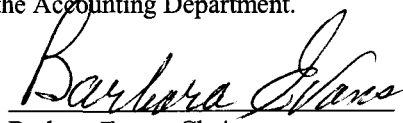
The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, MARCH 16, 2001

The Board of County Commissioners met in regular session; all three members were present in the forenoon. At noon, Commissioner Carey attended a Mental Health Board Meeting and Luncheon held at Ruby’s Conference Center, and Commissioner Curtiss went to Helena for testimony at the Legislature.

Claims List – The Commissioners signed the Claims List, dated March 15, 2001, batch number 1154 (pages 1-5), with a grand total of \$15,663.59. The Claims List was returned to the Accounting Department.


Vickie M. Zeier
Clerk & Recorder


Barbara Evans, Chairman
Board of County Commissioners

MONDAY, MARCH 19, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – The Commissioners signed the Claims List, dated March 19, 2001, batch number 1156 (pages 1-4), with a grand total of \$14,654.44. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated March 19, 2001, batch number 1160 (pages 1-5), with a grand total of \$283,521.77. The Claims List was returned to the Accounting Department.

TUESDAY, MARCH 20, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – The Commissioners signed the Claims List, dated March 16, 2001, batch number 1158 (pages 1-4), with a grand total of \$66,060.21. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated March 20, 2001, batch number 1155 (pages 1-5), with a grand total of \$32,378.81. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Resolutions – The Commissioners signed the following two Resolutions, dated March 20, 2001, pertaining to tax property consisting of six parcels as set forth therein:

- 1) Resolution No. 2001-025 is an application for tax deed on the six parcels remaining in the 2000 tax deed process.

- 2) Resolution No. 2001-026 authorizes the sale of the tax deed property. The sale of the property is scheduled for April 4, 2001.

Memorandum – The Commissioners signed a Memorandum to Carla Kruse, Special Service Administration, Missoula City Council PAZ Committee, requesting the City of Missoula to defer its annexation of the Gleneagle Subdivision in Grant Creek. This request is due to a settlement agreement entered into with Missoula County and Ken Knie and Mark Denton to resolve pending litigation arising out of zoning issues in the area.

Board Appointments – The Commissioners approved and signed letters, dated March 21, 2001, reflecting the following appointments to the Missoula Aging Services Governing Board:

- 1) Appointment of Lynn Brooks as an “alternate member” to fill an unexpired term through December 31, 2001.
- 2) Appointment of Don Williams as an “alternate member” to fill an unexpired term through December 31, 2001.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, MARCH 21, 2001

The Board of County Commissioners met in regular session; all three members were present.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the Chief Administrative Officer meeting held in the forenoon, the following items were signed:

Budget Transfer – The Commissioners signed Budget Transfer No. 01-021 for the Technology Department in the amount of \$50,000 for the mainframe replacement and reserve billings in the Technology Fund.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and DJ&A, P.C. (“Contractor”) for construction management services of the Reserve Parcel “B” sanitary sewer project at the Missoula Development Park. The Contractor shall commence performance when notified to proceed and shall conclude after construction is completed. The total amount shall not exceed \$8,235.00.

Letter – The Commissioners signed a letter, dated March 20, 2001, to Dale Dahlgren, Legion Baseball Liaison, agreeing to the request to extend the sublease by American Legion Post #27 of the Cregg-Lindborg Field to Mountain Baseball LLC and the Missoula Osprey Minor League Baseball for the 2001 season, from March 1, 2001 through September 20, 2001, subject to the terms and conditions stated in the Memorandum of Agreement dated January 29, 2001.

Request for Action – The Commissioners approved the recommendation of the County Park to forward the requests for Lolo Parks for Weed Grant Applications to the County Weed Board. All weed control applications shall be by commercial application. The County Park Board has budgeted \$7,900.00 to match the Weed Grant money. The document was returned to Barbara Martens, Projects Coordinator, for further handling.

Agreements – The Commissioners signed four Memorandums of Agreement to award matching grant money to the parks listed below:

- 1) Frenchtown Public Schools (District #40): \$2,000 for installation of fencing and spectator seating at the Mullan Trail Little League ballfields on school property.
- 2) Schmutz Park (Target Range area): \$870 for reducing weed population, establishing a walk/jogging path, planting trees, and improving bird habitat.
- 3) Bonner School: \$500 for the purchase of playground equipment suitable for all aged children.
- 4) Mount Jumbo West Little League: \$3,000 for installation of an underground irrigation system on two new ballfields.

PUBLIC MEETING – March 21, 2001

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Bill Carey, Commissioner Jean Curtiss, County Surveyor Horace Brown and Chief Civil Attorney Mike Sehestedt.

Public Comment

None

Routine Administrative Actions

Commissioner Carey moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$565,799.56. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Hearing: Mickelson Family Transfer – POSTPONED TO MARCH 28, 2001

Hearing: Hane Family Transfer

Michael Sehestedt, Chief Civil Attorney, presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described as Tract 1 of COS 3716, located in Section 30, Township 13 North, Range 15 West.

John K. and Helene L. Hane have submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 8 acres in size, located in the Camas Prairie area off Swanson Lane. The Hanes propose to create an approximately 6 acre parcel for transfer to their son, Kent K. Hane.

The history of the parcel is as follows:

Parcel History	Year	Exemption Use	Applicant	Intended Recipient
COS 3716	1989	Occasional Sale	Douglas Hall	N/A

According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act.

Chairman Evans opened the public hearing.

John K. Hane stated that he would like to transfer this land to his son. Due to his age and the amount of land he holds, he would be more comfortable with a smaller plot of land to take care and see that the rest of the land would go to his son Kent.

There being no further comments, the public hearing was closed.

Commissioner Carey moved that the Board of County Commissioners approve the request by John K. and Helene L. Hane to create a new parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Michael Sehestedt stated the reason for the proceeding is that in the past, this exemption has been abused. The Commissioners need to make a determination if this is truly a family transfer and not an attempt to evade subdivision review. The approval is for the division of land only. It does not give approval for a septic system or constitute any commitment as to the availability of any services, access, etc.

Hearing: Davis Family Transfer (Postponed from March 14, 2001)

Michael Sehestedt, Chief Civil Attorney, presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described in Book 154 Microrecords, Page 689 and Portion A of COS 5100.

Arthur and Gale Davis have submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 20 acres in size, located near Evaro, off Highway 93. The Davises propose to create an approximately 10 acre parcel for transfer to their son, Kris A. Davis.

The history of the parcel is as follows:

Parcel History	Year	Exemption Used	Applicant	Intended Recipient
COS 5100	2000	Boundary Relocation added 7.78 acres to this property from their neighbors	Thornburg	Davis
Book 154, Page 689	1971	Prior to Subdivision and Platting Act	Robertson	Davis

According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act.

Chairman Evans opened the public hearing.

Kris Davis stated that the sizes mentioned were slightly off. His parents property is in excess of 20 acres and the boundary relocation added 7.97 acres. He currently resides on the property and rents from his parents. The family transfer will allow him to own the property and build a small dwelling. By no means is this an attempt to evade subdivision review.

Michael Sehestedt stated the information in the staff report is approximate.

Kris Davis stated the land purchased last year from Mr. Thornburg was almost 8 acres.

Michael Sehestedt stated the Commissioners are approving the general parameters of the land split. A more precise measurement will be done by the surveying company they are working with.

Arthur and Gale Davis stated that they were in favor of the transfer.

There being no further comments, the public hearing was closed.

Commissioner Curtiss moved that the Board of County Commissioners approve the request by Arthur and Gale Davis to create a new parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Michael Sehestedt stated the reason for the proceeding is the Commissioners need to make a determination if this is truly a family transfer and not an attempt to evade subdivision review. The approval is for the division of land only. It does not give approval for a septic system or constitute any commitment as to the availability of any services, access, etc.

Consideration: Horseshoe Hills Subdivision (5 Lots) Southeast of Seeley Lake near Kozy Korner -
POSTPONED TO A DATE TO BE DETERMINED

There being no further business to come before the Board, the Commissioners were in recess at 1:40 p.m.

THURSDAY, MARCH 22, 2001

The Board of County Commissioners met in regular session; all three members were present. In the afternoon, the Commissioners participated in the Open House and Ribbon Cutting Ceremony for the newly remodeled Motor Vehicles Department.

Claims List – The Commissioners signed the Claims List, dated March 22, 2001, batch number 1161 (pages 1-4), with a grand total of \$28,913.06. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated March 22, 2001, batch numbers 1163 and 1164 (pages 1-5), with a grand total of \$73,082.16. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Agreement – Chairman Evans signed an Agreement, dated March 1, 2001, between Missoula County and the Montana Department of Transportation ("State") for the purchase and use in-car video cameras and recording units for 12 State vehicles. The purpose of the acquisition is to enforce adequately the drinking and driving laws in Montana. The total amount shall not exceed \$12,000 (\$1,000 for each unit). This project shall be started within 10 days from the date of execution of the Agreement and shall be completed no later than June 15, 2001. The document was returned to Don Morman in the Sheriff's Department for further handling.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Water Consulting, Inc. of Hamilton, Montana, to provide technical support developing a feasible scenario for Milltown Dam removal and Clark Fork and Blackfoot River restoration. Water Consulting will produce a final display product and technical report no later than April 15, 2001. The total amount shall not exceed \$9,670.00. The Contract was returned to the Health Department for further signatures and handling.


Request for Action – The Commissioners signed an agreement between the College of Technology and the Missoula Equestrian Council for improving the existing parking area east of the arena and the second area on the north side of the stables to serve as the base for a second row of stables. Work is scheduled to begin on March 27, 2001. The document was returned to Barbara Martens, Projects Coordinator, for further handling.

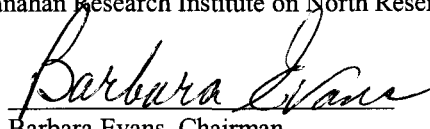
Request for Action – The Commissioners approved a Shoreline Construction application by Greg Hamilton to install a 600 square foot dock on piers on Big Sky Lake. The property is Lot 45 of Big Sky Lake Estates. The Office of Planning and Grants ("OPG") recommended approval of the permit.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, MARCH 23, 2001

The Board of County Commissioners met in regular session; all three members were present. In late afternoon, the Commissioners attended a tour and reception at the Dinny Stranahan Research Institute on North Reserve.


Vickie M. Zeier
Clerk & Recorder


Barbara Evans, Chairman
Board of County Commissioners

MONDAY, MARCH 26, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated March 22, 2001, batch number 1162 (pages 1-4), with a grand total of \$73,082.16. The Claims List was returned to the Accounting Department.

Payroll Transmittal – The Commissioners signed the following Payroll Transmittal Sheet: Pay Period: 06 - Pay Date: March 23 2001. Total Missoula County Payroll: \$754,066.14. The Transmittal Sheet was returned to the Auditor's Office.

TUESDAY, MARCH 27, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – The Commissioners signed the Claims List, dated March 27, 2001, batch number 1165 (pages 1-4), with a grand total of \$64,727.29. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated March 27, 2001, batch number 1168 (pages 1-4), with a grand total of \$25,109.77. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated March 27, 2001, batch number 1169 (pages 1-4), with a grand total of \$40,416.90. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated March 27, 2001, batch number 1170 (pages 1-5), with a grand total of \$67,160.47. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated March 27, 2001, batch number 1171 (pages 1-2), with a grand total of \$40,718.70. The Claims List was returned to the Accounting Department.

Plat and Agreement – The Commissioners signed the plat for Snowdrift Acres, a minor subdivision located in the E½ of Section 9, T 13 N, R 20 W, P.M.M., Missoula County, a total gross area of 19.79 acres, with the owners of record being Jensen & Jensen Enterprises, LLP.

Also signed was a Development Agreement, dated February 21, 2001, pertaining to the Snowdrift Acres subdivision. The agreement is intended to meet requirements of the Missoula County Weed Control Board and the Missoula County Subdivision Regulations regarding Primary Travel Corridor standards, fire protection standards, and road paving requirements.

Indemnity Bond – Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming David L. Gray, II, as principal for Accounting/Payroll Warrant #265257 issued March 23, 2001 on the Payroll Fund in the amount of \$384.81, which was destroyed.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Resolution No. 2001-027 – The Commissioners signed Resolution No. 2001-027, dated March 27, 2001, a Budget Amendment for the Office of Planning and Grants (Wallace-Reader's Digest Fund), in the amount of \$66,000.00, adopting same as part of the Fiscal Year 2001 Operating Budget for Missoula County

Resolution No. 2001-028 – The Commissioners signed Resolution No. 2001-028, dated March 27, 2001, adopting the Reserve Area "B" Comprehensive Plan Amendment of the Missoula Airport Development Park Master Plan & Strategic Implementation Plan.

Agreement – The Commissioners signed an Agreement between the Missoula Office of Planning and Grants and the Montana Department of Transportation to fund Phase II of Missoula's Transportation Demand Management ("TDM") Program. The Plan incorporates a five-prong approach to introducing and implementing TDM activities in Missoula. The term will be July 2001 through June 2002. The total amount shall not exceed \$150,000, funded as follows: \$129,870 comes from the CMAQ (Federal Congestion Mitigation Air Quality) funding source; the local match of \$20,130 is proposed to come from various sources including County, City, UM, MT Line, Parking Commission, and large employers. The document was returned to Kelley Segars in the Office of Planning and Grants for further handling.

Board Appointments – The Commissioners approved and signed letters, dated March 27, 2001, reflecting the following appointments to the Big Sky Park Stewardship Committee:

- 1) Reappointment of Dawn L. Matulevich-Kato to a three-year term as a member. Ms. Matulevich-Kato's new term will run through March 24, 2004;
- 2) Reappointment of Natalie Harrington to a three-year term as a member. Ms. Harrington's new term will run through March 24, 2004.
- 3) Reappointment of Kim T. Ashwell to a three-year term as a member. Ms. Ashwell's new term will run through March 24, 2004

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, MARCH 28, 2001

The Board of County Commissioners met in regular session; all three members were present. In the morning, Commissioner Curtiss attended the Heart Association Breakfast held at Brantly Hall, University of Montana.

Resolution No. 2001-029 – The Commissioners signed Resolution No. 2001-029, dated March 28, 2001, abandoning the old G.L.O. road from Old Spur Road to the most easterly boundary of Parcel II (Johnston Property), located in the N½ & SE¼ of Section 1, T 15 N, R 23 W, P.M.M., Missoula County, Montana.

PUBLIC MEETING – March 28, 2001

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Bill Carey, Commissioner Jean Curtiss, County Surveyor Horace Brown, Deputy County Attorney Colleen Dowdall and Chief Civil Attorney Mike Sehestedt.

Public Comment

None

Routine Administrative Actions

Commissioner Carey moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$360,934.00. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Decision On: Two Rivers Restoration and Development Plan Resolution

Chairman Evans: We have a decision on the Two Rivers Restoration and Development Plan Resolution which we have discussed at length over the last couple months. Does someone want to read that into the minutes or do you simply wish to discuss it and take action.

Commissioner Carey: Does it have to be read into the minutes, Michael?

Michael Sehestedt: I don't think you need to read it into the minutes, you might tell the people here who have seen the earlier draft what changes you've made. I would also suggest that you note for the record the additional written comments that you've received. I know that you've all read them but I felt it should be noted for the record.

Commissioner Carey: Thank you.

Chairman Evans: Okay, we will leave the list of additional comments with Patty for the record. What has been added to the resolution is a paragraph that says: "Whereas, the U.S. Environmental Protection Agency has concluded that sediment removal is technically feasible and can be done with only short-term impacts to water quality that would not be harmful to human health, and that the U.S. Fish and Wildlife Service has concluded that any short-term impacts would be far outweighed by the long-term benefits." And on the back we have changed ARCO (or Atlantic Richfield Company) to BP-Amoco, they are the new owners, and included "to develop the most effective and safest methods for removing the contaminants behind Milltown Dam, to safely remove ..." If anyone wants copies of this, we'll be happy to provide them and there are some on the table. Are there any comments, questions. I do have some comments, but I will make mine last if you have anything you wish to say.

Commissioner Carey: Well, I would just like to say that I strongly support this resolution acknowledging that we have to have it shown that it can be done safely, that the sediments can be taken out safely and disposed of safely. I think that they can. I'd certainly be open to any strong arguments that they can't, but I believe right now that they can and I believe we ought to move forward. I think those 6 million plus cubic yards of toxic sediments behind the dam represent probably the greatest threat to public health that we have in Missoula County and therefore, I think we have a responsibility to act to do something to be proactive instead of reacting to a potential catastrophe out there.

Chairman Evans: Any questions or comments.

Commissioner Curtiss: I agree and the majority of the comments that we've received from the public, either at the public hearings or in written form, have been in favor of this and their only concern has been that it can be done safely and that's why we've added that language to the resolution.

Chairman Evans: I'd like to say for the record that I strongly support removing the sediments from behind the dam. I think they are a danger to the public that needs to be dealt with. I, in my own mind, break this resolution into three parts; the contamination removal, the dam removal, and the restoration of the river with the recreation area. I am willing to listen to the public on any of these issues but I do not believe that, in my mind, the removal of the contaminants is a negotiable item, I think it needs to be done, must be done. Whether the dam comes out, whether the recreation area is built, those are issues that I think we probably will get much more comments from the public and final decisions on those may rest on money, may rest on public input. But I support this resolution, think that what we wish to do here is the best solution and so I would, did you make a motion?

Commissioner Carey: Not yet, but I will. I'll move to adopt the resolution.

Commissioner Curtiss: Second.

Chairman Evans: Any further discussion. All those in favor signify by saying Aye.

Commissioner Carey: Aye.

Commissioner Curtiss: Aye.

Chairman Evans: Aye. Motion carries there being none to oppose. The resolution is in force. How long, this does not have a go into force date, it's as soon as signed, is that correct?

Michael Sehestedt: Yeah, I mean it is not, it isn't an ordinance, it doesn't have a delayed effective date. It's simply a resolution, it disposes of a simple piece of business before you and what it is, is a statement of intent to pursue the three items that you listed, subject to technical issues that may arise, I think, by the terms of the resolution. It's effective immediately, assuming you all feel this way immediately.

Commissioner Carey: Indeed.

Chairman Evans: Do you have any delays?

Commissioner Curtiss: No.

Commissioner Carey: No.

For the record, the following people submitted written testimony regarding the Two Rivers Restoration and Development Plan: Roy O'Connor (in support); Dan McCaffery (remediate upstream first); Harley W. Jones (not in support); Thomas

C. Blunn (not in support); Bruce Hall, Bonner Development Group (not in support); and Harry W. Poett, Big Blackfoot Chapter of Trout Unlimited (in support).

Hearing: Review of 310 Permit from Orchard Homes Ditch Company

Michael Sehestedt presented the staff report.

This is a review of a 310 Permit for Orchard Homes Ditch Company to repair an inlet structure and overflow and deepen the channel east of the main headgate on the Clark Fork River.

Under the Natural Streambed and Land Preservation Act, also known as the 310 law, any person proposing a project on the bed or banks of a perennial stream must obtain a permit from either a conservation district or the Board of County Commissioners. The 310 law provides for the review of projects in conjunction with Montana Fish, Wildlife and Parks in order to minimize impacts to the stream and to other property owners.

In Missoula County, the Missoula Conservation District covers all of Missoula County outside the 1946 limits of the City. The Orchard Homes Ditch Company is inside the 1946 City limits and its proposed projects must be reviewed by the Board of County Commissioners.

The applicant proposes to repair an inlet structure and overflow and deepen the channel east of their main headgate. The headgate is located between the Higgins and Orange Street bridge, on the south side of the Clark Fork River.

The proposed project has been reviewed by Inter-Fluve, a Bozeman consulting firm under contract with DNRC to provide technical assistance to conservation districts and County Commissions in the 310 review process. The project has also been reviewed by Montana Fish, Wildlife and Parks.

Michael Sehestedt stated that both Brian Maiorano and Mr. Ross from the Orchard Homes Ditch Company were present and may have additional comments. He believed certain conditions have been imposed. Reviewing agencies are in agreement that, as conditioned, this is an appropriate project.

Brian Maiorano, Floodplain Administrator, clarified the relation between the 310 Permit and County Floodplain Permits. The 310 Permit is before the Board because it is within the City limits as they existed in 1948. It has been reviewed under City Floodplain Regulations and has met those standards. He sees this as a fairly straightforward project, it is generally considered as a historic maintenance project. One concern when working within the City limits is the visibility of these projects and how the public may view them. It usually generates several phone calls from the public. Mr. Ross is very well aware of that and will be extremely careful with the project. The conditions recommended address issues of sediment release, etc.

Chairman Evans asked that, if this permit is approved, the newspaper be notified that this work is going to take place so the public might not be as concerned.

Brian Maiorano stated that he would do that.

Chairman Evans opened the public hearing.

Marvin Ross stated he was the President of the Orchard Homes Ditch Company. The original estimate of 20 yards of material were high, they anticipate no more than a maximum of 8 yards of course gravel will be used. The plan is to place the material in-between the large boulders on the west bank of the overflow. All work will be done in a very careful and visually pleasing manner. They know about the public impact and will be very careful. They will not be disturbing any banks of any channel or any of the riprap already installed. It will not threaten any irrigation projects and will do a thorough clean up at the completion of the project. The Parks Department will also be notified when the work will be done.

There being no further comments, the public hearing was closed.

Commissioner Curtiss stated that the packet mentioned that everything that was removed had to be taken from the site. Was putting the gravel in the riprap acceptable.

Brian Maiorano stated it was acceptable from his perspective, given the small quantities that will be used.

Commissioner Curtiss moved that the Board of County Commissioners approve the 310 Permit with the modifications as recommended by Fish, Wildlife and Parks. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Michael Sehestedt stated Mr. Ross would receive an approval letter and the Board would sign off on the 310 application. The conditions will be stated and will allow the project to move forward.

The Commissioners signed the 310 Permit and will route it to the appropriate person for action.

Hearing: Petition to Abandon a Portion of Beckwith Street in Frenchtown

Michael Sehestedt read the staff report.

This is a petition to abandon "Beckwith Street from Lot 15, Block 2, between southwest lot line and northeast right-of-way of US Highway 10 to Lot 19, Block 2, between the southwest lot line and northeast right-of-way of US Highway 10, all in Townsite of Frenchtown, located in Section 34, Township 15 North, Range 21 West, Missoula County, Montana."

001 0303

The reasons for the request are as follows: 1) The present property is not being utilized by the State or County for road usage and could be utilized for development by subject property; 2) The landowners to the east of this property have already been granted permission to move their property line; and 3) This abandonment would move this property line in alignment with the property to the east.

The following landowners have been notified: John H. and Carol A. Greenwood.

Chairman Evans opened the public hearing.

John Greenwood, the property owner, stated this would align the ownership along the north side of the road. It would also allow them the opportunity to get in there with a blade and knock down the edge to achieve better weed control from the blacktop onto their property. No structures will be moved or built in the right-of-way. It is strictly for square footage for sewage and weed control.

There being no further comments, the public hearing was closed.

Chairman Evans stated that by law the County Surveyor and one County Commissioner must inspect the site before a decision can be made. After the inspection, the Surveyor will make a report to the Board.

John Greenwood stated that would be fine and he would like to attend the site inspection.

Michael Sehestedt stated that was the correct procedure. One Commissioner and the Surveyor will set a time for the inspection and notify Mr. Greenwood. The hearing will be continued to next Wednesday, April 4, 2001.

Hearing: Mickelson Family Transfer (Postponed from March 21, 2001) – WITHDRAWN PER PETITIONER'S REQUEST

Hearing: Olson Family Transfer

Colleen Dowdall presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described as Tract B of COS 2348 located in Section 12, Township 12 North, Range 18 West, in Missoula County.

Bret J. and Stephanie A. Olson have submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 4.99 acres in size, located near Turah off Turah Road. The Olsons propose to create an approximately one acre parcel for transfer to Stephanie's mother, Kathy Robbins. The Olsons purchased the property on January 6, 2001 from Melanie Maniaci who had owned both parcels A and B of COS 2348.

The history of the parcel is as follows:

Parcel History	Year	Exemption Used	Applicant	Intended Recipient
Tract B, COS 2348	1980	Occasional Sale	Stan Zachariason	N/A

According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act.

Chairman Evans opened the public hearing.

Stephanie Olson stated her family is moving to this property because the air quality in Missoula is poor. Her mother lives at a retirement village on Mullan Road and helps out by picking up the children from school. It would be convenient to have her close by.

Chairman Evans stated that the law requires the Commissioners to determine if the request is truly a family transfer or if it is an attempt to evade subdivision. The law allows the Board to ask the petitioner questions to make that determination, which is the reason for her being present today.

There being no further comments, the public hearing was closed.

Commissioner Carey moved that the Board of County Commissioners approve the request by Bret J. and Stephanie A. Olson to create a new parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Chairman Evans stated that the Olsons would receive a letter of approval. The approval is for the division of land only. It does not give approval for a septic system or constitute any commitment as to the availability of any services, access, etc.

Hearing: McQueen Family Transfer

Colleen Dowdall presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described as Parcel B-2, COS 3642, located in Section 12, Township 12 North, Range 18 West, Missoula County.

Daniel and Linda McQueen have submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 1.5 acres in size located near Turah off Crystal Creek Road. The McQueens propose to create an approximately 3/4 acre parcel for transfer to Linda's parents, Norman and Betty West.

2001-2002

The history of the parcel is as follows:

Parcel History	Year	Exemption Used	Applicant	Intended Recipient
COS 3478	1987	Occasional Sale		N/A
COS 3642	1988	Occasional Sale		

According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act.

Chairman Evans opened the public hearing.

Dick Ainsworth, Professional Consultants, Inc., stated he was representing Linda and Daniel McQueen. Linda McQueen was present today as well. This request is somewhat complicated. Mrs. McQueen started out going through a Subdivision for Lease or Rent process. There is a mobile home on the parcel to be conveyed to her parents. It is the McQueens intention to build a house on the vacant parcel. After they were well into the subdivision process, the lender informed them that would not accomplish what he wanted which was two separate pieces of land. They terminated the subdivision for lease or rent process and instead have chosen to convey the parcel with the mobile home to Linda's parents. Linda's parents may or may not move into the mobile home, but they will own the parcel and the McQueens will build on the other parcel.

Commissioner Curtiss stated that the law requires 1 acre of land for each septic system. How would that be addressed?

Dick Ainsworth stated he did not have that answer. The McQueens contacted his firm when they were in the subdivision process. They worked with one of PCI's engineers and he said that it appeared the septic permits could be obtained.

Linda McQueen stated the septic permit process is under way and it looks as if the permits will be granted.

There being no further comments, the public hearing was closed.

Commissioner Curtiss moved that the Board of County Commissioners approve the request by Daniel and Linda McQueen to create a new parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Chairman Evans stated that the McQueens would receive a letter of approval. The approval is for the division of land only. It does not give approval for a septic system or constitute any commitment as to the availability of any services, access, etc.

Consideration: Horseshoe Hills Subdivision (5 Lots) – Southeast of Seeley Lake near Kozy Korner (Postponed from March 21, 2001)

Zoe Mohesky, Office of Planning and Grants, presented the staff report.

The applicant, Wayne Heaton, is requesting approval to divide an approximately 200 acre parcel into five lots ranging in size from 10 acres to 80 acres. The property is located off Woodworth Road in the Kozy Korner area, about five miles west of Highway 83 from Salmon Lake and about 7 miles east of Highway 200. Dick Ainsworth from Professional Consultants, Inc. is representing Mr. Heaton.

The property is primarily flat meadow/pasture land, except for the northeast corner which is scattered timber land. Access to the property is primarily from Woodworth Road and Tract E, the 80 acre parcel on the southern end, would access from Woodworth Road. The remaining four tracts would access from Horseshoe Hills Trail, a private road located on the eastern boundary. There is a second access through a series of easements at the north end which would allow Horseshoe Hills Trail to loop back to Cottonwood Lakes Road which then connects to Woodworth Road.

The property is unzoned. The 1989 Seeley Lake Area Comprehensive Plan applies and suggests the area is suitable for agriculture and recommends Open and Resource lands, which generally carries a designation of one dwelling unit per 40 acres. The overall density matches that recommendation.

The applicant is requesting five variances. The first is to not provide sidewalks or pedestrian walkways, primarily on Woodworth Road. There are no sidewalks in the area and staff recommends approval of the variance request.

The second request is to vary from the width of Horseshoe Hills Trail from 24 feet to 18 feet which is the existing condition. The Fire Department has no problem with the reduced width and staff is recommending approval.

The third request is to vary from the paving requirement. Again, staff is recommending approval because there is no pavement until Highway 83.

The fourth request is to vary from the 3:1 depth to width ratio for Tract B. Staff is recommending approval as the configuration of the entire site and some of the improvements warrants that variance.

The fifth request is from the requirement that lots not be divided by a road. There is an existing situation where on Tracts A and B the road goes in a northwesterly direction. It would have been difficult to find any other way to configure the lots and allow for the existing housing and improvements.

Staff is recommending approval of the subdivision subject to 10 conditions. A couple of the conditions deal with roads, it is a private road and should have a private road maintenance agreement and that the owners will be responsible for maintaining that road. The Fire District has asked for their standard contribution per new lot. This area is considered to be in the Residential/Wildland Interface, so as extra insurance staff has asked the Seeley Lake Fire District have an

opportunity to review the road, turnarounds, etc., before final plat approval. Staff also thinks the language in the covenants could be strengthened some to include some of the material covered in the "Living With Wildlife" brochure.

Chairman Evans stated that she believed the Fire District contribution was \$100 per new lot. The condition is asking for a \$200 contribution.

Zoe Mohesky stated that in this case, the Fire District would ask for \$200 only as three of these lots have already been developed and the fee will be waived for those lots.

Chairman Evans asked for public comments.

Dick Ainsworth, Professional Consultants, Inc., stated he was representing Wayne and Rena Heaton on this project. He had nothing to add to Zoe Mohesky's report but was available to answer any questions the Commissioners may have.

There were no further public comments.

Commissioner Carey moved that the Board of County Commissioners approve the variance request to Article 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways on Woodworth Road; approve the variance request to Article 3-2(3) of the Missoula County Subdivision Regulations to reduce the required local road width for Horseshoe Hills Trail from 24 feet to 18 feet; approve the variance request from Article 3-2(1)(G) of the Missoula County Subdivision Regulations to not require paving of the existing roads serving the subdivision; approve the variance request from Article 3-3(1)(E) of the Missoula County Subdivision Regulations to vary from the 3:1 depth to width ratio for Tract B; and approve the variance request from Article 3-3(1)(D)(2) of the Missoula County Subdivision Regulations to vary from the requirement that lots shall not be divided by a road, all based on the findings of fact set forth in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners approve the Horseshoe Hills Summary Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Horseshoe Hills Summary Subdivision Conditions of Approval:

Roads

1. The following statement shall appear on the face of the final plat:

"Acceptance of a deed for a lot within this subdivision constitutes a waiver of the right to protest an RSID/SID for future improvement to Woodworth Road, including installation of pedestrian walkways, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations, County Surveyor and staff recommendation.*

2. Grading, drainage, driveway and road plans, including road names, shall be reviewed and approved by Missoula County prior to final plat approval. *Subdivision Regulations Article 3-2.*
3. The following statement shall appear on the face of the final plat:

"The purchaser and/or owner of Tracts A, B, C, and D understands and agrees that private road construction, maintenance and snow removal shall be the obligation of the owners and that Missoula County is in no way obligated to perform such maintenance or upkeep until the roads are brought up to standards and accepted by the County of Missoula for maintenance." *Subdivision Regulations 3-2(5)(C).*

4. The developer shall file with the final plat a Road Maintenance Agreement for Horseshoe Hills Trail, to include dust abatement, subject to County Attorney approval. *Subdivision Regulations Articles 4-1(12), 3-2(1)(I)(1) and staff recommendation.*

Fire

5. The developer shall contribute two hundred dollars (\$200.00) to the Seeley Lake Rural Fire District. Evidence of contribution shall be presented to the Office of Planning and Grants prior to final plat approval. *Subdivision Regulations Article 3-7(2) and Seeley Lake Rural Fire District recommendation.*
6. Plans for roads, turnarounds, driveways, vegetation management along the roads and vertical clearance need to be approved by the Seeley Lake Rural Fire District for conformity with the Fire Protection Guidelines for Wildland/Residential Interface Development prior to final plat approval. *Subdivision Regulations Article 3-2(3)(C) and Seeley Lake Rural Fire District recommendation.*
7. All properties shall be assigned an address by the Missoula County Surveyor's Office. The three lots already developed shall provide evidence of address assignment prior to final plat approval. *Seeley Lake Rural Fire District recommendation.*
8. The following statement shall appear on the face of the final plat:

"Acceptance of a deed for a lot within this subdivision constitutes a waiver of the right to protest a future RSID/SID for public water system adequate for fire protection, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations Article 3-7(2).*

Utilities

9. The following statement shall appear on the face of the final plat:

001 0306

"The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." *Subdivision Regulations Article 3-5(2).*

Covenants

10. Article II of the Declaration of Covenants, Conditions and Restrictions shall be amended to include language contained in the "Living With Wildlife" brochure, subject to review and approval by OPG, prior to final plat approval. *Subdivision Regulations Article 4-1(12) and MFWP recommendation.*

Consideration: George Addition (5 Lots/5 Acres) – Humble Road/McCauley Butte

Tim Hall, Office of Planning and Grants, presented the staff report.

This is a request to create George Addition, a five lot minor subdivision on a 4.89 acre parcel. The subject property is located near McCauley Butte, north of Humble Road and on the east side of Catherine Court. Catherine Court was created from a previous subdivision by the same family called Catherine Addition.

George and Catherine Schmitz, represented by Tim Wolff of Territorial Engineering, Inc., have requested to create this subdivision. One of the lot that will be created will be smaller, at .89 acres, than the 1 acre size allowed by zoning. This would be a density violation of the C-RR1 zoning district.

This project is requesting three variances, one from the requirement to install curbs and gutters on Catherine Court, one to provide sidewalks or pedestrian walkways, and one for road width on Humble Road.

Staff is recommending a number of conditions of approval. The first is that a zoning variance by the Missoula County Board of Adjustment is obtained allowing the density of the subdivision to be less than one unit per acre. The hearing on the variance will be held this evening.

There is a condition requiring a 27 foot conditional public access easement on the north side of Lot 5. With the approval of Catherine Addition to the west, a 27 foot conditional public access easement was granted. With the dedication of this additional 27 feet, it allows for a potential road connection sometime in the future. The language allows for that to be exercised as such a time.

Other conditions include: waiving the right to protest improvements to Humble Road; a statement on the plat declaring Catherine Court a private road and residents are responsible for maintenance; waiving the right to protest connection to public sewer; a \$100 per lot fee to the Missoula Rural Fire District; and amending the covenants to include compliance with the Missoula County Noxious Weed Management Act.

The property is zoned C-RR1 with a maximum density of one dwelling unit per acre. The subdivision is located within the County Urban Growth Area. The Urban Comprehensive Plan designates the property as Suburban Residential with a recommended maximum density of two dwelling units per acre. The proposal is in substantial compliance with recommendation, except for the variance required on the one lot that is .89 acres in size.

There was some discussion on an irrigation easement to be provided to the property. Connection to the Orchard Homes Irrigation Ditch will be allowed along the eastern edge of the proposal within the utility easement.

Humble Road was recently improved using CMAQ money to a width of 24 feet. Subdivision Regulations require a width of 26 feet for roads so a variance was requested to the requirement since the road was recently improved.

Staff is recommending approval of the variance requests and of the subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report.

Chairman Evans asked for public comments.

Tim Wolff, Territorial Engineering and Surveying, stated he was representing George and Catherine Schmitz. He did not have much to add to Tim Hall's staff report. Two of the five lots already have homes. The Schmitzs live in the home on Lot 2 and there are renters in the house on Lot 1. The renters intend to purchase that home, so only three additional lots are being added. When Catherine Addition was built a sidewalk was placed on Catherine Court, which was the reason to request the variance on this proposal.

Chairman Evans asked if staff supported the zoning variance from the Board of Adjustment?

Tim Hall stated Lettie Hunnako would be submitting that request to the Board of Adjustment and she is recommending approval. The same variance was required for Catherine Addition and was granted.

Commissioner Curtiss asked if the irrigation ditch easement question has been resolved?

Tim Wolff stated that if any lot owner would want irrigation water, the easement exists and it is physically possible to obtain it.

Tim Hall stated that this was the Missoula Irrigation Ditch, not Orchard Homes as he previously stated.

Chairman Evans stated that lot owners would probably be charged for irrigation water whether they used it or not.

Tim Wolff stated that was the intent of the comments from the ditch company.

There were no further public comments.

Chairman Evans asked about removing the last sentence from Condition 5.

Colleen Dowdall stated that when the motion for approval was made, that could be included as part of the motion. It is not needed or wanted for that language to be in every document of conveyance.

Commissioner Curtiss moved that the Board of County Commissioners approve the variance request from Article 3-2(13) of the Missoula County Subdivision Regulations to not install curbs and gutters on Catherine Court; approve the variance request from Section 3-2(14) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways in the subdivision; and approve the variance request from Section 3-2(3) of the Missoula County Subdivision Regulations to not improve Humble Road to the required 26 foot road surface width, all based on the findings of fact set forth in the staff report. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Commissioner Curtiss moved that the Board of County Commissioners approve the George Addition Summary Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report, including deleting the last sentence from Condition 5. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

George Addition Summary Subdivision Conditions of Approval:

Zoning Variance

1. The developer shall apply for and be granted a variance by the Missoula County Board of Adjustment allowing the density of the subdivision to be less than one unit per acre before approval of the final plat. *Subdivision Regulations Section 3-1(1)(B).*

Roads/Access

2. A 27 foot conditional public access (27 feet on each side of the property line to total 54 feet of required width) and utility easement shall be placed on the plat along the entire northern boundary of Lot 5 extending the future potential of an east-west road connection. The following statement shall be included on the plat and refer to the conditional public access and utility easement:

"The owners dedicate 27 feet of the required 54 foot right-of-way for purposes of a public roadway along the northern boundary of Lot 5 of George Addition, as shown on the subdivision plat of George Addition, conditioned upon the right-of-way being used as a roadway at the time that it is needed to serve future subdivision on the parcels to the north, east and west of George Addition. The lot owners in George Addition will not be responsible for the construction of the future roadway if construction is attributable to division of land to the north, east or west.

It is further conditioned that a future roadway will serve as a connection between this subdivision and another road in an adjoining development. It will not function as a loop that reconnects to Catherine Court providing primary access to lots in the adjoining development nor will it end in a cul-de-sac in the development to the north, east or west. Further, no access of any type will be allowed across the easement until the area shown as a conditional public access easement is opened for public access, as required and approved by the Missoula County Commissioners. No structures, permanent improvements or utilities shall be placed within the right-of-way so as to interfere with the eventual use of the right-of-way as a public roadway." *Subdivision Regulations Article 3-2(1)(E), OPG and County Surveyor recommendation.*

3. The following statement shall appear on the face of the final plat:

"Acceptance of a deed for a lot within this subdivision shall constitute assent of the lot owner to waive the right to protest a future RSID/SID for any improvements to Humble Road, including but not limited to paving, dust abatement and sidewalks based on benefit. Such a waiver may be used in lieu of lot owners signature on an RSID petition." *Subdivision Regulations Section 3-2 (7).*

4. The following statements shall appear on the face of the final plat:

"The purchaser and/or owner of the lot or parcel understands and agrees that construction, maintenance and snow removal of Catherine Court shall be the obligation of the owner or Property Owners Association. The County of Missoula is in no way obligated to perform such maintenance or upkeep until the roads are brought up to standards and accepted by the County of Missoula for maintenance." *Subdivision Regulations Section 5-2(4)(K).*

Sewer

5. The following statement shall appear on the face of the final plat:

"Acceptance of a deed for a lot within this subdivision shall constitute: 1) Assent by the lot owner to waive the right to protest an RSID/SID affecting said property for the purpose of financing the design and construction of a public sewer benefiting said property; and 2) An agreement whereby the owner shall connect to public sewer within 180 days after public sewer is installed and available in the public right-of-way adjacent to the property. This waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owner of the land described herein." *Subdivision Regulations Section 3-7.*

Utilities

6. The following statement shall appear on the face of the final plat:

"The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of

their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." *Subdivision Regulations Section 3-5(2)*.

Fire

7. The developer shall contribute \$100.00 per new lot to the Missoula Rural Fire District. Evidence of contribution shall be presented to the Office of Planning and Grants at the time of final plat approval. *Subdivision Regulations Section 3-7 and Missoula Rural Fire Department recommendation.*

Natural Environment

8. The covenants shall be amended to include a statement that all properties must adhere to the Missoula County Noxious Weed Management Act for all disturbed sites. The section of the covenants shall not be amended without the consent of the Missoula Board of County Commissioners. *Subdivision Regulations Section 3-1(1)(B) and 4-1(15).*

There being no further business to come before the Board, the Commissioners were in recess at 2:25 p.m.

Resolution No. 2001-030 – Following the Public Meeting, the Commissioners signed Resolution No. 2001-030, dated March 28, 2001, urging the safe removal and safe disposal of toxic sediments from Milltown Reservoir, the removal of Milltown Dam, the restoration of the confluence of the Clark Fork and Blackfoot Rivers, the restoration of associated wetlands and fish and wildlife habitat, and the creation of a regional park in the Milltown and Bonner Two Rivers area.

THURSDAY, MARCH 29, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – The Commissioners signed the Claims List, dated March 29, 2001, batch number 1174 (pages 1-2), with a grand total of \$3,424.31. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated March 29, 2001, batch number 1176 (pages 1-4), with a grand total of \$7,195.84. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated March 29, 2001, batch number 1178 (pages 1-4), with a grand total of \$34,001.84. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and the Ravalli County Health Department to perform HIV Prevention activities designated by the Region V-South HIV Prevention Regional Advisory Committee to be important to meeting goals specified by DPHHS for preventing the spread of HIV in our area, including support for anonymous and free HIV counseling and testing, health education and risk reduction. The term will be March 26, 2001 through December 31, 2001. The total amount shall not exceed \$500.00.

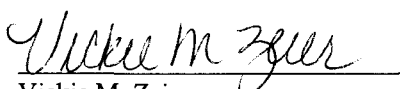
Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Beki Brandborg to facilitate the Board of Health's strategic planning process. The term will be March 24, 2001 through April 6, 2001. The total amount shall not exceed \$1,000.00. The document was returned to the Health Department for further signatures and handling.

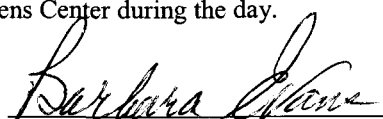
Policy Clarification – The Commissioners signed Policy No. 01-2, Policy Clarification, Law Enforcement – Public Safety Officers Injured While Responding To An Emergency Situation Or In Hot Pursuit, dated March 29, 2001. The purpose of this policy is to clarify the circumstances under which Missoula County will continue to pay the employer's share of medical benefits for a retired or separated public safety officer, firefighter or law enforcement officer. This clarification is being adopted to reiterate the County's earlier acceptance of the Alu-O'Hara Public Safety Officers Health Benefits Act (Section 615 FY 1998 Appropriations Act) and is to be construed in accordance with the Act. The policy formulates a policy on benefit continuation, which was informally adopted by acceptance of grants under Office of Justice Programs.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, MARCH 30, 2001

The Board of County Commissioners did not meet in regular session. Chairman Evans was out of the office all day; Commissioner Curtiss was out all forenoon; and Commissioner Carey attended the Missoula Aging Services Governing Board Meeting and Retreat held at the Senior Citizens Center during the day.


Vickie M. Zeier
Clerk & Recorder


Barbara Evans, Chairman
Board of County Commissioners

APRIL 2, 2001

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Curtiss was in Helena April 2nd and 3rd attending the Legislative Session.

Site Inspection

In the afternoon, Commissioner Carey accompanied County Surveyor Horace Brown for a site inspection of Beckwith Street in Frenchtown on the request to abandon a portion of that street.

Claims List – Chairman Evans and Commissioner Carey signed the Claims List, dated March 30, 2001, batch number 1172 (pages 1-3), with a grand total of \$3,296.17. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Carey signed the Claims List, dated March 30, 2001, batch number 1173 (pages 1-3), with a grand total of \$5,951.75. The Claims List was returned to the Accounting Department.

Indemnity Bond – Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming David S. Morris as principal for MCPS Payroll Warrant #91479 issued February 16, 2001 on the 78-42 Fund in the amount of \$68.64, now unable to be found.

Indemnity Bond – Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming Jamie Nisbet as principal for Clerk of District Court Warrant #29107252 issued September 2, 1999 on the Trust Fund in the amount of \$322.00 (Cause #83651), now unable to be found.

Monthly Report – Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Report for Justice Court 1, John E. Odlin, Justice of the Peace, for the month ending March 31, 2001.

TUESDAY, APRIL 3, 2001

The Board of County Commissioners met in regular session; a quorum of members was present.

Claims List – Chairman Evans and Commissioner Carey signed the Claims List, dated April 3, 2001, batch number 1180 (pages 1-5), with a grand total of \$210,990.97. The Claims List was returned to the Accounting Department.

Monthly Report - Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Report for the Clerk of the District Court, Kathleen D. Breuer, for the month ending March 31, 2001.

Notice of Hearing – Chairman Evans signed a Notice of Hearing on the Petition for Creation and Organization of the proposed Canyon River County Water and Sewer District. The hearing will be held at 1:30 p.m. on Wednesday, April 18, 2001 in Room 201 of the Missoula County Courthouse.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Letter – The Commissioners signed a letter, dated March 30, 2001 to John Rogers, Representative at the Economic Development Administration in Helena, Montana, expressing support for a grant application that is being submitted by the Missoula Area Economic Development Corporation (MAEDC). The MAEDC is requesting funds to complete an assessment of the short term and long term economic impacts of the 2000 Wildfire Disaster.

Resolution No. 2001-031 – The Commissioners signed Resolution No. 2001-031, dated April 3, 2001, approving and adopting a budget amendment to the Fiscal Year 2001 Operating Budget for Missoula County, Health 2270 Department. This amendment relates to the new WoRC contract with Job Service, Montana Department of Labor and Industry, in the amount of \$21,500.00.

Resolution No. 2001-032 – The Commissioners signed Resolution No. 2001-032, dated April 3, 2001, approving and adopting a budget amendment to the Fiscal Year 2001 Operating Budget for Missoula County, Health 2270 Department. This amendment relates to the Health Alert Network contract from DPHHS, Task Order No. 01-07-4-11-004-0, in the amount of \$15,000.

Resolution No. 2001-033 – The Commissioners signed Resolution No. 2001-033, dated April 3, 2001, approving and adopting a budget amendment to the Fiscal Year 2001 Operating Budget for Missoula County, Health 2270 Department. This amendment relates to the new Source Water Protection Project contract No. 201036 with DEQ, Federal Catalog No. 66-468, in the amount of \$13,800.

Resolution No. 2001-034 – The Commissioners signed Resolution No. 2001-034, dated April 3, 2001, approving and adopting a budget amendment to the Fiscal Year 2001 Operating Budget for Missoula County Sheriff - 300 Department. This amendment relates to the Traffic Safety Bureau In-Car Video Grant, in the amount of \$15,000.

Request for Action – The Commissioners approved a Shoreline Construction application by Robert Moddison, III to install a 192 square foot pre-fabricated dock on piers on Placid Lake. The property is at 440 South Shore Place, lots 13A and 16-18 of Placid Lake South Shore Tracts, Phase 4. The Office of Planning and Grants ("OPG") recommended approval of the permit. The document was returned to Brian Maiorano in the Office of Planning and Grants for further handling.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, APRIL 4, 2001

The Board of County Commissioners met in regular session; all three members were present. In the afternoon, Chairman Evans participated in the "Kick Butts Day" Celebration sponsored by the Health Department and held at the YMCA.

Claims List – The Commissioners signed the Claims List, dated April 4, 2001, batch number 1182 (pages 1-5), with a grand total of \$44,620.12. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated April 4, 2001, batch number 1184 (pages 1-3), with a grand total of \$118,385.24. The Claims List was returned to the Accounting Department.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the Chief Administrative Officer meeting held in the forenoon, the following items were discussed:

- 1) Legislative issues;
- 2) Smoking issue request;
- 3) Parking issue on Pine Street.

PUBLIC MEETING – April 4, 2001

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Bill Carey, Commissioner Jean Curtiss, County Surveyor Horace Brown, Deputy County Attorney Colleen Dowdall, Chief Civil Attorney Mike Sehestedt, Public Works Director Greg Robertson, Bids Coordinator Doreen Culver, Clerk & Recorder's Office Supervisor Debbe O'Neil, and Chief Administrative Officer Ann Mary Dussault

Public Comment

None

Routine Administrative Actions

Commissioner Carey moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$309,481.00. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Presentation: Bill Nooney Sr. – Fair Commission Member Emeritus

Chairman Evans stated this presentation was most unusual in that the Board had never done it before. She read the policy into the record: "Volunteers who serve on the various boards advising and administering a multitude of County programs provide, without compensation at the cost of personal sacrifice, a tremendous service to the citizens of Missoula County. Without the energy, enthusiasm and insight that these volunteers bring to their boards, it would be impossible for Missoula County to provide the services to the citizens that the citizens have come to expect. In the interest of further recognizing the services provided by these volunteer board members and of encouraging their further participation when the individual no longer wishes to serve as a regular member of their board, the Board of County Commissioners may appoint a retiring board volunteer a Member Emeritus of their respective board. Such appointments shall be made only in those cases involving long and distinguished service by the member. Persons appointed as Board Members Emeritus shall be entitled to notice of meetings and all materials provided to board members and shall be entitled to participate in board meeting as a member of the board, provided however, that Emeritus members of the board shall not be entitled to vote and may not be counted in determining what constitutes a quorum of the board or whether a quorum of the board is present." The letter to Bill Nooney says: "The Board of County Commissioners is very pleased and proud to appoint you as a Member Emeritus of the Missoula County Fair Commission for life. The countless hours you have so generously donated and your devotion to all matters concerning the fair and its operation for the past 36 years have helped to make the Western Montana Fair the success that it is. Your continued interest and input will be a great asset to the current Commission members and we look forward to working with you for many years to come."

Chairman Evans asked Bill Nooney to come forward. She presented him with a framed pen and ink drawing of the Courthouse, which is usually given to retiring employees.

Bill Nooney thanked the Board. He stated it has been a privilege and honor serving the County of Missoula. The Fair Commission has been blessed with a lot of very dedicated and sincere County Commissioners who cared, commission members who cared and fair managers who cared. The Fair Commission feels they are preserving the history and heritage, which is rapidly disappearing from cities and towns around the country. The Missoula County Fair is in the top 10% in the United States in number of fair exhibits. It is a down home country fair and the present and future fair boards will continue to maintain that. He again thanked the Board and said that his definition of Member Emeritus was all the authority and none of the responsibility.

Bid Award: Traffic Line Paint (Public Works Department)

Greg Robertson, Public Works Director, presented the staff report.

This is a request to award a contract for Traffic Line Paint for use by the Public Works Department (Solicitation No. 0103-04). Bids were solicited and opened on April 2, 2001 with the following results:

Description	Centerline Industries, Inc.	Columbia Paints	TMT Pathway
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1,400 Gallons (Yellow) in 50 gallon drums	\$8,750.00	\$13,342.00	\$9,800.00
2,000 Gallons (White) in 50 gallon drums	\$12,100.00	\$20,200.00	\$12,500.00
1,380 Gallons (Yellow) in 345 gallon tote	\$9,315.00	No Bid	\$9,108.00
2,070 Gallons (White) in 345 gallon tote	\$13,455.00	No Bid	\$12,420.00

The recommendation of the Public Works Department is to award the bid to TMT Pathway in the amount of \$21,528.00 for Yellow and White Traffic Paint to be delivered in 345 gallon paint totes. The Department has \$35,000 budgeted for this item.

Commissioner Curtiss moved that the Board of County Commissioners award the bid for Traffic Line Paint to TMT Pathway in the amount of \$21,528.00 to be delivered in 345 gallon paint totes. Commissioner Carey second the motion. The motion carried on a vote of 3-0.

Decision: Petition to Abandon a Portion of Beckwith Street in Frenchtown

This is a petition to abandon “Beckwith Street from Lot 15, Block 2, between southwest lot line and northeast right-of-way of US Highway 10 to Lot 19, Block 2, between the southwest lot line and northeast right-of-way of US Highway 10, all in Townsite of Frenchtown, located in Section 34, Township 15 North, Range 21 West, Missoula County, Montana.”

The reasons for the request are as follows: 1) The present property is not being utilized by the State or County for road usage and could be utilized for development by subject property; 2) The landowners to the east of this property have already been granted permission to move their property line; and 3) This abandonment would move this property line in alignment with the property to the east.

The following landowners have been notified: John H. and Carol A. Greenwood.

The public hearing on this matter was held March 28, 2001. A site inspection was conducted by County Surveyor Horace Brown and County Commissioner Barbara Evans on April 2, 2001.

Horace Brown stated that unless someone from the Montana Department of Transportation was present today, he would like to delay action on this request for one week. An answer from MDT on whether they require the land or not was needed before a decision can be made.

Chairman Evans stated she agreed with Horace Brown, there were some concerns about the right-of-way that needed to be answered by MDT prior to a decision. The decision would be postponed for one week to April 11, 2000.

Sale of Tax Deed Property

Michael Sehestedt presented the staff report.

This is a request to auction Tax Deed Property for 1996 36-month and 1997 24-month delinquencies.

The tax deed auction for the 1996 36-month and 1997 24-month delinquencies has been set for April 4, 2001, by Resolution Number 2001-026. No sale shall be made for a price less than the fair market value at the auction per M.C.A. 7-8-2301.

The Notice of Sale of Tax Deed Land was published in the Missoulian for two consecutive Sundays and posted in three places as required by M.C.A. 7-8-2302.

It should also be noted that a copy of the tax deed and a courtesy letter was mailed to all interested parties on March 22, 2001, stating that they had the right to redeem the property prior to the auction.

The properties offered for sale, with the fair market value for each parcel as determined by Jim Fairbanks, Appraisal Office, include:

SUID #	LEGAL DESCRIPTION	FAIR MARKET VALUE
0211158	Fractional Block B of WEST MISSOULA ADDITION, Missoula County, Montana, all according to the official recorded plat thereof, as filed in Book 1 of Plats, Page 63, records of Missoula County, Montana.	\$2,375
1123107	Lots 26 and 27 in Block 30 of EAST MISSOULA ADDITION, a platted subdivision in Missoula County, Montana.	\$16,800
1426404	Lot 1, CARLINE ADDITION, BLOCK 14, LOTS 17-20 AMENDED, a platted subdivision in Missoula County, Montana.	\$81,000
1755400	Lot 9 in Block 3 of BITTERROOT HOMES ADDITION NO. 3 to the City of Missoula, Missoula County, Montana.	\$32,592
2431509	That portion of Lot 7, Block 47, KNOWLES ADDITION, a platted subdivision in the City of Missoula, Missoula County, Montana, and more particularly described as follows: Beginning at the Northwest corner of said Lot 7; thence Southerly along the Westerly line of Lot 7, for a distance of 50.00 feet; thence Northeasterly to a point on the Northerly line of said Lot 7 that is 15.00 feet East of the Northwest corner of Lot 7; thence West along the Northerly line of Lot 7, a distance of 15.00 feet to the point of beginning. AND the South 13.00 feet of the adjoining and abutting alley of Block 47 of KNOWLES ADDITION, to the City of Missoula.	\$142,160
5812083	Lot 10A in Block 6 of HILLVIEW HEIGHTS NO. 6, BLOCK 6, LOTS 10-12, BLOCK 7, LOTS 11-13, a platted subdivision Missoula County, Montana.	\$100,900

00112

Michael Sehestedt stated that under the Montana statutes, this represents the next to last step in the disposition of property upon which taxes have not been paid. Notice has been given to the property owners that taxes have been delinquent for that statutory period. That notice gave 60 days in which to redeem the property. Following the issuance of tax deed, notice of the issuance was given to the owners telling them they had a right of preferential repurchase. The County is obligated once it takes tax deed to property to have the property appraised to establish a fair market value and then to give notice and offer the property for sale at auction. Up until the time the auction begins, the property owners have the right to exercise their preferential right of repurchase, in which they can obtain the property back by paying the full amount of taxes, penalty, interest and cost accrued on the property. The County Clerk and Records Office has advised that four of these parcels have been repurchased. The parcels that have been redeemed include SUID 1123107, Lots 27 and 27 in Block 30 of East Missoula Addition, SUID 1755400, Lot 9 in Block 3 of Bitterroot Homes Addition No. 3, SUID 2431509, that portion of Lot 7, Block 47, Knowles Addition and SUID 5812083, Lot 10A in Block 6 of Hillview Heights No. 6. At this time there are two parcels to sell at auction, SUID 0211158, Fractional Block B of West Missoula Addition with a fair market value of \$2,375 and SUID 1426404, Lot 1, Carline Addition, Block 14, Lots 17-20 Amended with a fair market value of \$81,000.

Michael Sehestedt opened the bidding on SUID 0211158, Fractional Block B of West Missoula Addition, Missoula County, Montana, all according to the official recorded plat thereof, as filed in Book 1 of Plats, Page 63, records of Missoula County, Montana, at the fair market value of \$2,375. He asked if there was anyone who would like to bid on this parcel. By statute, the bidding is required to start at the fair market value. He asked again if there were any bids on SUID 0211158. For the third and final time, he asked if there were any bids on SUID 0211158. As there were no bids, he asked the Commissioners to be allowed to move on to the next parcel.

Michael Sehestedt opened the bidding on SUID 1426404, Lot 1, Carline Addition, Block 14, Lots 17-20 Amended, a platted subdivision in Missoula County, Montana, at the fair market value of \$81,000. He asked if there was anyone who would like to bid on this parcel. By statute, the bidding is required to start at the fair market value. He asked again if there were any bids on SUID 1426404. For the third and final time, he asked if there were any bids on SUID 1426404. As there were no bids, he asked the Commissioners to be allowed to close the auction.

Michael Sehestedt stated that as there were no bids, the auction was closed. The County will reconsider the fair market value of these parcels, obtain an additional appraisal and the property will be offered one more time for sale at auction, in three to four weeks.

Hearing: Hardy Family Transfer

Colleen Dowdall presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described as Tract 2, COS 5031, located in Section 12, Township 12 North, Range 23 West.

Brett Hardy has submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 20 acres in size, located in the Huson area off Hardy Ridge Road. Mr. Hardy proposes to create a 10 acre parcel for transfer to his son, Samuel Sparling, and a ten acre remainder parcel.

The history of the parcel is as follows:

Parcel History	Year	Exemption Used	Applicant	Intended Recipient
COS 1981	1979	Over 20 acres	Brett Hardy	N/A
COS 5031	2000	Boundary relocation	Brett Hardy, Tammy Sue Asbury	N/A

According to the records kept by the Missoula County Surveyor, the applicant has previously used exemptions to the Subdivision and Platting Act as noted above.

Chairman Evans opened the public hearing.

Brett Hardy was present and came forward to answer any questions the Commissioners may have.

Commissioner Carey asked how old Mr. Hardy's son was?

Brett Hardy stated his son was 21 years old.

Chairman Evans stated that the law requires the Commissioners to determine if the request is truly a family transfer or if it is an attempt to evade subdivision review. The law allows the Board to ask the petitioner questions to make that determination, which is the reason for him being present today.

There being no further comments, the public hearing was closed.

Commissioner Carey moved that the Board of County Commissioners approve the request by Brett Hardy to create a new parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Chairman Evans stated that Mr. Hardy would receive a letter of approval. The approval is for the division of land only. It does not give approval for a septic system or constitute any commitment as to the availability of any services, access, etc.

Hearing: Clinkenbeard Family Transfer

Colleen Dowdall presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described as Tract 15-B-1-C1 in the northeast 1/4 of Section 9, Township 13 North, Range 20 West.

William Dean Clinkenbeard has submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 11 acres in size located near Mullan Road off Clinkenbeard Lane. Mr. Clinkenbeard proposes to create an approximately 5.5 acre parcel for transfer to his daughter Diane A. McDonald. The remainder parcel will continue to be used as pasture.

The history of the parcel is as follows:

Parcel History	Year	Exemption Used	Applicant	Intended Recipient
COS 1159A	1977	20 acre tracts	John Stiegler	N/A
COS 1477	1978	Occasional sale	Davis Hintzman	N/A
COS 1687	1978	Boundary relocation	Davis Hintzman	N/A
COS 2286	1980	Occasional sale and Family Transfer	William D. Clinkenbeard	Arlyle Clinkenbeard – wife

According to the records kept by the Missoula County Surveyor, the applicant has previously used the following exemptions to the Subdivision and Platting Act:

COS Number	Section, Township, Range			Year	Exemption
1687	9	13	19	1978	Boundary relocation
2286	9	13	19	1980	Occasional sale and Family Transfer
2567	9	13	20	1981	Occasional Sale

Chairman Evans opened the public hearing.

Dean Clinkenbeard stated he hoped the Board would allow him to do this. His daughter is a single mother who is having a hard time and he would like to give her some land that she could some day live on.

Chairman Evans stated that the law requires the Commissioners to determine if the request is truly a family transfer or if it is an attempt to evade subdivision review. The law allows the Board to ask the petitioner questions to make that determination, which is the reason for him being present today.

There being no further comments, the public hearing was closed.

Commissioner Curtiss moved that the Board of County Commissioners approve the request by William Dean Clinkenbeard to create a new parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Chairman Evans stated that Mr. Clinkenbeard would receive a letter of approval. The approval is for the division of land only. It does not give approval for a septic system or constitute any commitment as to the availability of any services, access, etc.

Hearing: Slupski Family Transfer

Colleen Dowdall presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described as Tract 1, COS 4537 in Section 29, Township 15 North, Range 22 West.

John and Paula Slupski have submitted a request to create five parcels using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 46 acres in size, located in the Ninemile area on the Clark Fork River. The Slupskis propose to create 5 parcels, two 14-acre parcels, two 5-acre parcels and one 8-acre parcel, for transfer to their sons Dennis G. Slupski, John-Paul Slupski and Nicholas J. Slupski; and to their daughter, Julie-Anna Riddle.

