

**TUESDAY, JULY 1, 1997**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was on vacation from July 1-3.

Audit List -- Commissioners Evans and Hart signed the Audit List, dated June 30, 1997, pages 2-50, with a grand total of \$273,841.27. The Audit List was returned to the Accounting Department.

Audit List -- Commissioners Evans and Hart signed the Audit List, dated July 1, 1997, pages 2-12, with a grand total of \$23,966.56. The Audit List was returned to the Accounting Department.

**DAILY ADMINISTRATIVE MEETING**

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

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

**WEDNESDAY, JULY 2, 1997**

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

Indemnity Bond -- Chair Hart examined, approved, and ordered filed an Indemnity Bond naming Jennifer Parker as principal for Warrant #28442 issued 4/10/97 on the Missoula County MCPS Payroll Fund in the amount of \$319.87 now unable to be found.

Monthly Report -- Chair Hart examined, approved, and ordered filed the Report of the Clerk of the District Court, Kathleen Breuer, showing fees and collections made in Missoula County for the month of June, 1997.

**DAILY ADMINISTRATIVE MEETING**

At the daily administrative meeting held in the forenoon, the following item was signed:

Contract Amendment - The Commissioners signed an Amendment to a Missoula County Professional Services Contract with Gregg Potter for addition of the west lawn of the Historical Museum to his existing duties. The increase in pay will be \$45 per week from June 23 to October 15.

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

**PUBLIC MEETING -- JULY 2, 1997**

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present was Commissioner Barbara Evans, County Surveyor Horace Brown, Clerk and Recorder/Treasurer, Vickie Zeier, and Missoula City Mayor, Mike Kadas.

The Mayor and The County Commissioners welcomed visitors from New Zealand, who are visiting Missoula as part of the Friendship Force. Mayor Kadas left the public meeting after the visit with the guests from New Zealand..

**Adoption of Resolution for \$4,000,000 Jail Bonds**

Information provided by Jane Ellis, Chief Financial Officer, indicated that the Commissioners were being asked to approve a resolution to issue \$4,000,000 of bond anticipation notes for the acquisition of the jail site (\$3,500,000) and design costs (\$500,000). This is the second step in issuing the \$4,000,000 in bond anticipation notes. This resolution memorializes the interest rate negotiated with DA Davidson, 4.29%, and establishes the form of the notes, and the payment process. Her recommendation was to approve the resolution to issue \$4,000,000 in bond anticipation notes to be at the negotiated rate. This will add \$4,000,000 to the County's outstanding debt. The interest cost for the nine months these notes are outstanding will be \$128,700.00.

Barbara Evans moved and Fern Hart seconded the motion to approve a resolution to issue \$4,000,000 of bond anticipation notes for the acquisition of the jail site. The motion carried on a vote of 2-0.

**Hearing: Petition for Road Alteration (Portion of Lower Miller Creek Road) from Upper Miller Creek Road to Linda Vista Boulevard.**

Information provided by Shirley Faust, Recording Supervisor, indicated that a petition had been received to alter Lower Miller Creek Road, located in S1/2 Section 1, Township 12 North, Range 20 West and NW1/4 Section 12, Township 12 North, Range 20 West, from Upper Miller Creek Road to Linda Vista Boulevard. The reasons for the request are to improve traffic safety and provide improved roadway alignment. The following land owners have been notified: Twite Family Partnership; Paul Gjording; Jeff and Cathy Shannon; Thomas and Janell Garner; George and Shirley Swartz; and the Missoula Rural Fire District.

Horace Brown, County Surveyor, said that during some development in the area, the road had been re-aligned and improved, and the excess right-of-way following the redesigning of the road would be turned back over to the property owners.

The hearing was opened for public comment.

Gilbert Larson, of DJ&A, said he was available to answer any questions.

No one else came forward to speak, and the hearing was closed.

Fern Hart said that by law, the site would be inspected by a County Commissioner and the County Surveyor. A decision on this matter would be made on July 16 at the Public Meeting.

Consideration of Hole In The Wall Addition (2-lot summary subdivision) in the Potomac Area.

Information provided by Elaine Halsey, Office of Planning and Grants indicated that this is a request from land owners Diane and Gary Watson and Janice and Richard Lasky for a split of a 22.16 acre parcel located off Hole in the Wall Road at its intersection with Coloma Way. The owners are proposing to create two lots of 10.0 and 12.16 acres for placement of one single family dwelling unit per lot. The property is legally described as Book 482, Page 478 and Book 53, Page 386, Sec 28, T13N, R15W.

**The proposed subdivision creates two lots with a minimum of ten acres. The property is near Potomac and is owned by two sisters and their husbands who plan to live on the property. One home exists on Lot 1 and a home is in place on Lot 2, but it is not being used as a residence. Surrounding land uses include single family residential.**

**The proposed subdivision lies approximately four miles southeast of Potomac and will be accessed via a County maintained roadway for Lot 1 and a private access easement for Lot 2. Union Creek crosses the northern border of Lot 2 and the applicant has proposed a riparian management plan for this area.**

STAFF RECOMMENDATIONS

THE OFFICE OF PLANNING AND GRANTS RECOMMENDS APPROVAL OF THE HOLE IN THE WALL ADDITION SUMMARY SUBDIVISION BASED ON THE FINDINGS OF FACT IN THE STAFF REPORT, SUBJECT TO COMPLIANCE WITH THE CONDITIONS BELOW:

1. 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 assent of the lot owner to waive the right to protest a future RSID/SID for improvements to Hole in the Wall Road, including paving and pedestrian facilities, based on benefit, which may be used in lieu of signatures 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 Regulation 3-2(10)(d) Staff recommendation*
2. 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 assent of the lot owner to waive the right to protest a future RSID/SID for a community sewer and/or community water system, based on benefit, which may be used in lieu of signatures 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 3-7 (1,2 and 3) Staff recommendation*
3. The driveways to each residence shall have a minimum 12 foot surface width and maintain a minimum unobstructed width of 20 feet and vertical clearance of 13 feet 6 inches, with provisions for turning around a fire apparatus within 150 feet of each residential building site. The driving surface shall either be paved or consist of a suitable base material and a minimum of four inches of 3/4 inch minus gravel. The lot owners shall apply dust palliatives on their driveways if they are not paved. Driveway plans shall be reviewed and approved by the County Surveyor prior to plat filing. *Subdivision Regulations 3-2*
4. The following statement shall appear on the face of the final plat: "The purchaser and/or owner of a lot within this subdivision understands and agrees that Coloma Way's construction, maintenance, and snow removal shall be the obligation of the property owners' associations. The County of Missoula is in no way obligated to perform such maintenance or upkeep until the road is brought up to County standards and accepted by the County of Missoula for maintenance." *Subdivision Regulations 5-2 (5) and Staff recommendation*
5. All new utilities shall be placed underground in easements a minimum of 20 feet wide and their location approved by the appropriate utility and the governing body. These easements shall be shown on the final plat along with the following statement: "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 in, over, under, and across each area designated on this property as "Utility Easement" to have and hold forever." *Subdivision Regulations 3-5 and 3-6*
6. An area of riparian resource along the northern border of Lot 2 and continuing twenty feet to the south shall be designated on the plat as a "No Build Zone". A statement shall be placed on the plat which states no construction, vegetation removal, excavation, livestock grazing except for a ten foot wide watering access to the creek, or other streamside disturbances shall occur within this area. *Subdivision Regulations 3-3 and 3-13 Applicant proposal and Staff recommendation*
7. The riparian management plan shall be reviewed and approved by the Office of Planning and Grants prior to plat filing. The plan shall include provisions for weed control. This plan shall be recorded as part of the

restrictive covenants governing the property or as part of the developer's agreement. *Subdivision Regulation 3-13 (3)*

8. A developer's agreement or covenant running with the land and binding on current, existing, and future owners shall be placed on both lots in this subdivision for the items below concerning predator intrusion and fire hazard. The developer's agreement or covenant shall be filed with the County Clerk and Recorder prior to plat approval.
  - A. Pets shall be fed indoors and pet food shall be stored indoors.
  - B. All portable barbecues shall be cleaned regularly and stored indoors when not in use.
  - C. The planting of native vegetation is encouraged.
  - D. All garden fencing shall be at least eight feet high 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.
  - E. Apiaries should be avoided. Prior to their placement on a lot, the Department of Fish, Wildlife and Parks should be contacted to discuss how best to avoid wildlife conflicts.
  - F. Compost piles shall be enclosed.
  - G. Wildland/Residential Interface standards shall be followed per *Subdivision Regulation 5-1 (5) (H & I)*

#### **VARIANCE REQUESTS:**

1. The applicant has requested a variance from Missoula County Subdivision Regulation Section 3-2 (5)(A) which state that pedestrian walkways shall be provided in all subdivisions.