The history of the parcel is as follows:

Parcel History	Year	Exemption Used	Applicant	Intended Recipient
COS 4407	1994	Retracement	Slupski	N/A
COS 4537	1995	Relocation of Common Boundary	Slupski/Miller	N/A

According to the records kept by the Missoula County Surveyor, the applicant has used the Boundary Relocation Exemption and created parcels that were over 20 acres in size in 1976 and 1978, in another section of this area.

Chairman Evans opened the public hearing.

John Slupski stated he and his wife would like to give their children a piece of Montana. They have been visiting Montana for 25 years and have finally built a home here.

Chairman Evans stated that the law requires the Commissioners to determine if the request is truly a family transfer or if it is an attempt to evade subdivision review. The law allows the Board to ask the petitioner questions to make that determination, which is the reason for him being present today.

There being no further comments, the public hearing was closed.

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Commissioner Carey moved that the Board of County Commissioners approve the request by John and Paula Slupski to create new parcels by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Chairman Evans stated that Mr. Slupski would receive a letter of approval. The approval is for the division of land only. It does not give approval for a septic system or constitute any commitment as to the availability of any services, access, etc.

Consideration: Webb Subdivision for Lease or Rent (2 Units) – Swan Valley

Zoe Mohesky, Office of Planning and Grants, presented the staff report.

The applicant and property owner, Lucille Wilhelm, is requesting approval to add one dwelling unit to a 130 acre parcel where two dwelling units currently exist. The property is located on Highway 83 in the Swan Valley. This is a Lease or Rent subdivision, not an actual division of the land. The approval would allow the addition of a mobile home on the property for use by Mrs. Wilhelm's grandson. The majority of the land is forested. 10 acres are used as a hay field and some land is used as cattle pasture.

The property is unzoned. The 1996 Swan Valley-Condon Comprehensive Plan Amendment designates Open and Resource lands for this property with a suggested density of one dwelling unit per 40 acres. A total of three units on 130 acres would be in keeping with the Comprehensive Plan designation.

Access is provided by a 300 foot driveway exiting from Highway 83. The driveway is proposed to have a clear width of 20 feet, a gravel surface of 12 feet and a grade less than 2%. This was reviewed by the Fire Department and the access as proposed was acceptable.

There are several conditions that staff is requesting, including a waiver of the right to protest an RSID/SID for installation of pedestrian walkways or bikeways along Highway 83, a waiver of the right to protest an RSID/SID for a public water system for fire protection, approval by the Swan Valley Fire Department of the site and a \$100 contribution to the Fire District. Staff has also included a condition that a development covenant be included for additional fire protection and Wildland/Residential Interface standards.

Staff is recommending approval of the Webb Subdivision for Lease or Rent.

Chairman Evans asked for public comments.

Lucille Wilhelm stated her grandson would like to place a mobile home on this property.

There were no further public comments.

Commissioner Curtiss moved that the Board of County Commissioners approve the Webb Subdivision for Lease or Rent based on the findings of fact in the staff report and subject to the conditions in the staff report. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Webb Subdivision for Lease or Rent Conditions of Approval:

1. The lot owner shall file a document of record prior to final plan approval waiving the right to protest a future RSID/SID for installation of pedestrian walkways or bikeways along Highway 83, based on benefit, which may be used in lieu of their signature on an RSID/SID petition. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land depicted herein. *Subdivision Regulations Article 3-2(14) and staff recommendation.*
2. The lot owner shall file a document of record prior to final plan approval waiving the right to protest a future RSID/SID for public water system adequate for fire protection, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land. *Subdivision Regulations Article 3-7(2).*
3. The new building site and existing homesite shall be cleared and brought to Wildland/Residential Interface standards for vegetative reduction including removal of fuel, removal of trees and pruning to remove ladder fuels, subject to review and approval by the Swan Valley Volunteer Fire Department prior to final plan approval. *Subdivision Regulations Article 3-1(1)(B), 3-2(I), (6)(E) and staff recommendation.*
4. The developer shall contribute \$100.00 to the Swan Valley Volunteer Fire District. Evidence of contribution shall be presented to the Office of Planning and Grants prior to plan filing. *Swan Valley Volunteer Fire Department and staff recommendation.*
5. A development covenant shall be filed prior to final plan approval, subject to OPG and County Attorney approval, to include the following items related to providing fire mitigation, minimizing potential wildlife conflicts and addressing Wildland/Residential Interface standards:

Fire Mitigation

- A. The property owner shall create a defensible space for fire protection purposes as approved by the appropriate fire jurisdiction. Vegetation shall be removed and reduced around each building according to the slope. Single ornamental trees or shrubs need not be removed as long as all vegetation near them is reduced according to the guidelines established by the fire jurisdiction. Ornamental trees and shrubs should not touch any buildings. When planting the property owner shall select trees, shrubs and vegetation from native vegetation stock when possible that limit or retard fire spread as suggested below:

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- i. Perennial: Choose hardy perennial flowers that are adapted to the climate of the area. These green, leafy, succulent plants are difficult to burn. Watering and regular weeding improves fire resistance.
- ii. Shrubs: Evergreen shrubs such as dwarf conifers or junipers tend to ignite easily, avoid them unless well spaced.
- iii. Trees: Deciduous trees can be clumped, scattered or planted in greenbelts or windbreak patterns. Evergreen trees tend to ignite easily and should be spaced accordingly.

See Missoula County Subdivision Regulations vegetation reduction guidelines and use applicable slope for required standards. *Subdivision Regulations Article 5-1(5)(J), Appendix VII and staff recommendation.*

- B. Only Class A or B fire-rated roofing materials shall be used for any new construction. *Subdivision Regulations Article 5-1(5)(J) and staff recommendation.*

Wildlife and Wildland/Residential Interface Standards

C. Domestic pets are to be kept in a contained area to avoid wild animal harassment.

- D. Pets shall be fed indoors and pet food shall be stored indoors.
- E. Garbage shall be stored in well-sealed containers and inside storage units.
- F. Permanent barbecue pits are prohibited. All portable barbecues shall be cleaned regularly and stored indoors when not in use.
- G. Flowers, ornamental shrubs and fruit trees may be susceptible to damage from wildlife, therefore planting of native vegetation is encouraged.
- H. All garden fences shall be constructed at least eight feet in height and one foot below the soil to prohibit animal intrusion, using a solid top rail on all fencing made of something other than wire to avoid animal entanglement.
- I. Compost piles shall be enclosed in a container.
- J. Apiaries may attract species such as bears and should be avoided. Before an apiary is located on a lot, the owner of the bee hive(s) should first contact the Department of Fish, Wildlife and Parks to discuss their plans and how to best avoid wildlife conflicts.

K. The brochure "Living with Wildlife" shall be distributed to all lot owners.

Subdivision Regulations Article 3-1(1)(C) and staff recommendation.

Consideration: Eagle's Point at Salmon Lake (4 Lots) – West Side of Salmon Lake

Zoe Mohesky, Office of Planning and Grants, presented the staff report.

The applicants, Allen and Eileen Scharf, represented by Ron Ewart of Eli & Associates, are proposing to divide a 39.13 acre parcel into four lots, two at approximately 2.5 acres, one at 3.5 acres and the final at 30.26 acres. The property is located west of Highway 83 on the southwest shore of Salmon Lake in the Clearwater River Drainage.

Access to the property is rather long. Blanchard Creek Road, off of Highway 200 about a mile southwest of the Clearwater Junction, provides access. After approximately one mile on Blanchard Creek Road (a County road), Lost Prairie Road (a private road) is taken northerly for another five and a half miles to Big Waters Ranch Road. At this point, easements provide access to the subject property through Big Waters Ranch subdivision and a locked gate to the Clearwater Cove area. The entire access is on gravel roads. Width of the roads varies from 20 to 24 feet and changes to approximately 14 feet at Clearwater Cove.

There are three variances requested with the subdivision. One is to vary from the required 24 foot road width and the 60 foot easement width and not to have paving, primarily related to Big Waters Ranch Road. Another request is to not provide sidewalks or pedestrian walkways. The third request is to vary from the maximum cul-de-sac length. OPG is recommending approval of all three variances based on the findings of fact in the staff report and subject to conditions. Conditions 1 through 4 deal with road standards.

The property is unzoned and the Long Range Planning Division of the Office of Planning and Grants concluded that the 1975 Missoula County Comprehensive Plan applicable to this property allows for a density of one dwelling unit per 10 acres. This proposal has been deemed to be in compliance with the Comprehensive Plan for the area.

The Greenough/Potomac Fire Department would be the normal fire department that might consider annexing and protecting this area. They have denied annexation in this case given the amount of time it would take to respond to an emergency. The Seeley Lake Rural Fire District by air miles is a little closer, but given the distance they would need to travel to the Clearwater Junction, it is not feasible for them to provide fire protection either. However, wildland fire protection falls under the Department of Natural Resources and Conservation, who recognize that if there is a need for them to be called, they would respond.

There are some additional conditions related to fire. The first, Condition 5, is that a Fire Protection Plan shall be provided outlining how the property owners themselves will conduct structural fire suppression in compliance with the Missoula County Subdivision Regulations. Condition 6 is the standard waiver of the right to protest an RSID/SID for public water systems for fire protection.

The property contains about 1,800 feet of shoreline on the west side of Salmon Lake. There is a bench about 75 to 100 feet upslope from the water's edge. Most of the rest of land is steeply sloped, about 25%. On the proposed plat, anything to the west of proposed Big Waters Ranch Road would include the steeply sloped sections. Buildable areas have been identified on each lot. Building would be restricted to those sites but staff is recommending some changes to those locations. There is a 25 foot wide zone from the high water mark west into the property that would be considered an area for protection of riparian resources.

The site provides or is adjacent to habitat for a number of wildlife resources. The most important resource on the site is the presence of a Bald Eagle's nest, located on the northwest edge of Lot 1. That has been the cause of a lot of concern for staff and Fish, Wildlife and Parks. The Bald Eagle is a threatened species under the Federal Endangered Species Act and measures need to be instituted to accommodate this pair of eagles so they are not displaced. The covenants include measures to protect the site's resources and do include suggestions to help protect eagle's nests. Staff has recommended additional protective measures be included in the covenants and in the conditions.

Staff had a number of conversations with Fish, Wildlife and Parks and obtained a copy of the 1994 Montana Bald Eagle Management Plan. The management plan says that the nest should be protected with no development within a quarter mile. The quarter mile limit would leave little or no space for development on this parcel. After more discussions, it was determined there might be some flexibility in this particular situation because this is a fairly unique pair of Bald Eagles that seems to already be used to human activities around them. The quarter mile standard was relaxed slightly to 750 feet and any development should be placed to the north of that limit. There are a lot of steep slopes located at that distance, but the eagle's nest is a more important resource in this case than steep slopes. Condition 9 talks about revising the plat so the developable areas are between the 750 foot and quarter mile lines from the eagle's nest. As further protection for the eagles, Condition 10 suggests a monitoring plan be put in place to observe what the impacts of development are on them.

Other covenant changes relate to reducing disruption to the eagle's site or further protecting it by allowing no building or road construction until after July 15th of each year or until the young eagles have fledged, whichever comes first. Staff also suggested that boat docks also be moved at least 750 feet from the nest site. Dennis Flath of Fish, Wildlife and Parks stated that sometimes boating activities, particularly jet skis, can be even more disruptive to the eagles than other human activity.

The last two conditions relate to the County being party to portions of the covenants for the long term protection of wildlife and the eagles in particular. It would give permission to Missoula County or Fish, Wildlife and Parks or US Fish and Wildlife Service to access the property to monitor the eagles if necessary.

After informal discussions with the Board, there are some potential amendments to conditions. Those include Condition 9 (Building Sites), Condition 10 (Monitoring Plan) and Condition 15 (Boating Activity).

Ron Ewart, Eli & Associates, Developer's Representative, thanked Zoe Mohesky for her work on this proposal. He began working with the Scharfs almost a year and a half ago. They knew the subdivision process could be a difficult process. They are very concerned about the resource issues and have tried to do everything they could to address those issues. There are many additional controls and requirements that will be placed on this development. They have done everything they could think of to make this a good submittal that respects the wildlife and natural environment. He emphasized that this would be mostly summer recreational use. Most all of the cabins on the west side of the lake are used primarily during the summer. The cabins will be small with a maximum square footage of 1,500 square feet. They have to be designed by a licensed architect and built to UBC standards. They have to be earth toned in color and equipped with residential fire sprinklers. Darryl Mariucci of the Greenough/Potomac Fire Department stated it was a good proposal even though they did not feel comfortable annexing it. The residential fire sprinklers would provide much better fire suppression than the fire department. Dennis Flath of Fish, Wildlife and Parks pointed out that this is a very unique situation with these eagles. They are probably the most tolerant pair of eagles in Montana. The eagles are right in the middle of all the summer noise and activity. He also felt if this pair moved their nesting site for some reason, they would probably just move upslope. The covenants provide for no construction activity until July 15th or until the eagles have fledged. There are currently young in the nest. The guidelines in the Bald Eagle Management Plan are not imperative in this case because of the uniqueness of the situation. Federal law lists the Bald Eagle as a threatened species, but in this area of Montana, that is not the case. Montana law does not list eagles as endangered or threatened, but considers them a species of interest or concern. Bald Eagles are our national symbol and protecting them is a goal of the applicants. Mrs. Scharf has communicated their wishes to protect the eagles by agreeing to delay construction until after July 15th. The 19 conditions are very comprehensive and go a long way toward addressing the issues of this proposal. They would like to make changes to two of the conditions, Condition 9 and Condition 15. They would like to revise the plat to show no developable areas within 250 feet of the eagle's nest on Lot 1 and 300 feet on Lot 2 and prohibit boat docks within 380 horizontal feet north of the eagle's nest tree. Mrs. Scharf is in agreement with these changes. She feels she has been pushed or coaxed a great deal on this project and the proposed changes are right at the limit of what she is willing to give. This is a very good submittal that respects everything that has been discussed and is also feasible for the Scharfs.

Chairman Evans stated that the Board had viewed aerial photos of this site which were persuasive to allowing some changes from the Fish, Wildlife and Parks recommendation. The aerial photo shows there are already houses only about 300 feet from the eagle's nest. Looking at the proximity of what is already there, they were persuaded that some changes could be made.

Chairman Evans asked for public comments.

Frank Vannoy stated the road where it leaves the highway is a County road that is on his property. There is an extreme dust problem. The 25 mph speed limit is not being observed. He would like to have dust control required on the road. He has been unable to work with the County. He felt the County took some of his land that they were not authorized to take to widen the road. He has shut off access to the County's gravel source through his property. He would like dust control required and the speed limit monitored. People come through there doing 50 or 60 miles per hour. He has had cattle get hit on the road. When the right-of-way was given to the County, there was one other resident on the road. Today, there is about 10 times more traffic. He is fed up with the dust.

Chairman Evans asked Mr. Vannoy to point out where his road is located on the map.

Frank Vannoy stated his property was just across the cattle guard. He is about half a mile from the highway.

Chairman Evans asked if people would have to go through his land to get to this subdivision?

Frank Vannoy said yes.

Chairman Evans asked if Greg Robertson had been working with him on this situation.

Frank Vannoy said he had not talked to Greg Robertson.

Chairman Evans stated this would be addressed as a separate issue. She asked Mr. Vannoy to set up an appointment with the Commissioners, the Surveyor and the Public Works Director at a later date. While this subdivision has to use this road for access, it is not in the subdivision and the County cannot require anything be done to an off site road.

Jim Reed stated he was involved with some property across the lake. He wanted to know if the recommendation of 750 feet from the eagle's nest was being considered, or was the Board considering something else.

Commissioner Curtiss stated that at this point, the recommendation was 750 feet, unless the Board makes amendments to the conditions.

Don Jackson stated he was a real estate agent in Seeley Lake, representing Allen and Eilleen Scharf. He was speaking on their behalf about some of the financial investments of the potential subdivision and their intent to maintain the theme of the area. The Board has an aerial photograph and is familiar with the general area. The Scharfs have focused on the resources of this property, especially the eagle's nest. When they first discussed purchasing the property, maintaining that resource was included, as well as any other wildlife on the property. They have presented a proposal that enhances that. There is some concern about the recommendations of OPG based on distance requirements from the eagle's nest. This particular pair of eagles are a special circumstance, they are part of the neighborhood. The financial investment from the Scharf's perspective in addressing the proposal has been significant. Their intention is to retain ownership of the largest tract for themselves and develop the other parcels as recreational property. The other three lots are intended to be put on the market, as a business decision. The area is intended to be used as recreational, which is the common theme of the south end of Salmon Lake. The Scharf's have made every effort in designing this in consideration of the eagles and other resources.

John Firebaugh stated he was the Regional Manager of Fish, Wildlife and Parks. FWP submitted a letter on February 5, 2001 regarding this proposed subdivision. In addition, they have reviewed staff's recommendations and they do support them. He commended Eli & Associates for their excellent protective covenants for wildlife on this proposal. It will make it easier for homeowners to live with wildlife and reduce some of the conflicts. This eagle's nest has been active since 1993, from what they can determine, and has been monitored on an annual basis by BLM biologists. BLM keeps a close eye on the nest and checks on it several times a year. They have a good record of what has happened there. It has been a fairly productive nest, they have only been a few years the pair did not produce young. As it has been mentioned, the eagles have acclimated somewhat to human activity. It is a unique situation and they are more tolerant of humans than most eagles are. There are existing cabins located within 150 to 200 yards from the nest site and the birds seemed to have adapted to the presence of homes and human activity. FWP is concerned about the cumulative impacts of additional development and human activities in and around the site, and the ability of the birds to produce young. The Montana Bald Eagle Management Plan guidelines have already been compromised to some extent. The plan recommends there be no permanent development within a quarter of a mile of any active eagle nest. Those recommendations are already being bent somewhat to accommodate this development. In the case of these particular eagles and their ability to tolerate human activity, OPG's recommendations are acceptable even though it is less than the 1/4 mile. They want to take every precaution possible to ensure the eagles remain and continue to produce young. FWP supports the recommendations of staff.

Chairman Evans stated that there were other houses in close proximity to the eagle's nest. She asked Mr. Firebaugh if he had any concerns about some of the alternative locations for homes on this proposal. She assumed that the houses that already exist pre-date the eagle's nest.

John Firebaugh stated it was his impression that the eagle's came after most of the structures were already in place. The key question is how much more can they tolerate and still have an active nest and produce young. He would go back to Dennis Flath's recommendation that development the further away from the nest site, the better. The 750 feet is not a magic number, but keeping development further away is better. The cumulative impacts of added development and activity are not known. At some point, enough will be enough even though the eagles are fairly tolerant.

Jack Fisher stated his cabin is the closest one to the nest across the lake. His cabin was built in about 1927. He knows the eagles have been there since 1991. The Richards, who also have a cabin on the lake, could provide more accurate information as they have lived there since the 1960s. He watches the birds every year and he could not remember a year since 1991 that they did not produce young, always one baby and quite often two babies. He just wanted to clarify some of the history.

There were no further public comments.

Commissioner Carey stated he did not see any reference to the Comprehensive Plan in the staff report.

Colleen Dowdall stated those findings were at the very beginning of the report. The finding was that the one dwelling per 10 acres was in substantial compliance with the Comp Plan.

Zoe Mohesky stated the 1975 Missoula County Comprehensive Plan is the governing plan in this area, although one of the first things recognized is that within that planning document there are some sub-regions. This area is on the edge of the

Greenough/Potomac region and the Seeley region. The Greenough/Potomac portion designated Open and Resource for this property at one dwelling per 40 acres. The Seeley portion language talks about lakes where up to two dwelling units per acre might work. It also goes on to explain that recommendation is around the community of Seeley Lake where services are available. It also talks about being outside the community of Seeley Lake, where the location is removed from services, that a rural density of more like one dwelling per 10 acres would be applicable. Given the access and remoteness of the site, staff felt the one dwelling per 10 acres would be the maximum density they could support.

Commissioner Carey stated he did not see any reference to the Wildland/Residential Interface.

Zoe Mohesky stated that Wildland/Residential Interface does apply. On Page 12, Finding 3 states that the property is located within a Wildland/Residential Interface and goes on to mention that DNRC would respond to wildfires and suggestions are included about how to get fire apparatus in and out of the area. The developer did amend the road location in response to these suggestions. Condition 12 discusses roofing materials and structure fire suppression sprinkler systems are part of the covenants. Conditions 5 and 6 relate to fire protection plans for the structures and a waiver of the right to protest an RSID/SID for a public water system. Those conditions address Wildland/Residential Interface standards.

Commissioner Carey stated he was looking for more specific language regarding vegetation reduction and removal of fuel.

Zoe Mohesky stated those standards were already well covered in the covenants and did not require a specific condition.

Colleen Dowdall stated a condition to address Wildland/Residential Interface standards was not needed because they provided that protection in their covenants. The findings acknowledge the standards are addressed in the covenants. It is also one of the parts of the covenants that cannot be changed without governing body approval.

Zoe Mohesky stated the sprinklers would not help with wildland fires. The idea is to control structure fires to prevent them from spreading to the adjacent wildland.

Commissioner Carey stated he had some concerns about this proposal. If this is allowed to go in, it will have a negative cumulative effect on the eagles and they will eventually move away from people. Once again, this will chip away at the natural environment that support endangered species. That is done far too often and in his view it is not necessary to design this project in this way. These are small cabins as Ron Ewart suggested. They could be clustered about 600 or 700 feet away from the eagle's nest. In his view, Mr. Flath's point was that these eagles are giving birth to young that are tolerant to human activity which is what is needed. If this pair moves, they will no longer be hatching fledglings that are used to increased human activity. He felt the birds probably have adjusted to what is currently there, but when more boats and cabins and people are introduced so close to them, they will not tolerate that and leave. He would like to see the Board stay with the staff recommendations of 750 feet. That is a huge compromise from the one quarter mile recommended by the management plan. He thinks the project could be designed in such a way as to be as far removed from the nesting site as possible and still create a desirable subdivision. He was in favor of staying with staff's recommendation.

Commissioner Curtiss asked Mr. Fisher if his cabin was used mainly in the summer?

Jack Fisher stated that it was used sometimes in the winter.

Commissioner Curtiss asked if most of the cabins on the point were summer cabins?

Jack Fisher stated there were three that were capable of winter use.

Commissioner Curtiss asked if he observed the eagles leaving in the summer, did they seem bothered by the increase in human activity?

Jack Fisher stated the eagles never leave. If it is a mild winter, they would stay all year. He commented about the boat traffic and how dramatically it has decreased since the "no wake" rules were enacted. The two southern lots of this project are in the "no wake" zone. At Legendary Lodge, just above this property, there is another "no wake" zone. That has almost eliminated the jet ski traffic, except for the cabin owners below him. It used to be much worse, more than half a dozen jet skis along with boats pulling skiers and fishermen in the bay. Now it is rare to see much of that activity. There are still skiers, but generally the "no wake" zone is not violated. It has really reduced the number of boats and amount of traffic underneath the nest. Those birds are extremely tolerant of boats, they always have been.

Commissioner Curtiss asked Mr. Reed if he owned property at the same location as Mr. Fisher?

Jim Reed stated he did.

Commissioner Curtiss asked if he had some concerns?

Jim Reed stated he was curious about the process the Board uses. From his perspective, on this 40 acres, something along these lines is probably the least disruptive way of developing the land than what others might propose. He is concerned about how that area is developed and he is concerned about the eagles as well. He thought the highway was within a quarter of a mile from the nest and it gets a high volume of traffic. The highway can be a big threat to the eagles.

Commissioner Curtiss stated that in the Eagle Management Plan there is reference to a management plan and a nest site management zone. She asked Mr. Firebaugh to further explain what should be done.

John Firebaugh stated that Mr. Flath recommended this be done to give some ownership to the landowners to monitor the eagle's nest. FWP would work with the landowners on development of the plan.

Commissioner Curtiss asked if the landowner was to monitor the number of young in the nest and things of that nature.

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John Firebaugh stated that different agencies monitor different eagles' nests. BLM monitor this particular nest and collect the data on number of eggs, number fledged, etc. The landowners involvement might include noticing any behavioral differences in the birds and what might have prompted them and those kinds of things. It would be good to know if the additional activity impacts the birds.

Commissioner Curtiss asked how many breeding pairs of eagles there were in Montana today?

John Firebaugh stated he did not have that number, but it was more than the 143 pairs in 1994. The number of breeding pairs throughout the United States has increased which has resulted in them being downlisted from endangered to threatened.

Commissioner Curtiss asked about disturbance in the riparian area in relation to eagle habitat?

John Firebaugh stated that was probably more to protect the lakeshore from erosion. It would also be better to have a community dock away from the eagle's nest instead of four individual docks.

Chairman Evans stated the Board has a difficult situation because the law says that in order to turn down a subdivision, there must be serious issues and the developer must be allowed the opportunity to mitigate the issues. The favor should go to the developer unless there is an issue that absolutely cannot be mitigated. The Board does not have carte blanche to deny a subdivision and must look at ways to mitigate problems and still allows owners to develop their land.

Commissioner Carey stated that the staff's recommendation allows that to happen. They are recommending approval of this development under certain conditions. He felt those conditions could be applied to make this work. He emphasized that Tim Love of the Forest Service is not in favor of this proposal, Mack Long of Montana Fish, Wildlife and Parks is not in favor of this proposal. Dennis Flath, the non-game coordinator for FWP and Mr. Firebaugh from FWP have also expressed their concerns. The Board needs to listen to the experts and heed their advice. The staff's recommendations do that.

Commissioner Curtiss stated she did not see how it would be possible to get four cabins in the area identified as being more than 750 feet from the nest.

Commissioner Carey stated it is done all the time. By using the 750 foot line, it still leaves over 13 acres on which to put four cabins.

Ron Ewart stated there is plenty of acreage, it is more a matter of desirability of living in this location, the steepness of the slope and other factors. Other cabins in the area are more spread out and this would be in keeping with the rest of the area. The property owners position is that the proposed changes would be acceptable. Otherwise, if the changes will not be approved, they would like to ask for a postponement to have time to look at some alternatives. To them, approval with the staff's recommendations amounts to a denial.

Commissioner Carey thanked Ron Ewart for his efforts in working with the staff on this proposal so far.

Commissioner Carey moved that the Board of County Commissioners postpone the decision on Eagle's Point at Salmon Lake to allow the developers time to come up with a better design for this project.

Chairman Evans stated she was not willing to second the motion. This was not because she does not care for animals, however, the aerial photo shows how close other homes are to the nest site. The Board should not penalize this developer and make them do something different. Ron Ewart's changes move the building sites further from the nest and puts in a joint dock for two lots. The other two lots would have a dock further north which is approximately 380 feet from the nest. That is a good compromise. If there were no houses around she would be more reticent, but there are houses close and the eagles moved in after the people did. She is willing to allow this. These people care about the eagles and will make every effort to work with FWP to monitor and guarantee the survival of these eagles.

Commissioner Curtiss asked if the access road was normally plowed in the winter, or is it intended for mostly summer use.

Ron Ewart stated that it is mostly summer use. The road maintenance agreement states that if someone uses the road during the winter, they are responsible for the snow plowing. In the covenants, that agreement is paraphrased as well.

Commissioner Curtiss asked if most of the cabins in this area were for summer use?

Ron Ewart stated he believed they were. According to the conditions, there will be a road maintenance agreement for the road within this subdivision.

Commissioner Curtiss asked if Commissioner Carey would be comfortable with the cabins being at the 500 foot mark.

Commissioner Carey stated he did not know what the ramifications would be on the design. It seems it would rule out the southernmost cabin. If the advice of the experts is to be heeded, development should be restricted to the 750 foot mark and come up with a better design. He really felt there was a way to accomplish this.

Chairman Evans stated the subdivision rules don't allow building on hillsides and the Board would have to be willing to be in opposition to the rules.

Commissioner Carey stated the Board does that all the time with variance requests.

Chairman Evans stated the Board rarely approves a variance for building on a hillside.

Commissioner Carey's motion died as there was no second for it.

Commissioner Curtiss asked if the Board should first vote to approve then vote to amend the conditions.

Colleen Dowdall stated the motion could be made to include the amendments.

Commissioner Curtiss moved that the Board of County Commissioners amend Condition 9 to read: "The plat shall be revised so that no developable areas are located within 300 feet of the eagle's nest. Specifically, the developable area on Lot 1 shall be 300 feet away and all other development be at least 500 feet away."

Chairman Evans stated that she would like Ron Ewart to come up and point out on the plat whether that is possible or not.

Ron Ewart showed where the 300 foot line would be. That area has steep slopes and is not a very desirable area for a home. Mrs. Scharf did not want a house on that site, it would not be economically feasible to have the road between the lake and home. He did not see how it could be done. The Scharf's would not be willing to accept that amended condition today.

Commissioner Curtiss stated that she would then agree with Commissioner Carey that this needs to be delayed to allow time for Ron Ewart and the Scharfs to possibly redesign the proposal to protect the eagles better. Her motion was not seconded.

Commissioner Carey moved that the Board of County Commissioners postpone the decision on Eagle's Point at Salmon Lake Subdivision. Commissioner Curtiss seconded the motion.

Chairman Evans asked if the postponement was for a time certain.

Ron Ewart stated he would check the schedule, but would like to postpone it for at least one month.

Chairman Evans stated the postponement would be unspecified and Ron Ewart would contact the Board when he and the Scharfs would be ready.

Colleen Dowdall stated there is a time constraint but Ron Ewart just stated his clients would waive that time constraint. This is not a public hearing so the new date does not have to be announced at this meeting. It will be published on the Commissioners agenda according to the established rules for open meetings.

Ron Ewart stated he would coordinate with Zoe Mohesky and notify the Board of the new date.

Zoe Mohesky stated the postponement was open ended at this time, but it was for at least one month.

Ron Ewart stated that was correct.

Commissioner Carey asked if the Scharf's had engaged an architect on this project yet?

Ron Ewart stated they had not.

The motion carried on a vote of 3-0.

There being no further business to come before the Board, the Commissioners were in recess at 3:05 p.m.

THURSDAY, APRIL 5, 2001

The Board of County Commissioners met in regular session; all three members were present. In the afternoon, the Commissioners traveled to Helena to meet with the Governor's Chief of Staff.

Plat – The Commissioners signed the plat for Dawn Acres No. 4, a subdivision located in the NE¼ of the SW¼ and the NW¼ of Section 8, T 13 N, R 20 W, PMM, Missoula County, with the owner of record being Coe A. Dolven.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Northwest Tree Service for on-call tree removal or pruning as part of regular road maintenance activities. The term will be April 1, 2001 through April 1, 2002. The total amount shall not exceed \$5,000.

Lease Agreement & Addendum – Chairman Evans signed a Lease Agreement and Addendum between Missoula County and the American Legion Swan Valley Post 63 ("Lessee") for continuance and expansion of the old and new lease for the Condon playfield, with the conditions of no fireworks or admission charges allowed. The term will be April 5, 2001 through December 31, 2002. The Lessee will pay as rent the sum of \$1.00, and also any fees charged by the Forest Service "administrative action" and other good and valuable consideration. The document was returned to Barb Martens in the Projects Office for further signatures and handling.

Quit Claim Deeds – The Commissioners signed four (4) Quit Claim Deeds, dated April 5, 2001, for the following tax deed properties redeemed prior to sale:

- 1) (SUID #1123107) - Unto Ellen Marie Hutcheson for Lots 26 & 27 in Block 30 of East Missoula Addition, a platted subdivision in Missoula County, according to the official recorded plat thereof;
- 2) (SUID #1755400) - Unto Robert S. Peschel and Marie H. Wasson for Lot 9 in Block 3 of Bitterroot Homes Addition No. 3 to the City of Missoula, Missoula County;

- 3) (SUID #2431509) – Unto R & L Trust for that portion of Lot 7 in Block 47 of Knowles Addition, a platted subdivision in the City of Missoula, Missoula County; and
- 4) (SUID #5812083) – Unto Robert T. Touchstone for Lot 10A in Block 6 of Hillview Heights No. 6, Block 6, Lots 10-12, Block 7, Lots 11-13, a platted subdivision in Missoula County.

The documents were returned to the Clerk and Recorders Office for further handling.

Board Appointment – The Commissioners approved and signed a letter, dated April 6, 2001, appointing Don Williams as a “regular” member of the Missoula Aging Services Governing Board to fill an unexpired term through December 31, 2002.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, APRIL 6, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – The Commissioners signed the Claims List, dated April 5, 2001, batch numbers 1181 and 1185 (pages 1-4), with a grand total of \$10,446.18. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated April 6, 2001, batch number 1186 (pages 1-4), with a grand total of \$41,841.16. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated April 6, 2001, batch number 1190 (pages 1-3), with a grand total of \$8,899.60. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated April 6, 2001, batch number 1191 (pages 1-5), with a grand total of \$1,609.24. The Claims List was returned to the Accounting Department.

Payroll Transmittal – The Commissioners signed the following Payroll Transmittal Sheet: Pay Period: 07 - Pay Date: April 6, 2001. Total Missoula County Payroll: \$771,870.14. The Transmittal Sheet was returned to the Auditor's Office.

Agreements – Chairman Evans signed three (3) Noxious Weed Trust Fund Project Grant Agreements between the Montana Department of Agriculture ("Department") and the Missoula County Weed District ("Project Sponsor") for the following:

- 1) Missoula Open Space Weed Management Area (Number MDA 2001-096), for the purpose of implementing an integrated weed control program using education, chemical, biological and cultural control methods in the project area. The Project Sponsor will chemically treat 409 acres, graze 280 acres with sheep, and revegetate 20 acres in the project area. The term will be April 6, 2001 through September 30, 2002. The total amount shall not exceed \$16,692, contingent upon sufficient available revenue and verification of matching funds from City of Missoula, University of Montana, Montana Department of Fish, Wildlife & Parks, and private individuals to equal \$36,731.
- 2) Potomac Weed Project (Number MDA 2001-095), for the purpose of controlling noxious weeds in the Potomac Noxious Weed Management Area in Missoula County. The Project Sponsor will control 1,493 acres of noxious weeds in the project area. The term will be April 6, 2001 through September 30, 2002. The total amount shall not exceed \$9,921, contingent upon sufficient available revenue and verification of matching funds from Missoula County Weed District and Extension Service and private landowners to equal \$44,084.
- 3) Sapphire Weed Project (Number MDA 2001-094), for the purpose of controlling noxious weeds in the Sapphire Weed Management Group Area in Missoula County. The Project Sponsor will control 3,100 acres of noxious weeds in the project area. The term will be April 6, 2001 through September 30, 2002. The total amount shall not exceed \$28,036, contingent upon sufficient available revenue and verification of matching funds from Missoula County Weed District and Extension Service and private landowners to equal \$32,585.

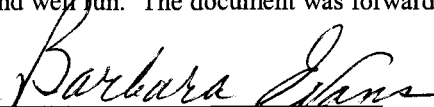
The documents were returned to the Weed Department for further handling.

Outstanding Warrants – Per MCA 7-6-2607, the Commissioners signed a memorandum, dated April 4, 2001, canceling all county warrants that have remained uncalled for one year or more. A list of the warrants, totaling \$10,230.76, is attached to the memorandum. The document was returned to Missoula County Auditor Susan Reed for further handling.

Review -- The Commissioners reviewed and approved a letter, dated March 30, 2001, from Missoula County Auditor Susan Reed to Doug Chase of the Sheriff's Department, stating that a review had been completed of the Law Enforcement Youth Camp financial files for the period November 1999 through February 2001. This review included an in-depth look at the year 2000 Camp records. All files are in perfect order. The document was forwarded to the Clerk and Recorders office for filing.

Review -- The Commissioners reviewed and approved a letter, dated March 16, 2001, from Missoula County Auditor Susan Reed to Doug Chase of the Sheriff's Department, stating that an examination had been completed of the Abandoned Vehicle Program from March 1997 through October 2000. This review included an in-depth look at the October 2000 sale. It was found that the program is efficient and well run. The document was forwarded to the Clerk and Recorders office for filing.


Vickie M. Zeier
Clerk & Recorder


Barbara Evans, Chair
Board of County Commissioners

MONDAY, APRIL 9, 2001

The Board of County Commissioners met in regular session; all three members were present.

Monthly Report – Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Report for Justice Court 2, Justice of the Peace, Karen A. Orzech, for the month ending March 30, 2001.

Monthly Report - Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Report for the Report of the Sheriff, Douglas W. Chase, for the month ending March 30, 2001.

TUESDAY, APRIL 10, 2001

The Board of County Commissioners met in regular session; all three members were present. At noon, the Commissioners attended the MAEDC Annual Membership and Awards Luncheon held at the Holiday Inn.

Claims List – The Commissioners signed the Claims List, dated April 10, 2001, batch number 1194 (pages 1-3), with a grand total of \$37,349.47. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated April 10, 2001, batch number 1197 (pages 1-4), with a grand total of \$20,418.06. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated April 10, 2001, batch number 1199 (pages 1-3), with a grand total of \$9,159.25. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Gregg Potter for the continuation of grounds maintenance at the Historical Museum at Fort Missoula. The term will be April 15, 2001 through October 15, 2001. The total amount shall not exceed \$7,000.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Barnes Weed Spraying for on-call weed spraying services associated with road maintenance activities. The term will be April 1, 2001 through April 1, 2002. The total amount shall not exceed \$5,000.

Resolution No. 2001-036 – The Commissioners signed Resolution No. 2001-036, dated April 10, 2001, accepting an easement for public road and all other public purposes from Mission Mountain Partnership, LLP (guest ranch road cul-de-sac) in Condon, Montana.

Agreement – The Commissioners signed an Agreement between Missoula County and the Missoula Urban Transportation District for continuation of the employee bus pass program. The term will be April 1, 2001 through March 31, 2002. The total amount shall not exceed \$7,400, based on a \$20 per person per year cost for the 370 Missoula County employees living within the Missoula Urban Transportation District boundaries.

Task Order – Chairman Evans signed Task Order No. 01-07-4-11-045-0 to the Missoula County Master Contract that covers the period July 1, 1998 through June 30, 2005 (local Tuberculosis Program). This Task Order provides supplemental funding for the control and prevention of tuberculosis. The term will be January 1, 2001 through December 31, 2001, with the exception of the final report due February 15, 2002. The total amount shall not exceed \$8,000.00. The document was returned to the Health Department for further signatures and handling.

Task Order – Chairman Evans signed Task Order No. 01-07-5-21-055-0 to the Missoula County Master Contract that covers the period July 1, 1998 through June 30, 2005, relating to the Bunker Hill Medical Monitoring Program ("BHMMMP") -- Lead Program contract. This Task Order amends Sections 2(C), 3A, 14(A) through 14(G), Section 3B, 6(a) through 6(l) and 4(E), as per the items set forth. The new term will be September 1, 2000 through June 30, 2001. The total amount shall not exceed \$20,000.00. The document was returned to the Health Department for further signatures and handling.

Resolution No. 2001-035 – The Commissioners signed Resolution No. 2001-035, rezoning property from "C-RR3" (Residential) to "C-C1" (Neighborhood Commercial), subject to conditions. The property is described as Lot 42, Pleasant View Homes #2 located in the W½ of Section 7, T 13 N, R 19 W, P.M.M., located East of Flynn Lane and ½ mile North of Mullan Road.

Grant Documents – Chairman Evans signed a Subrecipient Agreement, Management Plan, and Revolving Loan Fund Plan, dated April 10, 2001 between Missoula County and the Missoula Area Economic Development Corporation ("Subrecipient"). Missoula County is the recipient of a Community Development Block Grant (CDBG) by the Montana Department of Commerce, Economic Development Division, and the County will provide funds in the amount of \$368,000.00 for a grant to recapitalize a revolving loan fund administered by the Subrecipient for the residents of Missoula County and to match an additional loan from the Subrecipient to Pyramid Mountain Lumber in Seeley Lake, the total amount of which will be \$700,000. The documents were returned to Cindy Wulfekuhle in the Office of Planning and Grants for further handling.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

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WEDNESDAY, APRIL 11, 2001

The Board of County Commissioners met in regular session; all three members were present. At noon, the Commissioners attended the Clark Fork Coalition Luncheon held at The Bridge.

Claims List – The Commissioners signed the Claims List, dated April 10, 2001, batch number 1196 (pages 1-5), with a grand total of \$20,285.87. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated April 11, 2001, batch number 1193 (pages 1-6), with a grand total of \$82,705.19. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated April 11, 2001, batch numbers 1201 and 1203 (pages 1-4), with a grand total of \$43,678.89. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated April 11, 2001, batch number 101202 (pages 1-4), with a grand total of \$34,507.21. The Claims List was returned to the Accounting Department.

Request for Action – Chairman Evans signed an Application for Federal Assistance, Assurances, and Certification Page for a grant for the continuation of the Flagship Project at Rattlesnake Middle School and Hellgate High School. It will also allow the Missoula Forum for Youth and Children to continue to educate the public about strategies to prevent youth drug and alcohol abuse and various ways it can become involved in Flagship Projects and other Forum activities. This is the fourth year of the grant. Missoula County will receive \$70,493.00; the Office of Planning and Grants to administer the grant will use approximately \$5,000, and \$14,500 is allocated towards the Forum Coordinator's position. The document was returned to Peggy Seel in the Office of Planning and Grants for further handling.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the Chief Administrative Officer meeting held in the forenoon, the following budget items were discussed and approved:

- 1) Strategy: Budget for actual conditions. Action: Eliminate the budgeting of contingencies;
- 2) Strategy: Create a contingency reserve of 1% in the General Fund (and perhaps District Court Fund). Action: Create contingency reserves.
- 3) Strategy: Increase reserves to 5% of revenues for all funds except General Fund. Increase reserves in General Fund to 8% by increasing 1% a year for the next five years. Action: Set goal of 5% for all funds, 8% for General Fund.
- 4) Strategy: Reinstate Enhancement Request Forms for personnel, operations, technology and capital. Action: Endorse use Enhancement Request Forms.
- 5) Strategy: Set parameters for salary increases. Action: Set salary increase parameter at 4%.

PUBLIC MEETING – April 11, 2001

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Bill Carey, Commissioner Jean Curtiss, County Surveyor Horace Brown, Deputy County Attorney Colleen Dowdall and Chief Civil Attorney Mike Sehestedt.

Public Comment

Phyllis Jamison stated she wanted to talk about the stray cat overpopulation problem in Missoula. She also made a comment about the snow plowing on Woodville near her house. She appreciated the update from Greg Robertson dated March 9, 2001, but had not heard anything since that time. She would like some kind of resolution to the situation. She was speaking today more for the homeless cats in Missoula. This is a health and safety issue for humans because cat bites and scratches are dangerous and can lead to serious infections. She referred to an article in the current edition of the Clinton Community News about cat bites. She has trapped over 200 stray cats. The current plans for the new Animal Control Facility call for a cat room no bigger than the current one, which is inadequate. Animal Control refuses to accept stray cats as a matter of policy. The Humane Society often charges a fee to bring in a stray cat. Stray cats often are ignored or removed to another area and dumped. Tim Green, a former service manager at Rangitsch Brothers, wrote a letter about the cat problem at the mobile home/RV dealership. She would like to see more cat traps for citizens to use. Cats have also been abandoned at Fort Missoula. Many times the stray cats she has trapped are near starving and sick. Chuck Drenville, an electrical contractor, wrote that he has encountered problems with stray cats on job sites. Belinda Sandau wrote that she has found stray cats and kittens under her house, on the north side. Judy Gorum wrote a note offering her help with trapping stray cats at BFI Recycling. Bonner Mill hires someone to trap stray cats and she has been told that he drowns the cats because Animal Control won't accept them and the Humane Society charges a fee. There are solutions that won't cost a lot. She has talked to the City Council about needing a larger cat room, and the Council seems receptive to assuming responsibility for stray cat overpopulation. This also presents a liability problem. Jay Devore who works for the Missoulian wrote about receiving an injury while trapping a stray cat. Nancy Hill, Director of the Spokane Animal Control, has written to urge getting a larger cat room. A cat ordinance, which she helped draft, has not received a lot of support. George Metranga, an apartment owner, wrote complaining that Animal Control would not accept a stray cat he trapped on a Monday when the Humane Society was closed. Animal Control did accept the cat as an exception. She hoped the Commissioners could find some funds to get a larger cat facility included at the new Animal Control Facility. The City Council will also try to find some funds.

Routine Administrative Actions

Commissioner Curtiss moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$429,285.36. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

National Public Safety Telecommunications Week

PROCLAMATION – COUNTY OF MISSOULA

WHEREAS, Public Safety was the first service provided by a government to its citizens. The safety and well-being of its citizens continues to be one of the foremost concerns of Missoula County. Ensuring that safety and well-being requires the ability to receive calls for help and immediately send responders to provide that help; and

WHEREAS, 9-1-1 is the first, critical link in the chain in delivering public safety services; and

WHEREAS, the safety of those responding to emergencies is also of great concern to Missoula County; and

WHEREAS, the telecommunicators who work in 9-1-1 display a superior level of commitment, dedication and professionalism in accomplishing their mission of receiving calls for help from citizens, dispatching emergency response agencies and maintaining a communication link with the responders for safety purposes; and

WHEREAS, those same telecommunicators often work extraordinarily long hours and difficult schedules to provide the service to the public and ensure the safety of responders, but often go unrecognized.

NOW, THEREFORE, we, the Board of County Commissioners, recognize the week of April 8-14, 2001 as

NATIONAL PUBLIC SAFETY TELECOMMUNICATIONS WEEK

We thank the telecommunicators in 9-1-1 for all their efforts and hours and hard work under very difficult circumstances. The community truly would not be safe without them. We also encourage the community to recognize the importance of the function of 9-1-1 and to thank these dedicated individuals in writing.

Dated this 11th day of April, 2001 by Chairman Barbara Evans, Commissioner Bill Carey and Commissioner Jean Curtiss.

Jane Ellis, Director of Emergency Services, emphasized the importance of the 9-1-1 function. That is the vital, direct link to provide help to the public. The 9-1-1 Center is very short staffed at the current time, which is why there was no one present from there to hear this proclamation read. 9-1-1 appreciates the Commissioners attention and will continue to do a good job for Missoula County.

Chairman Evans asked Jane Ellis to express the Board's gratitude to the 9-1-1 staff.

Commissioner Carey moved that the Board of County Commissioners approve the National Public Safety Telecommunicators Week Proclamation. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0. The Commissioners signed the Proclamation and presented it to Jane Ellis.

Decision: Petition to Abandon a Portion of Beckwith Street in Frenchtown (Postponed from April 4, 2001)

This is a petition to abandon "Beckwith Street from Lot 15, Block 2, between southwest lot line and northeast right-of-way of US Highway 10 to Lot 19, Block 2, between the southwest lot line and northeast right-of-way of US Highway 10, all in Townsite of Frenchtown, located in Section 34, Township 15 North, Range 21 West, Missoula County, Montana."

The reasons for the request are as follows: 1) The present property is not being utilized by the State or County for road usage and could be utilized for development by subject property; 2) The landowners to the east of this property have already been granted permission to move their property line; and 3) This abandonment would move this property line in alignment with the property to the east.

The following landowners have been notified: John H. and Carol A. Greenwood.

The public hearing on this matter was held March 28, 2001. A site inspection was conducted by County Surveyor Horace Brown and County Commissioner Barbara Evans on April 2, 2001. The decision on this request was delayed one week from April 4, 2001 to allow time for the Montana Department of Transportation to respond to questions from County Surveyor Horace Brown.

Horace Brown stated he spoke with George Schwartz, maintenance supervisor for MDT. They had no problem with vacating the right-of-way. He recommended that the County approve the petition to abandon.

Chairman Evans stated that if the petition is granted, it would help clean the area up. She agreed with Horace Brown's recommendation.

Commissioner Curtiss moved that the Board of County Commissioners approve the petition to abandon "Beckwith Street from Lot 15, Block 2, between southwest lot line and northeast right-of-way of US Highway 10 to Lot 19, Block 2, between the southwest lot line and northeast right-of-way of US Highway 10, all in Townsite of Frenchtown, located in Section 34, Township 15 North, Range 21 West, Missoula County, Montana." Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Hearing: Petition for Annexation to Greenough/Potomac Fire District (Stoney's Quick Stop – Clearwater Junction)

APR 11 1999

Commissioner Carey read the request into the record.

This is a request to annex a parcel of land, located in Missoula County, into the Greenough/Potomac Fire District.

A petition has been received by the Clerk & Records Office to annex a parcel of land, located in Missoula County, into the Greenough/Potomac Fire District.

The petition has been checked and verified. It contains signatures of more than 50% of owners of the privately owned land in the area to be annexed and a majority of tax-paying freeholders within the area described, thereby meeting the requirements of 7-33-2125 M.C.A. for annexation of adjacent territory.

The area to be annexed, commonly known as Stoney's Quick Stop, is described as follows:

"A 1.38 acre tract of land located in the NE 1/4 of the NE 1/4 of Section 4, Township 14 North, Range 14 West, in Missoula County, Montana. Tax ID Number 1193900."

The Greenough/Potomac Fire Department has agreed to this request.

Chairman Evans opened the public hearing. There being no comments, the public hearing was closed.

Commissioner Carey moved that the Board of County Commissioners approve the petition to annex Stoney's Quick Stop, legally described as "a 1.38 acre tract of land located in the NE 1/4 of the NE 1/4 of Section 4, Township 14 North, Range 14 West, in Missoula County, Montana, Tax ID Number 1193900," into the Greenough/Potomac Fire District. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Hearing: Hall Family Transfer

Colleen Dowdall presented the staff report.

This is a consideration of a request to create family transfer parcels for that parcel described in Book 150, Page 706, in Sections 13 and 14, Township 13 North, Range 16 West.

Robert G. Hall has submitted a request to create three parcels using the family transfer exemption to the Montana Subdivision and Platting Act, leaving a remainder parcel. The current parcel is approximately 366 acres in size located in the Potomac area off Highway 200. Mr. Hall proposes to create three parcels and a remainder for transfer to his sons, Phillip R. Hall, Bradley R. Hall and Douglas M. Hall.

The history of the parcel is as follows:

Parcel History	Year	Exemption Used	Applicant or Transferor	Intended Recipient or Transferee
Book 150, Page 706	1980	Deed of Distribution of approximately 400 acres	Estate of Nina G. Hall	Robert G. Hall
COS 2357	1980	20 acre tracts	Robert G. Hall	N/A
COS 2703	1982	Agricultural Covenant	Robert G. Hall	N/A

According to the records kept by the Missoula County Surveyor, the applicant has previously used the above exemptions to the Subdivision and Platting Act.

Chairman Evans opened the public hearing.

Robert Hall stated he would like to set aside three parcels of land to leave to each of his sons. The rest of the ranch has been placed in conservancy with Montana Land Reliance.

Chairman Evans stated that the law requires the Commissioners to determine if the request is truly a family transfer or if it is an attempt to evade subdivision review. The law allows the Board to ask the petitioner questions to make that determination, which is the reason for him being present today.

Robert Hall stated that he and his family were not very subdivision minded.

There being no further comments, the public hearing was closed.

Commissioner Curtiss moved that the Board of County Commissioners approve the request by Robert G. Hall to create three new parcels by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Chairman Evans stated that Mr. Hall would receive a letter of approval. The approval is for the division of land only. It does not give approval for a septic system or constitute any commitment as to the availability of any services, access, etc.

Hearing: Klepper Agricultural Exemption

Colleen Dowdall presented the staff report.

This is a consideration of a request to create an agricultural covenant exemption parcel for that parcel described in Book 431, Page 778, in the north 1/2 of Section 26 in Township 15 North, Range 20 West.

Donald K. Klepper and Janet A. Klepper have submitted a request to create a parcel using the agricultural covenant exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 40 acres in size located in

the Evaro area off Evaro Road. The Kleppers propose to create two twenty acre parcels with an agricultural covenant that restricts the use of the land to agricultural uses and requires that the owner enter into the covenant as to the use of the property, revocable only with the consent of the governing body. The applicant states that both parcels will continue to be used as pasture.

The history of the parcel is as follows:

Parcel History	Year	Exemption Used	Applicant or Transferor	Intended Recipient or Transferee
Book of Deeds 145, Page 430	1946	N/A	Clyde and Bertha Milliron	Donald F. and Vivian L. Klepper
Book 431, Page 778	1994	Family Transfer	Donald F. and Vivian L. Klepper	Donald K. Klepper

According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act.

Chairman Evans opened the public hearing.

Steve Inabnit, Eli & Associates, Inc., read a letter from Mr. Klepper: *“Dear Members of the County Commission: Because I am currently working out of state, it is not possible for me to attend the meeting scheduled on April 11, 2001. A few years ago before my father died, he completed two family transfers, one north of Highway 93 and south of Grooms Road to me and one north of Grooms Road and Ryan Lane to my sister, Diane. He wanted this land in our hands because he knew we would be good stewards, and each of us has in mind to do exactly this. There was a remaining piece of Klepper land south of Highway 93 of approximately 40 acres that he wanted to sell to family members. I was the only one who expressed an interest in this land because I use these meadows for hay to feed my horses and any other livestock that I am keeping at the farm. In February, I underwent some serious surgery at the Mayo Clinic in Scottsdale which will eventually impact my financial condition. I had been discussing for some time the possibility of selling approximately half of the 40 acres to a person who keeps horses on my place and who is interested in the same kind of use that has been applied to this land since the 1940’s, someone who will preserve the aesthetic integrity of the ground. My request to divide this property using the agricultural exemption should not be viewed as an attempt to circumvent any subdivision rules or regulations. Anyone who has witnessed the Klepper family’s handling of our ground in Evaro knows that we have been good stewards of the land to the point that we rejected large proposed revenues for sign placement on our land that borders the highway because we felt that it was offensive and that it would offend our neighbors as well. I had intended never to sell an acre of the ground where I was raised, but we cannot always control events in our lives which often dictate our making a change in direction. For this reason, I am asking you to approve this request. Thank you for your assistance with and attention to this matter. Warmest Personal Regards, Don K. Klepper, Ph.D.”*

Chairman Evans stated that when land is split and sold using the agricultural covenant, the person purchasing the property must use the land for agricultural. She asked Colleen Dowdall if that was a correct statement?

Colleen Dowdall stated that was correct. As long as the Commissioners could find that this was not an attempt to evade subdivision review, it was a legal use of the exemption.

There being no further comments, the public hearing was closed.

Commissioner Carey moved that the Board of County Commissioners approve the request by Donald K. and Janet A. Klepper to create a new parcel by use of the agricultural covenant exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Consideration: Wills Subdivision for Lease or Rent – Remicks Road in Condon (2 Dwellings on 1 Lot)

Tim Hall, Office of Planning and Grants, presented the staff report.

Wes Wills is requesting approval to put two homes, including an existing cabin, and a potential new primary home, on a 19.3 acre parcel of property located at 672 Remicks Road in Condon, Montana. The property is accessed off Highway 83 in Condon, then by taking Glacier Creek Road for one-half mile, connect to Styler Road for one-half mile, then connect to Remicks Road for one-quarter mile to the Wills property.

The property is unzoned and is within the boundary of the 1996 Swan Valley-Condon Comprehensive Plan Amendment. That plan recommends an Open and Resource land use designation that has a recommended residential density of one dwelling unit per 40 acres. The plan further states and encourages development to be clustered so that open spaces are retained. The applicant is proposing to use the parcel for residential purposes. Land uses in the vicinity are residential and many are on lots smaller than 20 acres. The Swan River crosses the northeast portion of the property and the proposed home will be located approximately 450 feet from the river and riparian area. Swan River floodplain and riparian resource area is extensive here and begin at the bottom of the low bench, nearly 350 horizontal feet from the river. Mr. Wills has provided a Riparian Management Plan that is satisfactory. He has proposed to use the original cabin as a guesthouse for the potential new owners.

The driveway accessing the property is 250 feet long and may be extended slightly to the new dwelling. It includes a turnaround for emergency vehicles and a parking area for the new home. Individual septic systems will be used for each house and they will share a well. There are 7 Conditions of Approval including some that cover Wildland/Residential Interface standards. Mr. Wills has agreed to all of the conditions.

There is one variance required with this project for Remicks Road which has a 22 foot road surface while subdivision regulations require a 24 foot road surface. Staff recommends approval of the variance and approval of the subdivision.

Chairman Evans asked for public comments.

Wes Wills stated he was available if the Commissioners had any questions.

There were no further public comments.

Commissioner Curtiss asked if Remicks Road is maintained by the County?

Tim Hall stated that Remicks Road is a County-maintained road.

Commissioner Curtiss moved that the Board of County Commissioners approve the variance request from Section 3-2(4) of the Missoula County Subdivision Regulations to not improve Remicks Road to the required 24 foot road surface width, based on the findings of fact set forth in the staff report. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Commissioner Curtiss moved that the Board of County Commissioners approve the Wills Subdivision for Lease or Rent, based on the findings of fact set forth in the staff report and subject to the conditions in the staff report. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Wills Subdivision for Lease or Rent Conditions of Approval:

1. The lot owner shall file a document of record prior to final plan filing waiving the right to protest a future RSID/SID for installation of pedestrian walkways or bikeways along Remicks Road, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land depicted herein. *Subdivision Regulations Article 3-2(14) and staff recommendation.*
2. The lot owner shall provide written documentation that the Swan Valley Volunteer Fire Department approves the access plan, at a minimum consistent with Missoula County Subdivision Regulations Article 3-2(1) and Article 3-2(6)(E), prior to final plan filing. *Subdivision Regulations Article 3-1(1)(B), 3-2 and staff recommendation.*
3. The developer shall contribute a \$100.00 to the Swan Valley Volunteer Fire District to mitigate the cost of providing water tankers and large diameter hoses. Evidence of contribution shall be presented to the Office of Planning and Grants prior to plan filing. *Swan Valley Volunteer Fire Department recommendation and OPG recommendation.*
4. The lot owner shall file a document of record prior to plan filing waiving the right to protest a future RSID/SID for public water system adequate for fire protection, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land. *Subdivision Regulations Article 3-7(2).*
5. The following areas shall be considered "no-build" zones: Areas with slopes greater than 25% and riparian resource areas. The riparian resource buffer area along the west side of the Swan River shall include a 50 foot setback from the top of the bench, to be reviewed and approved by OPG prior to final plan filing. *Subdivision Regulations Article 3-1(2), 4-2(5)(D)(6) and 4-1(12).*
6. **A development covenant shall be filed prior to final plan filing, subject to OPG and County Attorney approval, to include the following items related to providing fire mitigation, minimizing potential wildlife conflicts and addressing Wildland/Residential Interface standards:**

Fire Mitigation

A. The property owner shall create a defensible space for fire protection purposes as approved by the appropriate fire jurisdiction. Vegetation shall be removed and reduced around each building according to the slope. Single ornamental trees or shrubs need not be removed as long as all vegetation near them is reduced according to the guidelines established by the fire jurisdiction. Ornamental trees and shrubs should not touch any buildings. When planting, the property owner shall select trees, shrubs and vegetation from native vegetation stock when possible that limit or retard fire spread as suggested below:

- i. Perennial: Choose hardy perennial flowers that are adapted to the climate of the area. These green, leafy, succulent plants are difficult to burn. Watering and regular weeding improves fire resistance.
- ii. Shrubs: Evergreen shrubs such as dwarf conifers or junipers tend to ignite easily. Avoid them unless well spaced.
- iii. Trees: Deciduous trees can be clumped, scattered or planted in greenbelts or windbreak patterns. Evergreen trees tend to ignite easily and should be spaced accordingly.

See Missoula County Subdivision Regulations vegetation reduction guidelines and use applicable slope for required standards. *Subdivision Regulations Article 5-1(5)(J), Appendix VII and staff recommendation.*

B. Only Class A or B fire-rated roofing materials shall be used for any new construction. *Subdivision Regulations Article 5-1(5)(J) and staff recommendation.*

Wildlife and Wildland/Residential Interface Standards

C. **Domestic pets are to be kept in a contained area to avoid wild animal harassment.**

D. Pets shall be fed indoors and pet food shall be stored indoors.

E. Garbage shall be stored in well-sealed containers and inside storage units.

- F. Permanent barbecue pits are prohibited. All portable barbecues shall be cleaned regularly and stored indoors when not in use.
- G. Flowers, ornamental shrubs and fruit trees may be susceptible to damage from wildlife, therefore planting of native vegetation is encouraged.
- H. All garden fences shall be constructed at least eight feet in height and one foot below the soil to prohibit animal intrusion, using a solid top rail on all fencing made of something other than wire to avoid animal entanglement.
- I. Compost piles shall be enclosed in a container.
- J. Apiaries may attract species such as bears and should be avoided. Before an apiary is located on a lot, the owner of the bee hive(s) should first contact the Department of Fish, Wildlife and Parks to discuss their plans and how to best avoid wildlife conflicts.
- K. The brochure "Living with Wildlife" shall be distributed to all lot owners. *Subdivision Regulations Article 3-1(1)(C) and staff recommendation.*

There being no further business to come before the Board, the Commissioners were in recess at 2:05 p.m.

THURSDAY, APRIL 12, 2001

The Board of County Commissioners met in regular session; all three members were present in the forenoon. Chairman Evans was out of the office all afternoon.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated April 12, 2001, batch number 1205 (pages 1-5), with a grand total of \$78,290.12. The Claims List was returned to the Accounting Department.

Replacement Warrant – Chairman Evans examined, approved, and ordered filed an Application for Issuance Replacement Warrant naming Charlene Young as Applicant for MCPS Payroll Warrant #93066 issued March 16, 2001 on the 78-42 Fund in the amount of \$2,121.39, which was not received in the mail. No bond of indemnity is required.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Addendum – Chairman Evans signed an Addendum to the Letter of Agreement #2001-015 between the Montana Lewis & Clark Bicentennial Commission and the local Western Montana Lewis & Clark Bicentennial Commission. Because the local chapter has not received its 501c(3) status, it has asked the County to act as a pass through agent on its behalf. The Addendum acknowledges the County's role. The document was returned to Cindy Wulfekuhle in the Office of Planning and Grants for further signatures.