THE OFFICE OF PLANNING AND GRANTS RECOMMENDS APPROVAL OF THE VARIANCE REQUEST, BASED ON THE FOLLOWING FINDINGS:

#### **FINDINGS:**

- A. The granting of this variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.

**There are no other sidewalks in this area. Installing sidewalks in this area only would not increase public safety. Pedestrians use local roadways which are built to County standard widths, and have low traffic volumes. At this time, sidewalk facilities are not warranted for public safety and Condition 1 requires a RSID/SID waiver for these facilities along Hole in the Wall Road, based on benefit, should they be warranted in the future.**

- B. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property.

**There currently are no other sidewalk facilities in this area to connect to for a complete or even partial system. This area is rural and other types of pedestrian facilities may be more appropriate than sidewalks.**

- C. Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, a hardship to the owner would result if the strict letter of these Regulations were enforced.

**A hardship to this owner would result if required to provide sidewalks at this time since there are no other facilities for through connections.**

- D. The variance will not in any manner violate the provisions of the Missoula County Zoning Resolution or the Missoula County Comprehensive Plan or master plan areas.

**This variance request would not violate zoning as the property is unzoned or the 1975 Comprehensive Plan.**

- E. The variance will not cause a substantial increase in public costs.

**No increases in public costs are foreseen with or without approval of this variance.**

Tim Wolfe, Territorial Engineering, said he was representing the developer, would be happy to answer any questions, and said his client was in agreement with all the conditions.

Jeri Valaer said she was concerned with the safety of pedestrians in the area, and asked the Commissioners to vote against the variance and to require sidewalks in the area.

Mike Fellows said he supported this development, and asked the Commissioners to approve it.

Barbara Evans moved and Fern Hart seconded the motion to approve the Variance request from Missoula County Subdivision Regulations which state that pedestrian walkways shall be provided in all subdivisions. The motion carried on a vote of 2-0.

Barbara Evans moved and Fern Hart seconded the motion to approve the Hole in the Wall Addition 2-Lot Minor Subdivision subject to the findings of fact and conclusions of law contained in the staff report.

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 2:10 p.m.

After the Public Meeting, the Commissioners signed Resolution No. 97-049, a resolution relating to general obligation bonds and \$4,000,000.00 bond anticipation notes to be issued in anticipation thereof; fixing the form and details, making covenants with respect thereto, authorizing the execution and delivery and levying taxes for the payment.

**THURSDAY, JULY 3, 1997**

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

DAILY ADMINISTRATIVE MEETING

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

Lease Agreements - The Commissioners signed three lease agreements with Missoula Correctional Services; one for space for a Pre-Release Center, with annual rent of \$41,180.00, one for space for a Community Service Program, with annual rent of \$6,645.00, and one for space for a Misdemeanant Probation Program, with annual rent of \$6,240.00. All three agreements are for the period July 1, 1997 through June 30, 1998.

Contract - The Commissioners signed a contract with A Abel Moving and Rigging, Inc., for moving three buildings to the new County Shop location. Compensation shall be \$59,500.00, and completion date is noted on the bid. The contract was returned to Doreen Culver, Bidding Officer, for further handling.

Contracts - Chair Hart signed the following contracts:

(1) with the Board of Crime Control for the Stop Violence Against Women Act program, Rural Outreach Crime Victims' Advocate office. Award amount is \$21,975.00, plus \$7,325.00 local match. Project duration is July 1, 1997 through June 30, 1998.

(2) with the Board of Crime Control for the Victim Assistance Program, Crime Victims' Advocate office. Award amount is \$21,135.00, plus \$5,362.00 local match. Project duration is July 1, 1997 through June 30, 1998.

(3) with the Montana Dept. of Public Health and Human Services, Addictive and Mental Disorders Division, for the C.S. Porter Project. Compensation shall not exceed \$60,000.00. Performance schedule is July 1, 1997 through June 30, 1999.

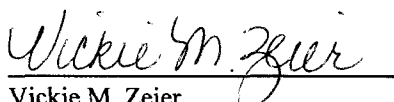
All three contracts were returned to Peggy Seel in OPG for further handling.

Other items included:

1) Commissioners Evans and Hart concurred with County Surveyor, Horace Brown's decision regarding Montana Department of Transportation's request to remove the one foot no access strip for Moose Lodge Addition. The concurrence was returned to Horace Brown.

**FRIDAY, JULY 4, 1997**

The Courthouse was closed for the Independence Day holiday.

  
Vickie M. Zeier  
Clerk & Recorder

  
Fern Hart, Chair  
Board of County Commissioners

**MONDAY, JULY 7, 1997**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was on vacation July 7-8.

Monthly Report -- Chair Hart examined, approved and ordered filed the Monthly Reconciliation Report for Justice of the Peace, John Odlin, for the month ending June 30, 1997.

DAILY ADMINISTRATIVE MEETING

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

Notes - The Commissioners signed a note to Yvonne Ransavage, and a note to Dusty Deschamps, on his award from the American Bar Association.



Contract - Chair Hart signed a Contract for Nutrition Services with the Western Montana Comprehensive Development Center for nutritionist services provided by the WIC office. Payment shall not exceed \$403.00. Performance schedule is July 1, 1997 through June 30, 1998.

Agreement - The Commissioners signed a Nutritional Services Agreement with Child Start, Inc. for registered dietitian services provided by the WIC office. Payment shall be \$675.00. Performance schedule is from September 1, 1997 through May 31, 1998.

Other items included:

- 1) The Commissioners reiterated their earlier position that the County can only provide land and site design for the Mount Jumbo Little League.

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

**TUESDAY, JULY 8, 1997**

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

**DAILY ADMINISTRATIVE MEETING**

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

Amended Professional Services Contract - The Commissioners signed an Amended Professional Services Contract with Kimberly Grenager for dental hygiene services at Partnership Health Center. Performance schedule is from July 1, 1997 through June 30, 1998. Total compensation shall be a maximum of \$6,000.00. The County shall assist in administration of contract duties.

Amended Professional Services Contract - The Commissioners signed an Amended Professional Services Contract with James Ouellette, DDS for dental treatment for Partnership Health Center patients. Performance schedule is from July 1, 1997 through June 30, 1998. Compensation shall be a maximum of \$5,000.00. The County shall assist in administration of contract duties.

Both contracts were returned to the Health Department for further signatures and handling.

Other items included:

- 1) The Commissioners approved deletion of a list of delinquent personal property tax bills provided by Vickie Zeier and Michelle Denman of the Treasurer's Office.

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

**WEDNESDAY, JULY 9, 1997**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Evans was out of the office July 9-11.

**DAILY ADMINISTRATIVE MEETING**

At the daily administrative meeting held in the forenoon, the following item was signed:

Grant Agreement - The Commissioners signed a Noxious Weed Trust Fund Project Grant Agreement for the Biological Weed Control Coordination Project (Number MDA 97-76) between the Montana Department of Agriculture and the Missoula County Extension Service. Compensation shall be a maximum of \$7,900 payable to Missoula County. Term of the Agreement shall be until June 30, 1998. The Agreement was returned to Jerry Marks in the Extension Office for further signatures and handling.

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

**PUBLIC MEETING -- JULY 9, 1997**

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present was Commissioner Michael Kennedy and County Surveyor Horace Brown.