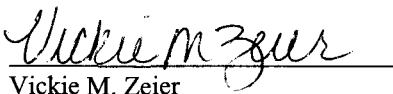
Other discussion items included:

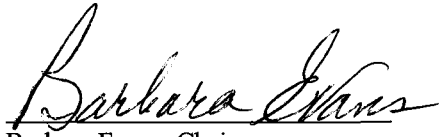
- 1) The Commissioners discussed the drainage situation in the Missoula Development Park. A written policy is to follow.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, APRIL 13, 2001

The Board of County Commissioners met in regular session; a quorum of members was present. Chairman Evans was out of the office all day.


Vickie M. Zeier
Clerk & Recorder


Barbara Evans, Chair
Board of County Commissioners

MONDAY, APRIL 16, 2001

The Board of County Commissioners met in regular session; all three members were present. In the afternoon, the Commissioners met with Department Heads for the 2002 Budget Kick-off.

Claims List – The Commissioners signed the Claims List, dated April 16, 2001, batch number 1204 (pages 1-4), with a grand total of \$10,813.87. The Claims List was returned to the Accounting Department.

Resolution No. 2001-037 – The Commissioners signed Resolution No. 2001-037, annexing to the Greenough/Potomac Fire District a parcel of land located in Missoula County. The parcel is described as a 1.38 acre tract of land located in the NE 1/4 of Section 4, T 14 N, R 14 W. Tax ID Number 1193900.

Resolution No. 2001-038 – The Commissioners signed Resolution No. 2001-038, abandoning Beckwith Street lying between the Northeasterly right-of-way line of U.S. Highway 10, and the Southwesterly line of lots 15, 16, 17, 18 and 19, Block 2, Townsite of Frenchtown located in the SE1/4 of Section 34, T 15 N, R 21 W, P.M.M, Missoula County.

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Request for Action – The Commissioners approved a request from the Missoula Housing Corporation to use \$20,000 in grant funds previously awarded on January 29, 1998 for administration costs, rather than project activities. The document was returned to Cindy Wulfekuhle in the Office of Planning and Grants for further handling.

TUESDAY, APRIL 17, 2001

The Board of County Commissioners met in regular session; all three members were present. In the evening, Chairman Evans attended a meeting of the Rocky Mountain Elk Foundation.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Extension Request – The Commissioners signed a letter to Mark Denton of Gordon Sorenson Engineering, approving his request for an extension to the Denton Subdivision, a minor four lot subdivision in the Gleneagle area of Grant Creek in Missoula County. The deadline is extended to May 20, 2002.

Resolution No. 2001-039 – The Commissioners signed Resolution No. 2001-039, authorizing participation in the Board of Investments of the State of Montana Annual Adjustable Rate Tender Option Municipal Finance Consolidation Act Bonds (INTERCAP Revolving Program), approving the form and terms of the Loan Agreement and authorizing the execution and delivery of documents related thereto. The items to be financed are Sheriff's Office vehicles, in the allocated amount of \$160,000.00.

Request for Action – Chairman Evans reviewed, approved and signed a Notice Inviting Proposals for Construction of Snowdrift Lane, off Mullan Road in Missoula County (RSID #8469). Sealed proposals will be received at the Missoula County Bids Office until 2:00 p.m., Tuesday, May 15, 2001. The Notice will be advertised on April 22nd and 29, 2001. The document was returned to Jesse Sattley in the Public Works Department for further handling.

Request for Action – Chairman Evans reviewed, approved and signed a Notice Inviting Proposals for Construction of Farm Lane in Lolo, Montana (RSID #8465). Sealed proposals will be received at the Missoula County Bids Office until 2:00 p.m., Tuesday, May 15, 2001. The Notice will be advertised on April 22nd and 29, 2001. The document was returned to Jesse Sattley in the Public Works Department for further handling.

Letters of Appointment – The Commissioners approved and signed four letters, dated April 17, 2001, reflecting appointments to the Missoula County Community Based Organization (CBO) Application Review Committee. Letters were sent to: (1) Carol Graham, Missoula; (2) Leslie Halligan, County Attorney's Office; (3) Charles Wellenstein, Social Work Department, University of Montana; and (4) Jean Curtiss, Missoula County Commissioner. Their new term will be July 1, 2001 through June 30, 2002.

Grant Award – Commissioner Curtiss signed a State of Montana Board of Crime Control Grant Award for Subgrant 99-A01-80849, Western Regional Detention/Accountability. This grant is subject to special conditions and general conditions as set forth therein. The term will be April 1, 2001 through June 30, 2001. The Federal amount awarded is \$69,464.03; Guaranteed Local Matching is \$7,718.23; grant total is \$77,182.26. The source of Federal Funds is: 16.523 - Juvenile Accountability Incentive. The document was returned to Gary Elliott at the Juvenile Justice meeting on Wednesday, April 18, 2001.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, APRIL 18, 2001

The Board of County Commissioners met in regular session; all three members were present. In the evening, Chairman Evans and Commissioner Carey met with residents of GoldenWest at the Sunset Memorial Funeral Home Meeting Room regarding the proposed Mullan Corridor Sewer Project; and Commissioner Curtiss attended the Friends of the Historical Museum Annual Meeting and 25th Birthday Party held at the Best Inn on Brooks Street.

Claims List – The Commissioners signed the Claims List, dated April 18, 2001, batch number 1206 (pages 1-4), with a grand total of \$18,975.51. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated April 18, 2001, batch number 1207 (pages 1-4), with a grand total of \$8,393.79. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated April 18, 2001, batch number 1208 (pages 1-4), with a grand total of \$9,090.55. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated April 18, 2001, batch number 1209 (pages 1-??), with a grand total of \$126,712.00. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated April 18, 2001, batch number 1211 (pages 1-4), with a grand total of \$10,541.78. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated April 18, 2001, batch number 1213 (pages 1-4), with a grand total of \$10,754.72. The Claims List was returned to the Accounting Department.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the Chief Administrative Officer meeting held in the forenoon, the following items were signed:

Request for Action – The Commissioners approved a request from the Public Works Department to establish a Road Depreciation Fund that would be funded by used equipment sales on a periodic basis. The fund would be used exclusively for equipment replacement for the Road Department.

Proposal – The Commissioners gave preliminary approval to a proposal from John W. Larson, District Judge, for District Court Dept. No. 3 to utilize office space that will be available after the final phase of the Health Department remodel which is expected to be available around July 1, 2001. The Commissioners will develop an Agreement for final signature.

PUBLIC MEETING – April 18, 2001

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Bill Carey, Commissioner Jean Curtiss, County Surveyor Horace Brown and Deputy County Attorney Colleen Dowdall.

Public Comment

None

Routine Administrative Actions

Commissioner Carey moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$125,563.84. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Hearing: Kaldahl Family Transfer

Colleen Dowdall presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described as Tract P of COS 32A, located in Section 14, Township 13 North, Range 20 West, Missoula County.

Betty J. Kaldahl has submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately twelve acres in size located in the Golden West area off Douglas Drive. The applicant proposes to create an approximately 2 acre parcel for transfer to her daughter, Mary Erhard.

The history of the parcel is as follows:

Parcel History	Year	Exemption or Instrument Used	Applicant or Grantor	Intended Recipient or Grantee
Tract P, COS 32-A	1974	N/A		
Book 323, Page 1323		Quit Claim Deed	Bitterroot Valley Bank	Betty J. Kaldahl

According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act.

Chairman Evans opened the public hearing.

Betty J. Kaldahl stated the parcel was 12.5 acres in size.

Chairman Evans stated that the law requires the Commissioners to determine if the request is truly a family transfer or if it is an attempt to evade subdivision review. The law allows the Board to ask the petitioner questions to make that determination, which is the reason for her being present today.

There being no further comments, the public hearing was closed.

Commissioner Curtiss moved that the Board of County Commissioners approve the request by Betty J. Kaldahl to create a new parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Chairman Evans stated that Ms. Kaldahl would receive a letter of approval. The approval is for the division of land only. It does not give approval for a septic system or constitute any commitment as to the availability of any services, access, etc.

Hearing: Shannon Family Transfer

Colleen Dowdall presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described as Tract 1, COS 4358, located in Sections 34 and 35, Township 12 North, Range 17 West.

Penny Shannon has submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 6 acres in size located in the Clinton area off East Mullan Road. The applicant proposes to create an approximately one acre parcel for transfer to her daughter Mirabai Henley.

The history of the parcel is as follows:

Parcel History	Year	Exemption Used	Applicant	Intended Recipient
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COS 2022	1979	Occasional Sale	Rita Faye Cunningham	N/A
COS 3048	1983	Family Transfer	Rita Faye Cunningham	
COS 4358	1994	Boundary Adjustment	Gayle L. Norskog	

According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act.

Chairman Evans opened the public hearing.

Penny Shannon stated the parcel is 5 acres in size and she wishes to give 4 acres to her daughter and grandchildren as they cannot afford to purchase property on their own.

Chairman Evans stated that the law requires the Commissioners to determine if the request is truly a family transfer or if it is an attempt to evade subdivision review. The law allows the Board to ask the petitioner questions to make that determination, which is the reason for her being present today.

There being no further comments, the public hearing was closed.

Commissioner Carey moved that the Board of County Commissioners approve the request by Penny Shannon to create a new parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Chairman Evans stated that Ms. Shannon would receive a letter of approval. The approval is for the division of land only. It does not give approval for a septic system or constitute any commitment as to the availability of any services, access, etc.

Hearing: McFarland Family Transfer

Colleen Dowdall presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described as Deeds Book 220, Page 54, located in Section 10, Township 11 North, Range 16 West.

Arlene Delphine McFarland has submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 90 acres in size located in the Clinton area off a County road. The applicant proposes to create an approximately 20 acre parcel for transfer to her son, Clay McFarland. These 20 acres are located mostly in the floodplain and will be used for agriculture.

The history of the parcel is as follows:

Parcel History	Year	Exemption or Instrument Used	Applicant or Grantor	Intended Recipient or Grantee
Book of Deeds 220, Page 54	1959	Warranty Deed	John and Jessie McFarland	Donald and Arlene McFarland

According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act.

Chairman Evans opened the public hearing.

Clay McFarland stated this would change the boundaries and the houses already exist.

Chairman Evans stated that the law requires the Commissioners to determine if the request is truly a family transfer or if it is an attempt to evade subdivision review. The law allows the Board to ask the petitioner questions to make that determination, which is the reason for him being present today.

There being no further comments, the public hearing was closed.

Commissioner Curtiss moved that the Board of County Commissioners approve the request by Arlene Delphine McFarland to create a new parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Chairman Evans stated that Ms. McFarland would receive a letter of approval. The approval is for the division of land only. It does not give approval for a septic system or constitute any commitment as to the availability of any services, access, etc.

Arlene McFarland stated that she has other property. Can she leave it in her will to two different people?

Michael Sehestedt stated she could do that. It would either be tenancy as a whole or as part of the probate, but the property could be divided. It would be best for her to indicate her wishes in her will.

Hearing: Petition for Creation and Organization of Canyon River County Water and Sewer District

Michael Sehestedt presented the background on the petition.

Notice was given that the Board of County Commissioners of Missoula County would conduct a hearing on the Petition for Creation and Organization of the proposed Canyon River County Water and Sewer District filed with the County Commissioners by Jacobs Joint Venture, a Montana limited liability partnership.

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The hearing will be held at 1:30 p.m. on Wednesday, April 18, 2001, in Room 201 of the Missoula County Courthouse, 200 West Broadway, Missoula, MT. At the hearing, the County Commissioners will consider whether to accept the petition and, if accepted, to proceed with conducting the required election for qualified electors to decide whether the proposal to create and organize the proposed Canyon River County Water and Sewer District is to be adopted.

The full text of the Petition reads: "Petition for Creation and Organization of Canyon River County Water and Sewer District. We, the undersigned, being all of the property owners and, pursuant to Vol. 38, Opinions of the Attorney General No. 47 (1979), constituting more than 10% of the registered voters of the territory described in Exhibit 'A,' which is attached and incorporated by this reference, respectfully request that Canyon River County Water and Sewer District (the "District") be incorporated under the provisions of Title 7, Chapter 13, Parts 22 and 23, of the Montana Code Annotated. We propose that the boundaries of the District be as set forth and described in Exhibit 'A.' The territory to be included within the boundaries lies entirely within Missoula County. Respectfully submitted on March 6, 2001 by Jacobs Joint Venture, a Montana limited liability partnership, 4850 Deer Creek Road, Missoula, MT 59802, by Randolph Jacobs, Managing Partner."

Michael Sehestedt stated the Canyon River Subdivision in this area, Bandmann Flats, has been approved. The area is currently outside the city and may or may not at some point be annexed. The developers are interested in proceeding with development and not waiting for eventual annexation. The purpose of creating the sewer and water district is to allow them to begin building the sewer system infrastructure. If the city does not annex or city sewer does not become available immediately, they will use some type of community drainfield for the early phases. Upon city sewer becoming available, the system will be designed to permit connection to the extension. At that point this district will probably be dissolved. Essentially, it is a funding mechanism to build infrastructure and to provide interim sewage disposal services.

Chairman Evans opened the public hearing.

Steve Brown, Garlington, Lohn and Robinson, stated he was representing Canyon River LLC. The purpose of this petition is to provide a mechanism to put infrastructure in place to take care of the situation to allow development to occur prior to annexation or in case annexation does not occur. There are provisions in the State statutes to allow this. They have had meetings with the County Attorney to discuss and explain their motivation. It is primarily to allow funding of these kinds of public works to occur.

There being no further comments, the public hearing was closed.

Michael Sehestedt stated the Board needs to approve the petition, approve the boundaries of the district as proposed and set an election on the question of creating a district. This may seem unnecessary as there is only one owner and no residents, but it is the process allowed in the statutes. The Board may make a motion to approve the petition and boundaries and he will draft a resolution setting the election.

Commissioner Carey moved that the Board of County Commissioners approve the petition for creation and organization of Canyon River County Water and Sewer District with the proposed boundaries. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Michael Sehestedt stated he will prepare the documents to set the election which can then be approved at a Commissioners Administrative Meeting. The election will be done by mail ballot. This is unique in that there is only one property owner in the district.

Hearing: Riverwood Meadows (9 Lots) – Off Kona Ranch Road

Dale McCormick, Office of Planning and Grants, presented the staff report.

This is a request from Todd Peters and Mike Priske, represented by John Kellogg of Professional Consultants Inc., to divide a 10.63 acre parcel into 9 lots and a 1.07 acre park on the Clark Fork River. The property is located on Kona Ranch Road southwest of the bridge that crosses the Clark Fork River, fronting the river's western bank. The property is zoned C-RR1. The Missoula Urban Comprehensive Plan designated the east side of the site as Residential, one dwelling unit per 5 to 10 acres and the west side of the site is designated as Parks and Open Space. Kona Ranch Road to the west of the site is a County maintained road with a 33 foot wide surface width within a 60 foot right-of-way. The nine lots will be accessed off of Kona Ranch Road by a proposed public cul-de-sac that will have a 30 foot wide road surface within a 60 foot right-of-way with a pedestrian path along one side. The developers propose to dedicate parkland for the purpose of working with Montana Fish, Wildlife and Parks in Missoula County to improve the current informal fishing access area into a designated fishing access site. There are no variances being requested for the subdivision.

Conditions 10 and 11 are related to floodplain issues as recommended by Brian Maiorano, Floodplain Administrator. Condition 10 states that the lowest floor of any structure anywhere on the property shall be at least 2 feet above the 100 year flood elevation. Condition 11 states that a no-build zone located 150 feet from the top of the bank of the Clark Fork River shall be indicated on the plat.

There is a memo attached to the packet that shows revisions to Conditions 6 and 10 as recommended at the Planning Board hearing.

The developer has proposed to dedicate parkland to connect to the informal fishing access site. Conditions 8 and 9 address that proposal. Condition 8 states the developer shall be responsible for initiating the process of creating a fishing access site and to have MFWP manage the site. Condition 9 states that if the Fishing Access Site (FAS) is created, the plat will show a 30 foot public access easement through the park connecting Kona Ranch Road to the County owned land fronting the Clark Fork River. The 30 foot recommendation is based on discussions with County Surveyor Horace Brown.

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Condition 1 provides for a 60 foot wide conditional public access easement between Lots 4 and 5. A 30 foot wide conditional public access easement along the southern boundary of Lot 4 may connect with Melody Lane if further subdivision occurs south of this proposal.

Chairman Evans had an urgent phone call and excused herself from the meeting at this time.

Dale McCormick continued: Some of the findings to support Condition 1 were mentioned. If the property to the south were to develop with densities according to the C-RR1 zoning and supported by the Comprehensive Plan, there is the potential for up to 20 new houses on the 27 acres south of this proposal. A portion of those residences could be located in the 500 year floodplain, similar to Riverwood Meadows. Also, Subdivision Regulations allow the maximum length of a cul-de-sac to be 1,000 feet. Melody Lane is a cul-de-sac road 1,250 feet in length to the closest non-maintained public road. The length to the closest maintained road, Big Flat Road, is 1,850 feet. According to the 1998 Update to the Missoula Urban Comprehensive Plan, infrastructure should be developed to accommodate present development and plan to meet the needs of anticipated growth.

John Kellogg, Professional Consultants Inc., was representing Mr. Peters and Mr. Priske. Mr. Peters and Mr. Priske entered this project with optimism and have been surprised with what has happened during the process. They still maintain some optimism and feel this proposal offers a lot to the community and future owners. They have contacted Montana Fish, Wildlife and Parks (MFWP) and were pleased with the prospect of formalizing an agreement for access to this FAS, which has been informal for years. This is a great opportunity for the adjoining landowners and the community at large. It will improve the site by providing an adequate turnoff and avoid future conflicts by having MFWP manage it. Mr. Peters and Mr. Priske feel Riverwood Meadows will compliment the existing development in the area. The FAS has the potential to draw the neighborhood together. The neighborhood along Kona Ranch Road consists of an area of C-RR1 zoning that allows one acre lots and C-A3 on either side. There are pre-existing parcels in the area that are the same as this proposal. Planning Board made a recommendation against this proposal despite staff's positive recommendation. Three issues were raised. One was that this proposal was not consistent with the neighborhood. The existing parcels, zoning and future planned developments prove otherwise. This proposal conforms with zoning and subdivision regulations. No variances are being requested. It also has a density that follows the neighborhood pattern. The second issue raised by Planning Board was that this is outside the Urban Growth Area (UGA) boundary. The distance between the UGA boundary and this parcel is minimal. The UGA was intended as an incentive to develop within it rather than a disincentive for development outside it. The third issue raised was the question of riverbank erosion. Based on aerial photos, the river bank immediately adjacent to this property has not changed since 1975. There is property nearby on lower elevations adjacent to the river where the river has adjusted back and forth depending on activity near the riverbank. However, the riverbank adjacent to this property has not changed. The 150 foot setback, as proposed by the Floodplain Administrator and agreed to by the developers, will provide a cushion of comfort should there be an extraordinary event such as a 500 year flood. Within that 150 foot setback, there would be sufficient room to make adjustment if necessary to this property and the Kona Ranch bridge. In recent years, the rip rap has held very well, and the 150 foot setback provides a measure of protection that is necessary.

Chairman Evans returned to the meeting at this time.

John Kellogg continued: The developers are in agreement with the proposal as presented with one major exception, that being the connection to Melody Lane. The developers have an alternative they would like to explore. There are some concerns with Condition 1 as proposed by staff. It would seriously devalue the subdivision and provide only a marginal benefit. The 60 foot wide public road easement and building setbacks would cut in half the building site on Lot 4 and require moving the drainfield for Lot 5 and also cut into Lot 5's building site. This would take approximately \$15,000 from the value of Lot 4 and at least \$5,000 from the value of Lot 5. That is a substantial loss to the developers. A secondary devaluing would occur with the back door pathway created from Melody Lane through this subdivision as a shortcut to Kona Ranch Road. The neighbors should have some comment on connecting to Melody Lane as well. One has written expressing his preference to not have the connection, while being in favor of the subdivision. This road connection was suggested by staff. It was not included in the original proposal from the developer where it would have been designed to County standards and been subject to agency review. The impact on the subdivision is substantial. The road was not designed or engineered to go over the irrigation ditch and connect to Melody Lane. The angles that would be needed would not conform with County standards. The impact of the additional fill needed are not know and there is a hump in the road over the irrigation ditch. The damming effect of the additional fill may have adverse effects on adjoining properties. The developers have been looking at alternatives that might satisfy the concerns raised. There are three issues they have identified. One is emergency traffic, the second is potential future access to the property south of this subdivision should that be subdivided and the third is a convenient outlet for neighboring properties. The first two concerns are the most critical, emergency access and not landlocking the neighbor to the south. The third issue of convenience does not warrant the tradeoffs to this development. The developer has proposed emergency connection and pedestrian pathway, along with a future public access, similar to one used on other subdivisions. They are proposing from the end of their cul-de-sac an easement connection between Lots 4 and 5 that would serve immediately as pedestrian access, but potentially in the future would serve as an emergency access which would be designed as a buried road bed covered with grass. This is a design the City engineer's office uses as access to sewer lines. It is designed to support emergency vehicles and heavy equipment in the event of an emergency. This easement would not be fenced because it is a pedestrian walkway and would also provide potential for future construction. The southern 30 feet of the property would be a future access easement and a current pedestrian access easement which would run along the south side of the property and connect with the end of Melody Lane, providing a pedestrian connection with Melody Lane. Mr. Peters and Mr. Priske are willing to extend the culvert at the end of Melody Lane north to enable pedestrian connection to the river access. The positives to this proposal are that it solves the emergency access question for future access. Currently, the other half of the 60 foot access across the end of Melody Lane is not there. Neither this proposal nor the staff's recommendation would be possible until that other half is obtained. It will allow the property to the south an opportunity for development. It won't create the detriment of a backdoor pass-through from Melody Lane to Kona Ranch Road. Curt Belts at Rural Fire seemed to have a positive take on the proposal.

Chairman Evans opened the public hearing.

Willis Curdy, 11280 Kona Ranch Road, stated his property was adjacent to the proposed subdivision on the northwest side. He and his wife are opposed to the subdivision. The developers have downplayed the seriousness of the influence of the Clark Fork River on this proposal. He served on the Big Flat Irrigation District from 1983 to 1988. During that time, the concern was the river washing out the ditch, which had happened previously. Subsequently, the ditch had to be relocated because it was washed out by the river. The current landowner to the south of this proposal has lost their fence to erosion. The previous owner of this land lost as much as 18 feet on this bank on one night back in the 1970s. These are just some of the numerous times when property was lost at this location. The power line which previously ran down Melody Lane was replaced at least three times due to erosion. During the 1997 high water season, landowners upstream and downstream spent considerable money putting rip rap and other types of fill in the river to save their property. The pressure from the river is not by this subdivision, it is further up where erosion is evident. The river will continue to push inward. The current Big Flat Ditch is in danger of being lost from the pressure of the river. He felt the river would continue to push inward and could possibly take out this development some day. There is also the issue of water quality and having 9 septic systems near the river. If the river is rip rapped upstream it will put additional pressure on the river downstream. When the Kona Ranch Road bridge was installed, the abutments caused some problems. Mr. Kellogg mentioned the 150 foot setback cushion from the river, however, the previous owner lost 18 feet in one night. That did not seem of much comfort. The prior owner, Wayne Hegglen, had no intent to have this subdivided to less than one per five. Mr. Hegglen had many opportunities to sell and would not because the buyers were going to subdivide to something less than that. The one per one does not fit with the neighborhood. This is a rural area. The Planning Board was well advised to say no to this subdivision. It does not compliment the area. Farming still takes place in this area. That area was never intended to be one for one by the previous owner. The other concern is with Montana Fish, Wildlife and Parks. He could not figure out who would administer this FAS. This fishing area has been a source of trouble since Kona Ranch Road was built back in the 1980s. Parties, a lot of river traffic, cars parking in driveways, traffic problems and trespassing on private land are just a few of the problems experienced. An adjacent landowner has had lots of problems and has had his fence cut by people trespassing, even though there are signs posted. The south side is not a good landing area, the drop to the river is steep. The Sheriff's Department has not been able to take care of all of the problems that have come up. This FAS will be a source of trouble similar to MacLay Bridge. He had a discussion with Mr. McCormick and sent a follow up letter in which he posed some questions. He has not had a response to his letter and was disappointed. He had a conversation with a friend last fall who indicated they had purchased a lot in this subdivision. He wondered if this was already a done deal.

Joe Sariva stated he was a former land owner on Big Flat Road. He has used the informal fishing site and did not find it to have heavy traffic. He had not seen any more than six cars at any one time there. He doesn't agree with the former speaker. He felt a fishing access open to the public with parking would be a benefit. The flow of the river hasn't changed since he has been there, about 5 years. The person who lost 18 feet in one night was probably up river or down river of this area. He felt the 150 foot setback was much more than the river would take, even in the next 100 years. He is in favor of the fishing access and the subdivision. On that side of Kona Ranch Road, to the west, there are other 1 acre parcels.

Mike Priske stated he was one of the developers and has been in Missoula since 1976. He addressed some of Mr. Curdy's issues. When he and Mr. Peters were looking at the property, one of the points the owner brought up was that this was zoned one per acre, and he knew it was their intention to split the property into one acre parcels. For the amount of money he was asking for the property, the only way to justify the cost was to split it into one acre parcels. He felt this had been designed in a very responsible manner and blends in with the neighborhood and will benefit the entire community. There are several houses on Kona Ranch Road heading west that are on one acre parcels. No one knows what the river will do from year to year, but after much research and discussion, it is in the County's best interest to protect this particular area as best as they can because of the location of the Kona Ranch Road bridge. It was his understanding if erosion threatened the bank the County would step in to protect the bridge. Brian Maiorano, the Floodplain Administrator, agreed with that assessment during a site visit. He knew the Sheriff's Department was overworked. Perhaps the taxes generated by these nine new lots would help with staffing shortages. It is not their intention to have the FAS as an all day, all night party location. In discussions with MFWP, this would have limited access with a locked gate, shut down at around 10:00 p.m. and opened at around 6:00 a.m. It would also address the safety issue of cars parked on Kona Ranch Road. There will not be a dock put in. There has not been any farming done on this property for a long time and would not be useful as farmland. His other concern was addressed by John Kellogg, that of the conditional easement to Melody Lane. That would have an adverse effect on this subdivision. This subdivision has no effect on Melody Lane. It is also not reasonable or fair to take from this subdivision to remedy a problem associated with another property without some compensation. The remedy they are proposing addresses most of the issues related to emergency access and pedestrian traffic. Brian Maiorano also seemed to have a problem with putting a bridge over the ditch. The bridge would have to be elevated and Mr. Maiorano felt this could cause a problem with flooding. He thanked staff for their consideration of this project.

Shannon Anderson stated she was a homeowner and landowner in the area. She and her husband have fished in the area numerous times. They are friends with the owners across the river from this proposed subdivision. They have witnessed people parked on the road and crossing private property illegally to fish. This public fishing access would eliminate that. She and her husband are in favor of both the proposed fishing access and proposed subdivision.

Ken Clizbe stated he has lived here all his life. He is in favor of this subdivision. The fishing access is a great idea. He did have a problem with the access to Melody Lane. There is a commercial enterprise on Melody Lane, a tree farm that sells Christmas trees every year. That tree farmer would put up a sign which would increase traffic and create a safety issue. He lives out off Mullan Road and has a loop road. They have a problem with kids who don't live there driving on the road and this would invite the same situation. It is zoned for one acre sites. He has been looking for a one acre site off Big Flat for years. Mr. Priske had addressed all the other concerns he had made notes on. The gentleman who is opposed to this seemed to have the "Not In My Back Yard" syndrome.

Curt Belts, Assistant Chief Fire Marshall for Missoula Rural Fire District, stated the district is in favor of the proposal. The would support the proposal that Mr. Kellogg presented about the road easement right-of-way. As fire officials, they are always interested in connecting subdivisions and future growth to provide a network of streets rather than a bunch of cul-de-sacs. Anything that allows them to get from one subdivision to another is favorable. This proposal of allowing emergency access meets with their approval.

Commissioner Curtiss asked about the road angles and if they met road standards.

Horace Brown stated that as long as the new proposal from the developer was used by pedestrians and bicycles, there was no problem. It could not be used for vehicles, except in an emergency when vehicle speed would be slower. If a road were put in there, the corners could be handled, but not well, the road would go from one side of the right-of-way to the other. There is a problem with going over the irrigation ditch. He doubted if there was enough right-of-way to cover the fill that would have to be used.

Chairman Evans asked if the County needed another bridge to maintain?

Horace Brown stated this would not necessarily be a maintained road.

Chairman Evans stated that the County was responsible for all bridges.

Horace Brown stated that was correct, but if the road is not maintained, then neither is the bridge.

Commissioner Curtiss asked if Melody Lane is County maintained.

Horace Brown stated it is County maintained.

Commissioner Curtiss asked Horace Brown if he would use this angle if he were designing this road.

Horace Brown stated he would not. It is not convenient and there may not be enough right-of-way to make the corner.

Chairman Evans asked counsel to address the possible sale of a lot before subdivision approval and other legal issues.

Mike Priske stated that no lots have been sold and no earnest money has been received. They have talked about their plans to a few people, but nothing has been sold.

Colleen Dowdall stated it is legal for a subdivider to sell a parcel of land after preliminary plat approval but before the final plat is filed under some very strict circumstances. It does not permit the developer to take any money. The money must be held in escrow until the plat is filed and all the conditions are satisfied. That is to protect the buyer in the event the plat is never filed. County regulations and State law provide for that. On another topic, she reminded the Commissioners of her discomfort with public pedestrian access easements given that the County does not have a mechanism for maintaining them. They are not roads or sidewalks and the County has no authority over anyone for a public access easement to be maintained such as the City has for sidewalks. In subdivisions where a trail is important to the County, it has been designed as park in order to make it a public easement. In this case, the findings should be made that the trail is important before it is decided it is wanted as a public area. Then it would be something that would be required to be maintained or provide for maintenance by requiring the developer do that. This is in regards to the new proposal the developers brought to the Board's attention between Lots 4 and 5.

Willis Curdy stated that in regard to the pre-sale of a lot, he has seen blueprints that the party had done for the property they said they had purchased.

There being no further comments, the public hearing was closed.

Jennie Dixon stated she would like to respond to some of Mr. Curdy's questions. Most of the answers were contained in either the packet or on the plat. In regard to the sewer system, each lot is proposed to have its own septic system and proposed sites for drainfields are shown on the plat. There are some letters from Montana Fish, Wildlife and Parks in the packet concerning who would be responsible for upkeep and maintenance of the FAS. One of the conditions is that this be dedicated as public park as it is shown on the plat and that the developer initiate a process with MFWP for them to manage the site. This area was zoned in 1977 for one dwelling per acre.

Willis Curdy asked if the zoning went all the way to river?

Jennie Dixon stated the resolution done in 1977 defined it as the general area.

Dale McCormick stated it was called the Hellgate, Grass Valley, Airport area, Resolution 77-44. It is the entire area as shown but did not go all the way to the river's edge.

Willis Curdy felt it was curious that the Grass Valley area was on the other side of the river and there was just this small sliver that was zoned something else.

Horace Brown stated the easement through County land to the fishing access should be shown on the plat. The easement will go perpendicular to Kona Ranch Road to a distance of 20 feet then turn to the east and access across the parkland until it gets to the County land. If it is not shown before the park is created, it cannot be used for vehicles. It is important that it be shown before the plat is filed.

Colleen Dowdall stated the developer understands the need for showing the road on the plat as the park is being dedicated.

Commissioner Carey asked Mr. Kellogg why the drainfield on Lots 6 through 9 were not further away from the river?

John Kellogg stated the drainfield layout is done using data obtained from a non-degradation analysis. The direction of ground water flow is anticipated so drainfields need to be spaced accordingly. The distance was needed to accommodate that design. The drainage design also uses a wide, low area through the middle of the subdivision adjacent to the roadway in order to avoid a channelized path for any overland flow of water. The topography of the area was also taken into consideration. The soils on this site are extremely good for septic system design.

Commissioner Carey stated that the conclusions of law states that this is not in complete compliance with the Comprehensive Plan and it is being built in the 500 year floodplain. Is that a gamble with a 500 year flood?

Colleen Dowdall stated the Floodplain Regulations don't prohibit development in the 500 year floodplain. It would be hard to make findings to prohibit development in the area. The Floodplain Administrator does review every project and in this case required some elevations be shot to determine the exact location, in terms of both liability and protecting the health and safety of individuals. Brian Maiorano's analysis does that risk assessment. Development can't be prohibited in the 500 year floodplain, but conditions can be imposed that will hopefully prevent property loss. The emphasis is on protecting public and private improvements in flood prone areas but it is not illegal to build in flood prone areas. The Comprehensive Plan splits this area, it recommends Parks and Open Space for a portion of the land, which is where the proposed park is located. The other part matches the zoning.

Dale McCormick stated the west side is Parks and Open Space and the east side is Rural Residential.

Colleen Dowdall stated the findings speak for themselves.

Commissioner Curtiss stated that zoning generally over-rides the Comprehensive Plan.

Colleen Dowdall stated that generally it does. Montana law favors the right of individuals to divide their land or to do on their land what they propose with the limitation that the County can zone land and it can regulate the subdivision of land. State laws gives certain criteria by which it can be determined whether a subdivision should be approved. If the County makes findings that suggest a subdivision was creating impacts, an opportunity must be given to the developer to mitigate those impacts before a subdivision could be denied. The finding that would have to be made in order to deny a subdivision is that there are impacts that cannot be mitigated. The law favors allowing individuals to divide their land and it also gives developers mechanisms, if the County does not follow the law, for going to court and having the court order the County to do what it is legally obligated to do and also awarding damages to the developer.

Commissioner Curtiss asked Mr. Kellogg for the map that showed the Urban Growth Area and other one acre lots that he referred to earlier.

John Kellogg gave the map to Commissioner Curtiss for the record. He also showed the Commissioners an overlay of the aerial photo from 1975 compared to an aerial photo from 1997. It shows that immediately adjacent to this parcel there has been no change in the river bank. With regard to the maintenance question that Colleen Dowdall raised, there will be a homeowners association to maintain the landscaping at the front of this subdivision. The developer is willing to include the maintenance of the walkway at the rear of the subdivision as well.

Colleen Dowdall asked if they would be willing to do so even if it was open to the public?

John Kellogg stated they would be willing to do that.

Colleen Dowdall stated her problem was that typically a homeowners association has difficulty getting liability insurance for areas that are open to the public.

John Kellogg stated that if this were public, would the liability be left to the homeowners.

Colleen Dowdall stated it would be if the homeowners association has the maintenance responsibility. However, if the insurance doesn't cover it, liability will still come to the County.

Commissioner Curtiss asked how liability is handled in alleys?

Colleen Dowdall stated that alleys are public right-of-way.

Commissioner Curtiss asked if this was public right-of-way, would the biggest concern be who would maintain it?

Colleen Dowdall stated that in addition, the County does not have public right-of-way that is dedicated for pedestrian use. The State law says that if there is public right-of-way, it is for motor vehicles. The implication is that it could be forced to be open for motor vehicles use. It is a very difficult thing for the County to try and accomplish.

Chairman Evans asked if it would be better to not have it at all.

Colleen Dowdall stated that from a legal standpoint, it would be easier to not have the public pedestrian access easement. From the planning perspective was the discretion of the Board.

Commissioner Carey asked if there was some way to make this work?

Colleen Dowdall stated it could be called a linear park and in that case, the maintenance responsibility again needs to be dealt with. There have been occasions where findings have been made that a trail is an important connection and requires a homeowners association to maintain the park trail. Again, the liability issues are related to how good the homeowners association is at maintaining it. It brings the question of whether or not to inspect the trail occasionally, as is done with parks. The County is not set up to do that very well.

Commissioner Curtiss stated the best choice would be to call it a linear park and have the homeowners association maintain it like they do the land abutting Kona Ranch Road.

Colleen Dowdall stated that was correct.

Commissioner Carey asked if some mechanism needs to be set up to inspect the trail once a year.

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Chairman Evans did not want to take on any more park responsibilities than the County currently has.

Commissioner Carey stated that if this was not inspected, then the County would be liable for some potential injury that could have been prevented by good maintenance.

Chairman Evans stated that if it is not designated, then there is no liability nor responsibility.

Commissioner Carey stated there would be no access.

Chairman Evans stated people could go out and around.

Commissioner Carey stated the fire district very much wanted the emergency access.

Chairman Evans stated that was not the pedestrian walkway. It is building the road underneath in such a way as to handle emergency vehicles.

Mike Priske stated it could be for emergency access only. That would only kick in when the easement is obtained from the adjacent property to the south, which has not yet been done.

Colleen Dowdall stated she did not understand that the emergency access would only kick in when the easement is obtained.

Mike Priske asked how it could be given without an easement across the neighbors property to get across the ditch.

Colleen Dowdall stated that in that case, it really has very little value.

Mike Priske stated that was true until there was future development. They were trying to address the problems of allowing the neighbor to the south to develop his property, which without an easement on this property, he would not be able to do. Also, if there was future development to the south, there would be a means for access. As far as pedestrians walking in the area, that was a completely separate issue.

Commissioner Carey stated he was confused as to what was being proposed. He understood that the developer was proposing a 30 foot wide pedestrian path and future public access.

John Kellogg stated the portion along the southern end would be a future public access which would combine with the 30 feet on the other side, should that property owner want to develop.

Commissioner Carey stated the 30 foot wide pedestrian path doesn't relate to emergency access.

John Kellogg stated it did not. The emergency access will be there. If the land to the south develops, that would become a public access that would connect to the emergency access. The full connection would be available if and when the land to the south gives the other half of the access.

Commissioner Curtiss stated then that there would not be anything there until there was future development, not even off the cul-de-sac.

John Kellogg stated they were envisioning pedestrian access happening immediately, but if there is a liability question that cannot be resolved, then it would not happen.

Commissioner Carey stated it sounds like it could be, if the developer maintains it and the County inspects it.

Colleen Dowdall stated it would address the concern of liability with regard to maintenance. There are still concerns that the County doesn't have the mechanism, if this is done on a large scale basis, to track where these easements are granted so annual inspections could be conducted.

Commissioner Carey stated he was urging that a way be found to do that, because this is a very creative solution to the problem. It was his understanding that the 20 foot wide emergency access and pedestrian path would allow for emergency access and pedestrians, but not traffic. That seems to be what is wanted. It would be in the County's interest to create a mechanism so if this comes up in the future, it can be done. This seems to hamstring the process so the flexibility should be found so this can be done.

Colleen Dowdall stated this is a long standing problem.

John Kellogg asked if an agreement between the homeowners association and the County could be set up to address that.

Colleen Dowdall stated that perhaps a condition could be worded that the pedestrian easement will be on the final plat if liability issues can be resolved prior to final plat filing.

Chairman Evans allowed Mr. Curdy to make one last statement.

Willis Curdy stated there was no homeowners association.

Chairman Evans stated one would be created with the subdivision.

Willis Curdy asked if it would be specified that the homeowners association would have to maintain the trail.

Chairman Evans stated that was correct.

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Commissioner Curtiss asked Dale McCormick if the private drives that comes off Melody Drive connect to Kona Ranch Road.

Dale McCormick stated he believed both are private driveways and are gated.

Commissioner Curtiss stated that the assumption was that these nine homes would receive approval for nine septic systems.

John Kellogg stated there was State DEQ approval for nine septic systems.

Commissioner Curtiss stated the fishing access is great and will address the trespassing and parking problems that are currently being experienced, because it will be managed and will offer off road parking. It will benefit the community. In all the information the Board has seen, erosion and floodplain problems have been addressed. The homes will be built two feet above the 100 year flood elevation. It is the responsibility of the County Commissioners to consider health and safety issues. She disagreed with the developer's opinion that the Commissioners should only look at the particular subdivision in question. She was glad to see the alternate solution presented because the Board does need to look at the big picture and how the proposal meshes with current and future development. The Board recently adopted a grid road system to make sure there were adequate roads to deal with future development.

Jennie Dixon stated she and Dale McCormick would help with the motion. There are no variances being requested. She wanted to clarify what the Board wanted to do. Condition 1 could be modified to deal with the conditional access easement from the end of the cul-de-sac, and that both Condition 6 and 10 were revised at the Planning Board meeting, and Horace Brown recommended a change to Condition 9.

Colleen Dowdall stated that if the pathway will be parkland, she had drafted some language to add another condition under Parks and Recreation that would address the maintenance and upkeep of the parkland.

Jennie Dixon asked if that would include designating it also, so Condition 1 could be deleted.

Colleen Dowdall stated that not all of Condition 1 should be removed, just the part as it relates to the conditional public access easement centered on the common boundary between Lots 4 and 5.

Jennie Dixon stated the Board would need to modify Condition 1, accept the modifications to Conditions 6, 9 and 10, and add a new condition under Parks and Recreation. If the Board is going to go with John Kellogg's suggestion for connection from the cul-de-sac, it needs to be worded so that when staff looks at it for final approval, it is understood what needs to shown on the plat. The condition also needs to be clear about improvements and maintenance responsibilities.

Commissioner Curtiss stated she like the developers proposal that shows the 20 foot wide area and an easement that could in the future become road if necessary for the other development, and the suggestion of the hard surface with grass over it.

Commissioner Carey moved that the Board of County Commissioners approve the Riverwood Meadows Preliminary Plat Subdivision, based on the findings of fact in the staff report, subject to the amended conditions in the staff report and subject to the following amendments. Condition 1 would be revised to remove the first sentence and reference to a connection with Melody Lane. Condition 1 will read: "A 30 foot wide conditional public access easement shall be provided along the southern boundary of Lot 4 for use at such time further subdivision occurs south of the proposed Riverwood Meadows Subdivision." Conditions 2, 3, 4 and 5 remain unchanged. Condition 6 will read: "Easements allowing access to the drainfield for Lot 6 partially located on Lot 7 shall be shown on the plat, and a maintenance and use agreement for the portion of Lot 6 drainfield on Lot 7 shall be reviewed and approved by the County Attorney's Office prior to final plat approval." Conditions 7 and 8 remain unchanged. Condition 9 will show the width of the public access easement reduced to 30 feet. Condition 10 will delete "including basements." The new condition under Parks and Recreation will read: "Additional public park shall be shown on the center line between Lots 4 and 5 at a width of 20 feet and continue along the southern boundary of Lot 4. The improvements and maintenance of this area will be the responsibility of the homeowners association. The improvement of the park area shall be to the standard presented by the applicant which is a grass covered hard surface linear park capable of handling emergency vehicles. The developer shall address the issues of liability related to maintenance upkeep prior to final plat approval, subject to the approval of the Office of Planning and Grants and the County Attorney's Office." Conditions 11 through 16 remain unchanged. Conditions 10 through 16 will be renumbered due to the addition of the new condition under Parks and Recreation. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Riverwood Meadows Conditions of Approval:

Conditional Public Access Easement

1. A 30 foot conditional public access and utility easement shall be placed on the plat from the end of Melody Lane along the southern boundary of Lot 4 to the eastern boundary of Lot 4. The following statement shall be included on the plat and refer to the conditional public access and utility easement:

"The owners dedicate a 30 foot right-of-way for purposes of a public roadway over and across Lot 4 of Riverwood Meadows, as shown on the subdivision plat of Riverwood Meadows, conditioned upon said right-of-way being used as a roadway at the time that it is needed to serve future subdivision on the parcels to the south of Riverwood Meadows. The lot owners and future owners of lots in Riverwood Meadows will not be responsible for the construction of the future roadway if construction of the future roadway is attributable to division of land to the south. No structures, permanent improvements or utilities shall be placed within said right-of-way so as to interfere with the eventual use of the right-of-way as a public roadway." *Subdivision Regulations Article 3-2(1)(E), 3-3(1)(H), Missoula Rural Fire District, County Public Works Department and OPG recommendation.*

Pedestrian Walkways

2. A 5 foot wide gravel walkway shall be provided in the County right-of-way along the southern frontage of Kona Ranch Road from the north end of the proposed cul-de-sac to the east where it meets the proposed Fishing Access

Site. Final plans for design of the walkway shall be reviewed and approved by the County Surveyor prior to final plat approval. *Subdivision Regulations Article 3-2(5) and OPG recommendation.*

Roads

3. The final name of the cul-de-sac shall be reviewed and changed to a name approved by the County Surveyor prior to final plat approval. *Subdivision Regulations Article 3-2(8) and County Surveyor recommendation.*
4. The plat shall be revised to show a one-foot no-access strip along the frontage of Kona Ranch Road across Lot 1 and Lot 9. *Subdivision Regulations Article 3-2(9), County Surveyor and OPG recommendation.*

Water and Sewer

5. The following statement shall appear on the face of the plat:

“Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for public water or sewer systems, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land.” *Subdivision Regulations Article 3-7 and Health Department recommendation.*

6. Easements allowing access to the drainfield for Lot 6 partially located on Lot 7 shall be shown on the plat, and a maintenance and use agreement for the portion of Lot 6 drainfield on Lot 7 shall be reviewed and approved by the County Attorney’s Office prior to final plat approval. *Subdivision Regulations Article 3-6 and OPG recommendation.*

Fire

7. The developer shall contribute \$100.00 per new lot or dwelling unit to the Missoula Rural Fire District. Evidence of contribution shall be presented to the Office of Planning and Grants at the time of plat approval. *Subdivision Regulations Article 3-7(2) and Missoula Rural Fire District recommendation.*

Parks and Recreation

8. The developer shall be responsible for initiating the process of creating a Fishing Access Site (FAS) and shall have an indication of the willingness of Montana Fish, Wildlife and Parks (MFWP) to manage the site, as part of the dedication of parkland, subject to review and approval by Missoula County prior to final plat approval. *Subdivision Regulations Article 3-8, County Attorney, County Surveyor and OPG recommendation.*
9. If the parkland is created as an FAS, the final plat shall show a 30 foot public access easement through the 1.16 acre park connecting Kona Ranch Road to the County owned land fronting the Clark Fork River. The location of the road is subject to the approval of MFWP and Missoula County and may not be necessary if the site is not accepted by MFWP for management as an FAS. *Subdivision Regulation Article 3-8(5) and County Surveyor recommendation.*
10. A 20 foot wide linear public park and emergency access easement centered on the lot line between Lots 4 and 5 shall be shown on the face of the final plat, subject to review and approval by OPG and the County Attorney’s Office. This easement shall be improved with 8 inches of 3 inch minus road base material beneath 2 inches of topsoil and sod and shall be capable of handling emergency vehicles, subject to review and approval by the Missoula Rural Fire District. A 30 foot wide linear public park easement along the southern boundary of Lot 4 to Melody Lane abutting the 20 foot wide linear public park and emergency access easement centered on Lots 4 and 5 shall be shown on the face of the final plat, subject to review and approval by OPG and the County Attorney’s Office. The covenants shall state that fences are prohibited within these easements. The improvements and maintenance of this area shall be the responsibility of the homeowners association. *Subdivision Regulations Article 3-2(1)(E), 3-3(1)(H), Missoula Rural Fire District, County Public Works Department and OPG recommendation.*

Floodplain

11. A development covenant shall be filed prior to final plat approval, subject to OPG and County Attorney approval, that states the following:

“The lowest floor of any structure anywhere on the property shall be at least 2 feet above the 100 year flood elevation. Crawlspace floors may be at or above the elevation of the 100 year flood elevation if they do not contain mechanicals.” *Subdivision Regulations Article 3-1(1)(B), 4-1(12) and Floodplain Administrator recommendation.*
12. A line indicating a no-build zone located 150 feet from the top of the bank of the Clark Fork River shall be indicated on the face of the Plat. *Subdivision Regulations Article 3-1(1)(B), 4-12(12) and Floodplain Administrator recommendation.*

Weed Management

13. A Revegetation Plan for Disturbed Sites shall be approved by the Missoula County Weed Board prior to final plat approval. *Subdivision Regulations Article 3-1(1)(B) and OPG recommendation.*

Riparian Management

14. Article VII of the proposed covenants shall be amended to include the Riparian Resource Management Plan, subject to review and approval by OPG, prior to final plat approval. *Subdivision Regulations Article 4-1(12) and Montana Fish, Wildlife and Parks recommendation.*
15. A line shall appear on the plat designating the boundary of the “natural” strip referred to in the Riparian Resource Management Plan located 25 feet from the top of the river bank on Lots 5 and 6. *Subdivision Regulations Article 4-1(12) and OPG recommendation.*

Wildlife

16. Article VII of the proposed covenants shall be amended to include the following information, subject to review and approval by OPG, prior to final plat approval. *Subdivision Regulations Article 4-1(12) and Montana Fish, Wildlife and Parks recommendation.*

- That homeowners must accept the responsibility of living with wildlife and be responsible for protecting their vegetation from damage, confining pets and properly storing garage and other attractants.
- That homeowners should be aware of potential problems associated with the occasional presence of bears, mountain lions, deer, etc.
- That artificial concentrations of game animals resulting from feeding can attract mountain lions and also result in additional damage to gardens, ornamental shrubs, etc.
- That birdfeeders and compost piles also attract bears and should be discouraged from being used in this area.
- That artificial feeding of wildlife is prohibited.
- Flowers, ornamental shrubs and fruit trees may be susceptible to damage from wildlife, therefore planting of native vegetation is encouraged.
- Perimeter fencing of the property is strongly discouraged. Barbed wire fencing is prohibited.
- Appended to these covenants is a copy of each of the following brochures: "Living with Wildlife," and "Bear Safe." Additional copies can be obtained from the Missoula Office of Planning and Grants, 435 Ryman, Missoula, MT 59801, (406) 523-4657, or Montana Fish, Wildlife and Parks. Lot owners should follow recommendations made in these brochures.

Covenants

17. Amendments to the proposed covenants addressing Riparian Management and Wildlife as conditions of approval of this subdivision shall not be amended at a future date without the approval of the governing body. *Subdivision Regulations Article 4-1(12) and OPG recommendation.*

There being no further business to come before the Board, the Commissioners were in recess at 3:25 p.m.

THURSDAY, APRIL 19, 2001

The Board of County Commissioners met in regular session; all three members were present. In the evening, the Commissioners met with residents of El Mar Estates at Hellgate Middle School Lunchroom regarding the proposed Mullan Corridor Sewer Project.

Replacement Warrant – Chairman Evans examined, approved, and ordered filed an Application for Issuance Replacement Warrant naming Pitney Bowes Inc., Louisville, Kentucky, as Applicant for Accounting (for Central Services) Warrant #378819 issued January 23, 2001 on the General Fund in the amount of \$348.00, which was not received in the mail. This amount was payment for meter rental 10/1-12/31/00, Invoice #837818 (1/3/01). No bond of indemnity is required.

Replacement Warrant – Chairman Evans examined, approved, and ordered filed an Application for Issuance Replacement Warrant naming Pyramid Printing, Missoula, as Applicant for Accounting Warrant #372109 issued November 13, 2000 on the Health Fund in the amount of \$116.71, which was not received in the mail. This amount was payment for copies. No bond of indemnity is required.

Replacement Warrant – Chairman Evans examined, approved, and ordered filed an Application for Issuance Replacement Warrant naming Valley Motor Supply, Missoula, as Applicant for Accounting Warrant #380537 issued February 12, 2001 on the Road Fund in the amount of \$963.45, which was not received in the mail. This amount was payment for supplies. No bond of indemnity is required.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Memorandums of Agreement – The Commissioners signed two (2) Memorandums of Agreement, dated April 1, 2001, between Missoula County and 1) WORD/FAMILY BASICS ("WORD") and 2) Missoula County Public Schools Adult and Continuing Education Division, for the implementation of the Wallace Reader's Digest Planning Grant for Family Literacy in Missoula County. The term for both agreements will be April 1, 2001 through October 31, 2001, and are contingent upon receipt of WRD Funds by Missoula County. The total amounts shall not exceed: 1) \$21,106.80 for WORD and 2) \$5,742.22 for Adult and Continuing Education. The documents were returned to Peggy Seel in the Office of Planning and Grants for further handling.

Grant Awards – Chairman Evans signed two (2) State of Montana Board of Crime Control Grant Awards, subject to special conditions and general conditions as set forth therein. The term for both grants will be July 1, 2001 through June 30, 2002. The source of Federal funds: 16.540 - Juvenile Justice & Delinquency Prevention, as follows:

- 1) Subgrant 01-J13-80693, Community Support System. The grant total is \$17,847.00.
- 2) Subgrant 01-J13-80694, Connections: Early Intervention. The grant total is \$30,150.00.

Both documents were returned to Dorothy Brownlow in the County Attorney's Office for further handling.

Counter Offer – The Commissioners signed a Counter Offer, dated March 31, 2001, pertaining to a Buy/Sell Agreement between Missoula County Development Park and Patrick S. McCutcheon, and/or Assigns, concerning the property described as Lot 4, Block 9, Phase II, Missoula Development Park, Missoula, Montana. Modifications are set forth therein, including the sales price, which is changed to \$474,370.00. Acceptance of the Counter Offer may be made prior to April 20, 2001. The document was returned to Barb Martens in the Projects Office for further handling.

Agreement – The Commissioners signed an Agreement for Professional Engineering Services between Missoula County and WGM Group, Inc., to secure professional engineering services for RSID No. 8465, Paving of Farm Lane

in Lolo. This Agreement has been reviewed and approved by the Chief Deputy County Attorney and is within the estimated budget at the time the district was created. The document was returned to Jesse Sattley, RSID Coordinator, for further handling.

Request for Action – The Commissioners approved a Park Board recommendation to apply the herbicide "Confront" on approximately 40 acres at the Fort Missoula Complex. Target day for spraying is April 24, 2001. The document was returned to Barb Martens in the Projects Office for further handling.

Other items included:

- 1) The Commissioners denied a request from Linda Walrath to waive penalty and interest for the property located at 178 & 180 SW Higgins, Missoula, Montana, as the Commissioners do not have any legal authority to waive these fees from the information provided by Ms. Walrath.
- 2) Cindy Wulfekuhle has requested that a Commissioner give a welcome speech at the Open House for the new Opportunity Resources duplex on April 27, 2001. Commissioner Carey has agreed to deliver the speech.
- 3) The Commissioners endorsed a request by the Missoula County Sheriff's Department to receive from the Department of Motor Vehicles custom exempt plates that are MCSD (badge number). The request was returned to Willis Hintz for further handling.
- 4) A discussion was held and the Commissioners moved to proceed on the Housing Cooperative Initiative. A contract will be written for further action.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

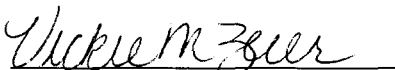
FRIDAY, APRIL 20, 2001

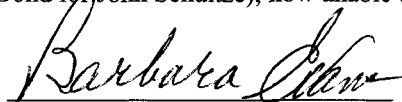
The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Curtiss was out of the office all day. In the forenoon, Commissioner Carey attended a Mental Health Board Meeting held at Turning Point.

Claims List – Chairman Evans and Commissioner Carey signed the Claims List, dated April 20, 2001, batch numbers 1210 and 1215 (pages 1-5), with a grand total of \$100,619.90. The Claims List was returned to the Accounting Department.

Indemnity Bond – Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming Mary Windecker of the Partnership Health Center as principal for Accounting Warrant #381256 issued February 21, 2001 on the 2771 Fund in the amount of \$150.00, now unable to be found.

Indemnity Bond – Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming Granite County Justice Court, Drummond, Montana, as principal for Missoula County Detention Facility Warrant #102627 issued March 13, 2001 on the Bond Fund in the amount of \$290.00 (Bond for John Schultze), now unable to be found.


Vickie M. Zeier
Clerk & Recorder


Barbara Evans, Chair
Board of County Commissioners

MONDAY, APRIL 23, 2001

The Board of County Commissioners met in regular session; all three members were present in the forenoon. Commissioner Carey was out of the office all afternoon. In the evening, Commissioner Carey attended a meeting regarding the proposed Mullan Corridor Sewer Project with residents of the 44 Ranchettes Subdivision held at Hellgate Middle School Lunchroom.

Claims List – The Commissioners signed the Claims List, dated April 23, 2001, batch numbers 1214, 1216, and 1225 (pages 1-6), with a grand total of \$11,516.26. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated April 23, 2001, batch number 1224 (pages 1-2), with a grand total of \$8,865.68. The Claims List was returned to the Accounting Department.

Payroll Transmittal – The Commissioners signed the following Payroll Transmittal Sheet: Pay Period: 08 - Pay Date: April 20, 2001. Total Missoula County Payroll: \$758,500.03. The Transmittal Sheet was returned to the Auditor's Office.

Resolution No. 2001-040 – The Commissioners signed Resolution No. 2001-040, dated April 23, 2001, a Budget Amendment for the Health Department (MDPHHS Contract #01-07-2-21-013-0) in the amount of \$30,000.00, adopting same as part of the Fiscal Year 2001 Operating Budget for Missoula County.

Budget Transfer – The Commissioners signed Budget Transfer Control No. 01-014 for Health Department #2270, transferring \$30,277 (Perm Salaries) and \$8,954 (Fringe) from BSB.EL 447201 to 447200. These funds are from two Traffic Safety contracts. They should be separate for audit purposes, combined for budget ease.

Budget Transfer – The Commissioners signed Budget Transfer Control No. 01-015 for Health Department #2270, transferring \$4,400 (Perm Salaries) and \$4,300 (Contracted Services) (BSB.EL 447300), to Perm. Salaries (BSB.EL 447200). These funds are from two HIV prevention contracts. They should be separate for audit purposes, combined for budget ease.

Letter of Appointment – The Commissioners approved and signed a letter, dated April 23, 2001, reflecting the appointment of Dick King, President and CEO of MAEDC, to the Missoula County Community Based Organization (CBO) Application Review Committee. Mr. King's new term will be July 1, 2001 through June 30, 2002.

TUESDAY, APRIL 24, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – The Commissioners signed the Claims List, dated April 24, 2001, batch number 1217 (pages 1-4), with a grand total of \$31,853.96. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated April 24, 2001, batch number 1226 (pages 1-5), with a grand total of \$129,467.58. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Memorandum of Agreement – The Commissioners signed a Memorandum of Agreement, dated April 1, 2001, between Missoula County and the Art Museum of Missoula, for assistance with the planning process for implementation of the Wallace Reader's Digest Planning Grant for Family Literacy in Missoula County. The term will be April 1, 2001 through October 31, 2001, and is contingent upon receipt of WRD Funds by Missoula County. The total amount shall not exceed \$6,490.00. The document was returned to Peggy Seel in the Office of Planning and Grants for further handling.

Travel Policy – The Commissioners agreed to change the wording of the existing Missoula County Travel Policy. The new wording will state that employees may receive a midday meal allowance if travel is a routine condition of employment, and the travel involves being out of town (Missoula).

Letter of Appointment – The Commissioners approved and signed a letter, dated April 24, 2001, reflecting the appointment of Dan Corti to a three-year term as a member of the Missoula Rural Fire District Board of Trustees. Mr. Corti's term will run until the School Election in May of 2004.

Other items included:

- 1) Discussion was held regarding the Barking Dog Ordinance. A meeting will be arranged with City and County officials to further discuss this issue.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, APRIL 25, 2001

The Board of County Commissioners met in regular session; all three members were present in the forenoon. Commissioner Curtiss left at noon for New York City for meetings in conjunction with the Family Literacy Grant through Friday, April 27th. In the evening, Commissioner Carey attended a meeting with the residents of the Frey/Homestead Subdivisions regarding the proposed Mullan Corridor Sewer Project held at Hellgate Middle School.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the Chief Administrative Officer meeting held in the forenoon, the following items were signed:

Counter Offer – The Commissioners signed a Counter Offer, dated April 12, 2001, pertaining to a Buy/Sell Agreement between Missoula County Development Park and Henry A. and Karen Scholz, concerning the property described as Lot 2, Block 6, Phase I, Missoula Development Park, Missoula, Montana. Modifications are set forth therein, including the sales price, which is changed to \$126,000.00. The closing date is changed to June 12, 2001. Acceptance of the Counter Offer may be made prior to April 26, 2001, 3:00 p.m. The document was returned to Barb Martens in the Projects Office for further handling.

Deed Restriction Agreement and Subordinate Deed of Trust

Chairman Evans signed a Deed Restriction Agreement and Subordinate Deed of Trust between Missoula County and Sharon A. Beauchamp, in the amount of \$4,790.00 for the property located at 6385 Highway 83, Condon, Montana 59826, and legally described as: Lot 3, Block 1, Swanland Recreation Sites, Condon, Montana. These documents provide HOME Investment Partnerships Program (HOME) funds to assist with down payment, closing cost and, if necessary, mortgage reduction assistance, as per the terms and conditions set forth therein. The documents were returned to Jennifer Blumberg in the Office of Planning and Grants for further handling.

Extension – Regarding a letter dated March 26, 2001, exercising that Option Agreement for Reserve Parcel "B" where Sellers are Missoula County and Buyer is Wesmont Builders/Developers, Inc., the Commissioners signed a statement noting that "the parties agree that "Clause 7" of the original Option Agreement will be amended by changing 30 days to 60 days." The statement was returned to Barb Martens in the Projects Office for further handling.

PUBLIC MEETING – April 25, 2001

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Bill Carey, County Surveyor Horace Brown, County Clerk and Recorder/Treasurer Vickie Zeier, Deputy County Attorney

Colleen Dowdall and Chief Civil Attorney Michael Sehestedt. Commissioner Jean Curtiss was attending a Literacy Grant meeting in New York.

Public Comment

Warren Wilcox stated he worked with the John R. Daily Company. He read the following letter: "A newspaper article appeared on April 20, 2001, front page, headline reading, "Air board's authority survived 'close call,' health chief claims." This article was somewhat bias and I would hope that several of the statements attributed to County officials were taken out of context. I have been personally involved since early March of last year in a process that led to the drafting and final passage of HB605. At that time I requested an invitation to address the MAEDC monthly board meeting and was subsequently interviewed by both the newspaper and a local TV station regarding my concerns about local regulatory policies. To insinuate that the business community or any individual has not been trying to open lines of communication with local officials is just not true. I personally met with the Board of County Commissioners after their regular weekly meeting on January 24, 2001. Following that, a meeting was called by Jean Curtiss in her office, which I attended with several business people and two member of the County Health Board. On February 10, 2001, I attended a meeting called by a committee of the Missoula City Council, which included the director of the Health Department. To say, and I paraphrase the newspaper, that we never once came to local officials and expressed our frustration is not quite accurate. Regarding Missoula's ability to keep its air breathable by regulating wood stoves, I think that we should be a little more circumspect in declaring impending disaster. The retroactive clause, which was deleted from the final version of HB605, was all about due process and not specific. It also provided for a five-year window of review of local air quality regulations if properly requested. According to my reading of the air quality regulations regarding wood stoves, the governing regulation was passed in October of 1994. My math says that is moot, but the health department has insisted, in my presence and the public's, that the clause would be a problem for them to keep our air breathable. An example of stating a case of impending disaster which is not quite accurate. It is time to talk. I for one am committed and sincerely hope that local officials can bring this to a conference room rather than the newspaper."

Routine Administrative Actions

Commissioner Carey moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$478,256.30. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Hearing: Dworsky Family Transfer

Colleen Dowdall presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described as Tract 14B, COS 2123, Section 10, Township 14 North, Range 20 West.

Michael Dworsky has submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 11 acres in size located west of Missoula off Indreland Road in the Meadows of Baron O'Keefe area. Mr. Dworsky proposes to create an approximately 2 acre parcel for transfer to his year old son, William Thomas Dworsky.

The history of the parcel is as follows:

Parcel History	Year	Exemption Used	Applicant	Intended Recipient
COS 1677	1978	Parcels greater than 10 acres	N/A	N/A
COS 2123		Parcels greater than 10 acres or Occasional Sale		

According to the records kept by the Missoula County Surveyor, the applicant has previously used the mortgage exemption to the Subdivision and Platting Act for a parcel in this area.

Chairman Evans opened the public hearing.

Michael Dworsky was present and came forward to answer any questions the Commissioners may have.

Chairman Evans stated that the law requires the Commissioners to determine if the request is truly a family transfer or if it is an attempt to evade subdivision review. The law allows the Board to ask the petitioner questions to make that determination, which is the reason for him being present today.

Michael Dworsky stated his son just turned one year old. He bought this house and property before he met his wife. They would like to ensure that their son has the opportunity to own land in Montana.

Chairman Evans asked if Mr. Dworsky intended to do this through a trust.

Michael Dworsky stated that was correct.

Chairman Evans asked if Mr. Dworsky intended to file the necessary trust paper with this transfer.

Michael Dworsky stated that was correct.

Chairman Evans asked if Indreland Road was paved?

Michael Dworsky stated it was a gravel road.

Chairman Evans stated that the request is for the division of land only. It does not give approval for a septic system or constitute any commitment as to paving of the road, the availability of any services, access, etc.

There being no further comments, the public hearing was closed.

Commissioner Carey moved that the Board of County Commissioners approve the request by Michael Dworsky to create a new parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Hearing: Beyer Family Transfer

Colleen Dowdall presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described as Tract 46, COS 1656, located in the SW 1/4 of Section 28 and the SE 1/4 of Section 29, Township 12 North, Range 20 West.

Morten S. Beyer has submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 44.6 acres in size located in the Sleeman Gulch area off Sleeman Gulch Road. Mr. Beyer proposes to create an approximately 20 acre parcel for transfer to his adult daughter, Nancy B. Evans.

The history of the parcel is as follows:

Parcel History	Year	Exemption Used	Applicant	Intended Recipient
COS 1656	1978	Parcels great than 20 acres	Sherman and Cleo Denton	N/A

Morten Beyer was deeded the property in 1988. According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemption to the Subdivision and Platting Act.

Chairman Evans opened the public hearing.

Dick Ainsworth, Professional Consultants, Inc., was present representing Morten Beyer. Mr. Beyer owns this 44 acre parcel in Sleeman Gulch and wants to give 24 acres to his adult daughter and have a 20 acre remainder. His daughter grew up in Montana but now lives back East and he wants her to have a place in Montana that she can hopefully move back to someday.

Commissioner Carey stated that the report showed Mr. Beyer was creating an approximately 20 acre parcel for his daughter but Mr. Ainsworth said it was 24 acres.

Dick Ainsworth stated there would be a 20 acre parcel and a 24 acre parcel created. The intention was to give the daughter the 24 acre parcel.

There being no further comments, the public hearing was closed.

Commissioner Carey moved that the Board of County Commissioners approve the request by Morten S. Beyer to create a new parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Chairman Evans suspended the meeting of the Board of County Commissioners and called the meeting of the Planning and Zoning Commission to order. The Planning and Zoning Commission members present included Commissioner Barbara Evans, Commissioner Bill Carey, County Surveyor Horace Brown and Clerk and Recorder/Treasurer Vickie Zeier. Commissioner Jean Curtiss was attending a Literacy Grant meeting in New York.

Hearing – PLANNING AND ZONING COMMISSION – Appeal of Administrative Denial of Zoning Compliance Permit (Zoning District #40 – Robert Johnson)

David Loomis, Office of Planning and Grants, presented the staff report.

This is a request to be reviewed by both the Planning and Zoning Commission and the Board of County Commissioners. It is a variance request from Robert Johnson. His request is for the use of a piece of ground about 1.5 miles north of the Ravalli County line on the east side of Highway 93 in Section 23. The applicant owns 30 acres and proposes to use 10 acres for a proposed commercial plant nursery.

Citizen Initiated Zoning District #40 was approved on April 20, 1976. Zoning District #40 lists permitted uses as single family residences, accessory buildings incidental to the main building and parks and playgrounds. Home occupations and residential Planned Unit Developments (PUD) are included as Special Exceptions. Commercial uses are not listed, and therefore, are not allowed.

Mr. Johnson has requested a determination of zoning compliance for the proposed commercial plant nursery on 10 of the 30 acres. The Office of Planning and Grants denied the Zoning Compliance Permit on the basis that the retail nursery component of the proposal is not a permitted use or Special Exception.

The applicant has appealed for a variance from Zoning District #40. First, the Planning and Zoning Commission will hold a public hearing and make a recommendation to the Board of County Commissioners. The Board of County Commissioners will then make a determination if the variance may be granted.

The 1975 Comprehensive Plan designates the property as Open and Resource. The intent of this designation is to protect areas of natural resource production and extraction, such as forestry and agriculture, and protect areas of natural hazard, such as floodplains. The property is not within the Carlton Community Activity Circle. The tree planting and growing

grounds would be considered as agriculture. The portion that is proposed for the retail sales is considered commercial and is not permitted by the zoning.

Much of the entire site is within Zone X of the Bitterroot River floodplain. A creek is also located on the site, but that floodplain has not been mapped. A portion of the site on the west is not within the floodplain and that is where the applicant proposes to locate the office, greenhouses, storage, etc. The activity taking place inside the floodplain would be appropriate use.

The entire site is visible from Highway 93 South. The applicant's site plan has partially mitigated that portion of the site where the buildings will be located with landscaping. Additional landscaping along the entire length of the driveway would be appropriate and has been recommended in Condition 2.

The public health and safety goals of the Floodplain Regulations have been met and the site plan, as revised, has been designed to mitigate any public health and safety issues.

That portion of the proposal that contains the storage bins, office, etc., occupies a relatively small portion of the site, roughly 2% of the 10 acres. Typical plant nurseries of this type do contain some of the on site sales of materials or plants not grown on site. A portion of the plants and materials will be used by the applicant in his off site landscaping business as well. Not being allowed a limited commercial sales component of the on site business would be an unnecessary hardship. Any impacts that were identified have been mitigated by the applicant through the revised site plan and the recommended conditions.

The Office of Planning and Grants recommends that the Planning and Zoning Commission recommend the approval of a variance to Zoning District #40. The Office of Planning and Grants further recommends that the Board of County Commissioners accept the recommendation of the Planning and Zoning Commission and approve a variance with conditions to the provisions of Zoning District #40 to allow a commercial plant nursery pursuant to the site plan submittal of the applicant dated April 18, 2001.

Robert Johnson stated that he felt this would be a good thing for the area, there is a need for a plant nursery in the valley. It is a good site for the business and he hoped he would be allowed to do so. He was in agreement with the conditions.

Chairman Evans opened the public hearing.

Gardner Brownlee stated he was speaking on behalf of himself and some of his neighbors. Two other landowners were also present, David Heston and Max Bauer. He presented an agreement that all the landowners have signed. He also presented a list of some ideas of why this would not be a bad idea. The landowners are opposed to changing the zoning district, but felt this special variance for this one piece of land was appropriate and might benefit the area. Mr. Johnson had originally wanted to use the entire 30 acres but the top 20 acres contains the drainfield for the community sewer system. The landowners did not want anything done on that ground. Mr. Johnson has agreed to use that land for pasture or agriculture. The eastern half of Lot 5 has a permit to hook into the common drainfield. Mr. Johnson has agreed that the house he will build will be the only thing that land will be used for. There was some concern about the road and having commercial traffic to areas other than the nursery business. It has been designed so that will not happen.

Chairman Evans asked what the length of time was for this agreement?

Gardner Brownlee stated it would be incorporated in the deed and would be permanent. There were some changes made to the original plat. The road was going to be on the west end of the property, but now it is on the east end. The agreement will be incorporated and will show the road location. Some drainfield locations will also be incorporated and shown. These cover matters of benefit to the community and the neighborhood.

Max Bauer stated he lives adjacent to this property. He did not want to see commercial in the area, but this project was the lesser of two evils. He asked if this would be permanent? Once the zoning is changed, any kind of commercial project could come in.

Michael Sehestedt stated the change is permanent in the sense that it runs with the land. Because it is a variance, not a rezoning, it is limited to the nursery use substantially as described. Any major change would need to seek a further variance. If Mr. Johnson sells the property, the new owner could run a nursery there. It cannot be sold and used for some other commercial purpose, without going through the whole variance procedure again.

Max Bauer stated the Health Department has told them that acreage would not pass for a sewer permit. Now Mr. Johnson has obtained permission for a drainfield. He was confused how that could happen. The existing drainfield permit will only be used for Mr. Johnson's house. If the business is denied a drainfield permit by the Health Department, does this agreement still stand?

Michael Sehestedt stated that he had not read the agreement.

Max Bauer stated that if Mr. Johnson was denied a sewer permit, then that property would be worthless. He could not have a business there without a sewer permit.

Chairman Evans stated that most septic approval is done after subdivision approval. It would be up to the Health Department to determine septic approval.

Max Bauer stated a big concern was the one existing sewer permit left and not having a commercial business using it. It was really for residential purposes.

Michael Sehestedt stated the agreement is between the private property owners. Even if the agreement goes away, the variance is limited. If Mr. Johnson needs a septic permit to run his business, he will have to get it or he can't open the business, even though the variance has been granted. The agreement can be attached to the deed. The effect of it will be

like any other set of private covenants to be enforced by the homeowners. This would really be a matter for the Health Department to determine.

Gardner Brownlee stated there were probably some acceptable areas to locate a drainfield. He didn't feel there were be any problems installing a drainfield for this commercial use.

Chairman Evans stated again that the Health Department will make that decision based on the applicable laws and zoning.

Michael Sehestedt stated that the agreement does limit the number of permits. If the health regulations would permit more, by this agreement they are foregoing the opportunity to get any additional permits.

Bill McQuirk stated he was the Real Estate broker for Dr. Markette on this property. This property has been on the market with two different companies and has a very restrictive possibility of sale because of the drainfield. Of the different people who entertained the idea of purchasing it, once the drainfield and floodplain issues were addressed, very few came up with anything workable. Mr. Johnson's idea for the commercial use will have much less impact than something like Earth and Wood. Dr. Markette had restrictions on the sale of this property. Dr. Markette saw the agreement for the first time today and has not had time to address it.

Robert Johnson stated that if he were to run the business off the remaining sewer permit, the sanitarians told him it would have less impact than a family of three. Most of the employees would be gone during the day working in the fields. Their might be a secretary and a foreman in the office, plus some public traffic. It would only be flushing a toilet, not showers and bathtubs and dishwashers, etc.

Chairman Evans made it clear again that the Commissioners do not make a decision on the septic permits, nor does the Planning and Zoning Commission. The Health Department makes that decision based on the conditions of the land and the law.

There being no further comments, the public hearing was closed.

Vickie Zeier moved that the Planning and Zoning Commission recommend approval of the variance to Zoning District #40, with conditions, to allow a commercial plant nursery. Horace Brown seconded the motion. The motion carried on a vote of 4-0.

Chairman Evans recessed the meeting of the Planning and Zoning Commission and reconvened the meeting of the Board of County Commissioners.

Commissioner Carey moved that the Board of County Commissioners accept the recommendation of the Planning and Zoning Commission and approve a variance to Zoning District #40, with conditions, to allow a commercial plant nursery. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Variance to Zoning District #40 Conditions of Approval:

1. Approval of the variance is conditioned upon the applicant acknowledging that the County has no liability for any injuries resulting from the use of the private road right-of-way across the Montana Rail Link railroad tracks due to the approval of this variance.
2. The applicant shall provide additional landscaping along the driveway entrance. The revised Site Plan shall be reviewed and approved by the Office of Planning and Grants.

There being no further business to come before the Board, the Commissioners were in recess at 2:05 p.m.

THURSDAY, APRIL 26, 2001

The Board of County Commissioners met in regular session; a quorum of members was present. In the evening, Chairman Evans attended a meeting at Hellgate Middle School with residents of the Haven Heights Subdivision regarding the proposed Mullan Corridor Sewer Project; and Commissioner Carey attended a MR TMA Board Meeting held at Florence Carlton School.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated April 26, 2001, batch number 1232 (pages 1-2), with a grand total of \$8,212.29. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated April 26, 2001, batch number 1233 (pages 1-4), with a grand total of \$64,874.23. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Plat and Agreements – The Commissioners signed the plat for Otto's Acres, a minor subdivision located in the SE¼ of Section 24, T 13 N, R 20 W (subject to conditions of approval), P.M.M., Missoula County, a total gross area of 6.72 acres, with the owners of record being Timothy P. and Rebecca D. Creighton ("Owners").

Also signed were the following Agreements pertaining to Otto's Acres:

Development Agreement, dated April 26, 2001, between Missoula County and the Owners, stating that, pursuant to Condition #9 of the approval, the Missoula County Weed Board Supervisor approved a Disturbed Area Revegetation Plan for Otto's Acres.

Subdivision Improvements Agreement and Guarantee, between Missoula County and the Guarantor (Owners), stating (in part), the following:

- 1) The improvements which remain to be completed for the subdivision is the construction of Stallion Lane from Third Street to and including the cul-de-sac turnaround and dry laid sewer lines per the approved plans.
- 2) The estimated cost for said improvements is \$9,500.
- 3) Said improvements shall be completed no later than August 6, 2001.
- 4) Performance by the Guarantor has been guaranteed by an Irrevocable Standby Letter of Credit issued by Western Security Bank, #2450024180, in favor of Missoula County, for the amount of \$9,500, dated February 6, 2001.

Board Appointment – The Commissioners approved and signed a letter, dated April 26, 2001, appointing Bill Woody as an “alternate member” of the Missoula Aging Services Governing Board to fill an unexpired term through December 31, 2002.

Motion – The Commissioners, via a Motion through the Elections Office, approved cancellation of the Seeley Lake Community Council Election and approved the Council positions being filled by acclamation.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, APRIL 27, 2001

The Board of County Commissioners met in regular session; a quorum of members was present. In the afternoon, Commissioner Carey participated in the Open House and Ribbon Cutting Ceremony for Opportunity Resources, Inc.'s new duplex at 3rd and Howard in the Orchard Homes area.

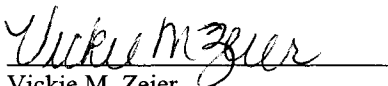
Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated April 27, 2001, batch number 1235 (pages 1-3), with a grand total of \$11,434.88. The Claims List was returned to the Accounting Department.

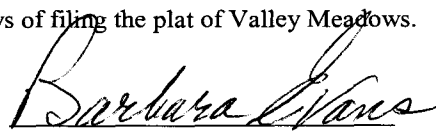
Grant Contract Amendment – Chairman Evans signed a Grant Contract Amendment, dated April 27, 2001 between Missoula County and the State of Montana, Department of Commerce, Helena, Montana. Amended is Contract #M99-SG300105, executed on May 3, 1999, relating to the budget for the new construction of a group home for adults with severe physical disabilities in Missoula County, approved by the Department under the Montana HOME Investment Partnerships (HOME) Program for Fiscal Year 1999. The amended budget changes are as per the items set forth therein. The document was returned to Cindy Wulfekuhle in the Office of Planning for further signatures and handling.

Plat and Improvements Agreement – The Commissioners signed the plat for Valley Meadows, a subdivision located in the SW¼ of Section 19, T 13 N, R 19 W, P.M.M., Missoula County, a total area of 3.00 acres, with the owner of record being Leslie J. Jensen.

Also signed was a Subdivision Improvements Agreement and Guarantee, between Missoula County and Leslie J. Jensen, stating (in part) the following:

- 1) The improvements that remain to be completed are the dry laid gravity sewer for future service to the Valley Meadows subdivision, and to pave the approach from South 3rd Street West to Valley Meadows, Lots 1 and 2.
- 2) The estimated cost for said improvements is \$12,236.00.
- 3) The improvements shall be completed within 180 days of filing the plat of Valley Meadows.


Vickie M. Zeier
Clerk & Recorder


Barbara Evans, Chair
Board of County Commissioners

MONDAY, APRIL 30, 2001

The Board of County Commissioners met in regular session; a quorum of members was present in the forenoon. Chairman Evans was on vacation; and Commissioner Carey was out of the office all afternoon. In the evening, Commissioner Curtiss attended a meeting with the residents of the Mullan Trail/Emerald Drive Subdivisions regarding the proposed Mullan Corridor Sewer Project; and Chairman Evans attended a meeting regarding McNamara's Landing Proposal at the Two Rivers Café in Bonner.

Plat and Improvements Agreement – The Commissioners signed the plat for Riverlands, a four-lot minor subdivision located in Sections 25 and 26, T 16 N, R 15 W, P.M.M., Missoula County, a total area of 170.28 acres, with the owner of record being Wildlands, LLC.

Also signed was a Subdivision Improvements Agreement and Guarantee, dated April 30, 2001, between Missoula County and Wildlands, LLC (“Developer”) stating (in part) the following:

- 1) The paving of Placid Lake Road that had originally proposed to be done during the 2001 construction season has been postponed for at least one, and perhaps more years.
- 2) The Developer wishes to guarantee the payment of the contribution of the \$13,809.00 by providing the County with an irrevocable letter of credit from his bank.

TUESDAY, MAY 1, 2001

The Board of County Commissioners met in regular session; a quorum of members was present. Chairman Evans was out of the office all day.

Claims List – Commissioners Carey and Curtiss signed the Claims List, dated April 30, 2001, batch numbers 1212 and 1231 (pages 1-4), with a grand total of \$41,098.35. The Claims List was returned to the Accounting Department.

Claims List – Commissioners Carey and Curtiss signed the Claims List, dated April 30, 2001, batch numbers 1228 and 1236 (pages 1-3), with a grand total of \$16,605.96. The Claims List was returned to the Accounting Department.

Claims List – Commissioners Carey and Curtiss signed the Claims List, dated April 30, 2001, batch number 1234 (pages 1-4), with a grand total of \$6,571.33. The Claims List was returned to the Accounting Department.

Claims List – Commissioners Carey and Curtiss signed the Claims List, dated April 30, 2001, batch number 1237 (pages 1-2), with a grand total of \$4,797.32. The Claims List was returned to the Accounting Department.

Claims List – Commissioners Carey and Curtiss signed the Claims List, dated April 30, 2001, batch number 1239 (pages 1-3), with a grand total of \$37,005.08. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Resolution No. 2001-041 – The Commissioners signed Resolution No. 2001-041, dated May 1, 2001, to conduct an election to be held on July 17, 2001 on the question of creating the Canyon River Water and Sewer District. The election will include the election of three directors if formation of district is approved. The filing deadline for candidates to file for the Board of Directors will be May 3, 2001.

Proclamation – The Commissioners signed a Joint Proclamation with the City of Missoula proclaiming May 3, 2001 as Carol Runyon Volunteer Day, inviting all citizens to join in recognizing the value of volunteer work in promoting good citizenship and Carol Runyon's efforts to promote a better Missoula community. The document was returned to the Mayor's office for further handling.

Letter – The Commissioners signed a letter to Dr. Christopher Servheen, Grizzly Bear Recovery Coordinator, U.S. Fish and Wildlife Service, supporting the proposed draft agreement conditioning future land sales between Plum Creek and prospective landowners in the Swan Valley. The Commissioners also commended Plum Creek for its initiative to protect the social, economic, cultural and natural resources of its holdings in the Swan Valley.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and D. Lower Construction, Inc. for the remodel of the Missoula County Attorneys Office at the Missoula County Courthouse Annex. This contract will include all general construction work, including wall demolition and construction, and providing and installing new doors and hardware. The Contractor shall complete performance by July 1, 2001. The total amount shall not exceed \$28,845.00. The document was returned to Art Garner, Buildings and Grounds Supervisor, for further signatures and handling.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Abbey Carpet to provide carpet, base and labor for the new Missoula County Attorneys Office at the Missoula County Courthouse Annex. The Contractor shall complete performance by July 2001. The total amount shall not exceed \$5,210.00. The document was returned to Art Garner, Buildings and Grounds Supervisor, for further signatures and handling.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, MAY 2, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – The Commissioners signed the Claims List, dated May 2, 2001, batch number 1241 (pages 1-4), with a grand total of \$50,656.48. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Carey signed the Claims List, dated May 2, 2001, batch number 1242 (pages 1-3), with a grand total of \$10,014.51. The Claims List was returned to the Accounting Department.

Monthly Report - Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Report for the Clerk of the District Court, Kathleen Breuer, for the month ending April 30, 2001.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the Chief Administrative Officer meeting held in the forenoon, the following items were discussed:

Elected Officials Salary Bill – The Commissioners agreed to have Steve Johnson send a letter to elected officials requesting interest in serving on the Salary Commission.

Co-Op Housing Consultant's Contract – The Commissioners agreed to have Cindy Wulfekuhle and Ann Mary Dussault work with the local Housing Coalition and consultant to develop scope of work and contract.

MAY 02 2001

PUBLIC MEETING – May 2, 2001

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Bill Carey, Commissioner Jean Curtiss, County Surveyor Horace Brown, Deputy County Attorney Colleen Dowdall, Public Works Director Greg Robertson and Chief Civil Attorney Michael Schestedt.

Public Comment

None

Routine Administrative Actions

Commissioner Carey moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$246,473.11. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Bid Award: Biosolids Removal and Reuse (Lolo Water and Sewer)

Greg Robertson presented the staff report.

This is a request to award a bid for a contract for land application of biosolids from the Lolo RSID No. 901 Wastewater Plant.

Missoula County solicited bids from qualified contractors in accordance with State and Federal advertising requirements to perform land application of biosolids work for the Lolo RSID No. 901 Wastewater Plant. Four bids were received: Azurix North America in the amount of \$142,772.81; AWS Engineering, Inc. in the amount of \$50,124.84; Nash Enterprises in the amount of \$68,503.20; and Coeur d'Alene Dredging in the amount of \$99,307.20.

The apparent low bid is AWS Engineering, Inc. from Logan, Utah, in the amount of \$50,124.84. The bid proposal has been reviewed for conformity with bid instructions. Their bid proposal is acceptable. The engineer's estimate was \$100,000.

It is the recommendation of the Public Works Department to award the bid to AWS Engineering, Inc. in the amount of \$50,124.84.

The fiscal impact to the RSID No. 901 budget is \$50,124.84. The amount budgeted is \$100,000.

Commissioner Carey asked if Greg Robertson knew why there was such a spread in the bid amounts, from \$50,000 to \$142,000?

Greg Robertson stated he really did not know the answer to that. Of the two lowest bids, one is a local firm and the other is performing work in this area, so their cost are fairly minimal. Each of the contractors visited the site and looked over the facility. Dan Harmon from HDR Engineering was not surprised by the spread.

Chairman Evans stated AWS Engineering is trying to get more involved in projects in Missoula. They have contacted her showing interest in doing work at Milltown Dam.

Commissioner Curtiss moved that the Board of County Commissioners award the bid for land application of biosolids from the Lolo RSID No. 901 Wastewater Plant to AWS Engineering, Inc., 71 North 200 West, Logan, UT 84321, in the amount of \$50,124.84. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Hearing: Hiniker Family Transfer

Colleen Dowdall presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described as Tract B of COS 4226, located in Section 35, Township 11 North, Range 20 West.

Lee Hiniker has submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 9.89 acres in size located in the Florence area off Polette Court. Mr. Hiniker proposes to create an approximately 5 acre parcel for transfer to his father, Robert J. Hiniker, leaving an approximately 5 acre remainder.

The history of the parcel is as follows:

Parcel History	Year	Exemption Used	Applicant or Transferor	Recipient or Transferee
COS 4226	1993	Remainder of COS that created 3 parcels greater than 20 acres	Polette and McLatchy	N/A
Lee Hiniker	2000	N/A	Polette and McLatchy	Lee Hiniker

According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act.

Chairman Evans opened the public hearing.

Ken Jenkins, Professional Consultants, Inc., stated he was representing Lee Hiniker, who was unable to attend today. He would answer any questions the Commissioners may have.

Commissioner Carey asked if Mr. Jenkins could assure the Commissioners that this was not an attempt by Mr. Hiniker to evade the subdivision rules.

Ken Jenkins stated that was correct to the best of his knowledge. Mr. Hiniker was made aware of the rules.

There being no further comments, the public hearing was closed.

Commissioner Carey moved that the Board of County Commissioners approve the request by Lee Hiniker to create a new parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Chairman Evans stated Mr. Hiniker would receive an approval letter. This approval is for the division of land only. It does not give approval for a septic system or constitute any commitment as to paving of any roads, the availability of any services, access, etc.

Hearing: Martin Family Transfer

Colleen Dowdall presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described in Microrecords Book 379, page 2340, located in Section 1 of Township 12 North, Range 20 West.

John Martin has submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 7.36 acres in size located in the Miller Creek area off Lower Miller Creek Road. It is accessed through an easement off of Upper Miller Creek Road. Mr. Martin proposes to create an approximately 3.3 acre parcel and a 2.8 acre parcel for transfer to his daughter, Sharon L. Snavelly.

The history of the parcel is as follows:

Parcel History	Year	Exemption Used	Applicant or Transferor	Recipient or Transferee
Tract 4, Deed Exhibit 2792 of Book 260, Micro 1082	1993	N/A	John and Patricia Martin	John Martin as trustee

According to the records kept by the Missoula County surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act on this parcel.

Chairman Evans opened the public hearing.

Ron Milam, DJ&A, stated he was representing Mr. Martin. Mr. Martin was present if the Board had any questions for him.

Chairman Evans asked if this property was right at the Wye.

Ron Milam stated it was slightly south of the Wye. It is a piece of the land that the Morgensterns used to own.

Chairman Evans stated that the law requires the Commissioners to determine if the request is truly a family transfer or if it is an attempt to evade subdivision review. The law allows the Board to ask the petitioner questions to make that determination.

John Martin stated he was not trying to evade anything.

Don Snavelly stated the property was actually 6.1 acres in size. The family transfer would create a 3.1 acre parcel and a 2.8 acre parcel. The transfer is confirming what is already on the ground and transferring part of it to the daughter.

There being no further comments, the public hearing was closed.

Commissioner Curtiss moved that the Board of County Commissioners approve the request by John Martin to create a new parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Chairman Evans stated Mr. Martin would receive an approval letter. This approval is for the division of land only. It does not give approval for a septic system or constitute any commitment as to paving of any roads, the availability of any services, access, etc.

Hearing: Petition to Abandon GLO Road and Book 1 Road in Future 66 Quarter Circle Ranch Subdivision (Frenchtown area)

Horace Brown read the staff report.

This is a petition to abandon "GLO Road and Book 1 Road where located within subject property of the future 66 Quarter Circle Ranch Subdivision in the west 1/2 of Section 17 and northeast 1/4 of Section 18, Township 14 North, Range 20 West, Missoula County, Montana."

The reasons for the request are as follows: 1) Both roads are non-existent; 2) The roads cut through the property at locations detrimental to the property; 3) There is no need for either road, because the Interstate and the Frenchtown Frontage Road carry the traffic.

The following landowners have been notified: Rick Atkins, George Sherwood and George and Kathleen Deschamps.

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The public hearing is the first part of the process. After the public hearing, a site inspection by one Commissioner and the County Surveyor will be done and they will make a recommendation to the Board.

Chairman Evans opened the public hearing.

Ron Ewart, Eli & Associates, stated 66 Quarter Circle Ranch Subdivision is nine lots on about 200 acres. One of the conditions of approval was to show these roads on the plat or vacate the roads. It does not appear that the roads exist and there are other roads for access, so the developer chose to proceed with the vacation request.

There being no further comments, the public hearing was closed.

Chairman Evans stated a time would be set to do the site inspection. After the site visit, a report will be made to the Board and a decision will be made on the petition. The request would be postponed until next Wednesday, May 9, 2001.

Hearing: Valley Homes Mobile Home Park #2 (14 Units for Lease or Rent) – Adjacent to Frenchtown High School

Tim Hall, Office of Planning and Grants, presented the staff report.

Valley Homes Mobile Home Park #2 is a one lot subdivision and then a mobile home park on the one lot that will be created. The property is owned by Edmond Alexander of Frenchtown, MT, and is a part of the Alexander Ranch. Tim Wolfe of Territorial Engineering and Surveying is representing Mr. Alexander. This property is immediately east of the Frenchtown High School. It is accessed from the I-90/Frenchtown Frontage Road. This is an addition to an existing nine lot Mobile Home Park that was approved by the Board in 1997. This request is for 14 additional units.

This 14 acre parcel is being divided from a 545 acre parent parcel, the Alexander Ranch. Each of the 14 individual unit sites will be approximately 1/2 acre in size. Direct access will be from the extension of the access to Valley Homes Mobile Home Park #1 on Jodilyn Lane, a private road.

Jodilyn Lane, with this addition, will exceed the cul-de-sac length requirement in the subdivision regulations and the applicant has requested a variance to that requirement. Staff is recommended approval of the variance. Frenchtown Fire Chief Scott Waldron has been involved in analyzing this project and has no objection to the extra length of cul-de-sac. This is not within a Wildland/Residential fire area. In addition, Mr. Alexander has worked with Frenchtown Fire to place a 3,000 gallon underground water tank on the site to assist Frenchtown Fire in case of an emergency.

This property is designated Open and Resource, one dwelling unit per 40 acres, in the 1975 Missoula County Comprehensive Plan. It is, however, located within the Frenchtown Activity Circle where additional development is supposed to take place, closer to the core of Frenchtown and its related services. Mr. Alexander is clustering development in a corner of his existing ranch properties that are not as agriculturally viable. Overall, this will help the ranch continue in agricultural production.

The Frenchtown Irrigation Ditch runs on the west of the property. The ditch is bordered by significant vegetation. In addition, there is an area of riparian resource, a vegetated swale which sometimes collects water. It will be somewhat segregated from the mobile home park and a Riparian Management Plan was submitted with this proposal. The intention is to maintain the swale as a riparian area.

Jodilyn Lane is proposed to be a 24 foot wide road with a 5 foot wide walkway at the edge of the roadway for a total width of 34 feet. This is a continuation of the existing Jodilyn Lane that was approved with the first mobile home park.

The project will be served by a public water system and there will be a utility lot with a pump house and well located next to the parkland area. Staff has recommended screening around that facility as noted in the conditions. The project will also be served by a community septic system that is located on the eastern portion of the property.

Parkland requirement for mobile home parks is being met in two ways. The developer is proposing to create a .85 acre recreational area with grass, a basketball court, facilities, etc. In addition, there will be 5.58 acres of common area including the area over the drainfield and the vegetated swale. The property will be governed by Mobile Home Park Rules, essentially covenants for the area.

Staff is recommending approval of the variance, approval of the one lot subdivision and approval of the mobile home park subject to 9 conditions of approval.

There was a concern about on street parking. Because this is a private road, parking and enforcement standards are the responsibility of the lot owner, Mr. Alexander. He is providing additional parking spaces at each mobile home park site. Jodilyn Lane will be posted "No Parking."

Chairman Evans opened the public hearing.

Tim Wolfe, Territorial Engineering and Surveying, stated Mr. and Mrs. Alexander were present today if the Board had any questions for them. Tim Hall did a good job on the project. Mr. Alexander has a real good facility and completed all his conditions of approval for the first phase of this park. All the current residents think the park is great. It is a really good example of what can be done with Mobile Home Parks. The reason behind having 14 acres for these 14 units was because the State Health Department required dedicating 1 acre per dwelling unit even though the park is served by a public water system and a community sewer system. In the City, there would be no minimum lot size. They have been dealing with State DEQ since 1998 on this project and have already received state approval. He just wanted the Commissioners to know there were some ambiguities in the State Health Department regulations and the subdivision regulations that might need to be addressed.

Commissioner Curtiss stated that it did not look like they had to dedicate that much land for the first subdivision and asked if the laws had changed.

Tim Wolfe stated the laws had not really changed, but the interpretation by DEQ changed. That area of Missoula County has had a history of ground water problems which focused DEQ's attention. A lot of things that were required on this phase were not required on the first phase. All the requirements for this phase have been completed and accepted.

Commissioner Carey asked Mr. Alexander if these mobile units were designed to be affordable to people with moderate incomes?

Ed Alexander stated there were quite a few people who live in the first park that have service type jobs and some retired folks. The answer to Commissioner Carey's question would be yes.

Commissioner Carey asked if there was any trouble renting out the first part of this park?

Ed Alexander stated he had deposits for half the first phase before it was finished.

Chairman Evans asked if there was a waiting list.

Ed Alexander stated he had three people right now on a waiting list.

Chairman Evans asked if Mr. Alexander provided the mobile homes?

Ed Alexander stated the tenants owned their own mobile homes.

There being no further comments, the public hearing was closed.

Commissioner Carey moved that the Board of County Commissioners approve the variance request from Section 3-2(1)(I) of the Missoula County Subdivision Regulations allowing for a cul-de-sac length exceeding 1,000 feet on Jodilyn Lane, based on the findings of fact set forth in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners approve the one lot minor subdivision for Valley Homes Mobile Home Court No. 2, based on the findings of fact in the staff report and subject to the conditions in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners approve the Valley Homes Mobile Home Court No. 2 mobile home park, based on the findings of fact in the staff report and subject to the conditions in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Valley Homes Mobile Home Park No. 2 Conditions of Approval:

1. The developer shall provide drainage plans and roadway plans for review and approval by the County Public Works Department Office prior to filing the final plat. *Subdivision Regulation 3-4 and OPG recommendation.*
2. The location of the trailer stand on Lots 11, 12 and 15 shall be relocated to provide a 25 foot setback from the western property line. *Subdivision Regulation 3-10(8).*
3. The developer shall submit private road plans to the County Surveyor's Office for review and approval prior to filing the final plat. *County Surveyor's recommendation.*
4. Provisions for utility easements shall be shown on the final plat. *Subdivision Regulation 3-5.*
5. The developer shall provide paved guest parking spaces as required by the Missoula County Subdivision Regulations. *Subdivision Regulation 3-10(5)(D).*
6. The developer shall post signs on Jodilyn Lane clearly stating "No Parking" to compliment the Mobile Home Park Rules. *OPG recommendation.*
7. The developer shall submit a final landscape plan to show fenced areas, screening of the utility lot and include the size and spacing of the trees intended on the exterior of the property. *Subdivision Regulations Article 3-10 (9) and OPG recommendation.*
8. The developer shall submit a revegetation plan for areas disturbed by the extension of Jodilyn Lane for review and approval to the Missoula County Weed District. *Missoula County Weed District recommendation.*
9. The developer shall file a development agreement that requires the property owners to maintain their property in accordance with the Montana County Noxious Weed Control Act and the Missoula County Noxious Weed Management Plan. *Missoula County Weed District recommendation.*

There being no further business to come before the Board, the Commissioners were in recess at 2:00 p.m.

THURSDAY, MAY 3, 2001

The Board of County Commissioners met in regular session; a quorum of members was present in the forenoon. Chairman Evans was out of the office all day; Commissioner Carey was out all afternoon. In the morning, Commissioner Curtiss attended the Community Prayer Breakfast.

Claims List – Commissioners Carey and Curtiss signed the Claims List, dated May 3, 2001, batch number 1244 (pages 1-4), with a grand total of \$41,242.79. The Claims List was returned to the Accounting Department.

Indemnity Bond – Commissioner Curtiss examined, approved, and ordered filed an Indemnity Bond naming Kathleen Hlebichuk as principal for MCPS Payroll Warrant #64585 issued May 28, 1999 on the 78-42 Fund in the amount of \$439.68, now unable to be found.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

License Agreement – Acting Chairman Bill Carey signed a License Agreement, dated May 3, 2001, between the Missoula County General Services Department ("MCGSD") and Resurrection Cemetery Association ("RCA"), wherein RCA shall grant the use of a 100' x 100' tract of land located in Block 1, School Addition, Five Acre Tracts, Missoula County, Montana to the MCGSD. This tract is to be used for a project denominated as Missoula County General Services/Down Home Project Community Gardens, which is a program intended to promote and facilitate vegetable gardening by people who have no other opportunity to do so. The term will be May 1, 2001 through April 30, 2002. The document was forwarded to the Resurrection Cemetery Association in Helena for further signatures.

Counter Offer – The Commissioners approved and signed a Counter Offer submitted by Patrick McCutcheon, dated April 26, 2001, pertaining to a counter offer for Lots 3 & 4, Block 9, Phase II, Missoula Development Park, Missoula, Montana, with an amendment revising the language on drainage as set forth therein. Also changed was the sales price of Lot 4, Block 9 to \$474,370.00. The document was returned to Barbara Martens in the Projects Office for further handling.

Extension Request – In accordance with the recommendation of the Office of Planning and Grants staff, the Commissioners signed a letter to Ron Ewart of Eli & Associates, Inc., approving his request for a 12-month extension of the final plat approval deadline for the Rock Creek Airpark Subdivision. The new filing deadline is May 3, 2002.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, MAY 4, 2001

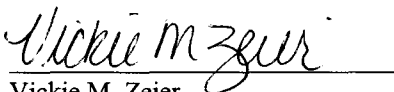
The Board of County Commissioners met in regular session; a quorum of members was present. Chairman Evans was out of the office until noon; Commissioner Carey was out all afternoon. In the afternoon, Commissioner Curtiss attended the Conservation Day Tour and Barbecue at the Thisted Burnt Fork Cabin in Upper Nine Mile.

Claims List – Commissioners Carey and Curtiss signed the Claims List, dated May 3, 2001, batch number 1245 (pages 1-4), with a grand total of \$76,435.18. The Claims List was returned to the Accounting Department.

Claims List – Commissioners Carey and Curtiss signed the Claims List, dated May 3, 2001, batch number 1246 (pages 1-3), with a grand total of \$142,039.93. The Claims List was returned to the Accounting Department.

Monthly Report – Acting Chairman Bill Carey examined, approved and ordered filed the Monthly Reconciliation Report for Justice Court 2, Justice of the Peace, Karen A. Orzech, for the month ending April 30, 2001.

Application – Chairman Evans signed a letter to Roland Mena, Chief, Chemical Dependency Bureau, Addictive and Mental Disorders Division, Montana Department of Public Health and Human Services, enclosing an application Missoula County is submitting to the Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services administration, in response to Program Announcement ("PA") No. PA-00-001 entitled Grants to Expand Substance Abuse Treatment Capacity in Targeted Areas of Need. The short title for the Announcement is Targeted Capacity Expansion ("TCE"). Mr. Mena was asked to review the application and provide comments before June 9, 2001.



Vickie M. Zeier
Clerk & Recorder



Barbara Evans, Chair
Board of County Commissioners

MONDAY, MAY 7, 2001

The Board of County Commissioners met in regular session; a quorum of members was present. Chairman Evans was on vacation May 7th and 8th.

Site Inspection

In the forenoon, Commissioner Carey accompanied County Surveyor Horace Brown on a site inspection for the request to abandon GLO Road and Book 1 in the future 66 Quarter Circle Ranch Subdivision in the Frenchtown area.

Claims List – Commissioners Carey and Curtiss signed the Claims List, dated May 4, 2001, batch number 1248 (pages 1-4), with a grand total of \$133,759.42. The Claims List was returned to the Accounting Department.

Claims List – Commissioners Carey and Curtiss signed the Claims List, dated May 4, 2001, batch number 1249 (pages 1-5), with a grand total of \$13,561.08. The Claims List was returned to the Accounting Department.

TUESDAY, MAY 8, 2001

The Board of County Commissioners met in regular session; a quorum of members was present.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Fister Electric, Inc. for electrical wiring of the new Missoula County Attorney Offices. The term will be May 1, 2001 through July 1, 2002. The total amount shall not exceed \$6,821.34.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Western Sheet Metal to furnish and install HVAC equipment and accessories as per plans and specifications. The term will be May 1, 2001 through July 2002. The total amount shall not exceed \$10,426.00.

Schedule and Agreement – The Commissioners signed Schedule A, revised March 2001, to an Agreement dated March 27, 1967, listing the roads which are under (a) Missoula County jurisdiction and (b) Forest Services jurisdiction. The Commissioners also signed a Maintenance Plan (2001), setting forth which entity is responsible for the maintenance of those roads. The documents were returned to Greg Robertson, Public Works Director, for further handling.

Budget Transfer – The Commissioners signed Budget Transfer Control No. 01-028 for the County Attorney's Office, transferring \$8,828.00 from the Transcripts Fund to the Planning Fund. This budget transfer is to correct a coding error in the Fiscal Year 2001 budget for the Crime Victim Advocate grant match.

Request for Action – Per recommendation by the Offer Review Committee, the Commissioners signed a proposed option agreement for Missoula Area Economic Development Corporation (MAEDC) for Lots 1, 2, 3, 4 and 5, Block 12, Phase 5, Missoula Development Park, per the terms set forth therein. The potential sale proceeds are \$1,189,693.00. The document was returned to Barbara Martens in the Projects Office for further handling.

Other items included:

- 1) It was determined that Commissioner Curtiss will attend a Mullan Corridor Sewer Meeting (Tipperary Way/Zintek Addition) on May 10, 2001 at Hellgate School;
- 2) The Commissioners authorized Chairman Evans to sign a grant application for the Sheriff's Department (School Resource Officer for Frenchtown School District 40); she was also authorized to sign for acceptance of the Montana Highway Traffic Safety Grant.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, MAY 9, 2001

The Board of County Commissioners met in regular session; all three members were present. In the forenoon, the Commissioners attended the Inland Northwest Economic Adjustment Strategy Forum at the Missoula Children's Theatre.

Claims List – Commissioners Carey and Curtiss signed the Claims List, dated May 8, 2001, batch number 1251 (pages 1-6), with a grand total of \$73,729.75. The Claims List was returned to the Accounting Department.

Claims List – Commissioners Carey and Curtiss signed the Claims List, dated May 8, 2001, batch number 1252 (pages 1-4), with a grand total of \$9,022.46. The Claims List was returned to the Accounting Department.

Claims List – Commissioners Carey and Curtiss signed the Claims List, dated May 8, 2001, batch number 1254 (pages 1-4), with a grand total of \$55,164.84. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated May 9, 2001, batch number 1247 (pages 1-3), with a grand total of \$5,234.47. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated May 9, 2001, batch number 1256 (pages 1-4), with a grand total of \$65,943.08. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated May 9, 2001, batch number ???? (pages 1-4), with a grand total of \$15,220.35. The Claims List was returned to the Accounting Department.

Payroll Transmittal – The Commissioners signed the following Payroll Transmittal Sheet: Pay Period: 09 - Pay Date: May 4, 2001. Total Missoula County Payroll: \$748,696.79. The Transmittal Sheet was returned to the Auditor's Office.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Budget Transfer – The Commissioners signed Budget Transfer Control No. 01-025 for the Health Department, transferring \$73,149.00 from the Traffic Safety 00-01 (HIV Prevention 01-02) Fund to the Traffic Safety 01-02 (HIV Prevention 00-01) Fund. The two Fiscal Year 2001 contracts were separated for audit purposes.

Board Appointments – The Commissioners approved and signed two letters dated May 10, 2001, appointing Margaret M. Sample and Stan Nicholson as "resident taxpayer" members of the County Compensation Board, which will review the compensation paid to elected officials and decide on compensation adjustments for Fiscal Year 2002 and beyond. Ms. Sample and Mr. Nicholson have each been appointed to a three-year term.

Board Appointments – The Commissioners approved and signed letters, dated May 15, 2001, reflecting the following appointments to the Missoula County Park Board:

- 1) Reappointment of Edward G. Heilman to a three-year term. Mr. Heilman's term will run until May of 2004;
- 2) Reappointment of Susan Brown to a three-year term. Ms. Brown's term will run until May of 2004;
- 3) Reappointment of Dan Morgan to a one-year term as the "1st Alternate" member. Mr. Morgan's term will run until May of 2002;
- 4) Reappointment of Dorothy N. (Dart) Smith to a one-year term as the "2nd Alternate" member. Ms. Smith's term will run until May of 2002.

Board Appointment – The Commissioners approved and signed a letter dated May 15, 2001, reappointing Donald D. Rose to a three-year term as a member of the Seeley-Swan Cemetery District Board. Mr. Rose's term will run through April 30, 2004.

Audit Report – Commissioner Evans signed a letter to The Missoulian, dated May 9, 2001, enclosing a copy of the Audit Report for Missoula County for the fiscal year ended June 30, 2000, conducted by Elmore & Associates, P.C. The letter noted that, as required by statute, the Summary of Significant Findings should be published. The audit report in its entirety is not required by law to be published. The letter was forwarded to The Missoulian.

Application – Commissioner Evans signed an Application for Federal Assistance on behalf of Missoula County and the Office of Planning and Grants ("OPG") for Targeted Capacity Expansion ("TCE") grant funds. OPG will use TCE funds to identify and motivate adolescents needing substance abuse treatment to seek and accept it; to develop a treatment modality designed to accommodate unique age and culture-specific needs and accompanying disorders for substance-abusing youth and their families; and to create linkages with urban and rural schools and community-based providers to provide auxiliary services. The federal assistance amount being sought is \$1,432,458. The document was returned to Mike Barton in the OPG for further handling.

Cash Donation – Commissioner Evans, along with Douglas W. Chase, signed an acceptance memo acknowledging that Missoula County Law Enforcement Youth Camp ("Missoula County") will receive a cash donation in the amount of \$10,000 from the Dennis & Phyllis Washington Foundation ("Foundation"). Missoula County verifies this amount and confirms that no goods or services were given in consideration for this charitable gift. Furthermore, Missoula County assures the Foundation that this will be used for the purpose of covering camp costs. The document was returned to the Sheriff's Department for further handling.

Agreement – Chairman Evans signed a Traffic Safety Bureau Standard Agreement, dated May 1, 2001, between the Montana Department of Transportation ("State") and the Missoula County Commissioners ("Contractor"). The United States Department of Transportation ("USDOT") is the contributor of funds for this agreement, and funds provided are described in the catalog of Federal Domestic Assistance under number 20.600. The Missoula County Sheriff's Department obtained a federal grant through the Montana Department of Justice to develop a mobile data computer (MDC) system. Partnering with the City of Missoula's Police Department to promote compatibility, they issued requests for proposals for hardware, software and computers. The Proposed Budget of \$502,000.00 is for Contracted Services, which will include services for tower engineering; installation; testing and maintenance; computers and modems; packet radios; and other equipment, supplies and materials. Software for computers is provided. Completion of the project shall be no later than September 30, 2001. The document was returned to the Sheriff's Department for further handling.

Agreement – Chairman Evans signed a Section 00500 Agreement, dated May 7, 2001, between Missoula County and AWS Engineering, Inc. ("AWS"), for the removal and reuse of Lolo RSID 91 Wastewater Treatment Plant biosolids. The contract was awarded to AWS at the May 2, 2001 commissioners' public meeting after competitive bidding. The total amount shall not exceed \$50,124.84. Estimated time for final completion and cleanup of the project is June 15, 2001.

Deed Restriction Agreement and Subordinate Deed of Trust

Chairman Evans signed a Deed Restriction Agreement and Subordinate Deed of Trust between Missoula County and Sarah Koke in the amount of \$4,800.00 for the property located at 11185 Napton Way #B, Lolo, Montana 59847, for the purpose of providing HOME Investment Partnerships Program (HOME) funds to assist with down payment, closing cost and, if necessary, mortgage reduction assistance, as per the terms and conditions set forth therein. The documents were returned to Jennifer Blumberg in the Office of Planning and Grants for further handling.

Request for Action – Chairman Evans approved a grant application for a School Resource Officer for District 40 Frenchtown School District under the Cops in School USDOJ program. The District and the Sheriff's Department have agreed to jointly apply for this grant to fund an officer to provide services to Frenchtown District 40 for three years under the grant in return for \$125,000 Federal aid. District 40 will pay all compensation funds beyond the \$125,000 and will pay for the fourth year. The request was returned to the Sheriff's Department for further handling.

Tax Refund – The Commissioners approved a request by Margo and Nat Sturgis, P.O. Box 1159, Seeley Lake, Montana 59868, for the re-issue of a refund of \$175.99 for overpayment of property taxes. (The first check sent to the Sturgis' in January 2001 was never received due to an error in the billing address). The request was forwarded to Clerk and Recorder Vickie Zeier and Chief Civil Attorney Michael Sehestedt.

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The minutes of the Administrative Meeting are on file in the Commissioners Office.

PUBLIC MEETING – May 9, 2001

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Bill Carey, Commissioner Jean Curtiss, County Surveyor Horace Brown, Deputy County Attorney Colleen Dowdall and Chief Civil Attorney Michael Sehestedt.

Public Comment

None

Routine Administrative Actions

Commissioner Curtiss moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$544,955.45. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Decision: Petition to Abandon GLO Road and Book 1 Road in Future 66 Quarter Circle Ranch Subdivision (Frenchtown area)

This is a petition to abandon "GLO Road and Book 1 Road where located within subject property of the future 66 Quarter Circle Ranch Subdivision in the west 1/2 of Section 17 and northeast 1/4 of Section 18, Township 14 North, Range 20 West, Missoula County, Montana."

The reasons for the request are as follows: 1) Both roads are non-existent; 2) The roads cut through the property at locations detrimental to the property; 3) There is no need for either road, because the Interstate and the Frenchtown Frontage Road carry the traffic.

The following landowners have been notified: Rick Atkins, George Sherwood and George and Kathleen Deschamps.

The public hearing on this matter was held May 2, 2001. A site inspection was conducted by County Surveyor Horace Brown and County Commissioner Bill Carey on May 7, 2001.

Horace Brown stated there is little evidence of the road ever existing. It is not useful and he recommended approval of the petition to abandon.

Commissioner Carey concurred with Horace Brown report.

Commissioner Carey moved that the Board of County Commissioners approve the petition to abandon "GLO Road and Book 1 Road where located within subject property of the future 66 Quarter Circle Ranch Subdivision in the west 1/2 of Section 17 and northeast 1/4 of Section 18, Township 14 North, Range 20 West, Missoula County, Montana." Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Hearing: Request for Variance from Floodplain Regulations (125 Stone Street – Ostrom)

Brian Maiorano, Floodplain Administrator, presented the staff report.

Olaf Ostrom is seeking a variance from the Missoula County Floodplain Regulations to replace a mobile home in the floodway portion of the 100 year floodplain of the Clark Fork River. Part of the property is in the floodway fringe (where new mobile homes may be allowed) as mapped by the Federal Emergency Management Agency. However, that portion is lower in elevation than the portion mapped as being in the floodway (where new mobile homes are not allowed). The property is at 121 Stone Street and is legally described as Plat H-2 and Part of Lot 4 of Dinsmore Orchard Homes #4, Section 19, Township 13 North, Range 19 West.

The location of the existing mobile home (also the proposed location for replacement) is approximately 3.3 feet below the 100 year flood elevation. The portions of the property outside the floodway are approximately 5.6 feet below the 100 year flood elevation. All accesses to the property are below the 100 year flood elevation. However, the proposed location would put the home approximately 200 feet from an access outside the floodplain. Building in the floodway fringe would put the home over 500 feet from an access outside the floodplain.

This is a relatively complex issue. A floodway is defined as a place where flood waters are very deep and very fast moving, typically carrying a lot of debris, and are considered by local and State regulations to be completely unsuitable for building. No new residences are allowed in a floodway, including replacement mobile homes.

The western half of Mr. Ostrom's property is in a portion of the 100 year floodplain called the floodway fringe. In the floodway fringe, Missoula County Floodplain Regulations allow replacement of mobile homes as long as those homes are elevated properly. However, in this case, it does not seem to make sense to place the home in the floodway fringe as opposed to the floodway. There are two levees that run near the property. The main levee that runs east/west north of Third Street was built by the Army Corps of Engineers and is maintained by Missoula County. It serves as a flood control levee for the properties to the south. Mr. Ostrom's property is to the north of that levee. There is a secondary spur levee that runs north/south. The purpose of that levee is not as flood control to stop flood waters from entering the property, but to redirect the current from the side channel to make sure any water that would enter Mr. Ostrom's property would be slow moving and relatively free of debris. The spur levee was also built by the Army Corps of Engineers and is also maintained by Missoula County.

The reason for recommending approval of the variance to place the home in the floodway as opposed to the floodway fringe is related to elevation on the site. The eastern portion of the property where the existing home is located and where he would like to put the new home would be under about three feet of water during a 100 year flood. The portion where he could build without a variance on the western part of the property would be under about five and a half feet of water during a 100 year event. It does not make sense to require him to place his home where it would be in more danger from a flood.

The FEMA maps are not the most accurate when looking at individual properties. Staff feels that is the case in this instance. Some "on the ground" decisions need to be made when the scale is this tight. The high velocities and heavy debris associated with floodways in this instance will be mitigated by the spur levee and not make it any more dangerous than locating the home in the floodway fringe. This property would not be accessible during a 100 year flood because the road would be under three feet of water. However, if the mobile home is placed on the eastern portion of the property, it would be several hundred feet closer to a safe access. Recommending approval of this variance is not to suggest that this is a safe place to build. However, per Floodplain Regulations, the home would be on an elevated foundation so the floor is two feet above the 100 year flood elevation and would be anchored to the foundation to prevent floating during a flood. It would also meet all other standards of the Floodplain Regulations, but that does not remove all danger by any means.

Because a variance in the floodway cannot be approved without the concurrence of the State, their opinion has been requested. They have given their concurrence via e-mail and will send formal written notification.

Staff is recommending approval of the variance and approval of the Floodplain Development Permit with standard associated conditions.

Chairman Evans opened the public hearing.

Olaf Ostrom stated that Brian Maiorano was thorough in his presentation. The secondary dike protects his property. The existing mobile home is not elevated. The replacement mobile home will be elevated and all other requirements will be met. He hoped the Commissioners would approve his variance request.

There being no further comments, the public hearing was closed.

Chairman Evans stated it is recognized that there can be some danger to the home. Would there be any waiver of liability that needs to be obtained from the applicant?

Michael Sehestedt stated that the record of this hearing establishes that the County has stated their position about the inherent dangers and Mr. Ostrom has made his decision based on the information presented. There would be no claim against Missoula County from Mr. Ostrom or successor owners based on granting this permit subject to conditions. He asked Brian Maiorano about any benchmark issues associated with determining elevation.

Brian Maiorano stated the two different benchmarks have been taken into consideration to determine elevation.

Chairman Evans asked for an explanation of tie downs.

Brian Maiorano stated the foundation for a mobile home can be on a pier set in the ground with concrete. Tie downs, basically steel cables, are anchored to the concrete then tied over the frame on the bottom of the mobile home. This prevents the mobile home from floating off its foundation during a flood event. The findings attached to the permit, which are part of the permanent record, address liability issues and have been disclosed to the applicant.

Chairman Evans asked Mr. Ostrom if he were willing to accept the cautions set forth and still proceed.

Olaf Ostrom stated he was willing to accept the cautions and proceed.

Commissioner Curtiss moved that the Board of County Commissioners approve the variance request from the Missoula County Floodplain Regulations for Olaf Ostrom to replace a mobile home in the floodway portion of the 100 year floodplain of the Clark Fork River and authorize the Chair to sign the Floodplain Development Permit, subject to conditions. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Olaf Ostrom Floodplain Development Permit Conditions:

The variance and permit are approved as submitted with the following conditions. Statements about construction design and techniques made in the application are an integral part of this permit and must be adhered to.

1. The home must be elevated on a permanent foundation so that the lowest floor is at least at elevation 3141 feet NGVD. The elevation must be certified by a licensed surveyor and reported on a standard Elevation Certificate.
2. The structural foundation must be reinforced concrete, reinforced mortared block, reinforced piers or other foundation elements of equal strength.
3. Frame ties must be provided at each corner of the home, with five additional ties per side at intermediate points. All components of the anchoring system must be capable of carrying a force of 4,800 pounds. A licensed engineer must certify that these anchoring requirements have been met.
4. Electrical, heating and plumbing systems must meet the requirements of Chapter VII.
5. No fill may be placed on the property.
6. Construction and completion of the elevation certificate and anchoring certification must be completed by November 9, 2001. Any request for an extension must be submitted in writing before this date.

Consideration: Clinton Community Church Subdivision (3 Lots) – Clown Lane in Clinton

Lisa Moisey, Office of Planning and Grants, presented the staff report.

OPG has a request from Mykel Wills for the Clinton Community Church. He is proposing to subdivide property owned by James and Heather Blom. Mr. Wills is represented by Ron Ewart of Eli and Associates. The proposal is to subdivide a 9.32 acre parcel into three lots.

The property is located at the northwest corner of the Clinton interchange at Interstate 90. Two lots would be 1.0 to 1.5 acres in size. The larger lot, Lot 3, would be 6.82 acres. The property is generally flat with some elevation beginning in the northwest corner. In the center of Lot 3 is a pit where gravel was excavated during some construction on the Interstate. Since then, that portion of the property has been reclaimed and is mostly grassland and hayfield.

On the front portion of Lot 3, there is a BPA power line. There is a 250 foot wide easement covering the front portion of the property. It encumbers a good portion of property. No permanent structures are allowed within that easement. One house currently exists on Lot 3 but no others would be allowed due to the easement.

The property is unzoned. The 1975 Missoula County Comprehensive Plan designates this area as appropriate for light industrial. The proposal is not light industrial, it is to construct a new church on Lot 1 and a Pastor's Residence on Lot 2. The sizes of the lots and type of uses would not preclude light industrial in the future. A good portion of the land surrounding this parcel is zoned light industrial but is actually mostly rural residential and agricultural land.

Access to the property would be from Clown Lane (old Highway 10). It is a State road but currently is not maintained by the State. Driveway access would be from Clown Lane. There will be one access to serve Lots 2 and 3, the existing homesite and the proposed Pastor's Residence. There will be a separate access on the north end of the property to serve the church on Lot 1.

The existing homesite is on an individual septic system and well and the two new lots are proposed to also have individual septic systems and wells.

The applicant has requested a variance from the requirement to provide sidewalks or pedestrian walkways. Staff recommends approval of the variance as this is a very rural area and there are minimal pedestrian generators in the area. OPG recommends approval of the Clinton Community Church subject to 4 conditions, based on the findings of fact in the staff report.

Chairman Evans asked for public comments.

Ron Ewart, Eli & Associates, developer's representative, was present as was Mykel Wills, Vice-Chairman of the Board of the Clinton Community Church. Other members of the congregation were present as well. The report is well written and thorough and the developer concurs with the recommendations of staff.

Mykel Wills stated the Bloms were generous enough to donate the property for the church. The church is providing the funds for the subdivision in return for the donation. Currently, the congregation meets in the Community Center but is outgrowing that location. There is approximately \$100,000 in their building fund currently.

Chairman Evans asked those members of the congregation who supported the project to raise their hands. All the members of the congregation present expressed their support.

There were no further public comments.

Commissioner Carey moved that the Board of County Commissioners approve the variance request from Section 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways in the subdivision, based on the findings of fact set forth in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners approve the Clinton Community Church Summary Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Clinton Community Church Summary Subdivision Conditions of Approval:**Roads**

1. The County Surveyor shall approve grading, drainage and driveway plans prior to final plat approval. *Subdivision Regulations Article 3-4.*
2. Approach permits for the new and existing driveways shall be obtained from the Montana Department of Transportation prior to final plat approval. *Subdivision Regulations 3-1(1)(E) and comments from the Montana Department of Transportation.*

Fire Standards

3. The following statement shall appear on the face of the plat:

"Acceptance of a deed for a lot within this subdivision shall constitute assent by the owners of the lot to waive the right to protest an RSID/SID for the purpose of providing a municipal water system, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land depicted herein. All documents of conveyance shall refer to and incorporate this waiver." *Subdivision Regulations Article 3-7(2).*

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Natural Resources

4. Prior to final plat approval, the applicant shall submit a revegetation plan for the driveways within the subdivision to the Weed District for approval. A statement shall be added to number eight in the covenants requiring lot owners to revegetate any found disturbance caused by construction or maintenance with beneficial species at the first appropriate opportunity. Language changes to the covenants shall be reviewed and approved by the Weed District prior to final plat approval. *Subdivision Regulation Article 3-1(1)(B) and recommendation of Missoula County Weed District.*

Continuation of Hearing: Eagle's Point at Salmon Lake Subdivision (4 Lots) – West Side of Salmon Lake (Postponed from April 4, 2001)

Zoe Mohesky, Office of Planning and Grants, presented background information about the project.

This is a continuation of the Eagle's Point at Salmon Lake Subdivision from the April 4, 2001 public meeting. At that meeting, the item concluded with the applicant and their representative requesting, and the Commissioners approving, a postponement of the consideration of the subdivision. The decision to postpone was to allow more time to consider lot alignments in conjunction with the resource concerns on this property, particularly the bald eagle's nest and the distance necessary to protect and ensure the bird's continued presence. A site visit was conducted on Tuesday, May 8, by Commissioner Carey and Commissioner Curtiss accompanied by Dave Loomis, Ron Ewart and Don Jackson. The applicant was also present at the site visit and is present today.

At this time, staff is not changing any of its recommendations and continued discussion about possible revisions will be heard today. Staff is recommending approval of three variance requests and approval of the subdivision subject to 19 conditions. The Commissioners may make changes to those conditions based on further analysis and the site visit. Changes may affect Condition 9 which discusses location of buildable areas, and Condition 15 which discusses boat docks.

Chairman Evans asked for public comment.