**HEARING: REQUEST FOR TAX INCENTIVES FOR NEW OR EXPANDING INDUSTRY (CLAWSON MANUFACTURING CO.)**

Information provided by Paul Webber, Chief Administrative Officer, indicated that Clawson Manufacturing submitted their application in March of 1997. The City has approved a similar request. Health Department, OPG, and Clerk and Recorder checks have revealed no basis for denial. The County Attorney's review indicates Clawson qualifies according to County Policy. Other taxing districts have been notified and notice has been published. The notice of the hearing had been sent to Clawson Manufacturing. The fiscal impact of this request would be a loss of \$41,332.00 over 10 years of tax revenue.

Rob Braach of Clawson Manufacturing, asked that the hearing be postponed or continued until another date so that the other people involved in the business could be in attendance. He said that if there were additional costs for re-advertising the hearing, Clawson Manufacturing would be glad to pay them.

The hearing was opened for public comment. No one came forward to speak.

MICHAEL KENNEDY MOVED AND FERN HART SECONDED THE MOTION TO CONTINUE THE HEARING FOR TAX INCENTIVES FOR NEW OR EXPANDING INDUSTRY FOR CLAWSON MANUFACTURING CO. UNTIL AUGUST 13, KEEPING THE RECORD OPEN IN THE INTERIM FOR PUBLIC OR WRITTEN COMMENT. THE MOTION CARRIED ON A VOTE OF 2-0.

#### HEARING: FAMILY TRANSFER - MCDONALD

Information provided by Kathy Smith, Paralegal, indicated that James M. McDonald has submitted a request to create four parcels through the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is 6.37 acres in size and Mr. McDonald proposes to create five parcels of approximately 1.24 acres each and transfer three of them to his adult children JaLynn A. Lewis, daughter; Jannette L. Hart, daughter; Jaclyn D. McDonald, daughter; and one to his mother, Della May Vela. Mr. McDonald would retain what is proposed Tract 3 upon which an existing home sits. The land is located within the "Carlton activity center."

The history of the parcel is as follows: The parcel was created through highway right-of-way for the new Highway 93. Ralph E. and Cheryl A. Williams purchased the parcel in June, 1973 and a Warranty Deed was filed in May, 1994. A Buy/Sell Agreement was entered into by Mr. and Mrs. Williams and Mr. McDonald on May 16, 1997.

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

#### RECOMMENDATION

Decision on whether to approve creation of four family transfer parcels for that parcel as described in Book 414 Micro, Page 1619 located in Section 35, T11N R20W for James M. McDonald.

The hearing was opened for public comment.

Dick Ainsworth, PCI, representing the McDonalds, explained how the family would use the land.

Fern Hart explained to the McDonalds that the Commissioners were charged by law to determine whether or not this request was an attempt to evade the Subdivision Laws. She asked Mr. McDonald where his permanent home was.

James McDonald said he lived up Miller Creek, but the family had been looking for a long time for some land to buy that all the children could live on together.

Fern Hart asked about the access to the property.

Horace Brown said the land borders on Old U.S. Highway 93, which is a County road, maintained by the County.

Fern Hart said that her concern is that it looks like a subdivision to her, and with the land being split in this manner, the Commissioners have no control over how the land is used like they would if it went through subdivision review. Questions of access, fire danger, schools, etc., are looked at during subdivision review to determine if it is a good use of the land and if it makes a good to the community.

Michael Kennedy asked why the property had not been done as a subdivision?

James McDonald said that they have two children who are ready to build now, and they want to build homes that would improve the area.

Dick Ainsworth said that if this proposal were to come in as a subdivision, the split would probably wind up exactly as what is being proposed right now. He said that with a five lot split, there is no requirement for a park.

No one else came forward to speak and the hearing was closed.

Michael Kennedy said that in his opinion, this is a 5-lot subdivision with no review. He said he had concerns that Mr. McDonald was not going to live on the property, and that it appeared to be an attempt to evade the subdivision law.

Fern Hart said she was in need of more information before making a decision. She asked if the decision could be put off until August 6. All parties agreed. The hearing was continued until August 6.

#### HEARING: CONSIDERATION OF WINDMERE ESTATES (4-LOT SUMMARY SUBDIVISION) BIG FLAT/KONA RANCH AREA

Information provided by Elaine Halsey, OPG, indicated that: this is a request from land owner Mark Hancock for a split of a 17.33 acre parcel located at 11075 Windmere Lane into three lots ranging from 4.94 to 7.39 acres for placement of one single family dwelling unit per lot. The property is legally described as Tract 11, COS 1131, Sec 17, T13N, R20W.

The proposed Windmere Estates three lot Summary Subdivision lies directly west of the Clark Fork River. The three lots will have an average 5.78 acre density. All of the lots have some river frontage. One home exists on Lot 2 which is the Hancock residence.

The proposed subdivision lies one half mile east of Big Flat Road and one half mile south of Kona Ranch Road. It is outside of the Air Stagnation Zone. Access is proposed to be provided by a paved, private access road off of Windmere Lane, a private road with a paved 20 foot surface. Surrounding land uses include single family residential on three sides and the Clark Fork River directly east.

#### STAFF RECOMMENDATIONS

THE OFFICE OF PLANNING AND GRANTS RECOMMENDS APPROVAL OF THE WINDMERE ESTATES SUMMARY SUBDIVISION BASED ON THE FINDINGS OF FACT IN THE STAFF REPORT, AND SUBJECT TO COMPLIANCE WITH THE CONDITIONS LISTED IN THE STAFF REPORT.

#### VARIANCE REQUESTS:

1. The applicant has requested a variance from Missoula County Subdivision Regulation Section 3-2 (5)(A) which state that pedestrian walkways shall be provided in all subdivisions.

THE OFFICE OF PLANNING AND GRANTS RECOMMENDS APPROVAL OF THE VARIANCE REQUEST, BASED ON THE FOLLOWING FINDINGS:

#### FINDINGS:

- A. The granting of this variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.

There are no other sidewalks in this area. Installing sidewalks in this area only would not increase public safety. Pedestrians use local roadways, most of which are paved, and have low traffic volumes since these roads dead end. At this time, sidewalk facilities are not warranted for public safety and Condition 1 requires a RSID/SID waiver for these facilities along Big Flat Road, based on benefit, should they be warranted in the future.

- B. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property.

There currently are no other sidewalk facilities in this area to connect to for a complete or even partial system. This area is rural and other types of pedestrian facilities may be more appropriate than sidewalks.

- C. Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, a hardship to the owner would result if the strict letter of these Regulations were enforced.

A hardship to this owner would result if required to provide sidewalks at this time since there are no other facilities for through connections.

- D. The variance will not in any manner violate the provisions of the Missoula County Zoning Resolution or the Missoula County Comprehensive Plan or master plan areas.

This variance request would not violate zoning or the 1990 Comprehensive Plan.

- E. The variance will not cause a substantial increase in public costs.

No increases in public costs are foreseen with or without approval of this variance.

2. A request is made for a variance to reduce the private road's access easement width from 54 feet to 30 feet, as stated in *Subdivision Regulations 3-2 (1)*

THE OFFICE OF PLANNING AND GRANTS RECOMMENDS APPROVAL OF THE VARIANCE REQUEST, BASED ON THE FOLLOWING FINDINGS:

#### FINDINGS:

- A. The granting of this variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.

The section of private road on Lot 1 qualifies as a private road and as such would need a 54 foot easement width to meet County standards. The easement along Lot 2 need only meet driveway standards of 27 feet. The applicant has proposed a 30 foot width along the entire length of the subdivision, (an easement is only necessary across Lots 1-2), in case a future connection to Big Flat Road should ever be necessary. At that time, an increased easement width would be sought from other property. A 30 foot easement should be able to safely accommodate the roadway for the four houses proposed. Future development on these parcels would not be possible without a change in current zoning or variance.

- B. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property.

**This request is unique due to the property's location with relation to future possible roadway connections. A thirty foot width is proposed to meet future roadway needs as stated above.**

- C. Because of physical surroundings, shape, or topographical conditions of the property involved, a hardship to the owner would result if the strict letter of these Regulations were enforced.