Ron Ewart, Eli & Associates, developer's representative, stated that based on recent discussions, the proposal is right on the balancing point between what Mr. and Mrs. Schraf are willing to accept and what staff and the Commissioners are willing to grant. Changes were made to separate the building site further from the eagle's nest tree, 250 feet on Lot 1 and 300 feet on Lot 2. That has again been revised. Lot 1 was made slightly bigger and allows a building site on the flat area which is 300 feet from the nest. The nest is not visible from the building site. The building site on Lot 2 is a minimum of 380 feet from the nest and could be even further. A dock is located in the cove that is also 380 feet from the nest. The building site on Lot 3 is approximately a 30% slope which is 40 feet from the shoreline. Lot 4's building site would require some grading but otherwise would be a good location. Proposed changes to the conditions have been provided. Conditions 8 and 15 could be deleted. Condition 9 could be revised to read: "The covenants shall state that no development shall take place within 300 feet of the eagle's nest tree on Lot 1. Development includes any house or cabin sites, garages or parking lots. Development on Lot 2 shall be located a minimum of 380 feet from the eagle's nest tree. No boat docks may be located within 380 feet of the eagle's nest tree. Development must not be located within 40 feet of the shoreline." The covenants may be enforceable and cannot be changed without governing body approval. The original condition required that development must not be located within 80 feet of the shoreline. On Lot 3, 80 feet would place the building site almost to the road. Shoreline regulations allow 25 feet from the shoreline and this proposal is a minimum of 40 feet. Condition 15 could be deleted as boat docks are addressed in the revised language for Condition 9. Mrs. Schraf has reluctantly accepted these changes but this will still allow for a nice summer recreation development. This goes a long way toward protecting the eagles. There are many other conditions that also are designed to help protect the eagles as well.

There were no further public comments.

Commissioner Carey asked if Lot 1 would share the dock off of Lot 2?

Ron Ewart stated that was correct and an easement from Lot 1 across Lot 2 to the dock has been included on the plat. The dock is located in a cove and is fairly shielded from the eagle's nest tree.

Commissioner Carey asked if a trail was planned along the easement?

Ron Ewart stated there would probably be a footpath along the easement, there would not be any motorized use. Residents would have to put their boats in the water at the park.

Commissioner Curtiss asked if shared access to the dock would need to be covered in the covenants?

Ron Ewart stated that was addressed. Lot 1 is not allowed to have a dock unless it is shared with Lot 2 due to the distance requirement from the eagle's nest tree.

Commissioner Carey stated that he was still having trouble with this. The wildlife experts have said a safe distance is one-quarter mile and the proposal decreases that to 300 feet. It is a tough decision right now.

Commissioner Curtiss stated that when she read everything about the eagle management, the decrease in the distance was difficult to accept. When she was on site and saw how thick the timber was, there were very few locations where the eagles nest was visible. She felt this was a good compromise.

Chairman Evans asked that when the motion is made, it be clear as to which conditions remain unchanged, which conditions are to be deleted and which conditions are to be amended.

2001-03-01

Commissioner Curtiss moved that the Board of County Commissioners approve the variance request from Section 3-2(3) of the Missoula County Subdivision Regulations for Big Waters Ranch Road to vary from the required 24 foot road width, the 60 foot right-of-way easement and paving requirements, based on the findings of fact set forth in the staff report and subject to recommended conditions. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Commissioner Curtiss moved that the Board of County Commissioners approve the variance request from Section 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways in the subdivision, based on the findings of fact set forth in the staff report. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Commissioner Curtiss moved that the Board of County Commissioners approve the variance request from Article 3-2(3)(A) of the Missoula County Subdivision Regulations for maximum cul-de-sac length for Big Waters Ranch Road, based on the findings of fact set forth in the staff report and subject to recommended conditions. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Commissioner Curtiss moved that the Board of County Commissioners approve the Eagle's Point at Salmon Lake Summary Subdivision, based on the findings of fact in the staff report and subject to the recommended conditions, with the following amendments: Delete Condition 8. Change Condition 9 to read: "The covenants shall state that no development shall take place within 300 feet of the eagle's nest tree on Lot 1. Development includes any house or cabin sites, garages or parking lots. Development on Lot 2 shall be located a minimum of 380 feet from the eagle's nest tree. No boat docks may be located within 380 feet of the eagle's nest tree. Development must not be located within 40 feet of the shoreline."

Commissioner Curtiss asked if the sentence in Condition 9 regarding "lot configurations and developable area subject to OPG review and approval" was still necessary.

Colleen Dowdall stated that the question was if what was proposed in the new Condition 9 is as specific as what was in the old condition.

Zoe Mohesky stated that Ron Ewart's wording of the change was that the "covenants shall state." She would like the condition reworded to make it an actual condition rather than having the language in the covenants. That way it would be enforceable. She suggested the following wording for Condition 9: "The plat shall be revised so that no developable areas are located closer than 300 feet of the eagle's tree on Lot 1. Development on Lot 2 shall be located a minimum of 380 feet from the eagle's tree. Developable areas includes any house or cabin sites, garages, parking lots or boat docks. Up to four buildable sites may be identified and must be located within forty horizontal feet of the new road alignment and not less than 80 horizontal feet from the shoreline." Ron Ewart is requesting 40 horizontal feet from the shoreline. Language from Ron Ewart's letter could also be added that "No boat docks shall be less than 380 feet from the eagle's nest tree." She would like to see the last sentence of the original condition retained, "Lot configurations and developable area are subject to OPG review and approval prior to final plat approval." With the deletion of Condition 8, it drops the idea of buildable area. There are a lot of steep slopes on the site and to work with the new configuration, it would be better to have actual buildable areas identified that staff could sign off on. Staff's recommendation of 80 feet from the shoreline was included for specific reasons. There is 25 feet required for shoreline protection. There is a steep slope from the shoreline and the setback helps with erosion control and open space concerns as this is a public lake. The Inventory of Conservation Resources identifies this as an Open Space Resource. The 40 foot setback from the road was to try to keep the building sites up on the bench and not have long driveway accesses.

Ron Ewart stated that on Lot 1, it was about 100 feet to the road, so it would require an exception. The shoreline setback on one of the lots is approximately 70 feet and another is 45 feet. If those were moved back to 80 feet, it would probably be okay on the lot currently at 70 feet, but on the lot at 45 feet, it could possibly eliminate the building site completely.

Chairman Evans stated the wording could be that the setbacks would be as presented in the revised site plan.

Ron Ewart stated they would like some latitude, a potential building site could be in a slightly different location. The site plan shows only general locations. The 40 foot setback from the road could be maintained on all lots except Lot 1.

Commissioner Carey stated he was agreeable with the 100 foot setback from the road on Lot 1. Zoe Mohesky made a very good point about the keeping the cabins back from the lakeshore. The lake is public.

Ron Ewart stated that the setback on Lot 3 was currently 45 feet but could be moved to perhaps 50 feet. Lot 4 has a setback of about 80 feet. Perhaps the language could be specific for each lot. The setback on Lot 2 was currently at 60 feet from the shoreline.

Chairman Evans stated that other people do use the lake, but this is private property and they would like to be able to build on it. Given the restraints that have been placed on the property, she would like to see some flexibility remain.

Commissioner Carey stated he would as well, but pointed out that the public does use the lake and they have some rights to a relatively pristine experience. To build a cabin very close to the lake takes from the public's enjoyment of the lake.

Commissioner Curtiss stated there were other cabins that already sit very close to the shoreline.

David Loomis stated there were very steep slopes on Lots 3 and 4. The reason to locate the building sites close to the road was to eliminate long, steep driveways. Those lots have very limited physical space to place a cabin. If the cabin is located further from the road, there is a steep driveway and a lot of slope disturbance. The problem was with erosion and steep slopes on those two lots. Lot 2 is located in a much flatter area and that issue is eliminated.

Chairman Evans suggested wording such as the siting of the houses will be substantially as submitted on the revised site plan.

Commissioner Curtiss stated that seemed to constrain the developer even more. She would be willing to add an exception for the distance to the road on Lot 1, and an exception from the shoreline setback to 60 feet on Lot 2 and 50 feet on Lot 3. There would be no exception from the road setback on Lots 2 and 3.

Eilleen Schraf stated that she had no problem with meeting the needs of the birds on this subdivision, but she did not want to bottle up the development. They do not know who is interested in buying and if they will ever build on it. She wanted to have a little latitude to offer a prospective buyer as to where a cabin could be located. There are buildable sites on the property. They are trying to accommodate the slope issues, the bird issues, the boat issues, but it is being turned into a micro-managed project. She did not want to have exact footage mentioned at all if possible.

Commissioner Carey stated that some of these issues have to be set because the eventual builder is not known.

Eilleen Schraf stated she agreed with that, but this is privately held land. There is no intention of disturbing the shoreline or displacing the birds.

Commissioner Curtiss stated that the Board is trying to make sure some safeguards are in place because a potential buyer might not be as concerned with protecting the site as Mrs. Schraf is.

Eilleen Schraf stated that guidelines and conditions are a good idea but as Ron Ewart mentioned, there may be multiple spots to build and still meet the requirements. She did not see the need to be so specific.

Commissioner Carey stated that from his perspective, the Board had to balance the private and public interests. Over time, private ownership changes and some have very different points of view as to what to do with their land. He wanted to create some balance of interests so that over time, both are protected.

Eilleen Schraf stated that was a good goal, but right now on the lake are areas with far less restrictions. There are cabins and boats very close to the eagle's nest, they are resilient birds. This is a good plan for a small summer cabins.

Commissioner Carey stated he did not want to continue to make the mistakes that were made in the past.

Commissioner Curtiss continued with her motion and the revision of Condition 9 to include the exception for Lot 1 on the distance to the road and the exception for Lots 2 and 3 on the distance from the shoreline. Another change to the conditions would be to delete Condition 15.

Chairman Evans wanted it clear that these limitations were actual conditions, not just in the covenants.

Commissioner Curtiss restated the new language on Condition 9 as part of her motion: "The plat shall be revised so that no development shall take place within 300 feet of the eagle's nest tree on Lot 1. Development includes any house or cabin sites, garages or parking lots. Development on Lot 2 shall be located a minimum of 380 feet from the eagle's nest tree. Up to four building sites may be identified and must be located within 40 horizontal feet of the new road alignment, with the exception of Lot 1, which may be further because of land contours. Developable areas on Lots 1 and 4 must be a minimum of 80 horizontal feet from the shoreline, Lot 2 a minimum of 60 horizontal feet from the shoreline and Lot 3 a minimum of 50 horizontal feet from the shoreline. Lot configurations and developable area are subject to OPG review and approval prior to final plat approval." Rather than delete Condition 15, it should be retained but be revised as follows: "The covenants shall be amended prior to final plat approval to include the following statement: 'Boat docks are prohibited within 380 horizontal feet north of the base of the eagle's nest tree.'" All other conditions as shown in the staff report remain unchanged. The numbering will be modified to reflect the deletion of Condition 8. The motion is based on the findings of fact and conclusions of law contained in the staff report.

Commissioner Carey seconded the motion.

The motion carried on a vote of 3-0.

Eagle's Point at Salmon Lake Subdivision Conditions of Approval:

Roads/Access

1. The following statement shall appear on the face of the plat and in each instrument of conveyance:

"Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for improvements to Big Waters Ranch Road, including installation of pedestrian walkways or bikeways, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations Article 3-2.*

2. The applicant shall provide proof of legal access along Big Waters Ranch Road, subject to County Attorney's Office approval, prior to final plat approval. *Subdivision Regulations Article 3-2 and County Attorney Office recommendation.*
3. Big Waters Ranch Road shall be improved to meet Fire Protection Standards for Wildland Residential Interface Development, which requires two 10 foot driving lanes. Engineering, grading, drainage plans and erosion control plans shall be approved by the County prior to final plat approval. The roads shall be constructed or guaranteed prior to final plat approval. A professional engineer shall certify that the road has been constructed per the approved plans. *Subdivision Regulations Article 3-2 and Appendix VII.*
4. A road maintenance agreement for Big Waters Ranch Road shall be approved by the County Attorney's Office and filed with the Clerk and Recorder prior to final plat approval. *Subdivision Regulations Article 3-2(1)(H) and County Attorney recommendation.*

Fire

2001 0302

5. A Fire Protection Plan shall be provided outlining how property owners will conduct their own structural fire suppression in compliance with Section 3-7 of the Missoula County Subdivision Regulations, subject to review and approval by Missoula County, prior to final plat approval. *County Attorney recommendation.*
6. The following statement shall appear on the face of the final plat:

"Acceptance of a deed for a lot within this subdivision constitutes a waiver of the right to protest a future RSID/SID for public water systems for fire protection, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations Section 3-7(2).*

Plat

7. The lake's high water mark, the riparian area and riparian buffer area shall be shown on the face of the plat, subject to OPG approval, prior to final plat approval. *Subdivision Regulations Article 3-13 and staff recommendation.*

Resources

8. The plat shall be revised so that no development shall take place within 300 feet of the eagle's nest tree on Lot 1. Development on Lot 2 shall be located a minimum of 380 feet from the eagle's nest tree. Development includes any house or cabin sites, garages or parking lots. Up to four building sites may be identified and must be located within 40 horizontal feet of the new road alignment, with the exception of Lot 1, which may be further because of land contours. Developable areas on Lots 1 and 4 must be a minimum of 80 horizontal feet from the shoreline, Lot 2 a minimum of 60 horizontal feet from the shoreline and Lot 3 a minimum of 50 horizontal feet from the shoreline. Lot configurations and developable area are subject to OPG review and approval prior to final plat approval. *Subdivision Regulations Article 4-1(12), Montana Fish, Wildlife and Parks and staff recommendation.*
9. A Bald Eagle Monitoring Plan, pursuant to the Montana Bald Eagle Management Plan, shall be developed, reviewed and approved by Montana Fish, Wildlife and Parks (MFWP), Region 2, prior to final plat approval. The Plan shall contain an implementation schedule that begins prior to any construction activities and continued until all construction is complete or 5 years, whichever is greater. The Plan shall be incorporated into the covenants. *Subdivision Regulations Article 4-1(12), Montana Fish, Wildlife and Parks and staff recommendation.*

Covenants

10. The covenants shall be amended and the plat shall state that Salmon Lake is under the jurisdiction of the Missoula County Shoreline Regulations. *Subdivision Regulations Article 4-1(12) and staff recommendation.*
11. The covenants for the subdivision shall be amended on Page 6, Fire Standards, Article 11(d), Roofing Materials, to require only Class A Fire Rated roofing materials. The covenants shall be submitted for OPG review and approval, prior to final plat approval. *Subdivision Regulations Article 3-2(6), fire agencies and staff recommendation.*
12. Article I, Section 2 of the Protective Covenants shall be amended to state "Building Construction, Location and Type and Road Construction" and the first sentence of Subsection F shall state "Building and road construction shall take place after July 15th of each year," subject to OPG review and approval, prior to final plat approval. *Subdivision Regulations Article 4-1(12), Montana Fish, Wildlife and Parks and staff recommendation.*
13. A copy of the brochure "Living with Bald Eagles" shall be included as an appendix in the covenants. *Montana Fish, Wildlife and Parks recommendation.*
14. The covenants shall be amended prior to final plat approval to include the following statement:

"Boat docks are prohibited within 380 horizontal feet north of the base of the eagle's nest tree." *Subdivision Regulations Article 4-1(12) and Montana Fish, Wildlife and Parks recommendation.*
15. Article I, Section 4 of the covenants shall be amended, subject to OPG review and approval, prior to final plat approval, to state:

"Utility Lines – All new utility lines, wherever located, shall be installed underground if feasible or raptor proofed if not placed underground." *Subdivision Regulations Article 4-1(12) and Montana Fish, Wildlife and Parks recommendation.*
16. Article I, Section 10 of the covenants shall be amended as follows:

"Wildlife – Owners must accept the responsibility of living with wildlife. There are potential problems associated with the occasional presence of bears, mountain lions, deer, etc. The 'Living with Wildlife' brochure, available from the Office of Planning and Grants, is reprinted as an appendix to these covenants. The following measures shall be followed to reduce the potential for human-wildlife conflicts." *Subdivision Regulations Article 4-1(12) and staff recommendation.*
17. Article II, Section 2, Amendment, shall contain the following statement, subject to OPG approval, prior to final plat approval:

"These covenants may be modified or amended by an instrument in writing filed with the Missoula County Clerk and Records Office and signed by the owners of all the lots to which these covenants apply. No covenants or sections thereof relating to wildlife (including sections protecting the eagle's nest), fire standards, areas of riparian resource management, construction timing, residence height and size restrictions, boat docks, utility lines or land use may be changed without prior written consent of the governing body. The right to enforce the covenants does not obligate Missoula County to inspect the property and no claim of damages may be made against the County as the result of undetected lack of compliance with these requirements." *Subdivision Regulations Article 4-1(12) and staff recommendation.*

2001-0003

18. Article II, Section 2, Amendment, shall contain the following statement, subject to OPG approval, prior to final plat approval:

"Covenants which restrict the use of the land for the purpose of protecting wildlife are enforceable by each of the lot owners in this subdivision, Missoula County and by the Montana Department of Fish, Wildlife and Parks. Specifically, the terms of these covenants grant an easement and right of access by the property owners to Missoula County, its agents and assignees, to Montana Fish, Wildlife and Parks, its agents and assignees, the U.S. Fish and Wildlife Service, its agents and assignees, and to any law enforcement agency for the purpose of investigating whether the landowner is engaging in any activity that results in attracting wildlife to the property, or engaging in any activity that threatens bald eagles or their nest. The right to inspect does not obligate Missoula County, Montana Fish, Wildlife and Parks or the U.S. Fish and Wildlife Service to inspect the property and no claim of damages may be made against the County as the result of undetected wildlife attractants to the subdivision." *Subdivision Regulations Article 4-1(12) and staff recommendation.*

There being no further business to come before the Board, the Commissioners were in recess at 2:30 p.m.

THURSDAY, MAY 10, 2001

The Board of County Commissioners met in regular session; all three members were present. The Commissioners traveled to Polson to attend the MACo District 10 & 11 Counties Meeting held at the Lake County Public Health Office. In the evening, Commissioner Curtiss attended a Mullan Corridor Sewer Project Meeting for the residents of Tipperary Way/Zintek Additions held at the Hellgate Middle School lunchroom.

FRIDAY, MAY 11, 2001

The Board of County Commissioners met in regular session; all three members were present.

Election Canvass

In the forenoon, Commissioners Carey and Curtiss and County Auditor Susan Reed canvassed the results of the Special Election held on May 8, 2001.

Claims List – Chairman Evans and Commissioner Carey signed the Claims List, dated May 9, 2001, batch number 1255 (pages 1-2), with a grand total of \$25,058.31. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Carey signed the Claims List, dated May 10, 2001, batch number 1263 (pages 1-2), with a grand total of \$29,257.21. The Claims List was returned to the Accounting Department.

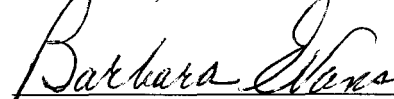
Plat – The Commissioners signed the plat for Norm's Little Acres, a subdivided plat located in the NE¼ of Section 9, T 13 N, R 20 W, & the NW¼ of Section 10, T 13 N, R 20 W, P.M.M., Missoula County, a total area of 20.24 acres, with the owner of record being Norman Carey.

Monthly Report – Acting Chairman Carey examined, approved and ordered filed the Monthly Reconciliation Report for the Report of the Sheriff, Douglas W. Chase, for the month ending April 30, 2001.

Replacement Warrant – Acting Chairman Carey examined, approved, and ordered filed an Application for Issuance Replacement Warrant naming Darrel Babin as applicant for Missoula County Public Schools ("MCPS") Warrant #94436 issued April 20, 2001 on the MCPS Payroll Fund 78-42 in the amount of \$135.46, for wages that were not received in the mail. No bond of indemnity is required.

Compensation – The Commissioners approved and signed a request from Clerk & Recorder Vickie Zeier to pay compensation to Dawn Overbaugh for overtime worked for pay periods 10-13. Ms. Overbaugh will be compensated for additional hours worked due to the conversion of new software in the Department. Ms. Zeier stated that the budget could support the overtime pay. The document was returned to Vickie Zeier, Clerk & Recorder.


Vickie M. Zeier
Clerk & Recorder


Barbara Evans, Chair
Board of County Commissioners

MONDAY, MAY 14, 2001

The Board of County Commissioners met in regular session; a quorum of members was present. Chairman Evans was on vacation May 14th and 15th. In the evening, Commissioner Carey attended a Mullan Corridor Sewer Project informational meeting with the residents of Golden West held at Hellgate Middle School.

Claims List – Commissioners Carey and Curtiss signed the Claims List, dated May 14, 2001, batch number 1260 (pages 1-3), with a grand total of \$8,797.17. The Claims List was returned to the Accounting Department.

Claims List – Commissioners Carey and Curtiss signed the Claims List, dated May 14, 2001, batch number 1262 (pages 1-5), with a grand total of \$27,769.81. The Claims List was returned to the Accounting Department.

Claims List – Commissioners Carey and Curtiss signed the Claims List, dated May 14, 2001, batch number 1266 (pages 1-2), with a grand total of \$23,418.03. The Claims List was returned to the Accounting Department.

TUESDAY, MAY 15, 2001

The Board of County Commissioners met in regular session; a quorum of members was present.

Claims List – The Commissioners signed the Claims List, dated May 15, 2001, batch number 1264 (pages 1-5), with a grand total of \$20,641.87. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated May 15, 2001, batch number 1271 (pages 1-4), with a grand total of \$38,028.84. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Notice of Hearing – Chairman Evans signed a Notice of Hearing on the question of whether the Missoula Board of County Commissioners should support or oppose the application of C. F. Auto Parts (Fedor N. Chinikaylo) for a license for a motor vehicle wrecking facility at 10052 Garrymore Lane, Missoula, Montana. The legal description of said property is Section 28, T 14 N, R 20 W). The facility is approximately two-tenths of an acre in size and located in the Racetrack Industrial Park. The hearing will be held at 1:30 p.m. on Wednesday, May 30, 2001 in Room 201 of the Missoula County Courthouse.

Block Grant Contract and Signature Certification Form – Chairman Evans signed a Community Development Block Grant Contract (#MT-CDBG-ED00-08) between Missoula County ("Grantee"), and the State of Montana Department of Commerce, Helena, Montana ("Department"), for the purpose of providing funding for project activities approved by the Department under the Montana Community Development Block Grant Program ("CDBG") for FFY 2000. The term will be March 22, 2001 through March 22, 2003. The Grantee will loan \$368,000 of CDBG economic development funds to Pyramid Mountain Lumber, Inc. ("Borrower"), an existing saw and planing mill, located in Seeley Lake, Montana, for working capital, and to purchase machinery and equipment. This project is for retention of jobs, in that without the debt restructuring and ability to purchase new automated equipment and machinery, the business would have closed. The Borrower has projected to rehire 37 full-time equivalent (FTE) jobs. Fifty-four percent (54%) of the 93 persons currently employed plus the 37 new rehires will be made available to or filled by low and moderate-income persons.

The Commissioners also signed a Signature Certification Form authorizing them to sign requests for payment of Montana Community Development Block Grant funds for the Missoula County 2000 Economic Development project on behalf of Pyramid Mountain Lumber, Inc. and in partnership with Missoula Area Economic Development Corporation, MAEDC.

Both documents were returned to Cindy Wulfekuhle in the Office of Planning and Grants for further handling.

Refund Denied – The Commissioners denied a request from the law firm of Milodragovich, Dale, Steinbrenner & Binney (written on behalf of a representative from their office) for a motor home registration refund on Montana Title No. E770852. The request was forwarded to Deputy County Attorney Michael Sehestedt for a written response to the request.

Request for Action – On recommendation by the Offer Review Committee, the Commissioners reviewed and refused a new offer of \$91,476.00 (with contingencies) made on May 8, 2001 by Ernest and Myrna Buchholz for Lot 6, Block 3, Missoula Development Park, Phase 4. The request was returned to Barbara Martens in the Projects Office for further handling.

Request for Action – The Commissioners reviewed and approved a Change Order with DJ&A for engineering services to design and manage the installation of two fire hydrants within the Missoula Development Park, Phase 1. The hydrants will be located on Lots 8 and 9, Block 4. The cost is \$1,090.00 for the design and construction management, which will take approximately seven days to complete. Mountain Water pays for the cost of installation and then bills the County a monthly fee. The request was returned to Barbara Martens in the Projects Office for further handling.

Extension Request – In accordance with the recommendation of the Office of Planning and Grants staff, the Commissioners signed a letter to Daniel Sumerfield of DJ&A Consulting Engineers, approving his request for a six-month extension of the final plat approval deadline for The Grove (formerly McAfee Subdivision). The deadline is extended to November 17, 2001.

Other items included:

- 1) The Commissioners discussed a request that was made for an Information Meeting with Haven Heights Homeowners regarding the Mullan Corridor Sewer Project. If such meeting is scheduled, Chairman Evans will attend.
- 2) The Commissioners discussed a request for a speaker to appear at the Historical Museum's 4th of July Celebration at 1:00 p.m. on Wednesday, July 4th. Commissioner Curtiss agreed to check her schedule to see if she can attend.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, MAY 16, 2001

The Board of County Commissioners met in regular session; all three members were present. In the evening, Commissioner Carey attended an information meeting on the Mullan Corridor Sewer Project with the Frey/Homestead/Topaz homeowners held at the Hellgate Middle School Lunchroom.

MAY 16, 2001

Claims List – Chairman Evans and Commissioner Carey signed the Claims List, dated May 16, 2001, batch number 1273 (pages 1-4), with a grand total of \$16,600.22. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Carey signed the Claims List, dated May 16, 2001, batch number 1273 (pages 1-4), with a grand total of \$16,600.22. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Carey signed the Claims List, dated May 16, 2001, batch number 1274 (pages 1-2), with a grand total of \$11,477.26. The Claims List was returned to the Accounting Department.

PUBLIC MEETING – May 16, 2001

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Bill Carey, Commissioner Jean Curtiss, County Surveyor Horace Brown, County Public Works Director Greg Robertson, Deputy County Attorney Colleen Dowdall and Chief Civil Attorney Michael Sehestedt.

Public Comment

None

Routine Administrative Actions

Commissioner Carey moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$342,892.83. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Construction Bid Award: RSID No. 8465 – Farm Lane Paving

This is a request to award a construction bid for RSID No. 8465, Farm Lane paving.

On May 15, 2001, one construction bid was received and opened with the following results: JTL Group, Inc. in the amount of \$78,398.75. Staff recommends award of the construction bid to JTL Group, Inc. in the amount of \$78,398.75, as the low and only bidder and contingent on the sale of bonds. The bid was over the engineer's estimate, but is within the contingency amount. This will lessen the contingency amount available.

Greg Robertson stated the bid was evaluated. He cautioned the Board as to the potential for overrun. He has discussed this with Michael Sehestedt. The 5% revolving fund might be able to pick up the difference if there is an overrun, although there is no formal policy on this procedure.

Michael Sehestedt stated it is desirable to have a 10% cushion for contingencies when the bid is let. In this case, there is somewhat less than the full 10% because the bids were slightly over the engineer's estimate. The 5% County Administrative Fee would provide some cushion against direct impact on the budget if there are cost overruns. Depending on how the bonds sell, the budget has a 2.5% underwriters discount and bond counsel fees. Those may not be necessary. It is necessary to advise the Board that the full contingency amount is not there, and if there is something unexpected, there could be some County exposure. That could be addressed first by the Administrative Fee and secondly by the RSID revolving monies.

Commissioner Curtiss asked if this was tied in any way to the Administrative Fee for possible overruns in the Courthouse remodel.

Michael Sehestedt stated this did not affect that project. This pertains to the Administrative Fee in the RSID amount. It is not the Financial Admin monies in the general County budget.

Commissioner Curtiss moved that the Board of County Commissioners approve awarding the bid for Farm Lane Paving to JTL Group, Inc., in the amount of \$78,398.75 as the low and only bidder and contingent on the sale of bonds. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Construction Bid Award: RSID No. 8469 – Snowdrift Lane Paving

This is a request to award a construction bid for RSID No. 8469, Snowdrift Lane paving.

On May 15, 2001, two construction bids were received and opened with the following results: LS Jensen Construction and Paving in the amount of \$178,404.36 and JTL Group, Inc. in the amount of \$152,732.00. Staff recommends awarding the bid to JTL Group, Inc. in the amount of \$152,732 as the lowest and best bid and contingent on the sale of bonds. The bid was over the engineer's estimate, but is within the contingency amount. This will lessen the contingency amount available.

Greg Robertson stated this was the project he was most concerned about with regard to overrun due to the length of the road and the potential for problems. Michael Sehestedt explained the situation adequately in the previous action. He felt the Board should go ahead with awarding the bid, but be prepared for some overrun on the project.

Chairman Evans asked when construction might start?

Michael Sehestedt stated the award is contingent on the sale of bonds. The order to proceed would follow the sale of the bonds, so it may be within the next month or two.

Commissioner Carey moved that the Board of County Commissioners approve awarding the bid for Snowdrift Lane paving to JTL Group, Inc. in the amount of \$152,732.00 as the lowest and best bid and contingent on the sale of bonds. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Sale of Tax Deed Properties (Second Auction)

Michael Sehestedt presented the staff report.

This is the Second Auction of Tax Deed Property for 1996 36-month and 1997 24-month delinquencies. This property has previously been offered for sale, this is the second auction as required by statute. Following the first auction, Jim Fairbanks was asked to again determine the fair market value. No bid shall be accepted for a price less than the fair market value at the auction per MCA 7-8-2301. There are two parcels for sale today as follows:

SUID #	Legal Description	Fair Market Value
0211158	Fractional Block B of WEST MISSOULA ADDITION, Missoula County, Montana, all according to the official recorded plat thereof, as filed in Book 1 of Plats, Page 63, records of Missoula County, Montana.	\$2,375.00
1426404	Lot 1, CARLINE ADDITION, BLOCK 14, LOTS 17-20, AMENDED, a platted subdivision in Missoula County, Montana.	\$81,000.00

Michael Sehestedt opened the bidding on SUID 0211158, Fractional Block B of West Missoula Addition. He asked again if there were any bidders. He announced the third and final call for bidders for this property. As there were no bidders, the auction for Fractional Block B of West Missoula Addition was declared closed.

Michael Sehestedt opened the bidding on SUID 1426404, Lot 1, Carline Addition, Block 14, Lots 17-20. He asked again if there were any bidders. He announced the third and final call for bidders for this property. As there were no bidders, the auction for Lot 1, Carline Addition, Block 14, Lots 17-20 was declared closed.

Michael Sehestedt stated that the required process to perfect the County's tax title to these properties has been completed. The Commissioners may dispose of the properties by future public sale or by private sale through negotiation. A sale at less than the fair market value may be negotiated, but must be in excess of 70% of the fair market value. The property may also be determined to be useful for County purposes and retained. There is legislative authorization to transfer the property to Habitat for Humanity or other governmental agencies if needed.

Commissioner Carey stated that Habitat for Humanity was not a governmental agency. Was this legislative authorization for them only or did it apply to other non-profit organizations.

Michael Sehestedt stated it could be for any non-profit housing organization but Habitat for Humanity was the only one to take advantage of the offer. Fractional Block B of West Missoula Addition is about 2,300 square feet and triangular in shape. It would not be useful for housing. The Carline Addition property is already built on.

Hearing: Mahlum Meadows Subdivision (14 Lots) – Adjacent to Waldo Road near the Wye

Tim Hall, Office of Planning and Grants, presented the staff report.

Jellystone Parks of Montana, LLC, (Tom Mahlum), represented by Eli & Associates, is proposing to split a 15.10 acre parcel into 14 lots approximately one acre in size. The property is located approximately 0.25 miles west of the Wye (Interstate 90 and Highway 93), south of Waldo Road and west of Highway 93.

The property is unzoned. The property is within the boundaries of the 1979 Wye-O'Keefe Creek Area Comprehensive Plan and the 1998 Missoula Urban Comprehensive Plan Update. The recommended land use designation for the area is residential, from 16 to 25 dwelling units per acre. The property is located inside the Urban Growth Area as described in the 1998 Plan. The proposed density of the proposal as originally submitted was approximately one dwelling unit per acre. That has been modified somewhat which will be explained by the developer's representative, Ron Ewart.

The property is relatively flat with a hill at the southern end of the property with an average slope of 12%. According to Subdivision Regulations, that is classified as a hillside and subject to Hillside Regulations. The property was previously used for limited agricultural operations, some hay production and some livestock grazing.

The property is accessed from US Highway 93 north to Waldo Road, going west approximately 0.25 miles to the proposed entrance to the property.

The applicants are proposing to create a private road called Mahlum Lane to serve as the main access to all the lots. Mahlum Lane is proposed to be constructed to a 24 foot width with a drainage swale on both side. The road will end in a cul-de-sac, approximately 920 feet in length, which is within the specifications of the Subdivision Regulations. The applicants have requested a variance from the requirement to install curb and gutter. The swales will deal with runoff and drainage and the one acre parcel size will accommodate any additional surface flow. Staff recommends approval of the variance request.

A 10 foot pedestrian easement will be located on each side of the road and will contain a 5 foot meandering asphalt walkway-bikeway to accommodate the sidewalk/pedestrian area requirement in the Subdivision Regulations.

With the original submittal, the applicants were proposing to dedicate a 1.0 acre common area between Lots 5 and 8. The central location of the park will also potentially allow it to serve as drainage retention if necessary. Individual wells will serve each lot and will connect to an existing sewer system that was created to serve Jellystone RV Park, just to the south of this property. Additional capacity is available at the RV park sewer system because the park is not planned to be built out to its full capacity.

Staff recommends approval of the subdivision with 7 conditions. There have been some modification since the Planning Board hearing based on comments and conditions. Ron Ewart will address those modifications.

Ron Ewart, Eli & Associates, developer's representative, was present as were the applicants, Tom and Dale Mahlum. He thanked Tim Hall and OPG staff who worked on this project. The conditions are fair but they would like to discuss a couple of them. Within the submittal, there is a map which shows the ownership of the Mahlums. The total contiguous ownership is about 95 acres. The proposal is to take 15.10 acres north of the Jellystone RV Park that accesses Waldo Road for this subdivision. This will be a nice, single family residential subdivision with custom built homes. There will be strict covenants, a homeowners association and an architectural control committee. There are wide setbacks and a common area. Within the common area will be a 2,000 gallon underground storage tank for fire protection purposes, with a hydrant. The closest fire station is about 0.5 miles to the east. The cul-de-sac road will be paved to 24 feet. There will be a secondary exit through Jellystone RV Park to Highway 93. Boulevard sidewalks will be located on both sides of the road, with an 8 foot wide grassy swale on each side. No parking will be allowed on the roadway. The driveways within the subdivision will be paved. In the southern area of the property is a low hill. The characteristics of this low hill are more spread out, the grade over the entire area is 10% to 12%. The first proposal had 50 foot setbacks which put the homes on Lots 12, 13 and 14 somewhat up on the hill. They have worked with OPG to get the homes on these lots off the top of the hill as much as possible by extending Lots 12, 13 and 14 by about 70 feet. Condition 1 as written could still pertain to Lots 12 and 13, the homes will not be constructed above the 3,192 foot elevation and the tops of the homes cannot be higher than the highest elevation on the lot. That would not work for Lot 14, as the hill is more spread out and less steep. To impose the same restrictions on Lot 14 could necessitate reworking the entire project. The applicants wish to retain an open feel for this subdivision with its wide setbacks. They propose to change Condition 1 to eliminate any reference to Lot 14 and add a condition that on Lot 14 the home would have to be below the 3,200 foot contour and single story only, keeping it to a ranch style. It is doubtful if the roof line could be seen from the other side of the ridge.

Chairman Evans stated that she did not want people living in a house only eight feet tall. This requirement seemed too constrictive and caused some irritation.

Ron Ewart stated the final plat would show the contour lines. By requiring the home to be single story, it would not show above the ridge line. The horizontal distance will also help to screen the roof top. He felt this met the intent of the regulations. This redesign is much better than the original submittal and addresses many of the concerns expressed by OPG.

Chairman Evans opened the public hearing. There being no comments, the public hearing was closed.

Commissioner Curtiss stated Horace Brown had a comment in the report that the typical road section did not allow for the minimum slope. Was that still a problem?

Horace Brown stated the plans would need to be provided to the Surveyors Office for final approval.

Commissioner Curtiss stated the Health Department made reference to the need for a water system for more than 10 houses.

Tim Hall stated this project is within the Water Quality District and a water system is a regulation for the district. The applicant is proposing individual wells. As part of the subdivision review, water issues are not discussed. Those issues will need to be reviewed by the Health Board and the Water Quality District. They can apply for a variance to that ordinance.

Commissioner Carey commended the Mahlums for working with Ron Ewart and staff to lower the profile on those homes. It is important to protect hillsides and ridge views.

Chairman Evans stated that she agreed with Fred Reed's comments at the Planning Board hearing, "to call a 26 foot elevation increase from one end of the property to the other as a ridge defies any ordinary use of the English language." People living in a valley will see homes on the hillsides.

Commissioner Carey moved that the Board of County Commissioners approve the variance request from Article 3-2(13) of the Missoula County Subdivision Regulations requiring curb and gutter on Mahlum Lane, based on the findings of fact set forth in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners delete any reference to Lot 14 on Condition 1. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners add a condition as stated in Ron Ewart's letter of May 1, 2001 that reads "The proposed covenants shall be amended to include specific language regarding building construction, location and type for Lot 14. It shall state: "17. Building Construction, Location and Type: J. The home on Lot 14 shall be single story (above ground) only and shall not be constructed above the 3,200 foot elevation contour as shown on the subdivision plat. This section of the covenants shall not be amended without consent of the Missoula Board of County Commissioners. These provisions shall be included in a development covenant to be filed prior to final plat approval, subject to OPG and County Attorney's Office approval." Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Curtiss stated that because Lot 14 does not have a 10% slope, she felt this was a good amendment.

Commissioner Carey moved that the Board of County Commissioners approve the Mahlum Meadows Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report as amended. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Mahlum Meadows Subdivision Conditions of Approval:

1. The proposed covenants shall be amended to include specific language regarding building construction, location and type for Lots 12 and 13. It shall state: "17. Building Construction, Location and Type: I. No homes shall be constructed above the 3,192 foot elevation on Lots 12 and 13. Driveway plans shall be reviewed and approved by OPG. The highest point of any building constructed on Lots 12 and 13 shall not have an elevation higher than the highest natural point on the lot. The intent is to prohibit buildings from being visible over the crest of the hill in the southern portion of the property, as viewed from the south. Architectural design shall consider this goal through topographic modeling for the site selection on Lots 12 and 13." This section of the covenants shall not be amended without consent of the Missoula Board of County Commissioners. These provisions shall be included in a development covenant to be filed prior to final plat approval subject to OPG and County Attorney's Office approval. *Subdivision Regulations Articles 3-1(I), 3-15(A)(1) and staff recommendation.*
2. The proposed covenants shall be amended to include specific language regarding building construction, location and type for Lot 14. It shall state: "17. Building Construction, Location and Type: J. The home on Lot 14 shall be single story (above ground) only and shall not be constructed above the 3,200 foot elevation contour as shown on the subdivision plat." This section of the covenants shall not be amended without consent of the Missoula Board of County Commissioners. These provisions shall be included in a development covenant to be filed prior to final plat approval subject to OPG and County Attorney's Office approval. *Subdivision Regulations Articles 3-1(I), 3-15(A)(1) and staff recommendation.*
3. Topographic lines at 2 foot intervals shall be shown on the final plat. *Subdivision Regulations Article 4-2(1).*
4. Mahlum Lane shall be redesigned to follow the natural contours of the land at the southern end of the property and driveways for Lots 12, 13 and 14 shall conform to hillside standards. Engineering and drainage plans for Mahlum Lane shall be approved by the County Public Works Department and the County Surveyor's Office prior to final plat approval. A professional engineer shall certify that the road has been constructed per the approved plans. *Subdivision Regulations Articles 3-2, 3-4 and 3-15(A)(1), County Surveyor, Frenchtown Rural Fire District and staff recommendation.*
5. The following statement shall appear on the face of the plat and in each instrument of conveyance:

"Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for improvements to Waldo Road, including installation of pedestrian walkways or bikeways, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations Article 3-2 and staff recommendation.*
6. Frenchtown Rural Fire District shall review and approve the location of at least one fire hydrant and a 2,000 gallon water storage tank for fire fighting purposes prior to final plat approval. *Subdivision Regulations Article 3-7(1) and Frenchtown Rural Fire District recommendation.*
7. A Revegetation Plan for Disturbed Sites shall be approved by the Missoula County Weed Board prior to final plat approval. Further, the covenants shall be amended to require that the common area and roadsides are kept free of weeds. *Subdivision Regulations Article 3-1(1)(B) and staff recommendations.*
8. Driveways shall be paved at least 20 feet back from the edge of Mahlum Lane. *Missoula City-County Health Department recommendation.*

Other Business

Tim Hall stated that he was resigning from his position at the Office of Planning and Grants. During the years he has been with OPG, it has been a sincere pleasure to help the Board. He thanked the Board for their service during that time.

Chairman Evans thanked Tim Hall for all his hard work over the years and wished him the very best in his new endeavors.

There being no further business to come before the Board, the Commissioners were in recess at 2:10 p.m.

THURSDAY, MAY 17, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – Chairman Evans and Commissioner Carey signed the Claims List, dated May 17, 2001, batch number 1268 (pages 1-4), with a grand total of \$21,996.43. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Resolution No. 2001-042 – The Commissioners signed Resolution No. 2001-042, dated March 17, 2001, authorizing Montana Community Development Corporation ("MCDC") to apply for a multi-jurisdictional Community Development Block Grant to establish a fire related (Wildfire Impact Revolving) loan fund. MCDC has been identified to apply for \$230,000 of these funds for businesses in Ravalli, Mineral and Missoula Counties.

Other items included:

- 1) The Commissioners have been invited to a meeting on May 31st from 9:00 a.m.-11:00 a.m. at the Blackfoot Telephone conducted by Dr. William Gillis regarding telecommunications and technology infrastructure and issues. Each Commissioner will respond to the invitation.


The minutes of the Administrative Meeting are on file in the Commissioners Office.


MAY 18 2001

FRIDAY, MAY 18, 2001

The Board of County Commissioners met in regular session; a quorum of members was present. Chairman Evans was on vacation. In the afternoon, Commissioners Carey and Curtiss met with a representative of Fish, Wildlife, and Parks at Milltown Dam to view the fish migration.

Replacement Warrant – Acting Chairman Carey examined, approved, and ordered filed an Application for Issuance Replacement Warrant naming Target Stores Commercial Account as Applicant for Accounting Warrant #377444 issued January 5, 2001 on the Missoula County 7061 Fund in the amount of \$22.35 (payment for supplies), which was not received in the mail. No bond of indemnity is required.


Vickie M. Zeier
Clerk & Recorder


Barbara Evans, Chair
Board of County Commissioners

MONDAY, MAY 21, 2001

The Board of County Commissioners met in regular session; all three members were present. In the forenoon, in conjunction with the Office of Planning and Grants Departmental Meeting, the Commissioners participated in a field trip to the proposed West Pointe Subdivision in the Butler Creek area. At noon, the Commissioners were guests at a luncheon at the Extension Office to discuss projects and funding. In the afternoon, Chairman Evans participated in the groundbreaking ceremony for Reserve B at the Missoula Development Park.

Payroll Transmittal – The Commissioners signed the following Payroll Transmittal Sheet: Pay Period: 10 - Pay Date: May 18, 2001. Total Missoula County Payroll: \$783,297.72. The Transmittal Sheet was returned to the Auditor's Office.

Designation – Chairman Evans signed a letter to Thomas E. Martin, P.E., Montana Department of Transportation, Transportation Planning Division, Helena, Montana, designating Horace S. Brown, Missoula County Surveyor, as the Environmental Certifying Official responsible for all activities associated with the environmental review process to be completed in conjunction with the development of the following approved transportation project: Project Number: STPE 32(26); Project Name: Lolo Walkway-Lolo; Control Number: 3697. [Per Mr. Brown, this is "additional red tape" for the CTEP projects. This has no impact, except my time."] The document was returned to Mr. Brown for further handling.

Agreement – As approved at the Administrative Meeting held on May 17, 2001, the Commissioners signed a Purchase Agreement (per the additional terms and conditions set forth therein) between Wesmont Builders/Developers, Inc. as Buyer and Missoula County as Seller for a parcel of land known as Reserve Parcel B in the Missoula Development Park. The total purchase price is \$600,000.00. The Closing Date shall be on or before May 26, 2001.

An Agreement To Occupy Prior To Closing was also signed wherein Missoula County agrees to allow Wesmont Builders to start construction on infrastructure improvements for Reserve Parcel B in the Missoula Development Park prior to closing. Occupancy can occur after subdivision construction plans have been approved. Both documents were returned to Barbara Martens in the Projects Office for further handling.

TUESDAY, MAY 22, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – The Commissioners signed the Claims List, dated May 21, 2001, batch number 1269 (pages 1-4), with a grand total of \$62,446.61. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated May 21, 2001, batch number 1275 (pages 1-5), with a grand total of \$29,839.99. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated May 21, 2001, batch number 1285 (pages 1-2), with a grand total of \$12,201.94. The Claims List was returned to the Accounting Department.

Monthly Report – Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Report for Justice Court 1, John E. Odlin, Justice of the Peace, for the month ending April 30, 2001.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Resolution No. 2001-043 – Chairman Evans signed Resolution No. 2001-043, dated May 22, 2001, relating to \$327,000 pooled Rural Special Improvement District Bonds, Series 2001 (Rural Special Improvement District Nos. 8465 and 8469 – Farm Lane and Snowdrift Lane Paving), and authorizing the issuance and calling for the public sale thereof. The date of sale is set for June 13, 2001 at 1:30 p.m. Vickie M. Zeier, County Clerk and Recorder, signed a Certificate as to Resolution and Adopting Vote.

Agreement – Chairman Evans signed a Cooperative Law Enforcement Agreement between the Missoula County Sheriff's Department and the USDA, Forest Service, Lolo National Forest, providing \$27,000 for law enforcement assistance when patrolling US Forest Service property. This is a renewal request for the yearly cooperative agreement. The document was returned to Don Morman in the Sheriff's Department for further signatures and handling.

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Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Terry Weisenburger, Principal Contractor for Micro-Mania, to install an ethernet network at the Missoula County Weed District Office and to provide internet access. The term will be May 10, 2001 through May 31, 2002. The total amount shall not exceed \$1,500.00.

Resolution No. 2001-044 – Per Municipal Ordinance No. 3173 and City annexations redefining election precinct boundaries, the Commissioners signed Resolution No. 2001-044, dated May 22, 2001, redefining the boundaries of Election Precincts affected by City Council Ward redistricting and City annexations, as per the items set forth.

Project Proposal – The Commissioners signed a CMAQ (Congestion Mitigation and Air Quality Improvement Program) Project Proposal Guidelines, Instructions and Proposal Form, approving a project to build a walkway in Missoula County on North, Clements, Spurgin and Humble roads, as well as an access to Kelly Island. The total amount shall not exceed \$26,683.00. The document was returned to County Surveyor Horace Brown for further handling.

Extension Request – In accordance with the recommendation of the Office of Planning and Grants staff, the Commissioners signed a letter, dated May 21, 2001, to Dick Ainsworth of Placid Lake Properties, LLP, approving his request for a 180-day extension of the final plat approval deadline for the Placid Lake – South Shore Tracts, Phase 5 (Lots 12 and 14). The new filing deadline is January 1, 2002.

Deed Restriction Agreement and Subordinate Deed of Trust

Chairman Evans signed a Deed Restriction Agreement and Subordinate Deed of Trust between Missoula County and Frank Lewis Jonessian in the amount of \$5,000.00 for the property located at 421 North Montana, Missoula, Montana 59802, for the purpose of providing HOME Investment Partnerships Program (HOME) funds to assist with down payment, closing cost and, if necessary, mortgage reduction assistance, as per the terms and conditions set forth therein. The documents were returned to Jennifer Blumberg in the Office of Planning and Grants for further handling.

Other items included:

- 1) The Commissioners agreed to purchase a 2001 Polk City Directory.
- 2) Mary Jean Gilman presented an update on the Missoula Park Plan.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, MAY 23, 2001

The Board of County Commissioners met in regular session; all three members were present. In the evening, Chairman Evans and Commissioners Curtiss attended an information meeting on the Mullan Corridor Sewer Project with residents of Haven Heights held at the Hellgate Middle School.

Claims List – The Commissioners signed the Claims List, dated May 23, 2001, batch number 1276 (pages 1-5), with a grand total of \$14,988.43. The Claims List was returned to the Accounting Department.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the Chief Administrative Officer meeting held in the forenoon, the following items were signed:

Modification of Agreement – Chairman Evans signed Modification No. 6 of Agreement 290039, dated May 23, 2001, between Missoula County and the Montana Department of Environmental Quality (DEQ), extending the date to April 1, 2002 for final preparation of a facility plan necessary to apply for a federal grant to construct wastewater treatment works for the Golden West Area of Missoula. The document was forwarded to the DEQ in Helena for further handling.

Modification of Agreement – Chairman Evans signed Modification No. 6 of Agreement 290040, dated May 23, 2001, between Missoula County and the Montana Department of Environmental Quality (DEQ), extending the date to April 1, 2002 for final preparation of a facility plan necessary to apply for a federal grant to construct wastewater treatment works for the El Mar Estates Area of Missoula. The document was forwarded to the DEQ in Helena for further handling.

Budget Transfer – The Commissioners signed Budget Transfer Control No. 01-032 for the Special Projects Department, transferring \$1,500.00 from the Salaries Fund to the Office Supplies Fund for the purpose of purchasing a new computer for the part-time Projects Assistant in the Parks Department.

Request for Action – Chairman Evans signed three (3) Partnership Health Center, Inc. Clinical Pharmacy Demonstration Project Sub-Contractor Agreements for the purpose of planning and/or implementing a network of clinical pharmacy services to medically underserved clients. Funding for these services are included in the Clinical Pharmacy Demonstration Grant of \$241,122 and will be distributed as follows: 1) A total amount not to exceed \$65,002 to the University of Montana for the period of October 1, 2000 to September 30, 2001; 2) a total amount not to exceed \$5,334 to the Cascade City-County Health Department for the period of October 1, 2000 to June 30, 2001; and 3) a total amount not to exceed \$58,000 to the Yellowstone City-County Health Department for the period of October 1, 2000 to June 30, 2001. The documents were returned to Finance Director Janet Schafer at the Partnership Health Center, for further handling.

Request for Action – In accordance with the recommendation of the Office of Planning and Grants staff, the Commissioners signed two (2) Petitions to Change the Name of a County Road, dated May 23, 2001, to reflect the

following: 1) Change Tanager Way to Kestrel Drive; and 2) change a portion of Kestrel Drive to Industrial Road. Both roads are located in Missoula Development Park – Phase 1 (Section 35, Township 14 and Range 20). The documents were returned to Barbara Martens in the Projects Office for further handling.

Other items included:

- 1) The Commissioners were informed that Stan Nicholson has declined his appointment to the Salary Committee, and has recommended his brother, Don Nicholson. Chairman Evans will contact Don Nicholson to see if he is interested in the position.
- 2) At a meeting with the County Attorneys at 11:00 a.m., the Commissioners approved a request to a change in land transfer from Daniel L. Field to Shane C. Field.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

PUBLIC MEETING – May 23, 2001

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Bill Carey, Commissioner Jean Curtiss, County Surveyor Horace Brown, County Public Works Director Greg Robertson, Deputy County Attorney Colleen Dowdall and Chief Civil Attorney Michael Sehestedt.

Public Comment

None

Routine Administrative Actions

Commissioner Carey moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$137,962.23. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Bid Award: Blue Mountain Road Earthwork (Public Works Department)

Greg Robertson presented the staff report.

This is a request to award the Blue Mountain Road Subgrade contact. The Missoula County Public Works Department solicited bids from responsible contractors for subgrade earthwork. Five bids were received.

Item Number & Description	AJAX CONTRACTING	PUMCO INC.	JIM PHILLIPS CONTRACTING	L.M. NEILSON AND SONS	JTL GROUP
1. Unclassified excavation and embankment (18,650 CY Fill)	\$157,228.20	\$55,887.90	\$101,572.20	\$68,410.00	\$76,527.00
2. Install 28"x20" ACMP, 14 gage (pipe furnished by Missoula County)	\$19,080.00	\$10,600.00	\$7,632.00	\$6,466.00	\$8,480.00
3. Rock drainage chute (6" minus rounded rock)	\$900.00	\$600.00	\$240.00	\$300.00	\$600.00
4. Geotextile for drainage cut	\$211.50	\$117.50	\$47.00	\$399.50	\$188.00
5. Clearing and grubbing (approx. 150'x60' = 1000 S.Y.)	\$7,500.00	\$1,500.00	\$1,000.00	\$3,500.00	\$2,500.00
6. Traffic Control	\$10,500.00	\$5,000.00	\$1,000.00	\$6,500.00	\$3,000.00
Total Bid	\$195,419.70	\$73,705.40	\$111,491.20	\$85,576.00	\$91,295.00

The apparent low bidder is Pumco, Inc., P.O. Box 700, Lolo, MT 59847 in the amount of \$73,705.40. The bid has been reviewed for conformance with bidder instructions and was found to be in order. The engineer's estimate for the contract was \$100,000. It is the recommendation of the Public Works Department to award the contract to Pumco, Inc. in the amount of \$73,705.40. The amount budgeted in the Road Fund is \$140,000.

Commissioner Carey asked why the engineer's estimate was approximately 25% off?

Greg Robertson stated there were some really low prices from some of the bidders, lower than he expected. The contractor is comfortable with his bid amount and feels he can do the job for that amount.

Commissioner Curtiss moved that the Board of County Commissioners award the contract for the Blue Mountain Road Subgrade to Pumco, Inc. of Lolo, Montana, in the amount of \$73,705.40 as the lowest and best bidder. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Bid Award: Equipment Purchases (Public Works Department)

a. One (1) Used Tandem Axle Truck Tractor Transport

Greg Robertson presented the staff report.

Bids were opened April 30, 2001 at 10:00 a.m. with the following results:

001 0372

Williams Equipment	\$48,250.00 (Used Unit)
Missoula Freightliner	\$49,372.00 (Reman Unit)
Transport Equipment	\$32,000.00 (Used Unit)
Missoula Truck Sales	\$39,140.00 (Used Unit)
Peterson Trucking	\$28,000.00 (Used Unit)
Peterson Trucking	\$44,000.00 (Used Unit)

Each vehicle was evaluated because they are used and each one is unique. Missoula Freightliner is not the lowest bid, but after evaluation, it was determined to be the best bid. They offer a full warranty and none of the others did.

It is the recommendation of the Public Works Department to award the bid to Missoula Freightliner in the amount of \$49,372.00 as the best bid. The Public Works Department has sufficient funds available.

Commissioner Carey moved that the Board of County Commissioners award the bid for one (1) used tandem axle truck tractor transport to Missoula Freightliner in the amount of \$49,372.00 as the best bid. Commissioner Curtiss seconded the motion.

Chairman Evans asked if Missoula Freightliner was the lowest bid?

Greg Robertson stated it was not the lowest bid but after evaluation was the best bid.

Chairman Evans asked for public comments.

Michael Sehestedt stated that the County bidding law requires the County to accept the lowest and best responsible bid. Lowest is mathematical; responsible is covered by bid security. Best, however, can be a matter of judgment. As Greg Robertson explained, this unit is remanufactured rather than used and comes with a full warranty. Based on the evaluation process, it makes it the best bid, even though it is not the lowest.

The motion carried on a vote of 3-0.

b. Two (2) 12-Yard Tandem Axle Dump Trucks

Greg Robertson presented the staff report.

Bids were opened May 7, 2001 at 10:00 a.m. with the following results:

Northwest Peterbuilt	\$168,964.00
Western Star Trucks	\$163,702.00
	Did not meet specifications
Transport Equipment	Did not sign bid
Williams Equipment	\$185,804.00
Missoula Truck Sales	\$164,490.00

It is the recommendation of the Public Works Department to award the bid to Missoula Truck Sales in the amount of \$164,490.00 as the most responsible and best bid. The Public Works Department has sufficient funds available.

Commissioner Curtiss moved that the Board of County Commissioners award the bid for two (2) 12-yard tandem axle dump trucks to Missoula Truck Sales in the amount of \$164,490.00 as the most responsible and best bid. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

c. Two (2) Four Wheel Drive Front End Loaders

Greg Robertson presented the staff report.

Bids were opened May 7, 2001 at 10:00 a.m. with the following results:

Company	Bid	With Additional Powertrain Warranty
Jones Equipment	\$216,112.00	\$230,240.00
Triple W Equipment	\$233,642.00	\$241,082.00
Western State Equipment	\$237,916.00	\$240,756.00
Modern Machinery	\$251,600.00	\$256,600.00

None of the bids received completely met the specifications. The bids were therefore evaluated on Life Cycle Costing. It is the recommendation of the Public Works Department to award the bid to Western States Equipment in the amount of \$240,756.00 as the best bid. The Public Works Department has sufficient funds available.

Commissioner Carey moved that the Board of County Commissioners award the bid for two (2) four wheel drive front end loaders to Western States Equipment in the amount of \$240,756.00 as the best bid. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

d. Two (2) Used Tandem Axle Trucks with New Water Tank Systems

Greg Robertson presented the staff report.

Bids were opened May 7, 2001 at 10:00 a.m. with the following results:

Western Star Trucks	No Bid
Transport Equipment	\$115,800.00

Because of the unique nature of used equipment, the department will evaluate each tractor before receiving it. The water tank and hydraulics are new. It is the recommendation of the Public Works Department to award the bid to Transport Equipment in the amount of \$115,800.00 as the best bid. The Public Works Department has sufficient funds available.

Michael Sehestedt asked if the evaluation of the tractors had been completed or should the award of the bid be contingent upon the evaluation.

Greg Robertson stated the bid specifications clearly state that the department has the right to inspect before receiving the equipment.

Commissioner Curtiss moved that the Board of County Commissioners award the bid for two (2) used tandem axle trucks with new water tank systems to Transport Equipment in the amount of \$115,800.00 as the best bid, contingent on the Public Works Department evaluation of the equipment prior to purchase. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

e. One (1) Skidsteer Loader

Greg Robertson presented the staff report.

Bids were opened April 30, 2001 at 10:00 a.m. with the following results:

Company	Bid	With Additional Powertrain Warranty
Western States Equipment	\$26,497.00	\$27,377.00
Triple W Equipment **	\$18,948.00	\$20,139.00
Jones Equipment **	\$19,184.00	\$20,760.00
Great Northern Equipment **	\$17,920.00	\$20,208.00
Peterson Machinery **	\$22,081.00	\$23,881.00
Bobcat West	\$20,751.00	\$22,394.00

** The machines did not meet specifications

None of the bids fully met the required specifications. It is the recommendation of the Public Works Department to award the bid to Bobcat West in the amount of \$22,394.00 as the best bid. The Public Works Department has sufficient funds available.

Michael Sehestedt stated Bobcat West was the lowest of the two bids that were practically conforming.

Commissioner Carey moved that the Board of County Commissioners award the bid for one (1) skidsteer loader to Bobcat West in the amount of \$22,394.00 as the best bid. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Hearing: Tucker Family Transfer

Colleen Dowdall presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described as north 1/2, southwest 1/4, southeast 1/4 and south 1/2, northwest 1/4, southeast 1/4 of Section 15, Township 14 North, Range 20 West.

Wallace A. Tucker has submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 40 acres in size located north of I-90 and east of Highway 93, near the Wye. He proposes to create an eight acre parcel for transfer to his daughter, Diane Lake.

According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act.

Chairman Evans opened the public hearing.

Wallace Tucker was present and came forward to answer any questions the Commissioner may have.

Chairman Evans stated that the law requires the Commissioners to determine if the request is truly a family transfer or if it is an attempt to evade subdivision review. The law allows the Board to ask the petitioner questions to make that determination, which is the reason for him being present today.

There being no further comments, the public hearing was closed.

Commissioner Curtiss moved that the Board of County Commissioners approve the request by Wallace Tucker to create a new parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Chairman Evans stated that Mr. Tucker would receive a letter of approval. The approval is for the division of land only. It does not give approval for a septic system or constitute any commitment as to the availability of any services, access, etc.

Hearing: Nothnagel Family Transfer

Colleen Dowdall presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel located in the southwest quarter of Section 36, Township 11 North, Range 20 West.

LeRoy Nothnagel has submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is located near Chief Looking Glass Road in the Bitterroot. Mr. Nothnagel proposes to create a parcel for transfer to his daughter, Lisa Nothnagel.

According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act.

Chairman Evans opened the public hearing.

Colleen Dowdall asked Mr. Nothnagel where the parcel is located.

LeRoy Nothnagel stated the parcel is on the very south edge of Missoula County along Chief Looking Glass.

Chairman Evans stated that the law requires the Commissioners to determine if the request is truly a family transfer or if it is an attempt to evade subdivision review. The law allows the Board to ask the petitioner questions to make that determination, which is the reason for him being present today.

Commissioner Curtiss stated the property was located in Zoning District 31. Mr. Nothnagel's daughter wanted to put a modular home on the property. Was that allowed in the Zoning District?

LeRoy Nothnagel stated the only thing the Zoning District did not allow were trailers. His daughter's home would be put on a permanent foundation.

There being no further comments, the public hearing was closed.

Commissioner Carey moved that the Board of County Commissioners approve the request by LeRoy Nothnagel to create a new parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Chairman Evans stated that Mr. Nothnagel would receive a letter of approval. The approval is for the division of land only. It does not give approval for a septic system or constitute any commitment as to the availability of any services, access, etc.

Hearing: Griffin Family Transfer

Colleen Dowdall presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described as Tract 1, COS 4752, Section 33, Township 15 North, Range 14 West and the north 1/2 of Section 4, Township 14 North, Range 14 West.

Rex Griffin has submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 253 acres in size located in the Clearwater area off Highway 200. He proposes to create an approximately 50 acre parcel for transfer to his spouse, Carrie J. Griffin.

The history of the parcel is as follows:

Parcel History	Year	Exemption Used	Applicant or Grantor	Intended Recipient
COS 4752	1998	Parcel greater than 160 acres	State of Montana	Rex Griffin

According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act.

Chairman Evans opened the public hearing. She stated that the law requires the Commissioners to determine if the request is truly a family transfer or if it is an attempt to evade subdivision review. The law allows the Board to ask the petitioner questions to make that determination, which is the reason for him being present today.

Rex Griffin stated that he intended to transfer this parcel to his wife and it was not an attempt to evade subdivision review. The existing property is a guest ranch and this transfer was being done as part of his estate planning. They plan to build a residence adjoining the guest ranch.

There being no further comments, the public hearing was closed.

Commissioner Curtiss moved that the Board of County Commissioners approve the request by Rex Griffin to create a new parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Chairman Evans stated that Mr. Griffin would receive a letter of approval. The approval is for the division of land only. It does not give approval for a septic system or constitute any commitment as to the availability of any services, access, etc.

Hearing: Ebel Family Transfer

Colleen Dowdall presented the staff report.

2001-0375

This is a consideration of a request to create a family transfer parcel for that parcel described as Tract 17C, COS 1724, Western Farms, Township 14 North, Range 20 West.

Gerald Ebel has submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 10 acres in size located in Western Farms. He proposes to create a parcel for transfer to his son, Thomas T. Ebel.

According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act.

Chairman Evans opened the public hearing. She stated that the law requires the Commissioners to determine if the request is truly a family transfer or if it is an attempt to evade subdivision review. The law allows the Board to ask the petitioner questions to make that determination, which is the reason for him being present today. She asked where this property was located.

Gerald Ebel stated the property was located off Pulp Mill Road near Stone Container. The parcel he intended to give his son was approximately 5 acres.

There being no further comments, the public hearing was closed.

Commissioner Carey moved that the Board of County Commissioners approve the request by Gerald Ebel to create a new parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Chairman Evans stated that Mr. Ebel would receive a letter of approval. The approval is for the division of land only. It does not give approval for a septic system or constitute any commitment as to the availability of any services, access, etc.

Hearing: West Pointe Planned Unit Development (PUD), Rezoning and Subdivision (240 lot subdivision of Lot 2, Circle H Ranch, located at the northeast corner of Butler Creek Road and Goodan Lane)

Karen Hughes, Office of Planning and Grants, presented the staff report.

This is a request from Circle H Ranch (Jay Raser), represented by Nick Kaufman of WGM Group, to amend the East Butler Creek Foothills Zoning District to expand Area C: Attached Housing. This would incorporate a portion of the equestrian area to the north and some land to the east for a total of approximately 73 acres. The rezoning also amends space and bulk requirements, primarily for Area C, the attached housing district. This proposal is also to divide approximately 73 acres into a 240 lot Planned Unit Development (PUD) Subdivision that will accommodate a combination of attached and detached single family housing.

Currently the property includes Lot 2 of Circle H Ranch and Area C of the East Butler Creek Foothills Zoning District plus the additional acreage. Circle H Ranch was approved in 1994 and encompassed almost 1,000 acres. With this approval, there were 77 single family residential lots clustered in groups on about 44 acres of a larger 825 acre parcel. A conservation easement managed by the Five Valleys Land Trust was established on much of the remaining acres to preserve important elk habitat. An 87 acre equestrian park was identified to the north of the proposed subdivision as a separate lot. Area C (Lot 2) was approved for 226 lots on 57 acres. As a condition of approval of Circle H Ranch and the East Butler Creek Foothills District, the applicant was required to go through subdivision again before the area could actually be developed. The applicant is now requesting the 240 lots on 72.95 acres that includes the original 57 acres of Area C (Lot 2).

Staff is recommending approval of the rezoning subject to 5 condition and the revised zoning district standards that are attached to the staff report. Staff is also recommending approval of the PUD Subdivision subject to 32 conditions. The Planning Board public hearing was held May 1, 2001. The Board voted 5-3 to recommend approval of both the rezoning and subdivision proposals, subject to staff's conditions. No changes to the recommended conditions were made. After the Planning Board hearing, staff made minor changes to the Zoning District standards. The one substantive change was in regards to building height. The applicant proposed increasing the height limitation to 36 feet and staff, based on discussion of Planning Board members, recommended limiting the height to 30 feet, which was originally approved with the East Butler Creek Foothills Zoning District. The change was based on the findings of fact in the Comprehensive Plan section of the staff report which deals with views and hillside areas.

Staff and the developer agree on all conditions with two exceptions. One is in regards to ridgeline development and the other is the height limitation in the Zoning District standards. As a PUD subdivision and rezoning, the developer has the opportunity to make a proposal that varies from zoning and subdivision standards. Staff has worked with the developer and reviewed the application using the subdivision and zoning regulations as guidelines.

The site is bowl shaped, hillside property. The lower portion of the ridgeline traverses the west side, from the water tower to Mr. Ball's property. A draw crosses the southeastern portion of the property. The proposal for the 240 lot residential subdivision will be developed in five phases. Most of the lots are located so as to leave the upper portions of the hillsides as common area. This common area connects with the common area of the clustered rural residential area further up on Circle H Ranch. Attached and detached single family housing are the primary permitted uses. Detached housing lots are proposed to have a minimum lot size of 3,400 square feet. Attached housing has no minimum lot size. Based on minimum lot size, we know that at least 80 lots will have attached housing. The developer did not identify particular lots for attached or detached housing to allow for flexibility in meeting market demand.

Because this is a PUD subdivision, the developer has varied from regulations but does not ask for variances. Those are covered in the Planned Unit Development standards. Some of the variances made include some lots which have over a 25% grade, vary from the length to width ratio, vary from the minimum width requirements, maximum block length and hillside design standards.

Staff made a number of recommendations in relation to site design. These included conditions in zoning and subdivision as well as revisions to Zoning District standards. Most of the hillside design standards were included to address building and driveway design, with a few exceptions. It is also required that each lot have a 2,000 square foot contiguous area with less than 25% grade. Staff has also recommended limiting ridgeline development by deleting Patton Court and the adjacent lots. Staff has also recommended height limitation on the ridgeline lots on MacArthur Drive. Much of the basis for these recommendations is the Comprehensive Plan. The applicable plan is the 1996 Butler Creek Area Plan. There are two land use designations for the property. A small portion to the west is Rural Residential with a recommended maximum density of one dwelling unit per 5-10 acres. The rest of the property is designated as Open and Resource with a recommended residential density of one dwelling unit per 40 acres.

This subdivision exceeds both those recommendations, but this proposal is considered in the context of Circle H Ranch; when it was approved, there were 226 building rights. The overall density of Circle H Ranch was one dwelling unit per 3.2 acres. With the additional 14 units in this proposal, the overall density would be one dwelling unit per 3 acres.

As with the original Circle H Ranch subdivision, overall land use goals were considered as the basis for determining Comprehensive Plan compliance. The developers involved citizens in the early planning process of Circle H Ranch. Preservation of air and water quality is another goal considered. There are a couple conditions having to do with air quality because this is being developed on hillside land. Conservation of resources, wildlife (elk) habitat, is another goal involved. The developer has done a voluntary conservation easement to protect the most important wildlife habitat. Montana Fish, Wildlife and Parks was involved in the conservation easement process. Another Comp Plan goal addressed was views and hillsides. That has been addressed through conditions limiting ridgeline development and incorporating hillside standards into the governing regulations for this site. Compatibility with existing uses is another goal considered. This was looked at with the understanding that 226 lots were pre-approved for this site. The site will have sewer and water. The most visible area of the site from the highway is located closest to the road system. Putting more of the development on this portion of the land rather than the upper portions of Circle H Ranch makes sense.

Some of the other issues considered included off-site roads. The subdivision is accessed by Butler Creek Road in one location and Goodan Lane in two locations. Neither of these roads meets County subdivision standards for roads and the intersection is considered problematic. Staff has made some recommendations to deal with off site road impacts. The key is to know that the impacts to these roads is coming from this subdivision. The developer cannot be required to mitigate beyond that impact. It was recommended that a traffic analysis for impacts of this subdivision on Butler Creek Road and Goodan Lane be performed. That traffic analysis is already underway and improvements to off site roads will be based on the results of the analysis. RSID waivers for future improvements to both of these roads be included on the plat, including drainage improvements. That will deal with the intersection of Butler Creek Road and Goodan Lane which has the potential for flooding when Butler Creek is running high.

The challenge for the internal road system was designing for a hillside site with a minimum of 226 units. The applicant proposed a curvilinear road system that generally follows contours. It has some tight curves and some long cul-de-sac lengths. The road width varies from 20 feet, where roads cross the draw, to 28-32 feet. Curbs and gutters are proposed. Maximum road grades are 8%, which meet subdivision standards. Variations from subdivision regulations include cul-de-sac length, the proportion of road as cul-de-sacs, road widths and tight road curves. Some of the conditions recommended include that the road shall be private and covenants be revised to address road maintenance, road widths be not less than 24 feet and road curves be redesigned and overall detailed grading, drainage and erosion plan be reviewed and approved by the County.

A trail system is proposed instead of sidewalks. The trails are proposed to be constructed with a 5 foot wide asphalt surface. The trail system is both a pedestrian walkway and a recreation feature. Resting areas and fitness stations are proposed. Staff has recommended some conditions that can be found in both subdivision and zoning, including a detailed trail system plan that includes a grading plan, location of resting areas and fitness stations, trail width and trail frontage along all lots. Trails should be developed with each phase and connect to Butler Creek Road and Goodan Lane at each phase. Trail maintenance needs to be specifically addressed in the covenants. Also, fencing has been limited within the trail easement between lots and proof of physical access from each lot to the trail is required.

For subdivisions, it is required that 11% of the net lotted area be dedicated as parkland, common area or open space. The applicant proposes 35.6 acres, or 49%, as common area. Based on this percentage, this could be considered a cluster/open space development. One of the criteria that must be met for a PUD is providing a developed recreation and common area with amenities. The proposal for the common area includes horseshoe pits and some playground equipment, trail system, restoration of riparian area and landscaped boulevard. Staff has recommended that a detailed common area development plan be provided and covenants regarding common area be revised.

There is riparian vegetation along the draw that crosses the property. The spring that fed this draw is now dry and the applicant is proposing development of trails, drainage detention facilities and roads along and across the riparian area. They are also proposing restoration of this area. Staff has recommended some conditions to address riparian area issues including providing a detailed riparian area planting, maintenance and monitoring plan. Staff will review the detailed drainage plan for impacts to riparian areas. Guidelines for developing roadways in the riparian areas should be included in the plan and the covenants should be amended to include the management plan and a map of the riparian area.

Nick Kaufman, WGM Group, developer's representative, was present representing West Pointe, a portion of Circle H Ranch. Jay Raser, the developer, was also present. It is important to put any development proposed in Missoula County in the context of the community needs. One of things that is looked at is the projected demand for housing in Missoula. The Bureau of Business and Economic Research expect Missoula in the next decade (2000-2010) to grow by about 13,000 people. The Consolidate Housing Plan, prepared by OPG and adopted by the governing body, projects a five year need of around 3,600 new dwellings. These 240 proposed units provide 6% of the total needed new dwelling units over the next five years. West Pointe is as close to downtown as Linda Vista and El Mar Estates. After West Pointe was approved as a Planned Unit Development and a subdivision, the 201 Sewer Service Area was adopted. The proposed West Pointe area is within the 201 Service Area. In 1998, the Board adopted the Growth Management Policy for the City and County in the urban area and that 201 Service Area follows the Urban Growth Areas boundaries. Additional, since 1994, Mountain Water Company serves the area and public sewer will be extended to the site. Missoula County has also

undertaken the Missoula Development Park since 1994 when Circle H Ranch was originally approved. That is a 400 acre employment center ranging from both sides of Butler Creek Road east to Canyon Creek Village, another recently approved subdivision. It is close to DeSmet School and three routes connect the property to Missoula – Highway 10, Expressway and Interstate 90. The Comprehensive Plan Map in the 1998 Growth Policy shows a cornerstone boundary to delineate scenic vistas. The original Circle H Ranch protected with a conservation easement the open ridges and primary and secondary elk habitat. Even though Circle H Ranch was approved in 1994, it conforms to the Comprehensive Plan Growth Policy adopted in 1998. Just below DeSmet School, at the corner of Expressway and Butler Creek Road, the County has a piece of property in the Development Park zoned for neighborhood commercial. It is expected, with the Goodan Keil residential development, the development of homes in Butler Creek, Circle H Ranch, West Pointe, and all the employees that will be working in the Development Park, that will be a viable commercial site and provide convenient shopping to this development. Missoula County recently adopted the Wye/Mullan Transportation Plan. El Mar Estates and New Meadows consists of over 400 dwelling units and their only access back to Missoula is Mullan Road with a potential connection to West Broadway on Flynn Lane. The transportation system is not like the Rattlesnake, Grant Creek, Pattee Canyon or Miller Creek, which has only one way in and out. Off Butler Creek Road there are two ways to go west, via Highway 10 or DeSmet Road. DeSmet Road is not the most favorable option, but it is an option if Highway 10 is blocked for any reason. Missoula County has plans to extend Expressway and bring it back to Highway 10 West on the other side of the railroad crossing and abandon the crossing on Padre Lane. The options to go east are on Expressway or Highway 10 West.

Jay Raser, developer, stated that Circle H Ranch was a concept developed around a change in the subdivision regulations. Preceding the hearing for Circle H Ranch the Commissioners were dealing with Family Transfer. Before Circle H Ranch went through subdivision review, the property had been divided into 49 twenty acre parcels, which made it possible to circumvent the existing subdivision regulations and create 392 possible homesites without any type of review. He did not like what that could do to the landscape and realized that subdivision regulations would make the occasional sale from 20 acre splits not available much longer. He developed this concept to meet future needs. Some of the goals he had in mind were to preserve the wildlife habitat that existed and protect the viewshed for the citizens in the valley. The elk on the property are a new addition. They have moved into the area because when the Rattlesnake Wilderness was created, it was closed to logging causing the big meadows to infill with trees resulting in a loss of forage area for the elk. The elk have moved to these lower areas so they can forage. Circle H is a bookend for the wildlife area with Glen Eagle forming the eastern boundary. By restricting development on the higher elevations combined with Dennis Washington's conservation easements, it creates a large designated area for elk habitat. The project is bordered to the west by the Hanson Ranch, to the east the Flynn Ranch and the Washington Corp. Ranch and to the south, the Goodan Keil development. When this project was initially proposed, keeping housing off the ridges was very important. This follows with the original vision identified in 1994. In the Master Plan adopted for Circle H Ranch in 1994, there were 800+ acres of open space with the clustered single family lots, an equestrian lot that borders Butler Creek Road and provides a buffer between the housing on Circle H Ranch and the road, and Lot 2, which was designed for a quality attached housing project. The major difference between what was proposed in 1994 and today's proposal is the elimination of condominiums. The upper reaches of the property have been protected with the conservation easement. The primary ridge has been protected and housing has been clustered around the ridge.

Nick Kaufman stated West Pointe is an important component of the original Circle H Ranch project. It is the lowest elevation property on the ranch. It is bowl shaped with a draw that runs down the middle of it. Most of the roads follow the land contours in a curvilinear fashion. They have tried to keep all the housing out of slopes greater than 25%. There are a few lots that staff has recommended be removed because of slope and that is not an issue for the developer. The original design of West Pointe was a cul-de-sac type development with an access off Butler Creek Road and a single access to Goodan Lane and no roads across the draw. After numerous discussions with the City and County, reviewing agencies and OPG, the design was changed to a development which crosses the draw and connects the community to both sides of the draw. Patton Court development is on a low draw just below the water tank and off the steeper slopes to the right. The phasing plan is over a 5 year period. The plan shows open space continuing along Butler Creek Road and the trail system connections from the developed portion to Butler Creek Road. It shows how some of the retention basis will work. Detailed grading and drainage plans will be submitted for review and approval to make sure all drainage is retained on site. Adjacent to this proposal in Goodan Keil are single family residential homes. None of the attached townhomes are proposed next to these single family homes. Based on comments received at neighborhood meetings, a landscape buffer is proposed between West Pointe and the two closest homes adjacent to it in Goodan Keil. Goodan Keil has homes that front along 1.5 miles of the original Howard Raser property.

Jay Raser stated that he has continued from the original design of Circle H Ranch with a sensitivity to the property and an approach to preventing the loss of neighborhoods. He wanted to create a neighborhood that had a sense of community. The design is a community that is centered around a trail system with a neighborhood school. The idea was to come up with a housing design and the subdivision was then designed to suit the buildings. The current design uses triplexes, Unit A, Unit B and Unit C. The trail system will connect both sides of the draw. There are plans for single, double or triple garages. There is a lot of variation. Unit A could be anything from a studio to a two bedroom unit, with a price range of \$95,900 to \$125,500. Unit B could be anything from a two bedroom to a four bedroom unit, with a price range of \$130,000 to \$164,500. Unit C could be up to five bedrooms with a price range of \$168,900 to \$245,000. Three basic buildings layouts have been designed with different interior designs and various levels of finish with varying price ranges. The assumption is that the majority of the units will be priced between \$130,000 and \$170,000. He wanted to create varying styles for varying income levels to achieve a better mix. All the pedestrian traffic has been separated from the roads. Near the retention basins, the trail runs within 25 to 30 feet of the backs of the townhomes. In some area where the slopes are steeper, it is planned to do some terracing and use existing boulder fields on the property. They are again trying to create a sense of community and not have people talk across a 60 foot street right-of-way. Another purpose for the trail is to create an interior pedestrian network throughout the project with aerobic centers and benches. The trail will be lit with low voltage lighting at night. Wherever a trail intersects a street, old fashioned street lamps being made in Anaconda will be used. The State of Montana uses these on their new trail system on Highway 93 South past Lolo. The trails will be kept away from the riparian areas as much as possible while still enjoying the area. In some areas, a three foot trail from a unit will connect with a five foot trail. It is envisioned that the interior trail could connect to a larger trail system beyond the property to DeSmet School. Some of the units will be duplexes and patio homes designed to meet the needs of people in their retirement years, they will be all on one level. The trail system and open space are integral to the basic design of the units and the way this project functions.

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Nick Kaufman stated that the original plan for Circle H Ranch fits the landscape and topography. There are examples around Missoula of development on prominent ridges along with policy guides. From Lolo, the Miller Creek Valley and the Bonneville power lines are visible, as well as Linda Vista housing across the ridge. Some of the homes in Goodan Keil are visible from West Broadway. On this property, the long ridge was preserved as part of the original Circle H Ranch development. The highest homes on this property will be about the same height as the intermediate homes in Goodan Keil. Whether something is highly visible is a matter of perspective. Circle H Ranch protected everything within the designated Open Space Cornerstone. A pattern for hillside development in Missoula has already been established. The pattern proposed for this property is quite dissimilar from the existing ones in Missoula. This one takes the most important hillsides and most prominent, highly visible areas and preserve them through good planning. Then development is clustered and concentrated in the lower reaches of the property. That is what is being done with West Pointe. John Spangler, just before he voted in favor of West Pointe at the Planning Board hearing, said: "I intent to support the motion to rezone. One of the things I'm influenced by is what happened in 1994 when the whole Circle H project, the Circle H Ranch, this is a cluster development in a corner that is consistent with what was originally planned in 1994." There are two areas of disagreement with OPG. The developer would like recommended Rezoning Condition 4 deleted. Circle H Ranch gave up the most prominent ridgelines and wildlife habitat in 1994. The ridgelines placed in conservation easements cannot be recaptured. The homes on Patton Court fit into the landscape and are not higher than other existing homes in the overall view of the ridge. The developer is willing to make the homes on Patton Court and the lower ridge a maximum building height of 20 feet. If Rezoning Condition 4 is deleted, a change to Rezoning Condition 5 is proposed to include Lots 35-42 on Patton Court. The last change would be in the zoning regulations to replace the 30 foot building height limitation as changed by Planning Board to the 36 feet height as originally recommended by staff. He thanked the Board for their time on this proposed project. He hoped the Board would view West Pointe as part of Circle H Ranch and part of the Missoula community, not just in terms of the Comprehensive Plan and Zoning Amendment, but the subsequent actions of the Board and the City Council in the adoption of the 201 Service Area, the 1998 Growth Management Plan and the subsequent policies that have been adopted, and the proximity of the Missoula Development Park, services and the school.

Commissioner Carey asked for clarification on the 36 foot height maximum.

Nick Kaufman stated that the requirement in "Area C: Attached Housing Lot 2" of the East Butler Creek Foothills rezoning was changed by the Planning Board to have a maximum building height of 30 feet as originally approved in 1994 from staff's recommendation of 36 feet. The developer would like the maximum height to remain at staff's recommendation of 36 feet. The reason is that the original zoning for Lot 2 allowed for single family owner occupied, rental units and condominiums. Rental units and condominiums were removed and more patio homes were included in the mix. Some homes would be 36 feet high, but they won't all be that high. There is a mix of homes now and the ones on the more sensitive ridgeline would be limited to 20 feet.

Chairman Evans opened the public hearing. She asked that testimony be kept on point and no personal comments be made. She asked that each person come to the microphone, give their name and address and speak to the issues only.

Dick Clearman stated he was a resident of Goodan Keil. He felt this was a good plan but had two objections, both of which he felt could be rectified. One is an indirect objection and has to do with the school. With Canyon Creek and this development, it will overpopulate DeSmet School in the long run. The problem is that Canyon Creek is in a tax increment district and the school does not get any taxes from them. That will have a significant impact on taxation for the rest of the area residents, funding all the children who would be attending the school while it is free to Canyon Creek children. He felt that could be rectified by the County Commissioners. The second point has to do with the roads. Goodan Lane, while only 13 years old, is showing signs of age and breaking up in places. The two accesses to Goodan Lane will significantly increase the traffic on the road and will further deteriorate the road. He also wondered what would be done at the intersection of Goodan Lane and Butler Creek Road. The increase of traffic will impact the safety of that corner. It is bad now and with this many more homes, it will create a significant traffic problem. That has to be addressed. It may have been addressed, but he did not understand how.

Chairman Evans stated that would be discussed.

Steve Rossiter, 6200 Goodan Lane, stated he was a board member of the Goodan Keil Homeowners Association. The homeowners association has submitted written input as to their concerns. He would like to primarily address the road issues. According to the staff report and testimony at the May 1, 2001 Planning Board meeting, a couple of issues have been raised. At the first meeting, it was indicated that the developer envisioned that at some point in time his development would be hooked up to the new access that is being planned for the Airway Boulevard on ramp. This causes significant concern because Goodan Lane and Keil Loop were not designed to deal with the amount of traffic that will be generated as a result of West Pointe. If that thoroughfare is put through from Butler Creek to the Airway Boulevard access to I-90, it would create traffic not only from West Pointe, but significant traffic from Butler Creek will take it as the quickest route to get to the Interstate. This raises safety concerns. People coming off the Interstate tend to drive a little faster than what is usually seen in the neighborhood. This is a major safety hazard for children and residents. In anticipation of this connection, there was no analysis of what the traffic impact is going to be. This is a major flaw in the process. The Board of County Commissioners, a number of years ago, used the traffic analysis that was done for Goodan Keil (Goodan Lane and Keil Loop) and approved those roads for the traffic generated by the Goodan Keil Subdivision only. There was no intent at that time for these roads to support any more traffic than the subdivision generated. With this new development and if the new access is created, the traffic projection changes tremendously. Another point concerns what is happening with the entire Circle H Ranch, but does not stick to the point of West Pointe. As someone turns off Butler Creek Road to Goodan Lane and looks up at this development, they will not view it as 3.3 houses per acre, which is the overall density for Circle H Ranch. The reality of the visual impact will be more like 5 to 10 houses per acre. They would like the Board to consider eliminating the potential for a northern access to the Airway Boulevard on ramp for I-90 due to the extremely high traffic that would run through their residential area. A few years ago, access seemed like a good idea but with the increase in the volume of traffic that will be generated, it does not seem like such a good idea now. They would request that this be re-examined.

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Chairman Evans stated that she did not recall Horace Brown say that he wanted Goodan Keil or any of those areas to access onto I-90, other than the Mickelson property. When the I-90 interchange at Airway Boulevard was first discussed, bringing much needed access to the Missoula Development Park to make it a more valuable location, the Mickelsons were kind enough to give the County a grant of possession which allowed the County to use their land to build the interchange. At that time, the Mickelsons were promised that would receive interchange access onto their land. She could not change that promise. Ways to protect Mr. Rossiter's subdivision will be explored.

Steve Rossiter asked if that was intended to tie into Keil Loop?

Chairman Evans stated she did not believe it was ever intended to do that. She would ask Horace Brown to address that later.

Steve Rossiter stated that if that was the case, then this was a non-issue.

Chairman Evans stated that at the time, Horace Brown said he did not want the Mickelson access to do that. That was not her intention either. Her intention was to provide access to the Mickelson property off the interchange as promised. The issue had not been explored since the interchange had been constructed. Everyone's thoughts on the issue would be discussed when the matter was again looked at.

Dick Clearman interrupted and stated that when this was done, the Board sent a letter to the homeowners association which said they would be connected to the Interstate from Keil Loop.

Steve Rossiter stated another concern he had was the safety issues associated with the underpass for Butler Creek Road and the intersection of Butler Creek Road and Goodan Lane. It is important for some of these issues to be resolved prior to approval of this project. There are children who walk to school on this road and the increase in traffic will create a significant hazard. During the winter there are often indications that people slide through that intersection as they cannot get stopped on Goodan Lane. It will become a matter of, not when, but how many accidents there will be every year. He was concerned that these things were resolved before approval so the Board knows what will be done. He asked the Board to table action on this subdivision and return it to the planning staff to get some solid answers to the traffic concerns and other issues rather than leaving it vague.

Bryan Douglass, 4945 Goodan Lane, stated he was present in two capacities, one as a resident of Goodan Keil and the other as Chairman of the DeSmet School Board. As a resident, he would like to see that land vacant forever and wished he owned it. He did not own it and it will not stay vacant. He agreed with Mr. Clearman that overall, when West Pointe is taken with Circle H Ranch, the concept is very good. He echoed the concerns about the traffic at the intersection of Butler Creek Road and Goodan Lane. He remembered the same as Mr. Clearman, that the proposal was to tie the interchange at Airway Boulevard into Goodan Keil. Personally, he would like that to continue. He did not believe that people will get off the Interstate and drive up Butler Creek Road. He would still be in favor of the connection. As Chairman of the School Board, a number of board members had received calls and questions about this. He felt there was a good deal of misunderstanding about what is going on with the school and how this development and Canyon Creek will affect the school. The school is running about 120-130 children currently, K-8. That puts not many kids in each classroom, but enough that most of the classrooms need to have one teacher. It is kind of an awkward stage. Ideal enrollment would be about 20 kids per classroom. That cannot be done. It puts the school in an awkward financial position. The funding they have must pay for a higher ratio of staff per students. There are some difficulties with that and additional students would help with. They do not know how many students will come out of these two new developments. They are projected to enter the district over a five year period and will give the school some time to plan. At this stage, they would love to have the kids, not too many, but that luxury is not always possible. As a public board, their position is to serve the public. The bonding and tax and land issues also come into play. As a district, they have a limit to their bonding capacity. They are also largely landlocked with County and private land. If people want to support the school, they can do so by supporting the acquisition of land. The school board has drafted a letter to the developer identifying those areas of support.

Linda Fernando stated she would also like to see nothing built on the hill, but knows that is not going to happen. She did not live in Goodan Keil in 1994 and did not know how Circle H Ranch was presented then. From discussion with her neighbors, she understood it was presented as being open spaces for the elk. People are shocked when they see this many homes in such a small area. There is a great concern about the road. She asked if at the original approval in 1994, did any area have to be developed before another. There is only one house up there now. Is there a reason why this area is being developed now, as opposed to going ahead with the development that had already been started. Friends have wanted to move to the area and take advantage of the horse arena, as she would too, however, it hasn't been built yet. There is a lot of doubt in the neighborhood as to how all these things are going to come about. There have been a lot of rumors of this and that happening, but nothing has happened.

Chairman Evans stated that sometimes the market determines what happens and when.

Linda Fernando stated there was a lot of doubt. Her husband feels they are fighting a big group and this is inevitable. She thought a lot of others felt that way as well which was why more people didn't come to the hearing. More would have liked to come and speak, but felt this was already passed and there was no reason to speak. She felt 226 homes would be better than 240. Development will happen but she would like to see lower densities.

Leona Wyckoff, 5360 Goodan Lane, stated she was also concerned about traffic at the intersection of Goodan Lane and Butler Creek Road. She was concerned about the children who would be walking to school. She was also concerned about her taxes. She and most of her neighbors have 4 acres or more. Will the impact of this development affect their taxes? Will they have to pay more taxes to help get the roads adequate? Will they have to pay more taxes for more, better or bigger schools? Will there be other things associated with this subdivision that will affect their taxes? On a 4 acre tract, taxes are a pretty sizable amount. What is going to happen, will they be able to afford their 4 acres or would they have to subdivide and put 10 units on an acre.

There being no further comments, the public hearing was closed.

Nick Kaufman responded to Mr. Clearman's concerns first. In regard to the school, this is an interesting situation. A couple of objectives are happening in the broader community. The Missoula Development Authority is developing the Missoula Development Park. Because of that, there is starting to be some significant tax base occurring. Ultimately that tax increment district will go away and the increased taxes will go back to the school. They have discussed Circle H Ranch as an entire project and it is just beginning to get off the ground. A home there was recently sold for approximately \$525,000. The people who bought the home have no children. Although residential, that has a property tax valuation similar to what some smaller commercial or industrial buildings would have. That tax increase goes back to the school. There is another home under construction and three or four that are ready to sell in the Circle H Ranch. The higher value homes in Circle H Ranch provide revenue through their taxes back to the school district without a lot of impact to the school district. In regard to the intersection of Goodan Lane and Butler Creek Road, a lot of time has been spent looking at that access. They have been in discussion with Louis Ball, who owns the property on the corner, about what needs to happen there. The intersection needs to be moved to the north which improves the site distance to the south around the piers and the overpass. The hillside to the north needs to be shaved back to improve visibility to the north. By changing the alignment of the intersection and shaving the hillside back, it would meet actual site distance standards for the intersection. The other issue that is being examined is the grade. Testimony at the Planning Board hearing indicated it can be a skating rink in the winter on Goodan Lane because of the grade. There is room to flatten the intersection to make it work much better. The conditions require the developer to work with the County Public Works Director who will review all the plans relative to improvements to Butler Creek Road, Goodan Lane and the intersection, as well as the proposed trail system. The developer is quite aware, from the eight neighborhood meetings held for the original Circle H Ranch, the two neighborhood meetings held for West Pointe and letters from different reviewing agencies, about the changes that need to be made. Steve Rossiter's primary concern was relative to the connection to the Interstate. Neither Circle H Ranch nor West Pointe rely on what the County may or may never do with the future connection to Interstate 90. If that is ever approved, he was not aware what the connections would be. There are some different recollections of what would happen. Brett Campbell, a transportation engineer from WGM, was retained to look at the trips generated from this project and the intersection. A copy of the traffic report was circulated last week, however staff may not have had time to thoroughly review it. It indicated that the intersection of Goodan Lane and Butler Creek Road will operate at Level of Service B. It recognizes that the intersection needs realignment and grading work for improvements. It addresses the trail concerns from this project back to Butler Creek Road and DeSmet School. Once the appropriate agencies have had a chance to review the traffic report, they may request additional information. The designs are required to go through both the Office of Planning and Grants and the Public Works Department for review and approval if the preliminary plat is approved. Major improvements and final designs are not done until there is preliminary plat approval. The purpose of the subdivision review process is to provide a preliminary concept to see if it can be approved. If all the conditions can be met and it is still financially feasible, then the money is spent on the final studies and final designs. Linda Fernando had a concern about what is done first. Mr. Raser's first step was to put everything in a conservation easement that was not approved for development in 1994, then proceed to market lots in the subdivision, put in the water system and obtain contract sewer system approval, work on development of the first phase of Circle H Ranch and submit West Pointe. In this case, what happened first was the Commissioners approved the rezoning and subdivision for Circle H Ranch, then the property that was proposed for open space was put in a perpetual conservation easement and now the water system is being constructed, connection to City sewer for West Pointe and the additional phases of Circle H Ranch and West Pointe moving forward. He did not know when the equestrian facility would be developed. It is based on demand and economic feasibility. The option is there and approved by the governing body.

Commissioner Curtiss stated the Health Department had a concern about the development being on steeper roads and the need for sand in the winter. How was the issue of air pollution from the sand being mitigated.

Nick Kaufman stated he had done development on other subdivisions with an 8% grade. It was their intention to create a sweeping district, an RSID for the purpose of sweeping those roads at a frequency recommended by the Health Department.

Commissioner Curtiss asked for more information about what was proposed in the parks to give children a place to play.

Nick Kaufman stated as shown on the preliminary plat, in the flattest portion of the area they are proposing a grass area with tot lot playground equipment and amenities.

Commissioner Curtiss asked what a fitness station is?

Nick Kaufman stated it is a place along a trail when a runner/walker/jogger can stop to do isometric or aerobic exercises to work the entire body in a complete manner.

Commissioner Curtiss asked if blood pressure could also be monitored.

Nick Kaufman stated that would not be a part of the fitness station.

Commissioner Curtiss asked if the trail along Butler Creek Road and Goodan Lane would be separated from the roadway?

Nick Kaufman stated it would be separated, especially through the underpass.

Commissioner Curtiss asked if storm drainage was planned to be retained on site?

Nick Kaufman stated storm drainage was looked at preliminarily at this point. It would be looked at in more detail as the project moved forward and in great detail when the design is done. Greg Robertson has made them aware of the concerns of flooding at the intersection of Goodan Lane and Butler Creek Road. Brian Maiorano, the Floodplain Administrator, and Shirley Day at DeSmet School have also been consulted. The drainage area and retention basins have been carefully looked at. Woody Germany from WGM has also been consulted. Because this drainage comes under Goodan Lane and under the Interstate in two culverts and back toward the Development Park, issues of storm drainage retention, contribution and concentration will be of great concern to the developer. Greg Robertson has provided notice of what is expected and the developer will meet his concerns.

Commissioner Curtiss asked if natural gas would be provided to the subdivision?

Nick Kaufman stated that natural gas would be provided.

Commissioner Curtiss asked about the concept of narrow lots sandwiched between two larger lots.

Nick Kaufman stated the minimum lot size is 3,400 square feet. What is presented is actually a townhouse lot with two end units and a smaller lot in the middle. The outside lots are larger because they provide the side yard setbacks to the building. It is a building with three dwelling units in it. The center lot has no side yard setbacks as this is attached housing.

Karen Hughes stated that the square footage shows the smallest lot areas to be over 2,800 square feet. They generally range from 2,800 square feet to 3,200 square feet for the small attached housing lots.

Commissioner Curtiss stated there is a lot of concern about the roads and the intersection of Butler Creek Road and Goodan Lane. Who will pay for the improvements?

Nick Kaufman stated a large part of the improvements will come from the developer. The problem at the intersection is an existing problem that affects 95 lots in the Goodan Keil Subdivision, outside of any subdivision review and the review of Horace Brown or any other agency. It would be nice if an improvement district could be put together to solve this common problem for both developments. Listening to the testimony, it was clear they would not want to participate in this existing problem that they deal with every day. West Pointe will be a captive audience to come up with a solution for the existing problem. It may be a cost share or the developer may bear the entire cost, but it will be done.

Commissioner Curtiss asked where Mountain Line may access the subdivision.

Nick Kaufman stated that the location of access would be up to Mountain Line. There are several buses a day that go to the Development Park, both in the morning and afternoon. Bus service is very close. As the demand for service increases, Mountain Line will add routes. Buses will be able to access these roads.

Commissioner Curtiss stated the siding and fence material was proposed to be cedar and chain link. Were they looking at any of the new vinyl materials. The covenants also discourage keeping rabbits, chicken, turkeys, pigs, sheep and goats and keeping bees. Would there be room on these small lots for those animals.

Jay Raser stated the lots do not have enough room to keep these kinds of animals and they would not be encouraged.

Nick Kaufman stated the wording in the covenants is probably a model, perhaps from Circle H Ranch. They need to be clarified and tightened to fit this subdivision. Those kinds of animals will not be allowed on these lots.

Jay Raser stated the fencing that will be allowed is privacy fencing, a small section to keep people from looking in a bedroom window, something of that nature. People will not be allowed to fence off yards. Big dogs are also strongly discouraged.

Chairman Evans asked for more information about dogs due to the wildlife in the area.

Jay Raser stated that if a homeowner has a dog that weighs over 20 pounds, for the privilege of keeping that dog, the owner must give a \$2,500 performance bond. Should the dog become a nuisance, the owner forfeits the performance bond and the dog. If the owner wants the dog back, it would cost another \$2,500. People may not be willing to do that and was done specifically to strongly discourage dogs. Dogs may become a nuisance to the wildlife on the property.

Commissioner Carey asked about the negotiations with the property owner at the corner of Butler Creek Road and Goodan Lane. He asked if there was an alternate plan if the negotiations don't work out.

Nick Kaufman stated the negotiations have already been worked out. It is not a signed agreement, but Mr. Ball has indicated he wants to do what needs to be done to fix the road.

Chairman Evans asked Greg Robertson to explain the road improvements and the timing of those improvements.

Greg Robertson stated that normally when he reviews a subdivision, his mitigation measures are based on the traffic impact statement or traffic analysis. He likes to be fairly clear on what improvements are to be made as a condition of approval of the subdivision and not have to add additional conditions after the Board has acted on the request. In this case, that is not the way it happened. A condition was added that essentially said that a traffic analysis was required prior to final plat approval and that any requirements resulting from the traffic analysis would be additional conditions of the final plat. This puts him in the position of having to negotiate rather than lay it on the table and have the governing body make the decision. There are certain issues he is concerned about having to do with Butler Creek Road, Goodan Lane, the approach of MacArthur Drive, impacts to the capacity of Butler Creek Road, the intersections, the railroad crossing at Butler Creek Road, etc., that have not been addressed yet. These issues need to be addressed and the mitigations need to be clear to move forward with the plat. His request for a traffic analysis came too late in the process and would need to be done as a condition. He did get the traffic analysis and looked at it briefly. It is a start but incomplete and not adequate to determine the appropriate mitigation. He will ask the developer's engineer to do some additional work. He did not currently have an answer as to what is appropriate mitigation for the roads.

Colleen Dowdall stated that plat approval is a two step process in Montana. Preliminary plat approval with conditions means that the subdivision is approved but certain conditions have to be met before anything can happen, before the plat can be filed and construction is begun. The fact that there is a condition of approval that requires the traffic study does not mean that the Board is forging ahead without all the information they need. They are acknowledging that if the subdivision is approved, it can't be filed and built until the information is received. With this condition of the additional requirement that the developer follow the recommendations of the traffic study and the Public Works Director is

customarily the way preliminary plats are done in Missoula County. The subdivision regulations don't require that a traffic study be submitted with the application packet. That may need to be added to the regulations at a later date to avoid this situation in the future. She did not believe the County was compromised in any way to getting the developer to do what was necessary. Ultimately, Greg Robertson's approval is really a recommendation to the Board as to whether they should sign the final plat. If Greg Robertson is not satisfied, the developer would have to appeal to the Board.

Chairman Evans stated that Greg Robertson's comments to Nick Kaufman were that no off site improvements were proposed to Goodan Lane and Butler Creek Road. There was also the suggestion of a waiver of the right to protest an RSID for improvements to Butler Creek Road and Goodan Lane. That pertained to the people in this subdivision only, it did not affect the people outside this subdivision. She wanted that to be clear to the people in the audience.

Commissioner Carey stated that Colleen Dowdall's explanation was helpful. Greg Robertson's approval was a recommendation to the Board and ultimately they were responsible for final approval.

Colleen Dowdall stated that the concerns that were expressed with regard to the school were that it was a mixed blessing. In Montana, the Commissioners are not allowed to require a developer to mitigate the impacts of development on the school district. Additionally, the Commissioners cannot deny a subdivision solely based upon the impacts to the school.

Horace Brown stated he was asked to comment on the airport interchange project and how the Goodan Keil Subdivision was involved. He and the County were against the connection to Goodan Lane or Keil Loop. At that time he stated if that happened he would put a gate across the road where it intersected Butler Creek Road and would be used for emergencies only. The roads in Goodan Keil were not built to accommodate that much traffic. The connection would become a short cut from Butler Creek Road to the Interstate. The road is barely 20 feet wide and crooked and would not serve as a good connection. The idea of a connection was suggested by the consultant who did the project. The consultant was asked to remove the idea but it stayed on the plans.

Chairman Evans stated that the Board does not table action on a subdivision until the improvements are done. The motion is contingent upon approval of the required conditions and the final plat is not signed until they are approved.

Karen Hughes stated that the landscape buffer along the southern boundary that was to serve as a buffer from the single family homes was not shown on plans submitted and reviewed. Condition 18 of the subdivision would need to be revised to add that the details for the landscape buffer be included in the common area plan.

Commissioner Curtiss asked if Nick Kaufman's suggestion of reducing the height limitation to 20 feet for Lots 1-6 and 2-28 on MacArthur Drive and Lots 35-42 on Patton Court make a difference on the ridgeline.

Karen Hughes stated it would have some impact. Staff's preference would be to eliminate development on that part of the proposal.

Jennie Dixon stated that one of the reasons for elimination is because the proposal to restrict height will mitigate to some extent, the requirement in the Hillside Regulations, which is an 80 foot vertical drop.

Karen Hughes stated that even the recommendation would allow for homes breaking what the requirements allow. The applicant has proposed to limit height on Lots 35-42. All of the lots would be affected by current zoning regulations and the 80 foot vertical drop. If the Board is willing to accept the developer's proposal, then staff would recommend that all of the lots on Patton Court be limited to a 20 foot height limitation. Staff originally recommended eliminating Patton Court altogether and that recommendation still stands. However, if the board approves the proposed change from the developer, then they would recommend limiting the height on all the lots on Patton Court.

Commissioner Carey stated he would support keeping the lots on Patton Court if they all have the height limitation.

Nick Kaufman stated that would be acceptable to the developer.

Commissioner Curtiss stated it was her understanding that staff was recommending that Lots 91 and 92 be eliminated because the terrain is too steep.

Karen Hughes stated that the comment was that every lot has to have a 2,000 square foot contiguous area of less than 25% grade, as stated in the regulations. If that cannot be accomplished, then the lots will need to be reconfigured.

Chairman Evans pointed out that Circle H Ranch is not separate from West Pointe. It is a single ownership. The owner/developer cares about the wildlife and the ridgelines and has come up with clustering designs. Of the over 900 acres of land, more than 50% has been put into conservation easements. The owner should be given some consideration and flexibility for his efforts to protect the land and wildlife.

Commissioner Curtiss asked about the difference in maximum height of 30 feet versus 36 feet.

Nick Kaufman stated this is really important. The higher margins of the property have been left vacant, even with Patton Court. The water tank is still above the development. A diversity of housing costs and housing type is being provided. A significant number of lots on Patton Court have just been reduced to a 20 foot height restriction. He asked to please be given some consideration for the design that has been created. They would really like to have the 36 foot height limitation reinstated.

Karen Hughes stated the height limitation was in the zoning district standards.

Commissioner Curtiss asked if there was an estimate of how many houses would be 36 feet.

Jay Raser stated in some of the steeper areas homes would have a daylight basement, a second floor and an upper floor. It would be impossible to make use of the terrain and do an effective design without 36 feet. It would only be in certain

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areas of the development. It also allows the developer to avoid a definite line that follows the contour of the hill. By making the maximum height 36 feet doesn't mean all the houses will be that high. He did not have a percentage of how many, but it would only be in certain areas.

Commissioner Carey stated, for the benefit of the neighbors, that under Montana Law the Board of County Commissioners is fairly constrained in the reasons why they can deny a subdivision proposal. In this case, the Board okayed approximately this density for this area in 1994. The developer has gone to extraordinary lengths to make this aesthetically pleasing.

Commissioner Curtiss stated that if the 972 acres were developed at one house per four acres like most of Goodan Keil, Mr. Raser could have put 243 houses all over the hill and not protected the wildlife. He chose to cluster development higher on the hillside and situate the higher density lower on the ridgeline. She understood that many people moved to Goodan Keil due to the rural setting. In the end, this design will be much more pleasing than it may look on paper and Mr. Raser does already have these development rights. The biggest concern is the road and that will be dealt with to improve it for the existing residents as well.

Commissioner Carey moved that the Board of County Commissioners approve the rezoning for that property generally described as Lot 2 and a portion of Lot 1 of Circle H Ranch, and 6.6 acres of the remainder of Circle H Ranch to the east, more particularly described by the metes and bounds description contained in the submittal packet, from "East Butler Creek Foothills Rural Zoning District" to "East Butler Creek Rural Zoning District, Modified" based on the findings of fact in the staff report and subject to the standards contained in the report and the recommended conditions of approval in the staff report. Commissioner Curtiss seconded the motion.

Commissioner Curtiss moved that the Board of County Commissioners amend the rezoning motion to delete Rezoning Condition 4 and amend Rezoning Condition 5 to read: "Lots 1-6 and 23-28 on the northern end of MacArthur Drive and all the lots on Patton Court shall be limited to a 20 foot height limitation, subject to review and approval by OPG at the time of zoning compliance permit issuance." Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Commissioner Curtiss moved that the Board of County Commissioners amend the rezoning motion to change the requirements under Section 6.05, Area C: Attached Housing Lot 2, Section A: Space and Bulk Requirements - Maximum Building Height from 30 feet to 36 feet. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

The motion to approve the rezoning as amended carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners approve the West Pointe Planned Unit Development Subdivision based on the findings of fact in the staff report and subject to the recommended conditions of approval, and to add to Condition 18: "Specifications for the landscaping buffer along the southern boundary of the property shall be included in the master plan for the common area." Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

West Pointe Rezoning Conditions of Approval:

1. Development in "Area C: Attached Housing" shall be consistent with the character of the revised site development plan, example building elevations and the zoning district standards outlined in Attachment A. The applicant shall provide a reproducible exhibit showing the East Butler Creek Zoning District, Modified, prior to the Board of County Commissioners signing the Resolution of Adoption for this zoning district.
2. The covenants shall be amended to address fencing in the walkway easement. Fencing within this easement is limited to a maximum of 30 inches in height and shall be constructed of decorative wood, stone or other materials as approved by OPG, with a maximum 60% opacity.
3. The developer of each lot shall show plans for physical access to the trail system prior to issuance of a zoning compliance permit, subject to review and approval by OPG.
4. Lots 1-6 and 23-28 on the northern end of MacArthur Drive and all the lots on Patton Court shall be limited to a 20 foot height limitation, subject to review and approval by OPG at the time of zoning compliance permit issuance.

SECTION 6.05: EAST BUTLER CREEK FOOTHILLS, MODIFIED

INTENT

This district recognizes the need for an alternative to traditional large lot rural zoning. Traditional zoning that promoted the creation of large acreage lots for ranchettes has diminished the rural character and natural setting it was intended to preserve. Specifically, it is noted that large acreage tracts promote the following situations:

- Intensive grazing on tracts too small to be properly managed. This leads to over grazing, soil erosion, stream sedimentation, contamination of surface and ground water and weed infestation.
- Fencing of individual tracts which diminishes the feeling of openness characteristic of rural areas and restricts wildlife movement.
- Displaces viable agricultural operations with a series of highly visible suburban style homes.

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- Free roaming dogs deplete the wildlife resource and severely limit the usable winter range. These same free roaming dogs prey upon and harass domestic livestock further threatening the viability of agricultural operations.
- Cause more intensive and less well managed use of irrigation water to the detriment of the other users and contributing to the de-watering of our rivers and streams.
- Create multiple access points onto rural roads adding to congestion and increased road maintenance costs as well as over-burdening other infrastructure such as bridges.
- Create a demand for increased bussing on the part of rural school districts.
- In the situation of wildland fires, emergency resources are diverted to structure protection rather than overall fire suppression.

This district further recognizes the need for close major transportation routes, schools and infrastructure.

Stabling of horses is recognized as an important part of the rural lifestyle. This district allows for the pasturing, stabling and riding of horses in a separate facility designed specifically for this purpose.

Diversity in housing types and price range is recognized as an important community goal. This district allows for the placement of attached housing within the site.

Area A: Clustered Rural Residential Area

A. Space and Bulk Requirements

- Maximum Residential Density One Dwelling Unit Per Ten (10) Acres
- Minimum Lot Width One Hundred and Eighty (180) Feet
- Maximum Lot Width Two Hundred Feet (200) Feet
- Maximum Lot Size Thirty-One Thousand Square Feet (31,000 sq. ft.)
- Minimum Required Yard There are no minimum setbacks for yard area. Buildings may be up to the property line.
- Lot Location No area other than a residential lot as shown on the final plat for Circle H Ranch shall be used for any residential structure or any residential accessory use of any kind.
- Maximum Building Height Thirty-Five (35) Feet. The building height shall be measured from the top of the lowest finished floor of a daylight basement to the eave for homes with a daylight basement. For homes without daylight basements, the height shall be measured from the top of the first floor above grade to the eve.

B. General Standards

- See Supplementary Regulations - Chapter III (Resolution 76-113 As Amended)

C. Permitted Uses

1. Single Family Dwelling
2. Accessory Building and Uses
 - Prohibited Uses RV storage, stables or horse shelters
3. Recreational Uses Accessory To A Residential Cluster

D. Conditional Uses

1. Home Occupation

AREA B: EQUESTRIAN AREA LOT 1

A. Space and Bulk Requirements

- Minimum Lot Size Eighty (80) acres
- Minimum Required Yard Fifty (50) feet for all buildings
- Maximum Building Height Forty (40) Feet

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B. General Standards

- See Supplemental Regulations – Chapter III (Resolution 76-113 As Amended)

C. Permitted Uses

1. Professional Horse Boarding
2. Professional Horse Training
3. Riding Arena
4. Concessions Accessory to the Riding Arena
5. Single Family Residence Accessory To The Riding Arena
6. Temporary Sales Office for Circle H Ranch
7. Accessory Buildings and Uses
8. Ranch Headquarters Building

AREA C: ATTACHED HOUSING LOT 2

A. Space and Bulk Requirements

- | | | | |
|---|---|-------------|---|
| ▪ | Maximum Residential Density | | Not to exceed 240 dwelling units |
| ▪ | Minimum Lot Area for Detached Single Family Dwellings | | Three Thousand Four Hundred (3,400) Square Feet |
| ▪ | Minimum Lot Area for Attached Single Family Dwellings | | None |
| ▪ | Minimum Lot Width | | Twenty-Eight (28) Feet |
| ▪ | Minimum Required Yard Setback | Front front | Fifteen (15) Feet. If a sidewalk crosses the yard a minimum front yard setback of Twenty (20) Feet is required. |
| | | Side | Five (5) Feet |
| | | | For townhouses/attached single family dwellings, there shall be no required side yard between units, only between structures. |
| | | Rear | Twenty (20) Feet for detached dwelling units. Fifteen (15) Feet for attached dwelling units. |
| ▪ | Perimeter Setback | | One Hundred (100) Feet from the boundary of Area B for all structures. |
| ▪ | Maximum Building Height | | Thirty-six (36) Feet |

B. General Standards

- Lots adjacent to a walkway easement shall prohibit fences nine (9) feet from either side of the center line of the easement. Fences within the walkway easement shall be no taller than thirty (30) inches tall and constructed of decorative wood, stone or other materials as approved by the zoning officer, with a maximum opacity of sixty percent (60%).
- Grading plans for each lot shall be reviewed and approved by the County or the appropriate jurisdiction, prior to zoning compliance permit issuance.
- See Supplementary Regulations – Chapter III. (Resolution 76-113 As Amended), with the following exception: In Section 3.06(N) only numbers 1, 3, 4, 5, 6(a-c and e) and 7 shall apply.

C. Permitted Uses

1. Detached Single Family Dwelling
2. Townhouse or Attached Single Family Dwelling

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3. Accessory Buildings and Uses

D. Conditional Uses

1. Home Occupation
2. Child Day Care Home

E. Special Exceptions

1. Child Day Care Center

West Pointe Planned Unit Development (PUD) and Subdivision Conditions of Approval:

1. The East Butler Creek Foothills Rural Zoning District, Modified shall be adopted prior to final plat approval of Phase I. *Subdivision Regulations Article 3-1(1)(B).*
2. A revised plat for West Pointe conforming to the conditions of approval of the PUD rezoning and subdivision shall be submitted prior to final plat approval of Phase 1, subject to review and approval by OPG. *Subdivision Regulations Article 4-1(15) and staff recommendation.*
3. The Phasing Plan is adopted as follows: Phase I final plat shall be approved by December 2001. Phases II and III final plats shall be approved by December 2002. Phase IV final plat shall be approved by December 2003. Phase V final plat shall be approved by December 2004. *Subdivision Regulations Article 4-1(18) and staff recommendation.*

Roads

4. Thirty feet of right-of-way for Butler Creek Road, abutting the subdivision, shall be dedicated to the County or the applicant shall provide evidence that the 30 feet of right-of-way has been previously dedicated, subject to review and approval by Missoula County or the appropriate jurisdiction, prior to final plat approval for Phase I. *Subdivision Regulations Article 3-2, staff recommendation.*
5. A one-foot no-access strip shall be shown on the final plat of Phase II along the Goodan Lane frontage of West Pointe subdivision, excepting the access points for MacArthur Drive and Grant Way. *Subdivision Regulations Article 3-2, staff and City Engineer recommendation.*
6. The applicant shall complete a traffic analysis assessing impacts of this subdivision on Butler Creek Road and Goodan Lane. The traffic analysis and proposed mitigation strategies shall be reviewed and approved by the County prior to Phase I final plat approval. Plans for impact mitigation are subject to review and approval by the County, or the appropriate jurisdiction, prior to final plat approval for Phase I (Butler Creek Road/MacArthur Drive) and Phase II (MacArthur Drive/Goodan Lane and Grant Way/Goodan Lane). Impacts identified in the traffic analysis for the intersection of Goodan Lane and Butler Creek Road shall be mitigated prior to final plat approval for Phase I. Impacts identified in the traffic analysis for the intersection of Butler Creek Road/MacArthur Drive shall be mitigated prior to final plat approval for Phase I; impacts for the intersection of MacArthur Drive/Goodan Lane and Grant Way/Goodan Lane shall be mitigated prior to final plat approval for Phase II. *Subdivision Regulations Article 3-2 and County Public Works Director recommendation.*
7. The following statement shall appear on the face of the plat and in each instrument of conveyance:

"Acceptance of a deed for a lot within this subdivision shall constitute the assent of the lot owner to waive the right to protest a future RSID/SID for improvements to Goodan Lane and Butler Creek Road, including installation of pedestrian walkways, sidewalks, bikeways, flood management infrastructure and drainage improvements, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land depicted herein." *Subdivision Regulations Article 3-2, staff and County Surveyor's Office recommendation.*
8. Roads within West Pointe shall be private roads. Road engineering plans and specifications for all road improvements within the subdivision, including temporary and emergency turnarounds, shall be approved by Missoula County or the appropriate jurisdiction prior to final plat approval for Phase I. An emergency exit between Phase I and Goodan Lane shall be rough graded, subject to review and approval by Missoula Rural Fire District and the County, prior to final plat approval for Phase I. Road improvements for Phase II shall include a road connection to Phase I, subject to review and approval by the County. *Subdivision Regulations Article 3-2(1-6,8) and County Surveyor's Office recommendation.*
9. Location(s) and improvements for school bus stops shall be identified and installed, subject to review and approval by the school district, prior to final plat approval. *Subdivision Regulations Article 5-1(4)(O).*
10. The covenants shall be amended to include plans for road maintenance, subject to review and approval by the County Attorney's Office and OPG. *Subdivision Regulations Article 3-2 and staff recommendation.*
11. Detailed grading, drainage and erosion control plans for the site shall be approved by Missoula County, or the appropriate jurisdiction, prior to final plat approval of Phase I. Drainage improvements shall be installed with each phase of development in a schedule to be approved by Missoula County, or the appropriate jurisdiction. Plans shall include specifications for all drainage detention facilities and the drainage along the "Walkway Easement." The drainage system shall minimize impacts on the designated Riparian Area. Grading, drainage and erosion plans for each lot shall be reviewed and approved by the County, or the appropriate jurisdiction, prior to final plat approval for Phase I. *Subdivision Regulations Article 3-4, 4-1(12).*

12. Names for streets within the subdivision shall be reviewed and approved by the County Surveyor's Office prior to final plat approval for each phase. *Subdivision Regulations Article 3-2.*
13. Mailboxes shall be clustered in groups of six or fewer. Plans for the location of mailbox clusters shall be reviewed and approved by Missoula County or the appropriate jurisdiction, prior to final plat approval for each phase. *Subdivision Regulations Article 3-2, City Engineer recommendation.*
14. The developer shall petition for annexation into the Missoula Urban Transportation District prior to Phase 1 plat approval. *Subdivision Regulations 3-1(1), 3-2(1) and MUTD recommendation.*

Pedestrian Facilities

15. The subdivider shall provide a detailed trail system plan that shows trail frontage for each lot and identifies locations of benches/resting areas, locations of fitness stations and treatment of trails where they cross streets. The plan shall include a grading plan for the trail and sidewalks may be used to create access from lots to the trail. The plan shall show on-site and off-site trails shall be improved to an 8-foot width with an asphalt surface. Narrower trail widths may be approved for some trail sections if approved by OPG and the County Public Works Department. The walkway easement shown on lots between MacArthur Drive and Marshall Court shall be located within a 30 foot private access easement. For all trails, a maximum running grade of 8% shall be maintained, with short exceptions allowed due to the terrain. A maximum cross-slope of 2-3% shall be maintained. The trail system plan is subject to review by OPG, County Public Works Department, City Public Works Department, and Parks and Recreation Department. This plan shall be approved by OPG and Missoula County, or the appropriate jurisdiction, prior to final plat approval for Phase I. *Subdivision Regulations Article 3-2(14), staff, County Public Works Department and City Engineering Department recommendation.*
16. The covenants shall be revised to state that the Homeowners Association shall be responsible for trail system development and maintenance of the walkway easement and the trail within it. Covenants shall also prohibit fences within 9 feet on each side from the center of the walkway easement. *Subdivision Regulations Article 3-2(14), staff and County Public Works Department recommendation.*
17. Trail system improvements shall be installed with each phase with the following additions: There shall be trail connections made between Phase I and Goodan Lane, prior to final plat approval for Phase I, trail connections shall be made between Phases I and II, prior to final plat approval for Phase II and offsite trails shall be developed prior to final plat approval for Phase I. Location of trail connections shall be shown on the trail system plan, subject to review and approval by OPG and Missoula County, prior to final plat approval for Phase I. Development of trails in conjunction with phasing is subject to review and approval by OPG and Missoula County, or the appropriate jurisdiction, prior to final plat approval for each phase. *Subdivision Regulations Article 3-2(14), staff and County Public Works Department recommendation.*

Parks

18. **The subdivider shall provide evidence that a minimum of 11% of the net lotted area in each phase shall be dedicated and developed as common area or the phasing plan shall be revised provide 11% common area in each phase. A master plan for all proposed improvements to the common area and boulevards for the entire subdivision that is consistent with the information presented in the application packet shall be reviewed by the Parks and Recreation Department and approved by OPG prior to final plat approval for Phase I. Specifications for the landscaping buffer along the southern boundary of the property shall be included in the master plan for the common area. *Subdivision Regulations Article 3-8, 3-12 and staff recommendation.***
19. Improvements to the boulevards and common areas shall be installed concurrently with the approved subdivision phase where the improvements are located, subject to review and approval by OPG, prior to final plat approval for each phase. *Subdivision Regulations Article 3-8 and staff recommendation.*
20. The covenants shall be revised to state that the developer shall provide all maintenance of the trails and common areas until enough development to support the homeowners association has taken place, subject to review and approval by the County Attorney's Office prior to the final plat approval for Phase I. *Subdivision Regulations Article 3-8 and staff recommendation.*

Fire

21. Final plans for fire hydrant locations shall be approved by the Missoula Rural Fire District prior to final plat approval of Phase 1. *Subdivision Regulations Article 3-7 and Missoula Rural Fire District recommendation.*
22. The developer shall demonstrate the means for installation and maintenance of fire hydrants prior to final plat approval. *Subdivision Regulations Article 3-7 and Missoula Rural Fire District recommendation.*

Natural Environment

23. The Riparian Area shall be shown on the face of the plat and designated as no-build/no-improvement zones, except for trails and road crossings, per approved plans. The Riparian Management Plan and a map showing the riparian area shall be attached to the covenants. *Subdivision Regulations Article 3-13, 4-1(12) and staff recommendation.*
24. Specifications for all drainage detention facilities located within the Riparian Area and impacts of the drainage system on the Riparian Area shall be mitigated and shall be reviewed and approved by OPG. *Subdivision Regulations Article 3-13, 4-1(12) and staff recommendation.*
25. The following information shall be included within the Riparian Management Plan, subject to review and approval by OPG, prior to final plat approval for Phase I:
 - a. Detailed plans for vegetation restoration to mitigate impacts of the installation of drainage improvements and road and trail construction on the Riparian Area. The vegetation restoration plan shall also include

information on planting schedules, planting locations, plant species and plans for maintenance and monitoring of plantings.