**A significant hardship would not result to the owner of the subdivision if the access easement were required to be 54 feet wide over Lot 1.**

- D. The variance will not in any manner violate the provisions of the Missoula County Zoning Resolution or the Missoula County Comprehensive Plan or master plan areas.

**This request will not violate the zoning or the 1990 Missoula County Comprehensive Plan.**

- E. The variance will not cause a substantial increase in public costs.

**No substantial increases in public costs are foreseen since this is a private roadway.**

3. A request is made for a variance to reduce the private access surface width from 24 feet to 14 feet, as stated in *Subdivision Regulations 3-2 (1)*

THE OFFICE OF PLANNING AND GRANTS RECOMMENDS **DENIAL** OF THE VARIANCE REQUEST FOR A REDUCTION TO 14 FEET, AND **APPROVAL** OF A VARIANCE ALLOWING A REDUCTION IN ROADWAY WIDTH TO 20 FEET, BASED ON THE FOLLOWING FINDINGS:

FINDINGS:

- A. The granting of this variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.

**The section of roadway on Lot 1 to the intersection of Lot 1's driveway qualifies as a private road and need a 24 foot surface width to meet County standards. The lane along Lot 2 need only meet driveway standards of a 12 foot surface width. The applicant has proposed a 14 foot width along the entire length of the subdivision to be consistent. To meet the Uniform Fire Code, a 20 foot width is necessary. The County Survey has stated a 20 foot roadway can more safely meet the traffic needs of four households. Should a through connection ever occur, the easement would be expanded on adjacent properties and the roadway could be widened there as well.**

- B. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property.

**This request is unique because of the location of this property in relation to future connections to other roadways. It is very unlikely this roadway would ever serve more than three homes unless future subdivision occurred on adjacent parcels and the existing lot owners of this subdivision granted those developments access easements.**

- C. Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, a hardship to the owner would result if the strict letter of these Regulations were enforced.

**A significant hardship would not result to the owner of the subdivision if the access road across Lot 1 was required to be 24 feet wide.**

- D. The variance will not in any manner violate the provisions of the Missoula County Zoning Resolution or the Missoula County Comprehensive Plan or master plan areas.

**This variance request will not violate zoning or the 1990 Comprehensive Plan.**

- E. The variance will not cause a substantial increase in public costs.

**No substantial increases in public costs are foreseen since this is a private roadway.**

4. A request is made for a variance to reduce Windmere Lane's surface width from 24 feet to 20 feet, as stated in *Subdivision Regulations 3-2 (1)*

THE OFFICE OF PLANNING AND GRANTS RECOMMENDS **APPROVAL** OF A VARIANCE ALLOWING A REDUCTION IN ROADWAY WIDTH TO 20 FEET, BASED ON THE FOLLOWING FINDINGS:

FINDINGS:

- A. The granting of this variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.

Windmere Lane dead ends adjacent to the proposed subdivision and a through connection is not possible without construction of a bridge over the Clark Fork River, which is highly unlikely. Therefore, the roadway serves little traffic. There are level shoulders along the road. A twenty foot width has been serving the needs of the local residents and should be able to safely accommodate the additional traffic attributable to three households. In order to meet the Uniform Fire Code a 20 foot width is necessary.

- B. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property.

This request is unique because of the location of this property perpendicular to the river. Future through connections to this roadway would be expensive and unlikely, except if a connection were developed along the roadway in the proposed subdivision as explained in Variance 3 above. At that time, Windmere Lane's expansion could also be discussed.

- C. Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, a hardship to the owner would result if the strict letter of these Regulations were enforced.

A significant hardship would result to the owner of the subdivision if Windmere Lane were required to be 24 feet wide instead of 20 feet since other people benefit from this roadway outside of the proposed subdivision.

- D. The variance will not in any manner violate the provisions of the Missoula County Zoning Resolution or the Missoula County Comprehensive Plan or master plan areas.

This variance request will not violate the zoning or the 1990 Missoula County Comprehensive Plan.

- E. The variance will not cause a substantial increase in public costs.

No substantial increases in public costs are foreseen since this is a private roadway.

Ron Ewart, Eli and Associate, said he was here representing Dr. Mark Hancock and other interested parties. He said that they had tried very hard to meet the comp plan in this proposal, and felt that they had succeeded. He suggested several wording changes to the conditions. Some discussion ensued about ownership of the riverbanks and the ability to insure that area. The proposal also originally requested four lots, but that has been dropped to three due to zoning density requirements.

Cynthia Bryan, a local Realtor who is involved in the project asked the Commissioners to approve it.

Bill Lindstrom, Missoula Rural Fire asked for some word changes to condition #4, adding "and Missoula Rural Fire Department."

Michael Kennedy moved and Fern Hart seconded the motion to approve variance #1, from Section 3-2 (5)(A) which state that pedestrian walkways shall be provided in all subdivisions. The motion carried on a vote of 2-0.

Michael Kennedy moved and Fern Hart seconded the motion to approve variance # 2 to reduce the private road's access easement width from 54 feet to 30 feet, as stated in Subdivision Regulations 3-2 (1) The motion carried on a vote of 2-0.

Michael Kennedy moved and Fern Hart seconded the motion to approve variance #3 allowing a roadway width of 20', with 14' paved and 3' graveled shoulders on each side. The motion carried on a vote of 2-0.

Michael Kennedy moved and Fern Hart seconded the motion to approve variance #4, Section 3-2 (1) to reduce Windmere Lane's surface width from 24 feet to 20 feet. The motion carried on a vote of 2-0.

Michael Kennedy moved and Fern Hart seconded the motion to approve the Windmere Estates Summary Subdivision subject to the following conditions and the findings of fact in the staff report:

1. 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 assent of the lot owner to waive the right to protest a future RSID/SID for improvements to Big Flat Road, including paving and pedestrian facilities, based on benefit, which may be used in lieu of signatures 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."
2. 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 assent of the lot owner to waive the right to protest a future RSID/SID for a community sewer and/or community water system, based on benefit, which may be used in lieu of signatures 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".
3. The private access road shall be named and the name shall be posted with a black and white sign at the road's intersection with Windmere Lane, prior to plat approval. The road name is subject to the approval of the County Surveyor.

4. The private access road shall have a 20 foot traveled way with a paved 14 foot surface width and 3 feet of graveled surface on each side to the point where the driveway serving Lot 1 takes off and a 14 foot surface width from this point to Lot 3. A minimum roadway vertical clearance of 13 feet 6 inches shall be maintained with provisions for turning around a fire apparatus within 150 feet of each residential building site. The driveways to each residence shall have a minimum 12 foot surface width with minimum clearances of 20 feet in width and 13 feet 6 inches vertical clearance, and either be paved or consist of a suitable base material and a minimum of four inches of 3/4 inch minus gravel. The lot owners shall apply dust palliatives on their driveways and over their lots during construction. The private road and driveway plans shall be reviewed and approved by the County Surveyor and the Missoula Rural Fire Department prior to plat filing. The private road shall be improved to the additional six foot width prior to plat filing.
5. The following statement shall appear on the face of the final plat: "The purchaser and/or owner of a lot within this subdivision understands and agrees that the private access road and Windmere Lane's construction, maintenance, and snow removal shall be the obligation of the property owners' associations. The County of Missoula is in no way obligated to perform such maintenance or upkeep until the road is brought up to County standards and accepted by the County of Missoula for maintenance
6. All new utilities shall be placed underground in easements a minimum of 20 feet wide and their location approved by the appropriate utility and the governing body. These easements shall be shown on the plat.
7. All areas of riparian resource shall be shown on the plat and designated as "No Build Zones". A statement shall be placed on the plat which states no construction shall occur except for wooden fences.
8. The 6.58 acres of irrigation rights currently allocated to the land of this proposed subdivision shall be split between the three lots and approved by the Big Flat Irrigation District prior to plat filing.
9. The riparian management plan shall be reviewed and approved by the Office of Planning and Grants prior to plat filing. This plan shall be recorded as part of the restrictive covenants governing the property.
10. The applicant shall pay a new subdivision lot fee of \$300.00 (\$100.00 per lot) to be paid to the Missoula Rural Fire District prior to final plan approval.
11. The applicant shall amend Section 10 of the proposed covenants to state each lot's driveway shall be paved prior to the start of construction of a residence for that lot. Lots 4 and 5 shall be deleted from this section since only three lots are proposed.
12. The proposed 30 foot access easement across lot #3 shall be deleted

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 3:00 p.m.

#### THURSDAY, JULY 10, 1997

The Board of County Commissioners met in regular session; a quorum of members was present. In the afternoon, Commissioner Hart accompanied County Surveyor Horace Brown on a site inspection for the request to alter a portion of Lower Miller Creek Road (from Upper Miller Creek Road to Linda Vista Boulevard).

Audit List -- Commissioners Hart and Evans signed the Audit List, dated July 9, 1997, pages 2-6, with a grand total of \$3,132.96. The Audit List was returned to the Accounting Department.

Monthly Report -- Chair Hart examined, approved, and ordered filed the Report of the Sheriff, Douglas Chase, showing fees and collections on account of civil business in Missoula County for the month ending June 30, 1997.

#### DAILY ADMINISTRATIVE MEETING

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

Block Grant Application Form - Commissioner Kennedy signed a Local Law Enforcement Block Grants Program Local Application Form for \$67,401.00 in federal funds. The form was returned to Larry Weatherman in the Sheriff's Department for further handling.

Resolutions - The Commissioners signed three Rural Special Improvement District resolutions:

- (1) Resolution No. 97-050, a resolution creating RSID No. 8461, for street paving improvements to "A" Street and "B" Street in Seeley Lake, MT;
- (2) Resolution No. 97-051, a resolution creating RSID No. 8462, for street paving improvements to a portion of Redwood Lane in Seeley Lake, MT; and
- (3) Resolution No. 97-052, a resolution creating RSID No. 8463, for street paving improvements to portions of Juniper Drive and School Lane in Seeley Lake, MT.

Affidavit and Bond Anticipation Note - Chair Hart signed an Affidavit as to Signature of Chair of Board of County Commissioners and a Bond Anticipation Note for funds for the Jail Project, in the amount of \$4,000,000.00. The documents were returned to Dorsey and Whitney for further handling.

Budget Transfers - The Commissioners signed three budget transfers:

- (1) Health Department (2270), \$51,516.00 from Traffic Safety 96-97 to Traffic Safety 97-98 (control no. 97-020).

- (2) Health Department (2270), \$80,718 for MCH Community Assessment (correcting code) (control no. 97-001).  
(3) Health Department (2270), \$6,000 for Tobacco Project (correcting code) (control no. 97-002).

Budget Amendments - The Commissioners signed 15 budget amendments:

- (1) Resolution No. 97-053, Youth Drug Court, for Federal Grant No. 16-585, revenue in the amount of \$180,000.00.
- (2) Resolution No. 97-054, Youth Drug Court, for \$18,118.00 in revenue for treatment and contracted services.
- (3) Resolution No. 97-055, Office of Planning and Grants, Rural Domestic Violence Enforcement Grant Program, \$84,282.00 plus \$33,264.00 in revenue.
- (4) Resolution No. 97-056, Office of Planning and Grants, Crisis Care Program, \$30,037.00 in revenue.
- (5) Resolution No. 97-057, Health Department, Montana Department of Transportation "Sobear," \$2,000.00 in revenue.
- (6) Resolution No. 97-058, Health Department, Radon, DEQ Contract No. 270049, \$7,000.00 in revenue.
- (7) Resolution No. 97-059, Health Department, WIC, DPHHS contract modification no. 370010-02, \$349,643.00 in revenue.
- (8) Resolution No. 97-060, Health Department, Traffic Safety 97-98, Montana Department of Transportation contract nos. 97-01-07-02 and 97-03-03-02, \$38,250.00 in revenue.
- (9) Resolution No. 97-061, Health Department, Infant Mortality Review, DPHHS contract no. 9723MISC0002, \$22,420.00 in revenue.
- (10) Resolution No. 97-062, Health Department, HIV Community Planning, DPHHS contract no. 360163-TO-14, and DPHHS modification no. 360163-TO-4-B, \$9,000.00 in revenue.
- (11) Resolution No. 97-063, Health Department, AIDS Prevention, DPHHS contract no. 360163-TO-14, \$7,000.00 in revenue.
- (12) Resolution No. 97-064, Health Department, FAIM, DPHHS contract no. 360163-TO-10, \$31,660.00 in revenue.
- (13) Resolution No. 97-065, Health Department, WIC, DPHHS contract modification no. 370010-01, \$344,643.00 in revenue.
- (14) Resolution No. 97-066, Health Department, Day Care Block Grant, DPHHS/Child and Family Services Division contract no. 9723SPTG7011, \$7,904.00 in revenue.
- (15) Resolution No. 97-067, Health Department, MNR, pass through funds from the US Dept. of Agriculture by Missoula Nutrition Resources, \$6,000.00 in revenue.

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


**FRIDAY, JULY 11, 1997**

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.

Monthly Reports -- Chair Hart examined, approved, and ordered filed the Monthly Reconciliation Reports for Justice of the Peace, Michael Jaworsky, for the months ending January 31, March 31, and May 31, 1997.

Other items included:

- 1) The Commissioners approved the application for the flood mitigation grant for the Lolo watershed area.

  
Vickie M. Zeier  
Clerk & Recorder

  
Fern Hart, Chair  
Board of County Commissioners

**MONDAY, JULY 14, 1997**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Hart was on vacation the week of July 14-18.

DAILY ADMINISTRATIVE MEETING

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

Professional Services Contracts - The Commissioners signed two professional services contracts:

- (1) with Beth Thompson, MD, for services as Medical Director for the Outpatient Clinic. Performance schedule is from July 10, 1997 through June 30, 1998. Compensation shall not exceed \$6,000.00; and
- (2) with Jackie Jones, DMD, PC, for dental care for Partnership Health Center patients. Performance schedule is from July 1, 1997 through June 30, 1998. Compensation shall not exceed \$4,800.00. The contract 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, JULY 15, 1997**

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

DAILY ADMINISTRATIVE MEETING

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

Notes - The Commissioners signed notes to Dick Ainsworth, Terrazas family, and Conrad Burns.

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

WEDNESDAY, JULY 16, 1997

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

Audit List -- Commissioners Evans and Kennedy signed the Audit List, dated July 16, 1997, pages 2-34, with a grand total of \$248,456.33. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Bond Closing Documents - Commissioner Evans signed Bond Anticipation Note closing documents for the \$4,000,000 for jail site and design.

Interim Memorandum of Agreement - The Commissioners signed an Interim Memorandum of Agreement with the Art Museum of Missoula for operating funds for July and August, 1997, prior to adoption of the Fiscal Year 1998 budget. Value of the agreement is \$33,700.00. Duration of the agreement will be from July 1, 1997 through August 31, 1997.

Final Inspection and Acceptance Report - The Commissioners signed the Final Inspection and Acceptance Report for DeSmet Interchange West to the Pulp Mill Road. One original was sent to Martin VanMil at the Montana Department of Transportation, and one went to Horace Brown, County Surveyor.

Other items included:

- 1) The Commissioners approved a petition format for creating a Special Improvement District for County-Owned lands in the area.

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

PUBLIC MEETING -- JULY 16, 1997

The Public Meeting was called to order at 1:30 p.m. by Acting Chair Barbara Evans. Also present were Commissioners Michael Kennedy, and County Surveyor Horace Brown.

DECISION ON MILLER CREEK ROAD ALTERATION (FROM JULY 2, 1997 PUBLIC MEETING)

Horace Brown said that he and Commissioner Fern Hart had gone to the site on July 10 and inspected the proposed vacation/alteration as per State law. He said that Commissioner Hart had not been able to attend this meeting, but had recommended that the proposed alteration be approved. He said that he would concur with that recommendation contingent upon the easement for Lamoreaux Lane be extended to the right of way.