- b. A section that includes the following information on road construction: The intentional sidecasting of road material into the riparian area during road construction or maintenance is prohibited. Effective erosion and sedimentation control practices shall be conducted during all clearing, construction or reconstruction operations. Road fill material shall not be deposited in the area of riparian resource or in such a location or manner so that adverse impacts will result to the area. Roads should not be constructed in areas where soils have a high susceptibility to erosion which would create sedimentation problems during and after construction. *Subdivision Regulations Article 3-13, 4-1(12) and staff recommendation.*
26. The covenants shall be amended to include specific "Living with Wildlife" recommendations, subject to OPG approval, prior to final plat approval:
- a. Permanent barbecue pits are discouraged. Clean portable barbecue grills regularly and store indoors when not in use.
 - b. Fence and protect flowers, ornamental shrubs, fruit trees and gardens, which may be susceptible to damage from wildlife. Plant native vegetation for landscaping and revegetation. Harvest all fruit trees properly so as not to allow an accumulation of rotting organic matter, which is a prime wildlife attractant.
 - c. If gardens are established, enclose with a fence one foot below ground level and at least eight feet in height, with top rail made of something other than wire to prevent wildlife from entanglement. Bird feeders and compost piles attract bears and are not permitted.
 - d. Do not use or maintain any lot or part of a lot as a dumping ground. Do not allow any rubbish, trash or other waste to accumulate, except in sanitary containers. Empty and remove waste in such containers from the premises at least on a weekly basis. Store all garbage inside, in containers of metal, plastic or other suitable material, which has sufficiently tight-fitting covers to prevent entrance or destruction by wild animals.
 - e. Artificial feeding of wildlife is prohibited. Do not allow salt blocks, mineral blocks and feeding platforms for deer or other wildlife.
 - f. Store pet food indoors or in wildlife proof containers. Feed domestic pets indoors to prevent attraction of wildlife.
 - g. Do not allow domestic pets, such as dogs, to run freely and potentially harass wildlife. Keep dogs in an enclosed structure when not under direct supervision of the owner. Besides loss of life and the maiming of wildlife, this harassment also causes unnecessary energy expenditures and can displace animals to less suitable habitats.
 - h. The keeping of rabbits, chickens, turkeys, pigs, sheep and goats is discouraged. If such animals are kept, build sturdy cages or fences to protect domestic animals from wildlife. These animals have no defense against predators and can be an attractive food source to many wildlife species.
 - i. Apiaries may attract species such as bears and should be avoided. Before an apiary is located on a lot, the owner of the bee hive(s) should first contact the Department of Fish, Wildlife and Parks to discuss their plans and how to best avoid wildlife conflicts.
 - j. Appended to these covenants is a copy of the "Living with Wildlife" brochure. Additional copies of this brochure can be obtained from the Missoula Office of Planning and Grants, 435 Ryman, Missoula, MT 59802, (406) 523-4657. Lot owners should follow recommendations made in these brochures. *Subdivision Regulations Article 4-1(12) and Montana Fish, Wildlife and Parks recommendation.*

Slope

27. All lots on the final plat shall include a minimum 2,000 contiguous square feet of buildable area with less than 25% grade and all areas with over 25% grade shall be designated as no-build areas. *Subdivision Regulations Article 3-1(2), 3-3(1)(B) and staff recommendation.*
28. A geotechnical analysis completed by an independent consultant of area ground water and slope stability shall be submitted to the County, or the appropriate jurisdiction, prior to issuance of the first zoning compliance permit for this site. If unstable soils or groundwater are encountered, mitigation measures may be required at the time of issuance of a zoning compliance permit for each lot, subject to review and approval by the County, or the appropriate jurisdiction. *Subdivision Regulations Article 3-1(2), 3-3(1)(B), County Public Works Director and City Engineering Department recommendation.*

Weeds

29. A Revegetation Plan for Disturbed Sites shall be reviewed and approved by the Missoula County Weed Board, prior to Phase I final plat approval. *Subdivision Regulations Article 4-1(12) and staff recommendation.*
30. The covenants regarding weed control shall be amended to state that homeowners shall comply with the Montana Noxious Weed Management Act and the Missoula County Noxious Weed Management Plan. *Subdivision Regulations Article 4-1(12) and staff recommendation.*

Air Quality

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31. The covenants shall be amended prior to final plat approval to state that the property is within the Air Stagnation Zone and that wood burning stoves and fireplaces are prohibited. *Subdivision Regulations Article 3-1(1)(G) and City-County Health Department recommendation.*
32. The applicant shall develop a plan to mitigate excess road emissions resulting from developing this subdivision on a hillside rather than flat ground. The plan shall, on a continual basis, provide for pound for pound mitigation of net excess emissions as determined by the Health Department. If on-going maintenance is required, the plan shall provide appropriate mechanisms to accomplish this, including ensuring that the responsibility runs with the land and is binding on the transferees, successors and assigns of the subdivision land owners. Prior to final plat approval for Phase I, the plan shall be reviewed and approved by the County Attorney's Office and the City-County Health Department. After approval the plan, it shall be implemented for each phase and can be enforced by the City-County Health Department through the Missoula City-County Air Pollution Control Program. *Subdivision Regulations Article 3-1(1)(G) and City-County Health Department recommendation.*

There being no further business to come before the Board, the Commissioners were in recess at 3:55 p.m.

THURSDAY, MAY 24, 2001

The Board of County Commissioners met in regular session; all three members were present. In the forenoon, Commissioner Curtiss accompanied Public Works Director Greg Robertson to the Condon area to view the paving project at Double Arrow. In the afternoon, the Commissioners attended a Highway 93 Meeting held at the Double Tree. In the evening, Chairman Evans attended an information meeting regarding the proposed gravel pit expansion at the Harry Allen property.

Claims List – Chairman Evans and Commissioner Carey signed the Claims List, dated May 23, 2001, batch number 1258 (pages 1-4), with a grand total of \$35,941.33. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Carey signed the Claims List, dated May 23, 2001, batch number 1279 (pages 1-6), with a grand total of \$112,765.56. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Carey signed the Claims List, dated May 23, 2001, batch number 1282 (pages 1-3), with a grand total of \$95,297.05. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Carey signed the Claims List, dated May 24, 2001, batch number 1283 (pages 1-4), with a grand total of \$45,603.31. The Claims List was returned to the Accounting Department.

Indemnity Bond – Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming Brooke M. Dellwo of Seeley Lake, Montana, as principal for Warrant #94931 issued April 27, 2001 on the Missoula County 78-42 (payment for employment) in the amount of \$45.16, now unable to be found.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Resolution No. 2001-045 – The Commissioners signed Resolution No. 2001-045, dated May 24, 2001, an Emergency Declaration proclaiming an emergency related to the visit to Missoula County of the Hell's Angels motorcycle gang on July 25, 2000. This Declaration resolves that Missoula County will levy the number of mills necessary in Fiscal Year 2002 to cover unanticipated expenditures in the amount of \$24,800 during the Hell's Angels emergency.

Resolution No. 2001-048 – The Commissioners signed Resolution No. 2001-048, dated May 24, 2001, a Budget Amendment formally adopting as part of the Fiscal Year 2001 Operating Budget for Missoula County, the amount of \$275 to cover the summer museum aide/Sunday staff person at the Historical Museum at Fort Missoula.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Nancy S. Cleaveland for the creation of a CD Rom database and a 16 Chapter Master Gardener Manual for the Missoula County Extension Office. Ms. Cleaveland is creating a database and putting together the manual from data collected for the new Master Gardener Manual by Helen Atthowe, Extension Horticulturist. The term will be June 1, 2001 through December 31, 2001. The total amount shall not exceed \$5,000.00.

Professional Services Contract – On behalf of Partnership Health Center ("PHC"), the Commissioners signed a Professional Services Contract between Missoula County and Ryan K. Huckleby for dental services for Health Care for the Homeless Program, a grant for services provided to the homeless in our community. Dental is part of the program. The term will be March 26, 2001 through June 30, 2001. The total amount shall not exceed \$10,920.00 (the hourly rate is \$100 per hour with 109 hours available). Funding for these services are included in the grant funding.

Request for Action – The Commissioners approved the Park Board's recommendation to award \$16,792.00 in Matching Fund Grant money budgeted to improve Missoula County parks and community recreation areas as part of their Spring 2001 matching grant fund program. Organizations wishing to improve a local park (outside the City of Missoula) have applied for up to \$3,000 per park. The organization matches any funds granted with cash, labor, or donated materials. The eleven organizations that were awarded grant money include:

- Missoula Westside Little League -- \$1,500 for installation of an underground irrigation system;
- Bonner Development Group -- \$1,500 for the installation of a sealed vault toilet;
- Schmautz Park -- \$92 to plant six burning bushes;
- Rainbow Park -- \$1,000 for the construction of a shelter;
- Big Sky Park -- \$3,000 for the completion of one and one-quarter mile of perimeter trail;
- Donovan Creek Park -- \$1,000 to build covered bleachers for the ballpark;

- Clinton School playground -- \$1,500 to build picnic tables;
- Ninemile Community Center -- \$1,400 for the continuation of the covered pavilion construction;
- Backwoods BMX -- \$2,500 for paving;
- Swan Valley American Legion -- \$1,800 to upgrade the restrooms and construct a picnic/playground area; and
- Missoula Equestrian Park -- \$1,500 for an irrigation project.

Signed Memorandum of Agreements will be forthcoming from the applications for the Commissioners' signatures.

Board Appointment – The Commissioners approved and signed a letter, dated May 24, 2001, appointing Don Nicholson to a three-year term on the County Compensation Board.

Resolution No. 2001-046 – The Commissioners signed Resolution No. 2001-046, dated May 24, 2001, abandoning the G.L.O. Road and Book 1 Roads, located within the Sixty Six Quarter Circle Ranch Subdivision in the W½ of Section 17 and NE¼ of Section 18, T 14 N, R 20 W, PMM, Missoula County, Montana.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, MAY 25, 2001

The Board of County Commissioners met in regular session; all three members were present.

Agreement – The Commissioners signed an Agreement, dated May 25, 2001, extending the Option Agreement originally signed September 28, 1998, wherein Missoula County is the Seller and Wesmont Builders/Developers, Inc. is Buyer until June 20, 2001.


Vickie M. Zeier
Clerk & Recorder


Barbara Evans, Chair
Board of County Commissioners

MONDAY, MAY 28, 2001

The Courthouse was closed for the Memorial Day Observed holiday.

TUESDAY, MAY 29, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – The Commissioners signed the Claims List, dated May 29, 2001, batch number 1290 (pages 1-5), with a grand total of \$61,223.35. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Lease Extension – Chairman Evans signed a Business Lease Modification, allowing an extension of the lease for Point 6 from Confederated Salish and Kootenai Tribes for another 25 years. The term will be November 1, 2001 through October 31, 2025. Also approved was a lease rate of \$1,712.00 per year as proposed by the Tribe. The document was returned to Jane Ellis in Emergency Services for further signatures and handling.

Payroll Authorization – The Commissioners signed a Payroll Authorization Form, Montana Disaster and Emergency Services Division, reflecting a change in salary for employee Jane Ellis, Director of Emergency Services. Ms. Ellis's hourly rate changes from \$27.99 per hour to \$28.63 per hour. The effective date of this Payroll Authorization is July 9, 2000 (implemented in November of 2000 retroactive to July 9, 2001). The document was returned to Jane Ellis in Emergency Services for further handling.

Agreement – Chairman Evans signed a Standard Agreement between Missoula County and the Montana Department of Transportation for a grant from Highway Traffic Safety for funds to replace old failing radar equipment for the Missoula County Sheriff's Office. The project objective is to purchase and place in service the units by September 15, 2001. The total amount shall not exceed \$6,419.00, and the contributor of funds for this Agreement is the United States Department of Transportation. The document was returned to Don Morman in the Sheriff's Office for further handling.

Budget Transfer – The Commissioners signed Budget Transfer Control No. 01-029 for the Adult Detention Department, transferring \$11,200.00 from the Computer Supplies Fund to the Technology Fund. This budget transfer relates to use of the mainframe system. The coding was changed from an expenditure line in the budget to a transfer out in order to make the year end reconciliation process easier.

Budget Transfer – The Commissioners signed Budget Transfer Control No. 01-030 for the Road Department, transferring \$2,400.00 from the Contracted Services Fund to the Technology Fund. This budget transfer relates to use of the mainframe system. The coding was changed from an expenditure line in the budget to a transfer out in order to make the year end reconciliation process easier.

Certificate of Survey – The Commissioners signed a Certificate of Survey to show the relocation of common boundaries in the S½ of Section 36, T 14 N, R 20 W, Missoula Development Park, with the owners being the Missoula County Airport Industrial District and Nurture, Inc.

Request for Action – The Commissioners approved two items submitted by the Sheriff's Department: 1) Approval of Fiscal Year 2002 per diem rate for the juvenile detention facility in the amount of \$140 per day; and 2) Approval to provide notice to out-of-county users of the juvenile facility that a mid-year adjustment may be necessary if utility rate or food price increases significantly exceed our inflation projections. These approvals eliminate the current \$23.89 disparity between what is charged and what the actual costs are.

Request for Action – Chairman Evans approved and signed the required forms and certifications for Missoula County's applications for funding of the YWCA and the SHARE House through the U.S. Department of Housing and Urban Development's Continuum of Care Supportive Housing Program (SHP). The YWCA application is a project that has been administered by the YWCA and which would now, if HUD awards the grant, be administered by the County. The SHARE House application is a renewal application; the County has administered this grant since the SHARE House received its first HUD SHP grant in 1995. If received, the YWCA grant will equal \$134,737 for two years and the SHARE House grant will equal \$393,330 for two years. The document was returned to Nancy J. Harte in the Office of Planning and Grants for further handling.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, MAY 30, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – The Commissioners signed the Claims List, dated May 29, 2001, batch number 1297 (pages 1-3), with a grand total of \$15,742.77. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated May 30, 2001, batch numbers 1289 and 1291 (pages 1-4), with a grand total of \$17,684.21. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated May 30, 2001, batch number 1294 (pages 1-4), with a grand total of \$14,760.31. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated May 30, 2001, batch number 1296 (pages 1-4), with a grand total of \$26,772.04. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated May 30, 2001, batch numbers 1298 and 1299 (pages 1-4), with a grand total of \$120,258.72. The Claims List was returned to the Accounting Department.

Report – The Commissioners reviewed and approved the Review of the Justice Court #2 as of March 31, 2001. Included in the report is the scope of the Review, and the County Auditor Office's comments and recommendations that are incorporated with the response from Judge Karen Orzech. The document was returned to the Clerk and Recorder for filing.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the Chief Administrative Officer meeting held in the forenoon, the following items were signed:

Resolution No. 2001-047 – The Commissioners signed Resolution No. 2001-047, dated May 30, 2001, a resolution of intent to amend the "East Butler Creek Foothills District" to the "East Butler Creek Foothills District, Modified," and apply this zoning district to the property known as the "East Butler Creek Foothills Zoning District," subject to conditions.

Agreement – Chairman Evans signed a Memorandum of Agreement, dated December 8, 2000, between the Missoula County Park Board (the "Board") and the Upper Linda Vista Homeowners Association for assistance with park development. The Board agrees to provide up to \$3,000.00 in matching funds for improvements as delineated in Attachment A to the Agreement. Funds must be spent by November 9, 2002. The document was returned to Brenda Lynch of the Park Board staff for further handling.

Agreement – Chairman Evans signed an Agreement, dated May 24, 2001, between the Missoula City/County Health Department and HDG Architects for architectural services for the purpose of designing and constructing a new animal shelter for the City and County of Missoula. The total amount shall not exceed \$22,230.00. This fee is based on a stated budget of \$234,000.00; if the final bids exceed this budget, the architects' fee shall increase by a sum of 9.5% of the difference between the stated budget and the final bid.

Resolution No. 2001-049 – Chairman Evans signed Resolution No. 2001-049, dated May 30, 2001, authorizing participation in the Board of Investments of the State of Montana Annual Adjustable Rate Tender Option Municipal Finance Consolidation Act Bonds (INTERCAP Revolving Program), approving the form and terms of the loan agreement, and authorizing the execution and delivery of documents related thereto. The funds, in the amount of \$130,000.00, are for the remodel of the office space for the Health Department.

Resolution No. 2001-050

Chairman Evans signed Resolution No. 2001-050, dated May 30, 2001, authorizing participation in the Board of Investments of the State of Montana Annual Adjustable Rate Tender Option Municipal Finance Consolidation Act Bonds (INTERCAP Revolving Program), approving the form and terms of the loan agreement and authorizing the execution and delivery of documents related thereto. The funds, in the amount of \$176,655.00, are for software and hardware for various departments.

MAY 30 2001 03:52

PUBLIC MEETING – May 30, 2001

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Bill Carey, Commissioner Jean Curtiss, Deputy County Attorney Colleen Dowdall and Chief Civil Attorney Michael Sehestedt.

Public Comment

None

Routine Administrative Actions

Commissioner Carey moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$469,402.36. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Hearing: Application for Motor Vehicle Wrecking Facility (C.F. Auto Parts – Fedor N. Chinikaylo) – Located at 10052 Garrymore Lane

Michael Sehestedt presented a background on the request. The statutes governing licensing of auto wrecking facilities provides that State DEQ needs to give notice to the governing body prior to issuance of a license. The governing body has 30 days to conduct a public hearing and recommend either support or opposition to the proposed facility. State DEQ may not issue a license which has been opposed by the governing body. The purpose of this hearing is to determine whether or not it is in the best public interest to grant this license and/or to impose certain conditions.

Fedor Chinikaylo was present and came forward to answer any questions the Commissioners might have.

Commissioner Carey asked Mr. Chinikaylo why he thought the Board should approve his application?

Fedor Chinikaylo stated he has done a good job, put in a special fence and built an office. He has done everything the zoning department has asked of him. He has also spoken with the Health Department.

Chairman Evans asked if the paving has been done?

Fedor Chinikaylo stated that it has been done.

Commissioner Curtiss asked if he fixed up the cars that were brought to him?

Fedor Chinikaylo stated he fixed some and other were sold for parts.

Commissioner Curtiss asked if he had any employees?

Fedor Chinikaylo stated he did not have any employees yet.

Chairman Evans opened the public hearing.

Ron Ewart, 5201 Skyview Drive, stated this area is a good place to have a wrecking yard. It is not visible from most of the surrounding roads. The first time he ever noticed the area was from an airplane.

There being no other comments, the public hearing was closed.

Commissioner Curtiss read into the record the conditions that have been recommended:

1. The facility will not negatively impact surrounding landowners or the community.
2. The site plan will be approved by the Missoula Office of Planning and Grants and the Missoula City-County Health Department. This plan will be completed to the satisfaction of these agencies.
3. Development requirements like the subdivisions in the area will be imposed (regarding paving, setbacks, screening, etc.) and Mr. Chinikaylo will waive his right to protest an RSID for roads, sidewalks or sewer or water systems, should one or more RSIDs be proposed for the purpose of benefiting properties in the area, including the site of the motor vehicle wrecking facility.
4. Mr. Chinikaylo must comply fully with all of the paving and graveling requirements outlined in Paving Permit #2000-86.
5. The proposed shielding is in compliance with A.R.M. 17.50.202 shielding requirements and this shielding must be maintained in accordance with A.R.M. 17.50.202. Updated facility plans will be submitted to Richard Corrigan, Missoula City-County Junk Vehicle Program.

Commissioner Curtiss moved that the Board of County Commissioners support the application of Fedor N. Chinikaylo for a motor vehicle wrecking facility license at 10052 Garrymore Lane. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Michael Sehestedt stated the Board should now advise State DEQ that a public hearing has been held on this application and there was no opposition and that the Board finds the request appropriate subject to conditions.

Chairman Evans explained to Mr. Chinikaylo that the Board does not give final approval of his application. State DEQ is the agency that grants the application based on their recommendation.

Hearing: Otto's Acres, Lot 3, Second Summary Subdivision (3 Lots) – South Third Street West

Dale McCormick, Office of Planning and Grants, presented the staff report.

This site is located on Stallion Lane, a short cul-de-sac on the south side of South Third Street West between Howard Street and Tower Street. Tim and Rebecca Creighton, represented by Ron Ewart of Eli & Associates, are requesting to subdivide Lot 3 of Otto's Acres into three lots ranging from 1.02 acres to 1.18 acres in size.

The original Otto's Acres Summary Subdivision divided a 6.71 acre parcel into four lots ranging from 1.0 acres to 3.02 acres in size, with Lot 3 as the largest lot. That subdivision created Stallion Lane, a short cul-de-sac on the south side of Third Street between Howard and Tower. Otto's Acres was approved on December 15, 1999 and the final plat has been filed.

There are existing homes on Lots 1 and 2 of the original subdivision. The existing homes are served by individual septic systems and the new lots being created will also be served by individual septic systems.

A 60 foot conditional right-of-way easement centered on the boundary between Lots 3 and 4 of the original subdivision provided for the possibility of a future public roadway connection to South 7th Street. This conditional public access easement was approved with the original subdivision. There is also a 15 foot irrigation ditch easement along the western and southern boundary of Lot 3.

Surrounding land uses are primarily single family residential and some agricultural and vacant parcels. The property is zoned C-RR1, Residential, with a recommended density of one dwelling unit per acre. The 1998 Missoula Urban Comprehensive Plan designates suburban residential land use with a maximum density of two dwelling units per acres.

Stallion Lane, approved with the original subdivision, will be a public road that is privately maintained, with a 24 foot wide paved surface within a 60 foot public right-of-way ending in a 50 foot radius cul-de-sac at Lot 3A. A shared private driveway will extend to Lots 3B and 3C that will be paved to a 12 foot width with 4 foot gravel shoulders on each side for an unobstructed width of 20 feet.

A variance was granted from Subdivision Regulations requiring sidewalks or pedestrian walkways in the original Otto's Acres subdivision for Stallion Lane. A variance from this requirement is being requested for Otto's Acres Lot 3 subdivision as well. Staff is recommending approval of the variance request.

Recommended conditions include a waiver of the right to protest a future RSID/SID for public water systems. The statement on the current plat has an RSID waiver for sewer, but not a water system. A \$100 contribution per new lot to the Missoula Rural Fire District has been requested, as well as a revegetation plan for disturbed sites to cover the installation of the new road. A 30 foot wide private driveway and public utility easement from the end of the Stallion Lane cul-de-sac along the eastern boundaries of Lots 3A and 3B is also a recommended condition. That is an overlay on the conditional public access easement. Also, an easement allowing access to the drainfield for Lot 3C, partially located on Lot 3B, has been included in the conditions. A 50 foot wide no build area which runs north/south through the middle of Lots 3A, 3B and 3C is a recommended condition to allow for future lot splits to concur with the Comp Plan designation of two dwelling units per acre. A 30 foot wide public utility easement extends from the private driveway and public utility easement. This connects the irrigation ditch through to the public right-of-way so that properties on the other side of South Third Street West can have access to the irrigation ditch.

On May 15, 2001, the Planning Board unanimously recommended approval of the variance request and subdivision request for Otto's Acres Lot 3.

Ron Ewart, Eli & Associates, developer's representative, thanked Dale McCormick for his work on this proposal. The developer is in agreement with the recommended conditions and variance request. The design changed somewhat from the beginning of the process and now encompasses the best possible design for this piece of property regarding future connections for roadways and location of future homes. Lines for connection to sewer have been dry laid to this location. Steve King, City Engineer, said there is a master plan to take sewer to this area, possibly by 2003. The subdivision is waiving the right to protest curb, gutter, sidewalk, water or sewer for the area. The applicant has paid \$1,876 to Missoula County for cash in lieu of walkways. That is a good way to handle the situation so sidewalks can be installed at the appropriate time. The subdivision also waives the right to further improvements to Stallion Lane if it becomes a public road. The language developed for the original subdivision preserves the future possibility of roadway connection. That language will carry over to this subdivision. Stallion Lane will share an access with Lot 2. That access will be removed from South Third Street and will connect to Stallion Lane with this new subdivision. The area has been in transition since the beginning of the century. It is slowing becoming more residential. When there is no sewer to the area, it is good to not increase the allowable density. This does not exceed the density allowed by zoning. The Comp Plan recommends two dwellings per acre and the developer is in agreement with the 50 foot wide no build zone in the middle of these lots. Seven high ground water monitoring test holes were done in two consecutive years. Of those seven holes, five were completely dry and the others had water at 8 foot, 10 inches. A septic can be installed with as little as four feet. This area does not have high ground water as can be found in other locations. The subdivision does allow for irrigation water from the ditch located to the south to all the lots on this proposal, as well as all the way to South Third Street. The no build zone which allows for future subdivision is a good idea.

Chairman Evans opened the public hearing.

John Frakie, 3539 South Third Street West, stated that at the Planning Board hearing he brought up his objection to three more septic tanks being installed upriver of him. That was still his objection. With all the easements on the site, each lot is actually smaller than one acre. A drainfield cannot be within 100 feet of an irrigation ditch which caused him some concern on one lot. There is an easement for Dr. Nickman across the street and he did not understand how the water could ever get to Dr. Nickman if he decided to use it. According to the maps presented, some access to irrigation ditches stop at certain points and he did not understand how a ditch could stop when someone is using it. Also, since equipment has been moved to the site, there have been no deer crossing the property. This used to be a major deer passage.

Dale McCormick stated the irrigation ditch easement created with the original Otto's Acres Subdivision runs along the perimeter of the entire site to ensure that all these lots could have access to the ditch that runs along the southern boundary. That easement along the western edge of Lot 3 ensures that the three lots of this subdivision can have access. The public utility easement that runs from the irrigation ditch up to South Third Street ensures that people on the other side of South Third Street have access to the irrigation ditch.

Chairman Evans stated it was up to the property owners on the other side of South Third Street to get to the water but the easement was present for them to get to.

Dale McCormick stated there is a 60 foot right-of-way where the current conveyance exists and there is an additional 30 foot easement that extends all the way to the irrigation ditch.

Ron Ewart stated he could find no record of a recorded easement across the property. He was unaware that Dr. Nickman got water from the ditch. Dr. Nickman pays taxes to the Irrigation Company because at one point in time he might have had access to the ditch. He still has technical access and this development does not cover any ditches nor restrict access to the ditch. It actually memorializes the easement.

Jennie Dixon stated that the technical aspects of state law require this subdivision to merely provide the opportunity for access to the irrigation ditch. That opportunity is being provided with this proposal. If Dr. Nickman wishes to access the ditch, the easement is provided.

Chairman Evans stated that many people pay for water they have no access to. The Board was instrumental in taking legislation to the state to allow people who did not have any access to irrigation water to withdraw from the Irrigation District.

John Frakie stated that Dr. Nickman was aware of the ruling and had filed all the necessary papers but was still paying taxes to the Irrigation District.

Chairman Evans stated the matter was still in process with the Court. When the ruling is made, it is surmised that those people will not have to pay taxes to the Irrigation District.

Fred Rush, 3618 South Third Street, stated he lives across the street from this proposal. He was not notified about the impending subdivision because his land is not technically adjacent to it. He signed the original request to have the zoning in the area changed to one dwelling per acre, not 0.92 acres as these lots are. Previously, a developer on Seventh had proposed several lots and the neighborhood signed a petition to prevent lots smaller in size than one acre. He did not care what the Comp Plan said, the neighbors requested one acre lots. He did not understand the gross and net acreage. He did not understand how the roads were counted in measuring the one acre. It is not a heavily subdivided area. He has lived there for 26 years and this is only the fifth subdivision. He did one of those subdivisions himself. The cash in lieu of parkland that he paid was within \$200 of what this subdivision will pay for a bigger subdivision 15 years later. How can they pay less than what he paid 15 years ago? He also had a problem with the irrigation easement on the west side, it shows it stopping at the top of Lot 3A. He has water those goes across Lot 3A into a culvert and comes under South Third Street to his property and his neighbors property. He does not see an easement on Lot 3A. He still did not understand the gross and net acreage. With the road, the property is 1.02 acres, but it is actually 0.92 acres.

Ron Ewart stated that he just recently discovered the easement did not go all the way through on the original Lot 1. The developer could ask the current owner if that easement could be created. Even if the easement is not granted, there is still access to the water. Nobody can stop access to water even if there is not a recorded easement.

Jennie Dixon stated that the method for density calculations is defined in the Subdivision Regulations.

Colleen Dowdall stated there are different kinds of zoning. In the City, there are minimum lot sizes that must be maintained. Missoula County zoning is not based upon a minimum lot size. It is zoning that describes a certain density. In this case, it is one dwelling unit per acre. The fact that the roadway is included in the calculation for the density has been the law in the State of Montana for 100 years. County roads are easements and the land is owned to the center of the roadway. It may be that some, all or none of it is owned, but the presumption is that it is owned to the center of the roadway. As a result, the property is used in the calculation of density for purposes of allocations. The cash in lieu of parks is only calculated on this subdivision, which is three lots. State law changed in 1995 on how cash in lieu of parkland is calculated. 15 years ago there was a different method of calculation. Minor subdivisions are exempt from cash in lieu of parkland. However, second summary subdivisions are treated as major subdivision, but this developer cannot be required to pay for parkland he did not own or develop. He is only required to pay on the land he is developing, Lot 3.

Fred Rush stated that when he did his subdivision, his land did not go to the center of the road, it went to the edge of the right-of-way.

Colleen Dowdall stated that most plats depict the property line as going to the edge of the roadway, but in reality, it is owned to the center line. The County only has an easement for the road and it would create the situation of no one owning the property under the easement. In Mr. Rush's case, it might have been Cobin or Dismore or their heirs and the law does not favor that the original owner keep that strip of land. This is covered in State statutes and there are cases throughout history that the presumption is ownership to the center line with the County road right-of-way over the top of it.

Chairman Evans stated that is further validated with the process to abandon a road right-of-way. The request goes to the owners on either side of the road due to the presumption of ownership. If the road easement is abandoned, the land goes back to the respective owners on either side.

Fred Rush stated he had written a letter to the planning staff. The speed limit on South Third is 45 miles per hours. That speed limit needs to be dropped back to 35 miles per hour. That is what it was until a few years ago when it was determined that everyone was driving faster so the speed limit was raised. The City is trying to buy 80 acres at the end of Tower. The traffic up there has already picked up and people are parking in other's front yards. The speed limit needs to be reduced.

Commissioner Curtiss stated that the Board agrees with Mr. Rush but would have counsel explain State law on speed limits. That street is controlled by the Highway Department.

Chairman Evans stated she has had discussions about speed limits with the Highway Commission. The Highway Commission has adopted the 85th percentile theory. The speed that 85% of the people are driving is what the speed limit is set at. A speed study could indeed cause the speed limit to be raised. The Board will ask the Public Works Director to investigate the speed limit but could not promise any results.

John Frakie stated traffic does not travel at 45 miles per hours, most are traveling at 55 miles per hour or faster. Maybe some increased Sheriff's Department presence could help to control the speed limit.

Chairman Evans stated the Board would ask the Sheriff's Department to increase their patrol of the area if possible.

Commissioner Carey stated he understood the neighbors concerns but the Board has no legal basis to deny the subdivision. The developer has meet the requirements as presented in the Findings of Fact and Conclusions of Law. Even if all three Commissioners did not want to see any houses built, they would have no choice but to approve the subdivision. The developer's representative has gone out of his way to address the neighbors concerns. The Board must work within State law and current zoning regulations.

There being no further comments, the public hearing was closed.

Commissioner Curtiss moved that the Board of County Commissioners approve the variance request from Section 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways in the subdivision based on the findings of fact in the staff report and subject to the conditions in the staff report. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Commissioner Curtiss moved that the Board of County Commissioners approve the Otto's Acres, Lot 3, Second Summary Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Otto's Acres, Lot 3, Second Summary Subdivision Conditions of Approval:

1. The following statement shall appear on the face of the final plat:

"Acceptance of a deed for a lot within this subdivision constitutes a waiver of the right to protest a future RSID/SID for public water systems, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations Section 3-7(2) and Health Department recommendation.*

2. The developer shall contribute \$100.00 per new lot to the Missoula Rural Fire District. Evidence of contribution shall be presented to the Office of Planning and Grants at the time of final plat approval. *Subdivision Regulations Article 3-7(2) and Missoula Rural Fire District recommendation.*
3. The final plat shall show a 30 foot wide private driveway and public utility easement from the end of the Stallion Lane cul-de-sac along the eastern boundaries of Lots 3A and 3B to the northern boundary of Lot 3C. *Subdivision Regulations Article 3-6 and OPG recommendation.*
4. An easement allowing access to the drainfield for Lot 3C partially located on Lot 3B shall be shown on the plat. A maintenance and use agreement for the portion of Lot 3C drainfield on Lot 3B shall be filed with the final plat, subject to review and approval by the County Attorney's Office, prior to final plat approval. *Subdivision Regulations Article 3-6 and OPG recommendation.*
5. The final plat shall include a 50 foot wide no build area running north/south through the middle of Lots 3A, 3B and 3C to accommodate possible future division of Lot 3A, 3B and 3C, subject to review and approval of OPG, prior to final plat approval. *Subdivision Regulations Article 3-1(1)(C) and staff recommendation.*
6. A Revegetation Plan for Disturbed Sites shall be approved by the Missoula County Weed Board prior to plat filing. Provision for implementation of the Plan shall be included in a development agreement to be filed prior to plat filing, subject to OPG and County Attorney Office approval. *Subdivision Regulations Article 3-1(1)(B) and Weed District recommendation.*
7. The final plat shall show a 30 foot wide public utility easement along the eastern boundary of Lot 3C, extending from the southern boundary of Lot 3B to the southern boundary of Lot 3C. *Subdivision Regulations Article 3-6 and staff recommendation.*

There being no further business to come before the Board, the Commissioners were in recess at 2:20 p.m.

THURSDAY, MAY 31, 2001

The Board of County Commissioners met in regular session; all three members were present. In the evening, Commissioner Curtiss spoke at the 8th Grade Graduation ceremonies at the Swan Valley School.

Claims List – Chairman Evans and Commissioner Carey signed the Claims List, dated May 31, 2001, batch number 1302 (pages 1-4), with a grand total of \$52,173.60. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Agreement – The Commissioners signed a Memorandum of Agreement, dated April 1, 2001, between Missoula County and the Missoula City Parks and Recreation Department for the purpose of conducting preliminary assessments to determine the most effective way of providing literacy activities and informal learning opportunities through recreation. The funding for this Agreement comes from the Wallace Reader's Digest Planning Grant for Family Literacy. Of the \$66,000 the County will receive from this Fund, the Parks and Recreation Department will receive \$3,418.80.00. The term will be April 1, 2001 through October 31, 2001.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Cathy Joy, LPC, to consult with the Crime Victim Advocate Program regarding provision of support groups for women and girls in Seeley Lake so that groups are provided in accordance with standard industry practice for domestic violence support groups. The term will be May 31, 2001 through August 31, 2001. The total amount shall not exceed \$2,500.00.

Resolution No. 2001-051 – The Commissioners signed Resolution No. 2001-051, dated May 31, 2001, granting a license to C.F. Auto Parts (Fedor N. Chinikaylo) for a motor vehicle wrecking facility at 10052 Garrymore Lane in Missoula County, Montana, subject to conditions set forth therein. A letter of support for aforementioned license, dated May 31, 2001, was signed by the Commissioners and sent to Bruce W. Meyer, Motor Vehicle Recycling and Disposal Program, Department of Environmental Quality, Helena, Montana.

Budget Discussion – The Commissioners held a discussion on the Budget and authorized the following: 1) A 4% salary parameter increase for State employees; and 2) Personnel enhancements set forth in attached matrix to Budget Agenda. The Commissioners also reaffirmed the target for General Fund Cash Reserve at 4% of revenues.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, JUNE 1, 2001

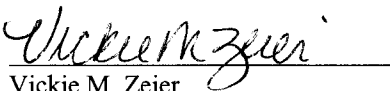
The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Curtiss was out of the office all day.

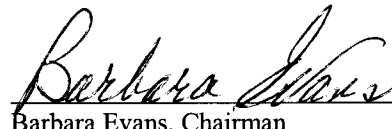
Agreement – Chairman Evans signed a Memorandum of Agreement, dated May 10, 2001, between the Missoula County Park Board (the "Board") and the Swan Valley American Legion for assistance with park development. The Board agrees to provide up to \$1,800.00 in matching funds for improvements as delineated in Attachment A to the Agreement. Funds must be spent by May 1, 2003. The document was returned to Brenda Lynch of the Park Board staff for further handling.

Agreement – Chairman Evans signed a Memorandum of Agreement, dated December 8, 2000, between the Missoula County Park Board (the "Board") and the El-Mar Estates Homeowners Association for assistance with park development. The Board agrees to provide up to \$3,000.00 in matching funds for improvements as delineated in Attachment A to the Agreement. Funds must be spent by November 9, 2002. The document was returned to Brenda Lynch of the Park Board staff for further handling.

Agreement – Chairman Evans signed a Memorandum of Agreement, dated May 10, 2001, between the Missoula County Park Board (the "Board") and the Neighborhood Watch Group – Target Range Area – Schmautz Park, for assistance with park development. The Board agrees to provide up to \$92.00 in matching funds for improvements as delineated in Attachment A to the Agreement. Funds must be spent by May 1, 2003. The document was returned to Brenda Lynch of the Park Board staff for further handling.

Agreement – Chairman Evans signed a Memorandum of Agreement, dated May 10, 2001, between the Missoula County Park Board (the "Board") and Backwoods BMX Park for assistance with park development. The Board agrees to provide up to \$2,500.00 in matching funds for improvements as delineated in Attachment A to the Agreement. Funds must be spent by May 1, 2003. The document was returned to Brenda Lynch of the Park Board staff for further handling.


Vickie M. Zeier
Clerk & Recorder


Barbara Evans, Chairman
Board of County Commissioners

MONDAY, JUNE 4, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – The Commissioners signed the Claims List, dated May 31, 2001, batch number 1277 (pages 1-5), with a grand total of \$40,183.86. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated May 31, 2001, batch number 1286 (pages 1-4), with a grand total of \$17,193.91. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated May 31, 2001, batch number 1300 (pages 1-5), with a grand total of \$62,445.02. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated May 31, 2001, batch numbers 1301 and 1303 (pages 1-4), with a grand total of \$28,115.20. The Claims List was returned to the Accounting Department.

Plat and Development Agreement – The Commissioners signed the plat and Development Agreement for Hamel Acres, a subdivision of Missoula County, located in the S½, NE¼ of Section 34, T 15 N, R 21 W, P.M.M., a total area of 31.93 acres, with the owner of record being Mary D. Alexander, Trustee, Alexander Family Trust. The Development Agreement is intended to meet requirements of the Missoula County Subdivision Regulations regarding Fire Protection and Weed Control standards.

Monthly Report - Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Report for the Clerk of the District Court, Kathleen Breuer, for the month ending May 31, 2001.

Proclamation – The Commissioners signed a Joint Proclamation with the City of Missoula proclaiming June 5, 2001 as *UM Retirees' Day*, inviting all citizens to join in recognizing the University Retirees and the contributions made by these individuals to the lives of all students and the well being of society.

TUESDAY, JUNE 5, 2001

The Board of County Commissioners met in regular session; all three members were present. In the evening, the Commissioners attended a meeting with the residents of the Mullan Trail Subdivision regarding the proposed Mullan Corridor Sewer Project held at the Sunset Memorial Funeral Home Meeting Room.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated June 5, 2001, batch number 1305 (pages 1-3), with a grand total of \$13,404.64. The Claims List was returned to the Accounting Department.

Claims List – Commissioners Carey and Curtiss signed the Claims List, dated June 5, 2001, batch number 1306 (pages 1-5), with a grand total of \$34,795.68. The Claims List was returned to the Accounting Department.

Claims List – Commissioners Carey and Curtiss signed the Claims List, dated June 5, 2001, batch number 1308 (pages 1-5), with a grand total of \$54,248.01. The Claims List was returned to the Accounting Department.

Claims List – Commissioners Carey and Curtiss signed the Claims List, dated June 5, 2001, batch number 1311 (pages 1-2), with a grand total of \$9,983.80. The Claims List was returned to the Accounting Department.

Payroll Transmittal – The Commissioners signed the following Payroll Transmittal Sheet: Pay Period: 11 - Pay Date: June 1, 2001. Total Missoula County Payroll: \$768,913.60. The Transmittal Sheet was returned to the Auditor's Office.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Agreement – The Commissioners signed an Agreement for Provision of Professional Security Services between the Missoula County Sheriff's Department and Missoula Osprey Professional Baseball for security services during the period covering the 2001 baseball season – approximate dates June 2001 through September 30, 2001. The pay for Officers employed is as per the schedule set forth therein.

Resolution No. 2001-052 – The Commissioners signed Resolution No. 2001-052, dated June 5, 2001, accepting an Easement Interest in Real Property from Maloney Properties, L.L.C. for public road and all other public purposes, located in a portion of a tract of land located in the SW¼ of the NW¼ of Section 19, T 12 N, R 19 W, PMM, Missoula County, Montana. This two-foot right-of-way strip is adjacent to Stillwater Addition, Phase I, and is needed before this subdivision can be filed.

Deed Restriction Agreement and Subordinate Deed of Trust

Chairman Evans signed a Deed Restriction Agreement and Subordinate Deed of Trust between Missoula County and Christina Trusty-Williams in the amount of \$5,000.00 for the property located at 20520 Highway 10 East, Clinton, Montana 59825, for the purpose of providing HOME Investment Partnerships Program (HOME) funds to assist with down payment, closing cost and, if necessary, mortgage reduction assistance, as per the terms and conditions set forth therein. The documents were returned to Jennifer Blumberg in the Office of Planning and Grants for further handling.

Other items included:

- 1) The Commissioners moved to refund the Montana car registration tax for Lt. Paul Tripp, of Monterey, California, pursuant to his request via letter to County Treasurer Vickie Zeier.
- 2) Pursuant to a letter and explanation received from Gary A. Peterson, the Commissioners approved a waiver of penalty and interest for 2000 property tax bills for Western Wireless Corporation, a cellular telephone company doing business in Missoula County.
- 3) Pursuant to a Property Tax Appeal Form, the Commissioners approved an extension of time for filing to Colleen P. Lyon, 3610 Spurgin Road, Missoula, Montana. Deputy County Attorney Mike Sehestedt will write a letter to the Department of Revenue.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, JUNE 6, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – Chairman Evans and Commissioner Carey signed the Claims List, dated June 5, 2001, batch number 1312 (pages 1-5), with a grand total of \$39,669.43. The Claims List was returned to the Accounting Department.

Monthly Report – Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Report for Justice Court 1, John E. Odlin, Justice of the Peace, for the month ending May 31, 2001.

Monthly Report – The Monthly Reconciliation Report for Justice Court 2, Justice of the Peace, Karen A. Orzech, for the month ending May 31, 2001, was inadvertently misplaced and is noted in the February 2002 Journal.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the Chief Administrative Officer meeting held in the forenoon, the following items were signed:

Agreement – The Commissioners signed a Section 00500 Agreement, dated May 31, 2001, between Missoula County and PUMCO, Inc. for roadwork on Blue Mountain Road Subgrade, as per the items set forth therein. The work specified will be substantially complete within 40 (forty) calendar days after the date when the Contract Time commences to run. The total amount shall not exceed \$73,705.40. The document was returned to Doreen Culver, Office of Public Works Bidding Officer, for further handling.

Per Diem – Pursuant to approval at the May 29, 2001 Administrative Meeting, the Commissioners signed a letter to Sheriff Doug Chase setting forth the FY2002 per diem rate for the Missoula Regional Juvenile Detention Facility at \$140 (One Hundred and Forty Dollars). The new rate is effective July 1, 2001.

PUBLIC MEETING – June 6, 2001

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Jean Curtiss and Chief Civil Attorney Michael Sehestedt. Commissioner Bill Carey was unavailable.

Public Comment

None

Routine Administrative Actions

Commissioner Curtiss moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$472,471.37. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

There being no further business to come before the Board, the Commissioners were in recess at 1:30 p.m.

THURSDAY, JUNE 7, 2001

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Carey was in Helena attending a MACo Board of Directors Meeting held at the MACo Office. At noon, Chairman Evans participated in the Ribbon Cutting Ceremony at the Airport for United Express.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated June 6, 2001, batch number 1313 (pages 1-5), with a grand total of \$59,920.98. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated June 7, 2001, batch number 1314 (pages 1-2), with a grand total of \$1,167.97. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated June 7, 2001, batch numbers 1315 and 1316 (pages 1-5), with a grand total of \$36,260.51. The Claims List was returned to the Accounting Department.

Indemnity Bond – Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming Coreen Booktour as principal for Accounting Warrant #385288 issued April 18, 2001 on the 7192 Fund in the amount of \$46.00, now unable to be found. The principal named should have been the National Park Service.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Resolution No. 2001-053 – The Commissioners signed Resolution No. 2001-053, dated June 7, 2001, a Budget Amendment for the Health Department #2270 – Bunker Hill Project, in the amount of \$7,000.00, adopting same as part of the Fiscal Year 2001 Operating Budget for Missoula County.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and B & N Spraying for the application of the herbicide Escort at a rate of .75 ounces per acre plus a suitable silicone surfactant to approximately 16 acres of Whitetop (*Cardaria draba*). Locations to be sprayed will be determined by the Weed District. The term will be June 7, 2001 through June 15 2001. The total amount shall not exceed \$40.00 per acre or a minimum of \$640.00.

Shoreline Permits – Pursuant to the recommendation of the Office of Planning and Grants, the Commissioners approved and Chairman Evans signed three applications for shoreline permits, as follows:

- 1) To Aaron Morse to construct a 256 square foot pre-fabricated dock and access trail on Salmon Lake. The property is Lot 7 of Salmon Lake Shore Site;
- 2) To Frank Netherton, represented by Don Larson, to build a 160 square foot fixed dock and a 180 square foot attached floating dock on Elbow Lake. The property is described as Tract 2, COS 4697 in the SE¼ of Section 17 of T 15 N, R 14 N; and
- 3) To Len Kobylenski to replace an existing dock and install a 494 square foot pre-fabricated floating dock on Holland Lake. The property is a Forest Service lease, described as Lot 4 of Area 13.

The permits were returned to Brian Maiorano in OPG for further handling.

Request for Commission Action – The Commissioners approved a request by the Building and Grounds Department to repair a leaking roof at the warehouse. The total amount shall not exceed \$5,800.00, which is in the facilities maintenance budget for FY02.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, JUNE 8, 2001

The Board of County Commissioners met in regular session; all three members were present.

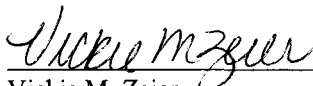
Claims List – The Commissioners signed the Claims List, dated June 8, 2001, batch number 1310 (pages 1-3), with a grand total of \$54,762.43. The Claims List was returned to the Accounting Department.

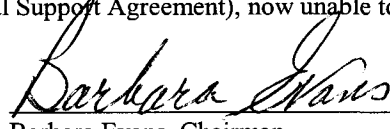
Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated June 8, 2001, batch number 1318 (pages 1-4), with a grand total of \$18,628.35. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated June 8, 2001, batch number 1319 (pages 1-5), with a grand total of \$11,846.86. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated June 8, 2001, batch number 1321 (pages 1-3), with a grand total of \$12,718.26. The Claims List was returned to the Accounting Department.

Indemnity Bond – Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming Aceware Systems, Inc. of Manhattan, Kansas, as principal for MCPS Warrant #40729 issued January 11, 2001 on the Adult Education Fund in the amount of \$860.00 (payment for Annual Support Agreement), now unable to be found.


Vickie M. Zeier
Clerk & Recorder


Barbara Evans, Chairman
Board of County Commissioners

MONDAY, JUNE 11, 2001

The Board of County Commissioners met in regular session; all three members were present.

Task Order – Chairman Evans signed Task Order No. 02-07-3-31-009-1 to the Missoula County Master Contract that covers the period July 1, 1998 through June 30, 2005 (Missoula County and the Tobacco Program). This Task Order provides continued funding for a community-based county tobacco use prevention and education program. The term will be July 1, 2001 through June 30, 2002. The total amount shall not exceed \$61,051.00 (\$41,515 from a U.S. Department of Health and Human Services (CDC) federal grant, and \$19,536 from the state general fund). The document was returned to the Health Department for further signatures and handling.

TUESDAY, JUNE 12, 2001

The Board of County Commissioners met in regular session; all three members were present.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and the University of Montana Bureau of Business and Economic Research to conduct a survey of public opinion regarding potential cleanup of contaminants at the Milltown Reservoir Superfund site and potential removal of the Milltown Dam. The University will provide the County with results of the survey by August 17, 2001. The total amount shall not exceed \$6,486.00 (\$5,405 plus an overhead charge of 20%). The document was returned to Peter Nielsen in the Health Department for further handling.

Agreement – The Commissioners signed a Development Agreement for 2606 Sunset Lane Subdivision For Lease or Rent, dated May 15, 2001, between Missoula County and David and Lucy Braach, owners of said property recorded as Lot 16, U.S. Government Survey No. 2, located in the NE¼ of Section 30, T 13 N, R 19 W, subject to conditions of approval. This agreement meets Conditions 1 and 2 of the preliminary plan approval, as set forth therein.

Resolution No. 2001-054 – The Commissioners signed Resolution No. 2001-054, dated June 12, 2001, a Budget Amendment increasing the funding for the Health Department's (#2270) State Morbidity and Mortality Review (SMMR) in the amount of \$9,686.00, adopting same as part of the Fiscal Year 2001 Operating Budget for Missoula County. (The original adopted budget was \$59,339; current amended budget total is \$69,025).

Other items included:

- 1) The Commissioners reviewed and approved the waiver of 1999 and 2000 tax penalties and interest for Marian Lucille Potts in the amount of \$123.83. A letter from County Attorney Fred Van Valkenburg to County Treasurer Vickie Zeier reflects the approval.
- 2) A discussion was held on a request from S.A.V.E. to ban new off-premise signs over 32 square feet in commercial and industrial zones of the County (extending the ban enacted in 1995 from unzoned to C and I zones). The Commissioners asked that a hearing be scheduled on this issue.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, JUNE 13, 2001

The Board of County Commissioners met in regular session; all three members were present.

Indemnity Bond – Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming O'Neill & Zimet Architects as principal for MCPS Warrant #46752 issued April 19, 2001 on the Building Fund in the amount of \$131,290.16.00 (payment for Sentinel High School Additions and renovation project), now unable to be found.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the Chief Administrative Officer meeting held in the forenoon, the following items were signed:

Agreement – Chairman Evans signed an Amendment of Request for Application/Modification of Assistance Agreement, dated June 13, 2001, between Missoula County and the Bureau of Land Management for the purpose of incorporating rip-rap work for the Whitaker Bridge into the ongoing project. The completion date of the project is changed from December 31, 1998 to September 30, 2002. The funding is increased from \$259,000 to \$264,000, an increase of \$5,000. The document was returned to Greg Robertson, Public Works Director, for further handling.

Letter – Upon authorization of the Board of County Commissioners, Chairman Evans signed a letter to Gary Miller, President, 1st Valley Bank, Seeley Lake, Montana, demanding payment on 1st Valley Bank irrevocable Standby Letter

of Credit No. 37019 for Double Arrow Phase II RSID in the amount of \$10,000. The letter was forwarded to 1st Valley bank in Seeley Lake, Montana.

Memorandum of Understanding – The Commissioners signed a Memorandum of Understanding for contracted/shared services between the Sheriff's Office, Office of Emergency Management and Communications/9-1-1 Center (OEM/9-1-1), as per the items set forth therein. The effective term is through June 30, 2003 with the expectation it may continue past that date. Funding related to this agreement will be given priority consideration for Fiscal Years 2002 and 2003. Fiscal Year 2002 estimate is \$58,086 for wages and phone line; there will be no enhancement of the DES or 9-1-1 budget requests.

Resolution No. 2001-055 – Chairman Evans signed Resolution No. 2001-055, dated June 13, 2001, relating to \$327,000 pooled Rural Special Improvement District Bonds, Series 2001 (RSID Nos. 8465 and 8469), awarding the sale thereof and approving certain matters with respect to Farm Lane paving and Snowdrift Lane paving.

Resolution No. 2001-056 – Following the Public Meeting, Chairman Evans signed Resolution No. 2001-056, dated June 13, 2001, relating to Self-Funded Liability Insurance Program Bonds, Series 2001 (Tax-Supported), authorizing the issuance and private negotiated sale thereof.

Fiscal Year 2002 Budget – The Commissioners held a discussion on the FY02 Budget and approved the following:

1. Authorized Operations increases according to the spreadsheet attached to the draft Budget.
2. Authorized the following Priority Capital Requests: (1) Repair Old Courthouse Roof; (2) Repair Old Courthouse Exterior (Roof Related); (3) Sprinkle Old Courthouse (Life/Safety); and (4) Replace Health Department Roof.

PUBLIC MEETING – June 13, 2001

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Bill Carey, Commissioner Jean Curtiss, County Surveyor Horace Brown, County Risk Manager Hal Luttschwager, Chief Financial Officer Dale Bickell and Deputy County Attorney Colleen Dowdall.

Public Comment

None

Routine Administrative Actions

Commissioner Carey moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$195,305.36. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Resolution: Authorizing Issuance and Sale of Self-Funded Liability Insurance Program Bonds

Hal Luttschwager presented the request.

This is a request to adopt an Authorizing Resolution for the bonds to refinance the Missoula County Property and Casualty Self-Insurance Plan (Risk Trust).

The Risk Trust was formed by resolution of the Board of County Commissioners in October 1986. Claim payments remained within annual operating budget (Risk Trust grew to \$1.6 million) until fiscal year 2000 when claim payments were \$1,361,669 (audited). The Risk Trust was suspended and the balance was transferred to the Risk Management Fund. The fiscal year 2000 audit reflects a deficit of \$250,045 in retained earnings for claim payments. Reserves for incurred claims are \$816,747 (as of June 11, 2001). Cash in the Risk Management Fund was \$488,739 (as of May 31, 2001).

The fiscal impact is \$1 million in General Obligation Bonds with a debt service of \$128,000 (estimated) for 10 years. This must be paid from existing resources as no new tax levy is permissible.

This will refinance the Risk Trust which was depleted due to primarily three large claims. The amount of the Bond is \$1,000,000 and the annual debt service is \$128,000 for 10 years. This would not create any new tax levy, it would have to be done within existing resources.

Chairman Evans asked for public comments. There were none.

Commissioner Curtiss moved that the Board of County Commissioners adopt the Authorizing Resolution for the Bonds to refinance the Missoula County Property and Casualty Self-Insurance Plan (Risk Trust), and authorize the Chair to sign all necessary documents. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Bond Bid Award: RSID 8465 (Farm Lane Paving) and RSID 8469 (Snowdrift Lane Paving)

This is a request to award the sale of bonds for RSID 8465 (paving of Farm Lane in Lolo) and RSID 8469 (paving of Snowdrift Lane in Missoula County).

On June 11, 2001, Bond Bids for Pooled Series 2001 RSID Bonds Ten Year Issue of \$327,000 were opened. One bid was received with the following results:

Net Effective Interest Rate

2001-0432

It is the recommendation of the Public Works Department to award the Bond Bid to Montana Municipal Cooperative at the Net Effective Interest Rate of 5.45%.

Horace Brown stated these were the bonds to finance the paving projects and the interest rate is good. He concurred with awarding the bonds as recommended.

Chairman Evans asked for public comments. There were none.

Commissioner Carey moved that the Board of County Commissioners award the sale of bonds for RSID 8465 (paving of Farm Lane in Lolo) and RSID 8469 (paving of Snowdrift Lane in Missoula County) to Montana Municipal Cooperative of Bozeman, Montana at the Net Effective Interest Rate of 5.45%. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Chairman Evans asked Horace Brown when paving might begin?

Horace Brown stated the construction could begin possible as early as this fall. The paving may not be done until next spring.

Hearing (Certificate of Survey): Burg Family Transfer

Colleen Dowdall presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described as Tract 27, COS 1925, Section 9, Township 14 North, Range 20 West.

Larry and Sonya Burg have submitted a request to create parcels using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 25.7 acres in size located on O’Keefe Creek Road. The Burgs propose to create five parcels, each approximately five acres in size, for transfer to each of their minor daughters, Kasey, 15 and Mandee, 13, one each to the parents of Mrs. Burg, James and Raina Bishop, and retain a remainder parcel for themselves. The purpose of the transfer to the minor daughters is described as an educational and personal fund. The purpose of the transfer to the Bishops is not clearly indicated on the affidavit.

The history of the parcel is as follows:

Parcel History	Year	Exemption Used	Applicant	Intended Recipient
COS 1925	1979	Parcels greater than 20 acres in size	Geneva Cates	N/A

Geneva Cates divided ranchland in the Meadows of Baron O’Keefe into 20 acre parcels in 1979. Many of those parcels were subsequently divided into 5 acre parcels as they were sold with a description of the use of exemptions from subdivision review in order to divide the land further. Missoula County sued the developer alleging evasion of the subdivision review process and settled the case, agreeing in part that all subsequent use of exemptions in the Meadows would be subject to review by the Board of County Commissioners.

According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act. The Burgs have owned the parcel since 1997.

Chairman Evans opened the public hearing.

Larry Burg, the owner of the property, was present and came forward to answer questions.

Colleen Dowdall stated she would like to ask a few questions to determine Mr. Burg’s intent. The Commissioners inquiry is to determine if this is an attempt to evade subdivision review. The item that raises concern is the absence of a description of the purpose of the parcels to be given to James and Raina Bishop. She asked Mr. Burg what they intend to do with those parcels.

Larry Burg stated that his oldest daughter would like to attend the University of Montana and become a school teacher and stay in Montana. They would like to bring the in-laws to Montana and build a home for them. His wife’s brother, who lives in Stevensville, has six children and they would like to create a 5 acre farm when the kids can keep horses and such.

Colleen Dowdall asked if that was the parcel that would go to his mother-in-law?

Larry Burg stated the two parcels would actually be together. They would put a house on one section and the other section would be fenced off for the horses and 4-H projects for the children.

Colleen Dowdall asked if that would be held in the name of his father-in-law.

Larry Burg stated that was correct and when the in-laws die it would all revert back into the trust. He did not completely understand it all, his attorney drafted the request.

Colleen Dowdall asked if houses would be built on the lots to be given to his daughters?

Larry Burg stated his 15 year old daughter wants a house, that was his intent.

Colleen Dowdall asked if the house would be built and then sold?

Larry Burg said it would take years to build a house.

Colleen Dowdall asked if Mr. Burg intended to sell any of the lots?

Larry Burg said no, this was their retirement home.

Colleen Dowdall stated the trust had been drafted under the laws of the State of Nevada. Did Mr. Burg intend to keep that as the trust for these properties?

Larry Burg said yes.

Colleen Dowdall stated the terms of the trust give Mr. Burg all the rights of ownership of the property, that he can do with it as he pleases once it is held by the trust.

Larry Burg said that was correct until his children reached the age of 18, then the daughters can decide what they want to do with the property.

Colleen Dowdall asked if the parcels were being transferred to the in-laws as a gift or as a sale?

Larry Burg stated the transfer was a gift.

Colleen Dowdall asked if the in-laws intended to sell the property?

Larry Burg stated they did not intend to sell the property.

Colleen Dowdall stated that transferring one parcel to the mother-in-law and one parcel to the father-in-law did raise some red flags. Usually the transfer would be one parcel to both.

Larry Burg stated that was what his attorney in Nevada had set up, it had something to do with the way the trust was structured and disposition of the property when the in-laws pass away.

Colleen Dowdall stated she was trying to understand why he was transferring two separate parcels to his in-laws.

Larry Burg stated it could be made one parcel, one section would be for a small 4-H farm and one section would be for the home.

Colleen Dowdall stated that this transfer would be to the in-laws, it would not go to the trust.

Larry Burg stated he understood that and when the in-laws die, the property will go to the trust.

Chairman Evans stated the law give the Board the task of determining whether or not these transfers are being done really to give land to family members or if they are being done to get around the subdivision laws. There have been some people who have used the process to evade subdivision review. It is the Board's responsibility to make a determination as to whether or not there is an attempt to evade subdivision review. That is the reason for these questions. If he truly plans to give this to his children and provide for his in-laws, that is commendable.

Larry Burg stated his in-laws are selling their house in Utah and moving to Montana.

Commissioner Curtiss stated that the in-laws have it in their will that the land will come back to the trust at the time of their death.

Larry Burg stated that was correct. The in-laws understand that and have no problem with it.

Commissioner Curtiss asked if Mr. Burg would have a problem with creating 4 lots instead of 5, combining the two lots to the in-laws into one lot.

Larry Burg stated his attorney had requested the transfer be handled as requested.

Colleen Dowdall stated that Mr. Burg would be responsible in the event that the transfer does not occur as stated. It is his intent that is most important, not his attorneys or his in-laws, etc.

Larry Burg stated his intent was to give a piece to each one of his daughters and a piece to his in-laws to be used for a home and the rest to be used as a farm for the grandchildren.

There being no further comments, the public hearing was closed.

Commissioner Carey moved that the Board of County Commissioners approve the request by Larry and Sonya Burg to create four new parcels by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Consideration: Meadowlands Lot 5 (3 lot commercial/industrial subdivision on 5.69 acres near the Wye)

Dale McCormick, Office of Planning and Grants, presented the staff report.

The applicant, Larry Coufal, is proposing a three lot summary subdivision located southeast of the Crossroads Truck Center at the Wye. The parcel is 5.69 acres. Lot 5A will be 2.75 acres and Lots 5B and 5C will be 1.47 and 1.46 acres respectively. Mr. Coufal owns and operates Fence Masters and will relocate his business on proposed Lot 5A. He has obtained a building permit and construction is underway.

The property is zoned C-C2 and is designated in the Comprehensive Plan as General Commercial for the northern part and Light Industrial for the southern part.

Access to the subdivision is provided via Thornton Drive, a 32 foot wide paved public road within a 60 foot right-of-way. A shared driveway located within a 30 foot easement was originally proposed for access to Lots 5A and 5B. New information submitted indicates that individual driveways will be created for Lots 5A and 5B. A building permit was issued to Fence Masters on May 14, 2001 for the construction of their building. At a field inspection on May 16, 2001, OPG found the driveway had already been constructed to serve this lot. The design of this driveway will not allow for shared access as shown on the plat. Lots 5A and 5B will have individual private access drives from Thornton Drive.

Lot 5C will access from an existing 60 foot wide private access easement at the common boundary with Lot 4 of the Meadowlands Subdivision. This easement was created with the original Meadowlands Subdivision to access the remainder to the northeast. Staff recommends that the 30 feet of this private access easement on Lot 5 be designated as a public access easement to allow public access when the remainder develops. The County Surveyor supports this recommendation.

Lot 4 will soon be presented for re-subdivision and staff will recommend the same condition for the other 30 feet of this easement on that subdivision.

Variances are being requested for providing sidewalks, curbs and gutters and staff is recommending approval of the variance requests. Conditions will include \$100 per new lot to the Missoula Rural Fire District. Areas with slopes in excess of 25% will be designated as no build zones. A noxious weed management plan must be submitted. This is within the Airport Influence Area and there will be a statement on the plat indicating that it is subject to the Airport Influence Area Resolution.