Michael Kennedy moved and Barbara Evans seconded the motion to vacate/alter Lower Miller Creek Road, located in S1/2 Section 1, Township 12 North, Range 20 West and N 1/4 Section 12, Township 12 North, Range 20 West, from Upper Miller Creek Road to Linda Vista Boulevard contingent on a new easement being granted from Lamoreaux Lane to the right of way. The motion carried on a vote of 2-0.

HEARING: RESOLUTION OF INTENT TO CREATE RSID NO 8838 (MAINTENANCE OF TWO FIRE HYDRANTS IN SOUTHPOINTE PHASE II SUBDIVISION)

Information provided by Paul Webber, Chief Administrative Officer, indicated that this was a consideration of a request to create RSID 8838, a fire hydrant maintenance district in the Southpointe subdivision. This is a petition request from 65% of ownership within the proposed boundaries of the fire hydrant district. The Missoula Rural Fire has reviewed and approved the hydrant locations. All certification, resolution of intent and notice, postings and publications have been performed in accordance with Montana Code. No letters of protest were received. The estimated cost of the RSID for fire hydrant maintenance is \$654.72 annually, or \$38.51 per lot. There are 17 lots within the district and will be served by two hydrants. His recommendation was to create RSID 8838.

The hearing was opened for public comment. No one came forward to speak, and the hearing was closed.

Michael Kennedy moved and Barbara Evans seconded the motion to create RSID 8838, a Fire Hydrant Maintenance District in the Southpointe Subdivision. The motion carried on a vote of 2-0.

HEARING: HOME PROGRAM (FLOODPLAIN REVIEW) RESIDENCE ON PATTEE CREEK DRIVE.

Information provided by Cindy Wulfekuhle, Principal Grants Administrator, indicated that the Commissioners were required to conduct a public hearing to allow public comment concerning roof repairs to a single-family residence that is located in the floodplain. The subject property is located on Pattee Creek Drive, between Bancroft Street and South



Higgins Avenue. It is in the 100-year floodplain. The owner of the property is eligible for HOME Program assistance through the Missoula, Mineral and Ravalli Counties Housing Rehabilitation Program. The State HOME Program requires a public hearing be held by the grant recipient, which is Missoula County, to allow public comment concerning the proposed assistance to a property located in the floodplain.

The hearing was opened for public comment. No one came forward to speak, and the hearing was closed.

Cindy thanked the Commissioners for conducting the hearing, and said that was all that was required of them.

The meeting was recessed as the Board of County Commissioners, and reconvened as a meeting of the Planning and Zoning Commission. Members in attendance were County Commissioners Michael Kennedy and Barbara Evans, and County Surveyor, Horace Brown.

**HEARING: REQUEST TO AMEND DEVELOPMENT STANDARDS OF CITIZEN-INITIATED PLANNING AND ZONING DISTRICT #4 (PATTEE CANYON LANDOWNERS ASSOCIATION)**

Information provided by Jennie Dixon, OPG, included the following information:

<b>APPLICANT</b>	Pattee Canyon Landowners Association
<b>LOCATION OF REQUEST</b>	Approximately 1,300 acres located in Pattee Canyon in Sections 2, 3, and 4, T12N, R19W, P.M.M. See Map U.
<b>LEGAL NOTIFICATION</b>	The legal ad was published in the <u>Missoulian</u> on June 29 and July 6, 1997. The area was posted at three locations. Affected and adjacent property owners within 300 feet of the property were notified by first class mail.

**STAFF RECOMMENDATION**

THAT THE REQUEST TO AMEND ZONING DISTRICT #4 IN PATTEE CANYON, AS SHOWN IN ATTACHMENT C, BE APPROVED, IN ACCORDANCE WITH THE PROVISIONS OF TITLE 76, CHAPTER 2, PART 1 OF MONTANA CODE ANNOTATED AND THE ATTACHED RESOLUTION.

**I. INTRODUCTION**

The Pattee Canyon Landowners Association, represented by Ron Erickson, has requested revisions to the Zoning District #4 (ZD#4) regulations, pursuant to the provisions of Title 76, Chapter 2, Part 1 of Montana Code Annotated. The area of ZD#4 application is shown in Attachment A, and the proposed revisions are shown in Attachment C.

**II. BACKGROUND**

Zoning District #4, a citizen-initiated zoning district, was established on June 17, 1957, and the development standards were amended twice, once in 1972 and again in 1977. It is located in Pattee Canyon in Sections 2, 3 and 4, Township 12 North, Range 19 West, P.M.M., in the Pattee Creek drainage southeast of the Missoula urban area. The zoning district is located approximately one-half mile from the intersection of Pattee Canyon Road and Southwest Higgins, and it is bounded on the east by the Fort Missoula Timber Reserve. It is located within the four and one-half (4-1/2) mile Building Permit Jurisdiction Area.

Title 76, Chapter 2, Part 1 of Montana Code Annotated allows for the creation of citizen-initiated zoning districts on forty (40) acres or more, when deemed by the County Commissioners to protect public health, safety, and general welfare. This statute requires that sixty percent (60%) or more of the freeholders affected must sign a petition in order to *create* a citizen-initiated zoning district; however, once created, the Planning and Zoning Commission may *revise* the district as needed. Therefore, the signatures of a percentage of freeholders in the district is not necessary for this requested action. The County Attorney's Office confirmed that the Pattee Canyon Landowners' Association may petition for such revisions.

The Pattee Canyon Landowners' Association has submitted proposed revisions to Zoning District #4 every year for the past several years to address the difficulties interpreting the current zoning regulations. The proposed revisions specifically attempt to clarify the regulations related to Section II. 5. which states that "No lot shall be developed in conflict with the natural physiography...."

OPG staff distributes a list of submittal requirements to prospective ZD#4 applicants to explain the materials needed to evaluate impact on the natural physiography of the site (see Attachment E). As in the current review procedure, the proposed revisions address, to some degree, hillside development, road construction, protection from wildfire, wildlife, vegetation and riparian resource issues.

Under the current review procedure, the Planning Board conducts a public hearing, reviews the proposal for compliance with the existing regulations and makes a recommendation to the County Planning and Zoning Commission. The Planning and Zoning Commission, which consists of the three County Commissioners, the Clerk & Recorder, and the County Surveyor, conducts a second public hearing and makes a recommendation to the Board of County Commissioners, which is the approving agent. Upon approval, which is often subject to conditions which attempt to address development impacts, a building permit may be issued.

**III. DISCUSSION**

**Comprehensive Plan**

Attachment B shows the 1990 Missoula Comprehensive Plan land use designations for this area. The majority of the area is designated as Rural Residential (one dwelling unit per five to ten acres). In the western portion of the district, some of the area is designated as Rural Residential Medium Density (one dwelling unit per five acres), and some is designated as Urban Single Family (6 dwellings/acre). There are also some areas designated for Open and Resource,

which recommends one dwelling per 40 acres, and some areas are designated for Parks and Open Space. The proposed revisions do not substantially change land use allowances or density allowances of the existing zone, although the proposed zoning is not in strict compliance with the densities or land use designations of the 1990 Missoula Comprehensive Plan in some cases.

#### Current Zoning Regulations

The current zoning district permits a gross residential density of one dwelling unit per five (5) acres, with no lot being smaller than three (3) acres. All service lines are required to be placed underground. It also requires that no lot be developed in conflict with the natural physiography (physical geography) of the area. Any improvements, development, and creation of lots within this zoning district must be reviewed by the Missoula Consolidated Planning Board and County Planning and Zoning Commission and approved by the Board of County Commissioners.

Permitted uses in this district include one-family dwellings and accessory buildings, provided that such accessory buildings do not involve the conduct of any business, industry or commercial enterprise. This district does not permit mobile homes as one-family dwellings. Although not specifically referenced as a permitted use, home occupations have been approved in this zoning district in the past, pursuant to the Home Occupation section of the Missoula County Zoning Resolution #76-113 (see Attachment G). The district allows agricultural, horticultural or stock raising enterprises and buildings such as barns, sheds, etc.; however, such buildings shall not involve the conduct of any business, industry or commercial enterprise. Other public and institutional uses, such as churches, day nurseries, libraries, schools, utilities, parks and playgrounds are permitted uses in this district.

#### Proposed Zoning Regulations

It is the intent of the Pattee Canyon Landowners' Association to develop objective criteria by which to review development proposals in the Pattee Canyon area. The current regulations simply state that, "No lot shall be developed in conflict with the natural physiography...." but do not offer criteria to review the impacts on the natural physiography. In fact, nowhere within the regulations is this term even defined. OPG staff concludes that a conflict with natural physiography is almost certain to occur in any development proposal, and OPG has typically used two criteria to evaluate these impacts. These are 1) fairness, and 2) the impacts on the integrity of the land. The first recognizes the many years that these regulations have been in place and attempts to allow new development which is not substantially different from that which has already occurred, provided all other requirements are met. The second attempts to look at what level of development is appropriate for the specific piece of land and the impacts on the neighborhood and the community. These impacts relate to public safety, air and water quality, hillside grading and minimizing cut and fill, protecting unique ecosystems, and aesthetics.

The proposed revisions also eliminate the public hearing review procedure for building permits which is in place under the current regulations. Because the proposed revisions are prescriptive, a public hearing is not necessary to acquire a building permit unless the developer is seeking a variance from the development standards. The proposed revisions include "Development Standards" (Section VI) which must be adhered to in any zoning or subdivision permit review, and "Development Guidelines" (Section VII) which must be considered and addressed in any variance application. These guidelines are provided as strong recommendations, but not imposed as strict regulations.

The proposed revisions do not substantially modify space and bulk requirements of the original zoning district except to set a forty foot (40') setback from all property lines and a maximum height of thirty feet (30'). The Pattee Canyon Landowners' Association submitted the revisions with a forty foot (40') setback requirement; however, there has been some opposition to this for some residents of Pattee Canyon, with a suggestion of thirty feet (30') instead.

One-family dwellings are permitted, provided they are built on-site and constructed with a permanent foundation (in other words, mobile homes are prohibited, but modular, or "pre-fab" homes may be allowed). Home occupations are clearly allowed, pursuant to Resolution #81-132 (shown in Attachment F). This resolution provides for home occupations in citizen-initiated zoning districts, as customary uses or special exceptions.

Also proposed is a maximum impervious surface coverage of lots. The proposed maximum coverage standard is 10% of a lot, including all driving surfaces (paved or gravel) and structures, **OR** up to 10,000 square feet, excluding roads. On a five acre parcel, this would result in an allowance of building and road coverage of 21,780 square feet (about ½ acre) **OR** up to a 10,000 square foot footprint of all buildings.

The proposed regulations require that the building site for primary and accessory structures have an existing slope of 25% or less. Construction on slopes greater than 25% would require a variance. Existing slope is the grade of a site prior to building construction and after road and utility construction. Also, all disturbed slopes greater than 10% must be regraded to create a slope which simulates the appearance of the surrounding natural terrain, referred to as landform grading in the regulations. An exception to this is an allowance for retaining walls, not more than six feet (6') tall, as part of landscaping in the immediate vicinity of buildings.

Section VII "Development Guidelines" is a section of the regulations that are not applicable or enforceable for zoning compliance permits; however, these guidelines shall be considered and addressed by an applicant requesting a variance. These guidelines pertain to weed control, logging practices, and wildfire prevention.

#### IV. RECOMMENDATION

OPG recommends that these revisions be adopted by the Planning & Zoning Commission and the Board of County Commissioners as presented in Staff Report Attachment C.

The hearing was opened for public comment.

Ron Erickson, a past member of the Pattee Creek Board, spoke for the organization. He said that Clem Work, is the current President, is out of town. He explained how the new guidelines were developed and how and why the request was made to the Commissioners for these changes

A general discussion ensued about the language in Section VIII regarding variances. All persons present agreed that the section needed to be re-worded.

Jim Buckley a resident of Lupine Road, said he was in favor of the changes.

Dick Clemow, a Pattee Canyon resident, also spoke in favor.

At this point, the hearing was continued until August 27 so the Homeowners and the Office of Planning and Grants could work out the language issues in section VIII.

The meeting of the Planning and Zoning Commission was adjourned.

The Meeting of the Board of County Commissioners was reconvened.

There being no further business to come before the Board, the Commissioners were in recess at 2:10 p.m.

THURSDAY, JULY 17, 1997

The Board of County Commissioners did not meet in regular session; Commissioner Kennedy was out of the office July 17-18.

FRIDAY, JULY 18, 1997

The Board of County Commissioners did not meet in regular session; Commissioner Evans attended a Judicial Standards Commission meeting held at Georgetown Lake.

Vickie M. Zeier  
Vickie M. Zeier  
Clerk & Recorder

Fern Hart  
Fern Hart, Chair  
Board of County Commissioners

MONDAY, JULY 21, 1997

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

Application for Issuance of Replacement Warrant -- Chair Hart approved an Application for Issuance of Replacement Warrant naming Clerk of Potomac Elementary #11 as principal for Warrant #2607, issued 5/12/97 on the Missoula County Claims Fund in the amount of \$896.92, not received in the mail.

DAILY ADMINISTRATIVE MEETING

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

Plat - The Commissioners signed the plat for Lazy Pine Addition, a five-lot subdivision located in Sections 3 and 10, T16N R15W, PMM, Missoula County, a net area of 77.58 acres, with the owner/developer being Evelyn Kearns.

Certification - Chair Hart signed a Certification Regarding Environmental Tobacco Smoke and Debarment, Suspension, Ineligibility and Voluntary Exclusion for the Partnership to Strengthen Families program. Duration of the project is from July 1, 1997 through June 30, 1998. The County will receive \$134,000.00 from DPHHS. The certification was returned to Peggy Seel in the Office of Planning and Grants for further handling.

Resolution - The Commissioners signed Resolution No. 97-068, creating Rural Special Improvement District No. 8838, for maintenance of two fire hydrants to be located in the Southpointe Phase II subdivision, Missoula County.

Resolution - The Commissioners signed Resolution No. 97-069, repealing Emergency Proclamation 97-026, regarding flooding in Missoula County.

Agreement for Maintenance of Grounds - The Commissioners signed an Agreement for Maintenance by City Parks and Recreation Department of Grounds at County Courthouse and Certain Nearby County Buildings. Duration of the Agreement is from July 1, 1997 through June 30, 1998. Compensation shall be \$21,400.00.

Change Order - The Commissioners signed a Change Order with Quality Construction Company for the Missoula County Road Department Project. Additional costs of \$39,396.00 are for removal of excess topsoil, and a credit of \$2,419.00 is for reduction in site excavation quantities.

Addendum - The Commissioners signed Addendum No. 1 for Professional Engineering Services completed by Druyvestein, Johnson and Anderson for the Lolo Water System Improvements. Cost to RSID 901 is \$10,524.62. The Addendum was forwarded to DJ&A for signature.

Contract for Deed - The Commissioners signed a Contract for Deed with MC<sup>2</sup> Investments, LLP for property in the Missoula Development Park, described as a portion of Lot 3, Block 2 of Phase 1. The purchase price is \$40,000.00. The contract was returned to Orin Olsgaard in Projects for further signature and handling.

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

**TUESDAY, JULY 22, 1997**

The Board of County Commissioners met in regular session; all three members were present. In the evening, the Commissioners, Jane Ellis, Chief Financial Officer, and other County staff members conducted a Community Budget Meeting in Seeley Lake at the Community Hall.

Audit List -- Commissioners Kennedy and Hart signed the Audit List, dated July 22, 1997, pages 2-41, with a grand total of \$632,904.00. The Audit List was returned to the Accounting Department.

Application for Issuance of Replacement Warrant -- Chair Hart approved an Application for Issuance of Replacement Warrant naming David Corporation as principal for Warrant #313243, issued 6/4/97 on the Missoula County 7071 Fund in the amount of \$3,025.00, not received in the mail.