Ron Ewart, Eli & Associates, developer's representative, was present. The developer is in general agreement with the conditions, with minor exceptions. Part of Condition 2 has already been met. On Condition 5, the developer prefers the easement stays private but did not want approval to be delayed because of it. The question is what was the difference between a public or private easement. It would not be made into a road any time soon. It was platted to give access to the remainder. It could be made public later if a road is every installed. It should be preferred that short roads be kept private so the County does not have to maintain them. The developer would like to have the issue discussed but would be okay with it either way.

Chairman Evans asked for public comments.

Ron Ewart stated there is already a private access and public utility easement there, why should it be made public?

Dale McCormick stated that staff's perspective was that right now this is under all one ownership. If that were to change, there could be a situation where access to the remainder was held by someone different. This is an opportunity to insure that access could be put in place in the future under different ownership.

Horace Brown stated such a road would be built by the subdivider and the County would have the opportunity to accept or not accept it for maintenance.

Chairman Evans asked what the road would likely connect with in the future.

Dale McCormick stated there were parcels distinct from this subdivision that don't have any access at this time, Tract A of COS 3615 being one of them.

Jennie Dixon stated there is access but it is via a private access easement. Staff is recommending that this be public because this is a commercial development and is likely to be utilized by the general public. If they are public roads, then the County does have to maintain them, but they are not recommending a road, just that the easement be changed from private to public.

Colleen Dowdall stated this is a public road now. If it is dedicated on the plat, it is public County right-of-way. The question is if County right-of-way is needed in this location. Even if it is private and this is a commercial business, invitees of the business would have the right to use the road. In terms of access to the site, it doesn't make a difference whether it is public or private. What she struggles with is creating right-of-way that is not intended to built on until some event in the future. The developer of the remainder loses control over the easement.

Chairman Evans asked if this has anything to do with the grid road system that has been discussed with MRL.

Horace Brown stated it did not, that was further west. If this is made County right-of-way, he would request that it be made clear that the developers in the future will be building the road, not the County. If it is County right-of-way, the County could be required to build the road for other developers.

Jennie Dixon stated if this remains a private access easement, people will be able to access commercial development on the remainder behind this site. Staff is trying to anticipate if the road were ever to connect to an extension of Expressway and become part of the County road network. In order to make the connections and have the public use the road, it has to be a public right-of-way.

Chairman Evans stated that it was hoped at some point in the future to construct Expressway beyond DeSmet Road out to Highway 10.

Commissioner Curtiss asked if that was to connect at Inspiration Drive.

Horace Brown stated that was correct, approximately opposite Inspiration Drive.

Colleen Dowdall stated requiring a statement on the plat to assure this developer that he won't be responsible for building the road, unless he is also the developer of the remainder. The future developer would be responsible for building the road. The law states right now that the County cannot be forced to build a road, but the law could change. The plat could include language that states that this developer will not necessarily be responsible for building the roadway and that Missoula County will not be responsible for building the roadway. In the event it is built in the future, it shall be built to County road standards. That could be added to Condition 5. That will create 30 feet of public access and 30 feet of private access.

Jennie Dixon stated that would be the situation for now. Ron Ewart has stated that Meadowlands Lot 4 would be officially filed shortly.

Ron Ewart asked if it should be noted that the County has the ability to accept or not accept the road.

Horace Brown stated the County always has that ability.

There were no further public comments.

Commissioner Curtiss moved that the Board of County Commissioners approve the variance request from Section 3-2(14)(A)(1) of the Missoula County Subdivision Regulations to not provide boulevard sidewalks on Thornton Drive, based on the findings of fact set forth in the staff report. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Commissioner Curtiss moved that the Board of County Commissioners approve the variance request from Section 3-2(15) of the Missoula County Subdivision Regulations to not provide curbs and gutters on Thornton Drive, based on the findings of fact set forth in the staff report. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Commissioner Curtiss moved that the Board of County Commissioners approve the Meadowlands Lot 5 Summary Subdivision, based on the findings of fact and subject to the recommended conditions in the staff report as amended. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Meadowlands Lot 5 Summary Subdivision Conditions of Approval:

1. The developer shall contribute \$100.00 per new lot to the Missoula Rural Fire District prior to final plat approval. *Subdivision Regulations Article 3-7 and Missoula Rural Fire District recommendation.*
2. Any development on the northernmost portion of Lot 5A shall be required to meet the Road and Driveway Standards as required by Hillside Design Standards of the Subdivision Regulations, prior to issuance of a building permit. Additionally, all areas with 25 percent slope or greater shall be designated a no-build zone on the plat. *Subdivision Regulations 3-15(5) and 3-1(2).*
3. The applicant shall file a development agreement with Missoula County requiring future lot owners to maintain their lots in compliance with the Montana Noxious Weed Control Act, Title 7, Chapter 22, MCA, and the Missoula County Noxious Weed Management Plan. The development agreement shall also require lot owners to revegetate any areas disturbed by construction or maintenance with beneficial species as soon as construction or maintenance is completed. The development agreement shall be reviewed and approved by the County Weed Board prior to final plat approval. *Subdivision Regulation Article 3-1(1)(B) and Missoula County Weed District recommendation.*
4. The following statement shall appear on the face of the plat:

"This property is within the Airport Influence Area and subject to the requirements of the Airport Influence Area Resolution."

Prior to final plat approval, the applicant shall grant an avigation easement to the Missoula County Airport Authority. *Subdivision Regulations Article 3-1(2) and Airport Authority recommendation.*
5. The 30 foot Private Access and Utility Easement on the south side of proposed Lot 5C, abutting Lot 4, shall be relabeled and shown on the plat as a Public Access and Utility Easement. There shall be a statement included on the plat that the developer will not necessarily be responsible for constructing the roadway and that Missoula County will not be responsible for constructing a road within this right-of-way. In the event a road is built in the future, it shall be built to County road standards. *Subdivision Regulations Article 3-2.*

There being no further business to come before the Board, the Commissioners were in recess at 2:05 p.m.

THURSDAY, JUNE 14, 2001

The Board of County Commissioners met in regular session; all three members were present. During the day, the Commissioners attended a MACo District 10 and 11 Counties Workshop on HB 124 and related legislation held at the Holiday Inn.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated June 14, 2001, batch number 1322 (pages 1-5), with a grand total of \$73,162.28. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated June 14, 2001, batch number 1324 (pages 1-4), with a grand total of \$46,802.25. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated June 14, 2001, batch number 1325 (pages 1-3), with a grand total of \$4,797.18. The Claims List was returned to the Accounting Department.

001-033

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated June 14, 2001, batch number 1326 (pages 1-3), with a grand total of \$22,455.73. The Claims List was returned to the Accounting Department.

Plat and Improvements Agreement – The Commissioners signed the plat and Subdivision Improvements Agreement for Sixty-Six Quarter Circle Ranch, located in the NE¼ of Section 18, and the W¼ of Section 17, T 14 N, R 20 W, P.M.M., a gross area of 178.78 acres, with the owners of record being George E. & Kathleen L. Deschamps. The estimated cost for improvements set forth in the Agreement and Guarantee is \$58,130, to be paid by Casper Two, Inc., successor developer of the subdivision. Said improvements shall be completed no later than June 5, 2002.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Budget Transfer – The Commissioners signed Budget Transfer Control No. 01-031 for the Office of Planning and Grants, transferring \$1,200.00 for the mainframe system from an expenditure line to a transfer out. This coding was in order to make the year end reconciliation process easier.

Budget Transfer – The Commissioners signed Budget Transfer Control No. 01-033 for the Clerk and Recorder/Treasurer's Office, transferring \$11,000.00 from the Recording Fund to the Motor Vehicle Capital Fund. The funds were put in Recording Contracted Services to pay for the Motor Vehicle/Treasurer's Office remodel.

Grant of Easement Agreement – Upon approval by the County Park Board, the Commissioners signed an agreement, dated June 14, 2001, granting a utility easement to the East Missoula County Sewer District within Canyon View Park for the construction of a sewer line. There are no budget implications related to this approval. The document was returned to Barb Martens in the Projects Office for further handling.

Notice of Hearing – Chairman Evans signed a Notice of Hearing on the question of whether to approve a rate schedule previously adopted by the Board of the Seeley Lake Refuse District. The hearing will be held at 1:30 p.m. on Wednesday, June 27, 2001 in Room 201 of the Missoula County Courthouse.

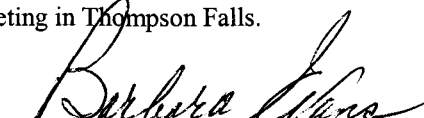
Agreement – Chairman Evans signed a Memorandum of Agreement, dated May 10, 2001, between the Missoula County Park Board (the "Board") and Donovan Creek Park for assistance with park development. The Board agrees to provide up to \$1,000.00 in matching funds for improvements as delineated in Attachment A to the Agreement. Funds must be spent by May 1, 2003. The document was returned to Brenda Lynch of the Park Board staff for further handling.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, JUNE 15, 2001

The Board of County Commissioners did not meet in regular session. Chairman Evans was out of the office all day; and Commissioner Carey attended a Mental Health Board Meeting in Thompson Falls.


Vickie M. Zeier
Clerk & Recorder


Barbara Evans, Chairman
Board of County Commissioners

MONDAY, JUNE 18, 2001

The Board of County Commissioners met in regular session; all three members were present.

TUESDAY, JUNE 19, 2001

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Carey attended an all-day Traveler's Rest Planning Session held at the Lolo Community Center.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated June 19, 2001, batch number 1323 (pages 1-3), with a grand total of \$23,606.83. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated June 19, 2001, batch number 1328 (pages 1-5), with a grand total of \$30,115.22. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated June 19, 2001, batch number 1331 (pages 1-3), with a grand total of \$14,779.46. The Claims List was returned to the Accounting Department.

Payroll Transmittal – The Commissioners signed the following Payroll Transmittal Sheet: Pay Period: 12 - Pay Date: June 15, 2001. Total Missoula County Payroll: \$781,959.13. The Transmittal Sheet was returned to the Auditor's Office.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Joclynn Ware Snyder to provide technical assistance to the Wallace Reader's Digest Planning Grant for

JUNE 19, 2001

Family Literacy project, and to ensure through an on-going process evaluation that the plan developed is relevant and doable for Missoula. The term will be June 1, 2001 through October 31, 2001. The total amount shall not exceed \$8,700.00. The contract was returned to Peggy Seel in the Office of Planning and Grants for further signatures and handling.

Amended Contract – The Commissioners signed an Amendment to the February 5, 2001 Professional Services Contract between Missoula County and Western States Abatement, in order to remove asbestos in additional areas affected prior to remodeling in the Health Department. The amended contract closing date becomes June 30, 2001, and compensation shall not exceed \$6,545. The contract was returned to the Health Department for further signatures and handling.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Barb's Best Cleaning, Inc. for the renewal of last year's contract for cleaning areas outside the secured area or offices at the Detention Facility that cannot be cleaned by inmate workers. The term will be July 1, 2001 through June 30, 2002. The total compensation shall not exceed \$1,000.00 per month.

Resolution No. 2001-057 – The Commissioners signed Resolution No. 2001-057, dated June 19, 2001, restricting parking on the County road and road right-of-way on Sunset Hill Road.

Contract – Chairman Evans signed an Appendix "A" to the Standard Audit Contract for the year ended June 30, 2001, representing the acceptance of the fee for the third year of the audit contract with Elmore & Associates. The contract is for three years with options to renew for two additional years. The contract amount is \$60,000 (\$3,000 less than the Fiscal Year 2000 audit fee). The document was returned to Dale Bickell, Chief Financial Officer, for further signatures and handling.

Contract – Chairman Evans signed a Mineral/Missoula County Service Contract, an annual contract with the Missoula County Superintendent of Schools to perform the duties required of County Superintendents from July 1, 2001 through June 30, 2002, as per the terms set forth therein. Mineral County will pay the Missoula County General Fund a yearly rate of \$3,300. The contract was returned to Rachel Vielleux, County Superintendent of Schools, for further signatures and handling.

Budget Transfer – The Commissioners signed Budget Transfer Control No. 01-034 for the Facilities Management Department, transferring \$120.00 from the Heat, Light and Water Fund to the Meals, Lodging and Incidentals Fund to cover additional travel expenses for a conference on energy attended by Art Garner.

Board Appointment – The Commissioners approved and signed a letter, dated June 20, 2001, appointing Hugh A. Jesse as a member of the Missoula Rural Fire District Board of Trustees. This appointment will be effective until the School Election in May of 2002.

Shoreline Permit – Pursuant to the recommendation of the Office of Planning and Grants, the Commissioners approved and signed an application by Richard Miller to build a 140 square foot floating dock on Big Sky Lake. The property is located in Section 29 of Township 16 North, Range 14 West, Lot #5.

Board Appointments – The Commissioners approved and signed two letters, dated June 20, 2001, reflecting the three-year reappointment of Nancy Moe and Jim Bell to the Missoula Development Authority. Ms. Moe's and Mr. Bell's terms will run until May of 2004.

Agreement – Chairman Evans signed a Memorandum of Agreement, dated May 10, 2001, between the Missoula County Park Board (the "Board") and the Clinton School Playground for assistance with park development. The Board agrees to provide up to \$1,500.00 in matching funds for improvements as delineated in Attachment A to the Agreement. Funds must be spent by May 1, 2003. The document was returned to Brenda Lynch of the Park Board staff for further handling.

Agreement – Chairman Evans signed an Amendment to the Grant Agreement, dated May 13, 1999, between the Department of Housing and Urban Development (HUD) and Missoula County Share House, wherein the date of expiration is extended from December 31, 2001 to March 30, 2002. This extension ensures that Turning Point's SHARE House remains an active project in HUD's grant tracking system. The document was returned to Nancy Harte in the Office of Planning and Grants for further handling.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, JUNE 20, 2001

The Board of County Commissioners met in regular session; all three members were present in the forenoon. Commissioner Curtiss left at noon for Wisconsin.

Claims List – The Commissioners signed the Claims List, dated June 19, 2001, batch number 1327 (pages 1-2), with a grand total of \$8,198.06. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated June 19, 2001, batch number 1333 (pages 1-5), with a grand total of \$20,182.91. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated June 20, 2001, batch number 1332 (pages 1-4), with a grand total of \$103,386.21. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated June 20, 2001, batch number 1335 (pages 1-4), with a grand total of \$60,338.49. The Claims List was returned to the Accounting Department.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the Chief Administrative Officer meeting held in the forenoon, the following items were signed:

Resolution No. 2001-058 – Chairman Evans signed Resolution No. 2001-058, dated June 20, 2001, relating to \$327,000 pooled Rural Special Improvement District Bonds, Series 2001, (RSID Nos. 8465 and 8469); fixing the form and details and providing for the execution and delivery thereof and security therefor.

Agreement – The Commissioners signed a Purchase Agreement between Missoula County and Wesmont Builders/Developers, Inc. for Reserve Parcel “B” in the Missoula Development Park, reflecting an addendum to the Option Agreement dated September 28, 1998. The purchase price of the property is \$600,000, with the adjustments set forth in the purchase agreement at the closing date, on or before June 26, 2001.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Missoula Electric Cooperative for the installation of backbone power to Block 9 – Lots 3-9, Block 11 – Lots 1-4, Missoula Development Park, Phase 2, and removal of the overhead electric line crossing Phases 2 and 5, Missoula Development Park. Completion of performance will be as soon as possible, with a target date of the end of May. The total amount shall not exceed \$85,735.00.

Notice of Hearing – Chairman Evans signed a Notice of Hearing on the compensation paid to Missoula County elected officials. The Compensation Committee will review compensation-related information, will hear public comment, and will formally adopt a fiscal year 2002 compensation schedule for elected officials. The hearing will be held at 1:30 p.m. on Wednesday, June 27, 2001 in Room 201 of the Missoula County Courthouse.

Resolution No. 2001-059 – Following the Public Meeting, Chairman Evans signed Resolution No. 2001-059, dated June 20, 2001, a resolution of intent to adopt the 2002 Non-Motorized Transportation Plan as an amendment to the Missoula Urban Comprehensive Plan.

PUBLIC MEETING – June 20, 2001

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Bill Carey and County Surveyor Horace Brown. Commissioner Curtiss was on a fact finding tour in Baraboo, Wisconsin.

Public Comment

None

Routine Administrative Actions

Commissioner Carey moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$407,824.62. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Hearing: 2001 Non-Motorized Transportation Plan

Kelley Segars, Office of Planning and Grants, made the presentation.

This is a request to approve the Resolution of Intent to Adopt the 2001 Non-Motorized Transportation Plan as an amendment to the Missoula Urban Comprehensive Plan.

A comprehensive planning process was initiated in the fall of 2000. After months of committee meetings and review of relevant adopted plans, a draft plan was prepared, dated January 6, 2001. Six public Open Houses were held in January throughout the community. These meetings were widely publicized through radio, television and print media. An invitation to participate was sent to a mailing list of 675 people, many of them representatives of organizations. More than 95 people attended these six meetings. A community survey was distributed to more than 10,000 people in the Missoula area. All comments were reviewed and analyzed. The majority of comments were supportive and requested that certain issues or projects be given greater emphasis. The prioritization of concepts and ideas for trail connections/extensions that resulted from the Open Houses and surveys are listed in the plan as results of public input. The plan recommends including these priorities in the 2002 Transportation Plan Update process as a starting point in identifying and ranking non-motorized system needs.

Revisions to the plan document occurred and resulted in the Revised Draft, dated March 8, 2001. Another Open House was held on March 28, 2001 to receive comments on the new draft. This meeting was also widely publicized. A notice regarding the Open House and the Planning Board public hearing was sent to a mailing list of more than 900 people. Minor editorial changes occurred and a document dated April 6, 2001 was brought to a public hearing on April 17, 2001 at the Missoula Consolidated Planning Board. The Transportation Policy Coordinating Committee, after several months of discussion and based on the recommendation of its technical advisory committee, recommended approval of the 2001 Non-Motorized Transportation Plan on April 17, 2001.

The Planning Board received testimony, deliberated and voted to recommend adoption of the plan. While the board did not request any revisions, staff made one change based on discussions during the meeting. The wording of “proposed trail extensions/connections” was changed to read “ideas for trail extensions/connections,” with the qualification that many of the listed trails were described as “proposed” in the adopted 1994 Non-Motorized Plan.

On June 4, 2001, City Council held a public hearing. Three people commented on the plan and all were supportive. City Council unanimously adopted the 2001 Non-Motorized Transportation Plan on June 4, 2001.

Kelley Segars stated that in 1994 the City and County adopted the 1994 Non-Motorized Transportation Plan as an amendment to the Urban Comprehensive Plan. The steering committee responsible for implementation of the 1994 Plan has been meeting regularly. This is an amendment to the Urban Comprehensive Plan. The Missoula Transportation Plan is also an amendment to the Urban Comprehensive Plan and it is a requirement to receive Federal funding. The 2002 Transportation Plan Update is planning to use the goals and action steps from the 2001 Non-Motorized Plan to help guide the update.

The Comprehensive Plan establishes a framework for regulatory processes, establishes a vision for how an area should change over time and sets policies to help guide decision-making. The Plan does not allocate funding or guarantee immediately implementation of the goals and action steps in the plan.

Since 1994, major accomplishments include the trail on Highway 93 South, the South Avenue Trail System, the Bitterroot Branch Trail of the Milwaukee Trail, bike lanes, sidewalks, neighborhood trails, etc. The 2001 plan is intended as a progress report on all the things that have happened since 1994 and also to look ahead to the next century. Since 1994, it has been realized that maintenance, enforcement and education are critical to the success of the non-motorized system. As more people use the system, the gaps in the system become problematic. The increasing Vehicle Miles Traveled (VMT) increase air pollution and necessitate road widening projects that split communities and cost a lot of money and also cause congestion. Many people can't or don't drive but still need access to various parts of the community. Exercise is essential for good health. The U.S. Department of Transportation has issued a policy statement on integrating bicycling and walking into transportation projects. Comments received included trails to fill in the gaps and extend them, safe road crossings, sidewalks, bike lanes and trails, education, enforcement and maintenance and funding for everything. The Bicycle/Pedestrian Advisory Board, the Air Quality Advisory Board and the City Park Board have all expressed support for the plan. The 1994 plan did not have an overall vision statement. One has been included in the 2001 plan. The goals are similar to the ones adopted in the 1994 plan.

"Vision Statement: Missoula envisions a community where non-motorized travel is safe, convenient, interesting and inviting. An interconnected, continuous system of non-motorized facilities exists throughout the community. The City and County provide leadership in the promotion, education, law enforcement and facilities development supporting this system."

The next step is to develop an implementation plan for each action step. It needs to be identified who or what agency would be responsible for making the action step happen, how it would happen, what needs to be done and when it should or could be done. The 2002 Transportation Plan Update will be used to rank some of the project in this plan.

Chairman Evans opened the public hearing.

Tim Burke, 4135 Snowdrift Lane, stated that he and his family were in support of this program and specifically, they would like to see the Mullan Road trail. The trail on Highway 93 is excellent and they would like to see something similar on Mullan Road, from Reserve to at least Deschamps Lane. There is a lot of growth in the area and traffic is increasing. Most cars are traveling at 55 to 65 mph. There are lots of young families with children and he did not feel it was safe having his kids ride their bikes on the road. The program is good and does bring neighborhoods closer. Mullan Road is not safe for children on their bikes and he does not want a repeat of the tragedy near Frenchtown.

Jean Belangie-Nye, 321 O'Connell Drive, Lolo, stated she was Chair of the Highway 93 Focus Group. Part of the Focus Group is concerned with a trail system between Missoula and Lolo and to find funding to pave the pathway between Florence and Hamilton. She would like to see a trail system throughout Missoula County. Too many children have been injured. There are more than 14 trail groups in Missoula County. They need to unify to seek public and private funding. She was in favor of the 2001 Non-Motorized Transportation Plan. There are people who are opposed to the plan in the Lolo area because they see it as a violation of their private property rights, but they are in the minority. For a safety perspective, it is imperative. The cost to an individual involved in a bicycle accident with severe head injuries could amount to over \$2 million in their lifetime. That would more than pay for the section of highway trail recently completed in Lolo.

Phil Smith, City Bicycle/Pedestrian Manager, stated he lived in the County and had some interest in trails outside the City as well. As the City's Bike/Ped Manager, he gets lots of phone calls from people outside the City with issues, particularly trails. He continues to direct these calls to Horace Brown. Folks are always asking for enhancements to the trail system. The plan doesn't provide those trails will be built but it provides some responsiveness to the concerns. Another important issue that is central to the plan, it is not a facilities plan, it also includes law enforcement, education and encouragement. This is the first time all these elements have been put in one document to give some guidelines to all the various components. It is important to think of all of the elements into the future.

Bob Giordano, 230 University, stated he supports this plan. He has been the coordinator for the Free Cycles Project for the past 5 years. They have worked with many people to meet their cycling needs. They see first hand a lot of the bicyclers and this plan helps support what is happening in the community. The plan does a good job of supporting what is going on. There is also a lot of support for trails in Missoula as a way of getting around. This plan puts some political support behind non-motorized transportation in Missoula.

There being no further comments, the public hearing was closed.

Chairman Evans stated this was a resolution of intent to adopt, not the adoption of the plan itself. She would like to make sure there is no statement in the plan that says using non-motorized transportation is a better way to get around, it is only an alternative. Everyone has the right to use their own form of transportation and one is not better than another.

Commissioner Carey thanked Kelley Segars and the public for their work on this project. The trail system does need to be worked on and it would be nice to be able to one day bike anywhere in the County, perhaps even to Billings and beyond. More than 25 years ago when he was traveling around Europe, he was surprised to learn that most people rode their bikes to work.

Horace Brown stated this plan is primarily for the urban area of Missoula, not the rural areas of the County. The County builds trails in the rural areas with County money. Urban money is used in the City and some County money has been used in the urban area that falls under this plan. Frenchtown, Lolo, Seeley Lake, etc., are not part of this project.

Chairman Evans recognized the Surveyor's Office efforts in providing trails outside the urban area.

Commissioner Carey moved that the Board of County Commissioners adopt the Resolution of Intent to Adopt the 2001 Non-Motorized Transportation Plan as an amendment to the Missoula Urban Comprehensive Plan. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

There being no further business to come before the Board, the Commissioners were in recess at 1:53 p.m.

THURSDAY, JUNE 21, 2001

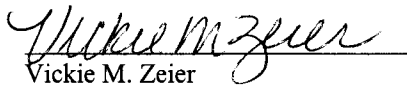
The Board of County Commissioners did not meet in regular session. Commissioner Curtiss, Peter Nielsen of the Health Department, Tracy Turek, member of the Missoula City Council, and reporters from the Missoulian newspaper were in Baraboo, Wisconsin, for a technical site tour of Gruber's Grove Bay Dredging Project June 21st and 22nd. Commissioner Carey attended the Upper Swan Valley Community Firewise Seminar held at the Swan Ecosystem Center during the day.

Certification of Acceptance – Chairman Evans signed a Missoula County Public Works Department, Surveyor's Office, Certification of Acceptance for County maintenance for Majestic Drive (ACM. No. 2001-0001), Road No. L-1013-W, T 13 N, R 19 W, Section 06. The limits of acceptance are .185 miles; from the intersection with Expressway thence northerly and northwesterly 975.00 feet to the intersection with Wheeler Drive; 40 feet of asphalt within an 80-foot right of way. The warranty has been extended to two years with a chip seal no later than the Fall of 2001. The document was returned to the Surveyor's Office for further handling.

Appointment – Chairman Evans received and reviewed a letter from Governor Judy Martz, dated June 18, 2001, in which Chairman Evans was reappointed to the Judicial Standards Commission. This appointment is made in accordance with Montana Codes Annotated 3-1-1101. Chairman Evans' oath of office was forwarded to the Secretary of State in Helena.

FRIDAY, JUNE 22, 2001

The Board of County Commissioners did not meet in regular session. Commissioner Carey and Chairman Evans were out of the office all day.


Vickie M. Zeier
Clerk & Recorder


Barbara Evans, Chairman
Board of County Commissioners

MONDAY, JUNE 25, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – Chairman Evans and Commissioner Carey signed the Claims List, dated June 21, 2001, batch number 1334 (pages 1-6), with a grand total of \$78,954.61. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Carey signed the Claims List, dated June 21, 2001, batch number 1337 (pages 1-4), with a grand total of \$98,922.48. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Carey signed the Claims List, dated June 21, 2001, batch number 1341 (pages 1-5), with a grand total of \$45,625.60. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Carey signed the Claims List, dated June 22, 2001, batch number 1338 (pages 1-4), with a grand total of \$79,921.05. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Carey signed the Claims List, dated June 22, 2001, batch number 1345 (pages 1-2), with a grand total of \$15,113.91. The Claims List was returned to the Accounting Department.

Monthly Report – Chairman Evans examined, approved and ordered filed the Monthly Reconciliation Report for the Report of the Sheriff, Douglas W. Chase, for the month ending May 31, 2001.

Request for Action – Chairman Evans approved and signed a request to apply for a \$50,000 grant from the National Highway Traffic Safety Administration to begin a traffic safety campaign emphasizing seat belt usage and occupant protection. The Missoula Traffic Safety coordinator would administer this grant. The request was returned to Don Morman in the Sheriff's Department for further handling.

Budget Transfer – The Commissioners signed Budget Transfer Control No. 01-035 for the Office of Planning and Grants, transferring a total of \$1,169.00 from the VOCA Grant Fund to the Violence Against Women Act (VAWA) Fund. The VAWA program was extended to September 30, 2000. The transfer of unallocated funds that were allocated to the Victim Assistance Program covers expenditures in the first quarter of Fiscal Year 2001.

TUESDAY, JUNE 26, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – Commissioners Carey and Curtiss signed the Claims List, dated June 26, 2001, batch number 1339 (pages 1-5), with a grand total of \$119,192.84. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated June 26, 2001, batch number 1344 (pages 1-5), with a grand total of \$146,927.67. The Claims List was returned to the Accounting Department.

Claims List – Commissioners Carey and Curtiss signed the Claims List, dated June 26, 2001, batch number 1346 (pages 1-3), with a grand total of \$11,608.04. The Claims List was returned to the Accounting Department.

Claims List – Commissioners Carey and Curtiss signed the Claims List, dated June 26, 2001, batch number 1348 (pages 1-5), with a grand total of \$55,258.42. The Claims List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Closing Documents – The Commissioners signed the following Closing Documents, dated June 26, 2001, between the Missoula County Airport Industrial District and Nurture, Inc., a Delaware corporation, for a portion of Phase 3, Missoula Development Park: (1) Buyer's Statement showing a balance of \$185,851.90; (2) Seller's Statement showing a balance of \$183,408.70; and (3) Warranty Deed for Tract H, Certificate of Survey No. 5152, a tract of land located in the S½ of Section 36, T 14 N, R 20 W, PMM, Missoula County, Montana, containing approximately 20.52 acres. The documents were returned to First American Title Company of Montana, Inc. for further handling.

Counter Offer – Chairman Evans approved and signed a counter offer by John Turcasso and Fred Harbinson in the amount of \$150,000 for Lots 1-6, Block 5, Missoula Development Park, Phase 3. The Offer Review Committee recommended this offer on June 19, 2001, with nine additional contingencies listed therein. The project is to bring an ice arena and a Junior "A" hockey club to Missoula, and they will operate as a year-round business. The projected cost of the project is \$5,250,000. The counter offer was returned to Barbara Martens in the Projects Office for further handling.

Request for Action – Per the recommendation of the Missoula Development Authority and the Office of Planning and Grants, the Commissioners approved a request for an eight-foot wide concrete (versus asphalt) boulevard sidewalk along Expressway within Reserve Parcel "B", Missoula Development Park. The projected cost for the sidewalk is \$47,492.30. The request was returned to Barbara Martens in the Projects Office for further handling.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Douglas R. Powell to provide family literacy workshops to community professionals who work with children and families and to parents and their children. The funding for this contract comes from the Wallace Reader's Digest Planning Grant for Family Literacy. The term will be June 27, 2001 through June 31 2001. The total amount shall not exceed \$1,200.00 for services and an amount not to exceed \$1,200.00 in expenses.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Dave Kiely of the Montana Conservation Corps to provide job skills training and mentoring for youth referred by the Youth Drug Court Team. The term will be July 1, 2000 through June 30, 2001. The total amount shall not exceed \$13,920.00.

Request for Action – Per the recommendation of the Human Resources Department, the Commissioners approved an exception to the 160-hour limit on sick leave donations for Chris Cerquone, an employee in the Health Department, whose son is currently undergoing intensive chemotherapy treatment in Seattle for a recurrence of cancer. The request was returned to Steve Johnson in Human Resources.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

WEDNESDAY, JUNE 27, 2001

The Board of County Commissioners met in regular session; all three members were present. In the evening, the Commissioners attended a Lolo Public Meeting for Working Draft #2 held at the Lolo Community Center.

Indemnity Bond – Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming Boyce Lumber as principal for Missoula County Public Schools Warrant #46545 issued April 18, 2001 on the General Fund in the amount of \$735.28, now unable to be found. This warrant reflects payment for tech education supplies.

CHIEF ADMINISTRATIVE OFFICER MEETING

At the Chief Administrative Officer meeting held in the forenoon, the following items were signed:

Employment Contract – The Commissioners signed a Missoula County Employment Contract with Ryan K. Huckleby, D.M.D. to provide dental services at the Partnership Health Center ("PHC") and the Missoula County Detention Facility. Compensation for the regular, full-time position shall be \$90,000.00 annually; funding is being split equally by PHC and the Detention Facility.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and Staber Farming of Frenchtown, Montana, to mow weeds within the Missoula Development Park, per the exhibit attached to the contract. The mowing shall be completed by July 13, 2001. The total amount shall not exceed \$2,500.00.

Agreement – With Chairman Evans abstaining, Commissioners Carey and Curtiss signed a Memorandum of Agreement, dated June 27, 2001, between Missoula County and The Missoula Housing Corporation (“MHC”) to modify the use of funds for a County Community Development Block Grant (“CDBG”), previously awarded in January of 1998. The \$20,000 grant was to be used as a match to secure additional funding for a first-time homebuyer revolving loan fund for low- and moderate-income households on Missoula’s northside. The funds will be used for staff and operation expenses, rather than project activities.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and David Thompson of Thompson Consulting for assisting Missoula County in determining whether a Mutual Housing Association and/or Limited Equity Cooperative are feasible alternatives in improving Missoula’s affordable housing infrastructure. The term will be July 1, 2001 through December 30, 2001. The total amount shall not exceed \$5,000.00, plus an additional amount not to exceed \$2,000 for travel expenses to and from Montana. The document was forwarded to David Thompson for signature and return.

Professional Services Contract – The Commissioners signed a Professional Services Contract between Missoula County and John Q. Murray of the Frenchtown Rural Fire District, for update and support services relating to the Firedata computer data entry program, as specifically set forth therein. The term will be June 28, 2001 through August 1, 2001. The total amount shall not exceed \$2,000.00.

Resolution No. 2001-060 – Following the Public Meeting, the Commissioners signed Resolution No. 2001-060, dated June 27, 2001, formally adopting the compensation schedule for elected officials for Fiscal Year 2002, per Addendum “A” attached thereto, effective on July 8, 2001.

Resolution No. 2001-061 – Following the Public Meeting, the Commissioners signed Resolution No. 2001-061, dated June 27, 2001, adopting the 2001 Non-Motorized Transportation Plan as an amendment to the Missoula Urban Comprehensive Plan. The Missoula Consolidated Planning Board and the Missoula City Council recommended this adoption.

PUBLIC MEETING – June 27, 2001

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Bill Carey, Commissioner Jean Curtiss, County Surveyor Horace Brown and Chief Civil Attorney Michael Sehestedt.

Public Comment

None

Routine Administrative Actions

Commissioner Carey moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims lists in the amount of \$651,524.62. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Bid Award: Missoula Development Park Sanitary Sewer Main Extension to Reserve Parcel “B”

Barb Martens, Projects Coordinator, presented the staff report.

This is a request to award the contract to extend the sanitary sewer main to Reserve Parcel “B” in the Missoula Development Park.

On March 26, 2001, bids were opened and read for the purpose of constructing a sanitary sewer main extension to Reserve Parcel “B.” The Notice for Inviting Proposals was advertised in the Missoulian prior to the opening. Five contractors submitted bids. The range of bids was \$77,109.90 to \$129,830.00. DJ&A contracted with the County to design the sewer extension and estimated an amount of \$106,270.00.

The following contractors submitted bids:

Contractor	Bid Total
Green Diamond	\$77,109.90
Keeney Construction	\$83,822.50
Excavators Inc.	\$84,197.00
Powers Excavating	\$89,538.00
Fletcher Excavation	\$129,830.00

Staff recommends that the bid be awarded to Green Diamond as the low bidder and based on the recommendation from DJ&A. The project is within budget.

Chairman Evans asked if it would be appropriate when awarding this bid to Green Diamond to send a cautionary letter at the same time.

Michael Sehestedt stated he believed it would be appropriate. The Board has had some issues with this contractor in the past. The Public Works Department did not feel there was enough justification for denying them the contract. It would be appropriate for the Board to communicate with Green Diamond that this project go smoothly, there had been concerns about the North Avenue project and certain other projects where they were the successful bidder.

Commissioner Curtiss moved that the Board of County Commissioners award the bid to extend the sanitary sewer main to Reserve Parcel “B” to Green Diamond in the amount of \$77,109.90, as the lowest and best bidder and to

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include a cautionary letter to Green Diamond. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Adoption: 2001 Non-Motorized Transportation Plan

Kelley Segars, Office of Planning and Grants, presented the background on this issue.

Last week, there was a public hearing before the Board of County Commissioners. Those who presented testimony were in support of the Plan. The Board then adopted a Resolution of Intent to Adopt the Plan. City Council unanimously adopted the Plan on June 2, 2001. The request today is to formally adopt the 2001 Non-Motorized Transportation Plan.

Chairman Evans distributed information from Dr. Dean Edell that was recently aired on KECI-TV regarding bike riding and the potential problems that could result. It presented valid information and she would like a cautionary statement added regarding more anatomically safe bicycle seats. She felt this was important information that should be added to the Plan.

Commissioner Curtiss asked Kelley Segars if there was a place in the Plan that this would be appropriate.

Kelley Segars stated it could be placed in the appendix to the Plan. The only concern she had was that City Council did not approve the Plan with this cautionary statement.

Chairman Evans stated the program aired after the City Council meeting.

Michael Sehestedt stated he did not think it would be a problem. The Board could adopt the Plan and state that it believes this additional information should also be available.

Commissioner Carey asked if the Plan dealt with the cost of motorized transportation to public health and safety.

Kelley Segars stated the Plan did not really cover that information.

Commissioner Carey stated the new bicycle information seemed to unbalance the Plan. If the risks to bicyclers were included, then the risks of driving cars should also be included. The Plan is to promote alternative methods of transportation.

Chairman Evans stated she did not have a problem with a statement in the Plan that driving a car could be hazardous.

Michael Sehestedt stated that this warning could be added to the record of the Commissioners adoption and be placed in the minutes.

Commissioner Carey moved that the Board of County Commissioners adopt the 2001 Non-Motorized Transportation Plan as an amendment to the Missoula Urban Comprehensive Plan and, at Commissioner Evans request, attach to the minutes of this action information from Dr. Dean Edell about the risks of bicycling. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Bicycles (Aired on KECI-TV)

"I'm Dr. Dean Edell. Coming up, mountain bikes and a special part of the anatomy."

Riding a bicycle is good exercise, but it may also be risky to your health. Especially for men who like to jump on their mountain bikes and head for the hills. As Dr. Dean Edell reports, those off-road rides may be taking an unexpected toll.

Bicycles are not only pollution-free transportation devices, they provide exercise and recreational fun as well. Yet, more and more research finds they have some surprising health risks for both sexes.

One study found that one in three women who regularly rode bikes suffered trauma from the bicycle bar, including bruising, blood in the urine, numbness and even pelvic fractures. But, the most serious concerns involve the male reproductive system. A recent survey of serious male cyclists reported almost three-fourths of them reported numbness in the groin.

Robert Kessler, M.D., a urologist said, "Several patients over the years who were young patients complained of erectile dysfunction at a very young age."

According to one study, bicycle riding has been linked to more than 100,000 cases of permanent impotence – mostly in younger men. And now with more and more riders going off-road on mountain bikes, there is new concern about potential risks.

Dr. Edell asked if mountain bike riding takes any "special" toll on the male anatomy? After all, as you go riding over hill and dale, you hit lots of bumps. Well, now a new report finds, for a surprisingly large percentage of riders, this can lead to trouble.

Austrian researchers looked at serious mountain bikers who road over two hours a day, compared to non-bikers who never rode. They gave each group testicular ultrasounds and found a big difference. For instance, genital abnormalities were detected in 16% of the non-bikers. But, in mountain bikers, abnormalities were detected in 96% of serious mountain bikers. These abnormalities included scrotal masses, sperm or lymph cysts, calcifications and enlarged vessels.

In spite of the high rate, nearly half of the men were pain-free and unaware of any problem. Other urologists feel the rate seems too high.

Nevertheless, these problems could have a potential impact on fertility and even performance. One possible solution is new seats designed to take the pressure off of the nerves and blood vessels in the area. Or, they could add shock absorbers to the bikes. But better still – lighten up – a bit on the number of hours you spend in the saddle. After all, a lot is riding on it, says Dr. Edell.

Experts say the biggest danger is that since men with these abnormalities are often unaware of these problems, they could go untreated. And, while some of these conditions are benign, others could have a direct and permanent effect on fertility. So, it may be worth mentioning to your doctor.

If you want more information about the health risks of bicycle riding, in general, or mountain bikers, in particular, log on to our website at HealthCentral.com and click on the Health Central logo."

Hearing: Seeley Lake Refuse District Rate Reduction

Michael Sehestedt presented the background.

The Seeley Lake Refuse District Board establishes rates subject to the Commissioners confirmation after a public hearing. When a rate increase is proposed, typically there is a lot of public interest. As this is a request for a rate reduction, there is little public interest. The Refuse District Board feels the current status of the district does not require the revenue raised by the current rates. They are asking to reduce the rates beginning in tax year 2002. The Refuse District Board urges the Commissioners approval of this action.

Chairman Evans opened the public hearing. There being no comments, the public hearing was closed.

Commissioner Curtiss moved that the Board of County Commissioners allow the Seeley Lake Refuse District to reduce their rates for 2002 and 2003. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Chairman Evans recessed the Board of County Commissioners meeting and reconvened as the County Compensation Committee as directed by State law.

Hearing: Compensation for Missoula County Elected Officials

The County Compensation Committee members present included: Commissioner Chairman Barbara Evans, Commissioner Bill Carey, Commissioner Jean Curtiss, County Attorney Fred Van Valkenburg, County Superintendent of Schools Rachel Vielleux, County Auditor Susan Reed, County Clerk of District Court K.D. Breuer, Missoula County citizen Don Nicholson and Missoula County citizen Margaret Sample. Also present were Steve Johnson, Director of Human Resources for Missoula County and Ann Mary Dussault, Chief Administrator Officer for Missoula County.

Steve Johnson stated that House Bill 345 discusses the County Compensation Committee and the elected officials that are affected by the recommendations of that Board. The bill changes some aspects of compensation for elected officials in County government, and other aspects remain the same. The key issue is that salaries under HB345 are required to be uniform, with exceptions. The biggest change is that rather than using an inflation and population based method for establishing salaries, that job has been delegated to the County Compensation Committee. There is no formula other than some fairly broad guidelines the Committee may consider. When the compensation schedule is adopted it must take into consideration County variations having to do with what the County can afford to pay. No elected officials salary can be reduced by the Committee.

Missoula County						
Current Salary Information for Elected Officials						
	Current Total Hourly & Annual			Current Hourly Breakdown		
	Total Current Hourly	Hours	Total Current Annual	Current Base	Current Add-Ons	Total Current Hourly
County Superintendent of Schools	\$21.75	2080	\$45,240.00	\$20.79	\$0.96	\$21.75
Clerk & Recorder/Treasurer	\$24.95	2080	\$51,896.00	\$20.79	\$4.16	\$24.95
County Commissioners	\$21.75	2080	\$45,240.00	\$20.79	\$0.96	\$21.75
Auditor	\$20.79	2080	\$43,243.20	\$20.79	\$-----	\$20.79
Surveyor	\$20.79	2080	\$43,243.20	\$20.79	\$-----	\$20.79
County Attorney	\$34.84	2080	\$72,467.20	\$34.84	\$-----	\$34.84
Clerk of District Court	\$20.79	2080	\$43,243.20	\$20.79	\$-----	\$20.79
Justice of the Peace	\$21.01	2080	\$43,700.80	\$20.79	\$0.22	\$21.01
Sheriff	\$28.06	2080	\$58,364.80	\$20.79	\$7.27	\$28.06

The Compensation Committee in Missoula focused on different comparisons, one within the State of Montana that shows the salaries of elected officials in other urban counties. Another comparison the Committee made had to do with salaries for other Missoula County department heads. This table also shows department head salaries plus a 4% increase which has been budgeted for salary increases for all County employees. However, those individuals listed are under separate contracts and their actual increases may be more or less than the 4% shown depending on negotiations. There is a comparison of elected officials pay increases with those of Missoula County personnel plan employees over a nine year period. The average percentage increase for all elected officials over this period was 3.22%, for personnel plan (non-bargaining unit) employees was 4.33%, and for additional comparison, the Consumer Price Index average increase was 2.41%.

Don Nicholson asked about the difference in CPI-U increase that the Committee had previously looked at, which was around 10%.

Steve Johnson stated the various flat dollar amounts and some changes over the years have contributed to the difference. There are anomalies that are built into the elected officials salary structure. Longevity of certain positions is another factor that could create these differences. There were other factors as well, such as the Superintendent of Schools assisting with Mineral County. The comparison the Committee used in earlier meetings may have also used different base years. In FY92 there was an adjustment made after several years of pay freezes which is also reflected in this comparison. The Committee also looked at some regional information, including elected officials salaries in the five largest counties in the State of Idaho. Again, there are some anomalies with these figures as certain positions may not be combined as they are in Missoula County. The Committee chose not to compare figures with Federal or State government positions or the private sector. Based on discussions and the various comparison figures, the Committee recommended a pay schedule to the Board of County Commissioners.

Ann Mary Dussault stated that the Clerk & Recorder/Treasurer position was missing on the draft of the resolution.

Steve Johnson stated he would make a correction to the resolution prior to signing. One of the difficulties in drafting the resolution was that the Committee's recommendation was based on some assumptions about what would happen with increases for County employees in general over a four year time period. It's difficult to estimate or assume what those increases will be. The language in the resolution focuses on FY02. The addendum to the resolution set out an assumed increase over the four year period through FY05.

Elected Official	Total Current Annual	FY2002 Total	FY2003 Total	FY2004 Total	FY2005 Total
County Superintendent of Schools	\$45,240	\$48,755	\$52,571	\$56,698	\$61,161
Clerk & Recorder/Treasurer	\$51,896	\$56,118	\$60,683	\$65,642	\$70,999
County Commissioners	\$45,240	\$48,755	\$52,571	\$56,698	\$61,161
Auditor	\$43,243	\$46,758	\$50,574	\$54,701	\$59,164
Surveyor	\$43,243	\$46,758	\$50,574	\$54,701	\$59,164
County Attorney	\$72,467	\$78,374	\$84,770	\$91,687	\$99,169
Clerk of District Court	\$43,243	\$46,758	\$50,574	\$54,701	\$59,164
Justice of the Peace	\$43,701	\$47,216	\$51,031	\$55,158	\$59,622
Sheriff (based on incumbent's longevity)	\$58,365	\$64,653	\$70,272	\$75,843	\$82,460

Commissioner Curtiss stated that the Surveyor's position would be eliminated after FY2002.

Steve Johnson stated the salaries listed include both the base salaries and add-ons as presented earlier. The assumptions used were an immediate increase of 4% and an additional 4% adjustment later in FY2002. For this spread sheet, the same increases were applied to the three succeeding fiscal years. The Sheriff's salary includes a longevity element. If there were a new Sheriff during this time period, that person's salary may not be equivalent. The two 4% increases recommended by the Compensation Committee will increase the FY2002 budget by approximately \$115,390 plus benefits at roughly 15%. There will also be an impact of this adjustment on Deputy Sheriff salaries. The exact changes to those salaries is not shown, the numbers used are based on the assumption that the percentage increases by which the Sheriff's base is increased will also impact these employees at the exact same percentage. However, the total cost information should be relatively close. Each of the individual deputies impacted by this calculation has a longevity element including in their salary that is figured as a percentage of the Sheriff's base salary on a flat dollar basis. That will be impacted by changes to the Sheriff's base salary. The individual increases may not be exact, but the overall total cost should be almost identical. The estimated FY2002 cost increase, not including benefits, for Sheriff's Department employees only, would be about \$77,000 of the total approximately \$115,390.

Commissioner Curtiss asked about the first and second 4% increases for FY2002.

Steve Johnson stated the Committee looked at two separate adjustments for elected officials, each of 4%. One was 4% to equate with the overall increase and the other 4% was the provision that would bring elected officials salaries more in line with the salary increases for other County employees over the past several years. Because it is done in two stages, it comes out to slightly more than 8% because the second 4% increase is applied to a slightly higher figure. Over a four year period, the impact of that compounding is greater. Instead of being 8% each year, totaling 32%, it turns out to be somewhere between 38-39%.

Chairman Evans asked what the additional cost of all this was for the coming year and how much would be attributable to the Sheriff's Department.

Steve Johnson stated that the total FY2002 cost was \$223,484.91. Of that, \$108,094.27 had already been budgeted, leaving a balance of \$115,390.64 to be funded. Of the \$115,390.64 to be funded, approximately \$77,000 is attributable to the Sheriff's Department, or about two-thirds of the increase.

Ann Mary Dussault stated that was the impact of the new money, above what was currently budgeted. To that, about another 15% needs to be added for benefits, for a total of about \$132,700.

Chairman Evans opened the public hearing. There being no comments, the public hearing was closed.

Chairman Evans asked what the procedure was regarding this action. Was the resolution adopted today or in concert with the budget adoption.

Fred Van Valkenburg stated the resolution could be adopted today or it could be delayed up until the first of August. If it is adopted, there is no going back.

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Don Nicholson stated that during previous discussions these figures were arrived at. He did not see any reason to not adopt this today. However, if the Commissioners have concerns about the additional money, that could be discussed. Ann Mary Dussault felt there was money available to cover the increase. If the Commissioners are comfortable with the figures, why not move ahead.

Fred Van Valkenburg stated he spoke with the Gallatin County Attorney recently. He was of the opinion that the Sheriff and the Sheriff Deputies did not have to get the same raise that other elected officials were receiving. He has since changed his position so that they are included, but feels the law allows for the Sheriff to decline the raise and the Deputy Sheriff's would therefore not be compensated. That would make a huge difference if that were the case. However, it is his opinion that that is not the case. He was not sure what the Gallatin County Attorney's legal theory was for his opinion.

Chairman Evans stated that would cause a revolt among the deputies.

Susan Reed stated that the law was clear that the increases had to be equitable.

Ann Mary Dussault stated that was true except for the County Attorney.

Fred Van Valkenburg stated the County Attorney's salary could be set anywhere other than below where it is right now. He had already commented on that matter. He would go with whatever the Commissioners decided. He was not suggesting that this not be adopted, he was letting the Commissioners know that some other County may view this differently than Missoula County.

Steve Johnson stated there may be 56 different versions of this within the State, each County may interpret it differently.

Chairman Evans asked each member if they felt this should be adopted.

Fred Van Valkenburg felt this was a fair plan and it was appropriate. The question was if it could be afforded and that is up to the Commissioners to decide.

Don Nicholson felt the plan was a good one. It is a little more aggressive than what they had been working with, but the first three years were good and there would be some new ideas by that time. He thought Fred Van Valkenburg was living in a dream world if he felt the Sheriff's Department would back down on raises. He would go ahead.

Rachel Vielleux stated the only thing that might change between now and the final hearing was ending cash and the value of the mill, and this plan won't go up based on the consensus of the Commissioners, so she would just as soon adopt it.

Susan Reed said to adopt.

Margaret Sample stated the one concern she had is that she based her assessment on the figure of 18%, and it is more difficult to justify a position when it can't be shown that the difference has been 18% and is now, in fact, 10%. That aside, she felt it should be adopted. As Don Nicholson pointed out, in two or three years, they will come back and do this again. As far as she was concerned, go ahead and adopt.

K.D. Breuer said to adopt.

Bill Carey would move that it be adopted but he shared Rachel Vielleux concerns as well. He wondered if the Compensation Board could make the recommendation to the Commissioners to do this but the Commissioners could postpone adopting the resolution until they receive better numbers. Would that cause further trouble in terms of completing the budget.

Fred Van Valkenburg stated he did not think the Commissioners could do that. It is not for the County Commissioners to decide, it is for the Compensation Committee to decide. There is a provision that the majority must include two of the County Commissioners for it to pass.

Commissioner Carey felt it could not be sustained over the next two or three years but it should be done for this coming year.

Commissioner Curtiss stated the Board would be doing a lot more intense budget preparation in the next few days. Her concern was if it could even be afforded this year. She did not think the next couple of years could be sustained and was glad for the wording "subject to the County's ability to pay." Beyond FY2002, the numbers were getting quite big. She agreed with the concept and the numbers input, but she did not know if she could agree to go forward today.

Chairman Evans stated she agreed with Commissioner Carey and would vote to adopt the plan today. She asked if Commissioner Curtiss would abstain or vote no.

Commissioner Curtiss stated that she agreed with Margaret Sample that they had been working with 18% at the last meeting and now it was down to 10%. She wondered if they had gone too far. She felt she could agree with it for this year.

Margaret Sample stated she would move that the County Compensation Committee adopt the Resolution for Elected Officials' Salaries.

Ann Mary Dussault stated she had heard a couple of members say "for this year." To clarify, they were actually adopting the four year schedule, contingent on the County's ability to pay, but the way this resolution is structured, they are adopting the four year schedule. She asked who determines the County's ability to pay next year. She believed the County Compensation Board would have to make adjustments in this resolution schedule next year. She wanted to make it clear that "we" referred to the County Compensation Board with regard to the ability to pay, not the County Commissioners.

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Chairman Evans stated that the Board would know if there was a problem for next year. If there was not a problem, the Committee could hold a pro forma meeting. If there was a problem, the Committee would be notified.

Commissioner Carey stated the law was structured so if there was not a majority of the Board of County Commissioners in favor, the resolution would not pass.

Commissioner Curtiss stated the resolution could be amended to show the recommended salary schedule for FY2002 only.

Fred Van Valkenburg stated he felt the statute did allow that. If anybody thought they were guaranteed what was in the addendum for future years, it would be a mistake to include it. That was not the intent of the Board as a whole that these are guaranteed numbers for future years. They are simple projections of what could be done if the same formula were followed in future years.

K.D. Breuer stated she agreed with Fred Van Valkenburg that the Committee had to meet annually to redo the numbers.

Chairman Evans felt that before any numbers were distributed for the budget hearings they should be labeled as projections.

Don Nicholson stated that he, like Margaret Sample, was also concerned about the numbers presented today. He also felt the intent of the motion was to set the figures for future years fairly concretely unless there were extraordinary circumstances. To alleviate that concern, he would offer an amendment to the resolution to remove FY2005 of the schedule. That gets to a 12 versus 10 number, as opposed to the 18 they were originally working with. That gets about three-quarters of what was intended. In the comparison to other counties, Missoula is doing okay, but they will be going through this same process to catch up. He did not quarrel with the rates in the resolution at all. He did think there was some concern about paying for it.

Don Nicholson moved to amend the Resolution for Elected Officials' Salaries to remove FY2005 from Addendum A.

Rachel Vielleux stated that 18% was still a real number, if 1990 is used as a beginning date.

Don Nicholson stated the discussion they had was that in 1993, everything got square. His math was based on 1993 forward and that came to 18. The number now are slightly different and makes 18 become 10.

Commissioner Curtiss stated that Don Nicholson's motion had not yet been seconded. She would like to take two years off the schedule because the legislature will meet again in 2003 and it might be possible to get the deputies salaries so they are not attached to the Sheriff's salary.

Chairman Evans felt that was unlikely to occur, due to the strength of the Deputy Sheriff's lobby. She could not support removing two years.

Steve Johnson stated the language in the statute is somewhat bifurcated from the standpoint that it has a temporary provision in it for FY2002 and in subsequent fiscal years, there is new language that replaces the FY2002 language. The language is a bit confusing, but it seems the intent must have been that the Committee had one responsibility for FY2002 and a different one for succeeding fiscal years. He wondered if the intent was to set up a schedule and then to meet annually thereafter to make adjustment to that schedule.

Fred Van Valkenburg stated it was broad enough to encompass both possibilities. It is not so specific that it requires that a schedule be set in FY2002 and that only cost of living increases could be considered in future years. However, the language contemplates that some counties may set up the schedule to do just that. Future meetings on an annual basis of the Compensation Board empower the Board with all the power it has in its first annual meeting. Therefore, the Board doesn't have to adopt a schedule in its first year that it has to live with, other than the inability to decrease salaries in future years. There may be other information that changes things in future years.

Commissioner Carey moved to change Paragraph 4 of the Resolution for Elected Officials' Salaries to read: "Whereas, the compensation committee has, in accordance with HB 345, recommended a salary schedule for fiscal year 2002." Commissioner Curtiss seconded the motion.

Fred Van Valkenburg stated that legally, that could be done. Some of the Compensation Board members felt that might not have been the intent of the HB345.

Margaret Sample stated that did not satisfy her desire to get the County where it needs to be. That takes care of one year and she felt that was short sided. The goal was to reach parity and by doing it for one, that has not been done. She did not think it needed to go over the 12% for the last year and was comfortable with dropping the last year, but she was not in favor of approving it for just FY2002.

Chairman Evans stated she was also not in favor of approving it for just FY2002.

Rachel Vielleux stated there were concerns from some elected officials in addition to getting the same compa-percentage raise, whereas the issue of being paid similar to what the managers are being paid. By FY2005, the managers will probably be making more, so she would like to shoot for the \$60,000 goal that was set.

Don Nicholson stated his amendment for leaving the last year off died for lack of a second. But there is a motion and a second for FY2002 only. He thought the question should be called to find out the feeling of the Committee.

Ann Mary Dussault stated that when she and Steve Johnson were working with how to construct the resolution, he had actually drawn up two versions. They came to understand that what Rachel Vielleux said is true. There were two different agendas. One was to get to parity to make up the differential between personnel plan employees and elected

officials. The estimate is that lands somewhere between FY2003 and FY2004. The second agenda was the one Rachel Vielleux mentioned, which was to get to a \$60,000 base. This resolution ends up going beyond parity to base equity.

Chairman Evans stated that as the elected officials salaries rise, so do everybody else's. She also saw no reason to believe that the tax base would not increase.

Steve Johnson stated that a lot of how parity is defined depends on what base year is used as a starting point. He had looked at various base years and the net impact between using 1990 and 1993 was only about one-tenth of a percent.

Commissioner Carey restated his motion to change Paragraph 4 of the Resolution for Elected Officials' Salaries to read: "Whereas, the compensation committee has, in accordance with HB 345, recommended a salary schedule for fiscal year 2002." Commissioner Curtiss seconded the motion. The motion was defeated on a vote of 2-7 (Commissioner Carey and Commissioner Curtiss were in favor of the motion).

Commissioner Curtiss stated that the amendment to the resolution was defeated so the Committee still needed to vote on the base resolution.

Ann Mary Dussault asked for a technical amendment to the resolution to include the Clerk & Recorder/Treasurer at \$56,118.40.

Susan Reed moved to make a technical amendment to the Resolution for Elected Officials' Salaries to include the Clerk & Recorder/Treasurer at a FY2002 Total Salary of \$56,118.40. Margaret Sample seconded the motion. The motion passed on a vote of 9-0.

Don Nicholson moved to amend the Resolution for Elected Officials' Salaries to remove FY2005 from Addendum A. Margaret Sample seconded the motion. The motion carried on a vote of 8-1 (Rachel Vielleux opposed).

Don Nicholson moved to adopt the Resolution for Elected Officials' Salaries with the amendment to remove FY2005 from Addendum A. Margaret Sample seconded the motion. The motion carried on a vote of 9-0, including unanimous consent of the Board of County Commissioners.

There being no further business to come before the County Compensation Committee, the meeting was adjourned at 2:45 p.m.

THURSDAY, JUNE 28, 2001

The Board of County Commissioners met in regular session; all three members were present.

Claims List – The Commissioners signed the Claims List, dated June 28, 2001, batch number 1349 (pages 1-4), with a grand total of \$19,891.73. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated June 28, 2001, batch number 1350 (pages 1-4), with a grand total of \$184,660.18. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated June 28, 2001, batch number 1352 (pages 1-4), with a grand total of \$56,438.09. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated June 28, 2001, batch numbers 1347 and 1353 (pages 1-3), with a grand total of \$9,558.29. The Claims List was returned to the Accounting Department.

Claims List – Chairman Evans and Commissioner Curtiss signed the Claims List, dated June 28, 2001, batch number 1356 (pages 1-2), with a grand total of \$3,877.63. The Claims List was returned to the Accounting Department.

Plat – The Commissioners (as Owners) signed the plat for Missoula Development Park – Phase 4, a subdivision located in the E½ of Section 35, and W½ of Section 36, T 14 N, R 20 W, P.M.M., Missoula County, a total area of 49.59 acres, with the owner of record being the Missoula County Airport Industrial District.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following items were signed:

Budget Transfer – The Commissioners signed Budget Transfer Control No. 01-036 for the Office of Planning and Grants, transferring \$726.50 from VOCA Fund 717 to VOCA Fund 946 for the purchase of a fax machine with memory upgrade for the CVA office at the Health Department building.

Agreement – Chairman Evans signed an Agreement between the Missoula Valley Water Quality District and the Montana Department of Environmental Quality for the purpose of providing funding to develop a total maximum daily loads ("TMDL") plan for the Lower Bitterroot River Drainage TMDL Development, per the activities described in Attachment "A" thereto. Performance of this agreement shall begin upon signature by both parties and must be completed by September 30, 2002. The total amount shall not exceed \$20,000.00. The document was returned to the Health Department for further signatures and handling.

Board Appointment – The Commissioners approved and signed a letter, dated June 29, 2001, appointing Richard C. King as a member of the Missoula Urban Transportation District Board to fill an unexpired term through December 31, 2002.

Resolution No. 2001-062 – The Commissioners signed Resolution No. 2001-062, dated June 28, 2001, a Budget Amendment for the Health Department #2270, in the amount of \$5,520.00, amending the budget to a total of \$79,520,

adopting same as part of the Fiscal Year 2001 Operating Budget for Missoula County. The reason for this change is that DPHHS Task Order No. 01-07-5-31-002-0 (Healthy Child Care), Federal Catalog No. 93.994, was more than anticipated.

Other items included:

- 1) Discussion was held and it was agreed that Commissioners Carey and Curtiss, and Brad ~~Curtiss~~ ^{Curtiss} would attend the (Montana Association of Counties) MACo Convention in Glendive, Montana in September of 2001.

The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, JUNE 29, 2001

The Board of County Commissioners met in regular session; all three members were present.

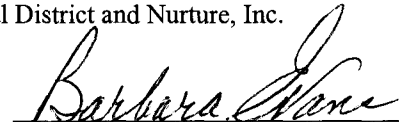
Claims List – The Commissioners signed the Claims List, dated June 28, 2001, batch numbers 1354 and 1355 (pages 1-9), with a grand total of \$185,900.66. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated June 29, 2001, batch number 1360 (pages 1-5), with a grand total of \$65,430.04. The Claims List was returned to the Accounting Department.

Claims List – The Commissioners signed the Claims List, dated June 29, 2001, batch number 1361 (pages 1-2), with a grand total of \$57,900.00. The Claims List was returned to the Accounting Department.

Plat – The Commissioners (as Owners) signed the plat for Missoula Development Park – Phase 3A, a subdivision located in the SW¼ of Section 36, T 14 N, R 20 W, P.M.M., Missoula County, a total area of 4.36 acres, with the owners of record being the Missoula County Airport Industrial District and Nurture, Inc.


Vickie M. Zeier
Clerk & Recorder


Barbara Evans, Chairman
Board of County Commissioners