Indemnity Bond -- Chair Hart examined, approved, and ordered filed an Indemnity Bond naming Donald O. Nordstrom, DDS as principal for Warrant #308785 issued 3/5/97 on the Missoula County PHC Fund in the amount of \$333.00 now unable to be found.

Indemnity Bond -- Chair Hart examined, approved, and ordered filed an Indemnity Bond naming Heather Chipman as principal for Warrant #43058 issued 6/4/97 on the Missoula County General Fund in the amount of \$65.00 now unable to be found.

**DAILY ADMINISTRATIVE MEETING**

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

Note - The Commissioners signed a note to the family of Judge Jack Green.

Resolution - The Commissioners signed Resolution No. 97-070, a resolution to alter a portion of Lower Miller Creek Road to improve traffic safety and roadway alignment.

Standard Listing Contract - The Commissioners signed a Standard Listing Contract with Scott Hollenbeck and Merilynn Foss for sale of Lot 2, Block 2, Mountain Shadows #1. Commission is 10%, based upon the sales price. The Contract was returned to Doreen Culver, Bidding Officer, for further handling.

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

**WEDNESDAY, JULY 23, 1997**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was out of the office en route to Oregon to attend a meeting.

Audit List -- Commissioners Hart and Evans signed the Audit List, dated July 23, 1997, pages 2-4, with a grand total of \$4,218.00. The Audit List was returned to the Accounting Department.

Indemnity Bond -- Chair Hart examined, approved, and ordered filed an Indemnity Bond naming Donald O. Nordstrom, DDS as principal for Warrant #301797 issued 9/24/96 on the Missoula County PHC Fund in the amount of \$133.00 now unable to be found.

**DAILY ADMINISTRATIVE MEETING**

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

Resolution - The Commissioners signed Resolution No. 97-072, a resolution adopting the Strategic Plan for Missoula County for Fiscal Year 1998.

Resolution - The Commissioners signed Resolution No. 97-073, a resolution recognizing the reorganization of the Local Emergency Planning Committee (LEPC).

Other items included:

- 1) The Commissioners approved a request by Bob Brown, Director of the Historical Museum at Fort Missoula, for transfer of \$27,212.00 in capital funds from rehabilitation of the main Museum building to the restoration of the Drummond Depot.

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

PUBLIC MEETING --JULY 23, 1997

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present was Commissioner Barbara Evans, County Surveyor Horace Brown, and Clerk and Recorder/Treasurer, Vickie Zeier.

PUBLIC COMMENT

Ron Kelly, a volunteer at the Historical Museum at Fort Missoula, addressed the problem with ground squirrels on the grounds. He said they have multiplied to such an extent that he is concerned with disease, and with endangering patrons of the Museum and the grounds. Commissioner Hart told Mr. Kelly that she would talk with Al Knudsen, Missoula County Pest Management Controller to see what options were available. She said that the County has many demands on its financial resources, and could not make any promises, but she assured him that she would follow up on the matter.

Dan Poe Newman said that moving the public comment portion of the meeting to the beginning was a good idea, and he would like that to continue.

BID AWARD - ASPHALTIC PLANT MIX - ROAD DEPARTMENT

Information provided by Horace Brown, County Surveyor, indicated that bids were opened on July 21, 1997 at 10:00 a.m. with the following results:

JTL Group, Inc.	1,750T	Fine Grade \$38,500.00
	1,750T	Reg Grade \$33,250.00
Jensen Paving Co.	1,750T	Fine Grade \$27,125.00
	1,750T	Reg Grade \$25,375.00

His recommendation was to award the bid to Jensen Paving Co in the amount of \$52,550.00 as the best and lowest bid. Adequate funds have been budgeted for this purchase.

Barbara Evans moved and Fern Hart seconded the motion to award a contract for Plant Mix Asphalt for the Road Department to Jensen Paving Co in the amount of \$52,550.00 as the best and lowest bid. The motion carried on a vote of 2-0.

BID AWARD - PREPARED AGGREGATE MATERIAL (9-MILE) - ROAD DEPARTMENT

Information provided by Horace Brown, County Surveyor, indicated that bids were opened on July 21, 1997 at 10:00 a.m. with the following results:

Mickelson Rock Products	\$24,875.00
Johnson Brothers Contracting	\$20,375.00
JTL Group, Inc.	\$32,375.00

His recommendation was to award the bid to Johnson Brothers Contracting in the amount of \$20,375.00 as the best and lowest bid. Adequate funds have been budgeted for this purchase

Barbara Evans moved and Fern Hart seconded the motion to award a contract for Prepared Aggregate Material for the Road Department to Johnson Brothers Contracting in the amount of \$20,375.00.00 as the best and lowest bid. The motion carried on a vote of 2-0.

BID AWARD - ASPHALTIC PLANT MIX - ROAD DEPARTMENT

Information provided by Horace Brown, County Surveyor, indicated that bids were opened on July 21, 1997 at 10:00 a.m. with the following results:

Idaho Asphalt Supply, Inc.	\$36,630.00
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His recommendation was to award the bid to Idaho Asphalt Supply, Inc. in the amount of \$36,630.00 as the best and lowest bid. Adequate funds have been budgeted for this purchase

Barbara Evans moved and Fern Hart seconded the motion to award a contract for CRS-2 Emulsified Asphalt Oil for the Road Department to Idaho Asphalt Supply, Inc. in the amount of \$36,630.00 as the best and lowest bid. The motion carried on a vote of 2-0.

HEARING: CERTIFICATE OF SURVEY - FAMILY TRANSFER - CIBENKO

Information provided by Kathy Smith, Paralegal in the County Attorney's Office, indicated that this is a consideration of a request for a family transfer Tract 43 of COS 351 located in Section 13, T15N R22W for Michael L. and Anna M. Cibenko.

Michael and Anna Cibenko have submitted a request for a family transfer exemption to the Montana Subdivision and Platting Act for a 16.58 acre parcel located off Wapiti Road in the Six Mile area. Mr. and Mrs. Cibenko wish to create a 5 acre parcel for transfer to their adult son: Michael T. Cibenko.

The history of the parcel is as follows: The parcel was created in June 1974 creating 55 parcels greater than 10 acres in size. There have been various splits of these parcels as shown on the attached section map. Mr. and Mrs. Cibenko purchased the parcel in August, 1993.

According to the records kept by the Missoula County Surveyor, the applicants have not used any exemptions to the Subdivision and Platting Act.

The hearing was opened for public comment.

Fern Hart asked the Cibenkos to bear with the Commissioners, as they were charged with determining whether or not this request was an attempt to evade the Subdivision and Platting Act. She asked where their son lives at this time.

Anna Cibenko said her son currently lives in Japan, but when he returns in a year or so, he wants to build a home on this property. He is a Montana resident.

No one else came forward to speak and the hearing was closed.

Barbara Evans moved and Fern hart seconded the motion to approve a Family Transfer for Tract 43 of COS 351 located in Section 13, T15N R22W for Michael L. and Anna M. Cibenko. The motion carried on a vote of 2-0.

#### HEARING: CERTIFICATE OF SURVEY - FAMILY TRANSFER - LEISTIKO

Information provided by Kathy Smith, Paralegal in the County Attorney's Office, indicated that this is a consideration of a request to create six parcels using the family transfer exemption for two parcels located in Sections 10 and 14, T21N R17W for the Margaret R. Leistiko Living Trust.

Margaret R. Leistiko has submitted a request to create six parcels using the family transfer exemption to the Montana Subdivision and Platting Act for parcels as described in Book 11, Page 429 less Highway 83 and Tract 1, COS 4004 and Tracts 2-A, 2-B and 2-C, COS 4005 and less Tract A, COS 2639 located in Section 14, T21N R17W and that parcel as described in Book 11, Page 431 less Highway 83 and COS 4230 located in Section 10, T21N R17W. The parcel in Section 10 is located on either side of Highway 83 and is approximately 149 acres; the parcel in Section 14 is located east of Highway 83 and is approximately 121.49 acres. Mrs. Leistiko wishes to create six parcels greater than 20 acres in size on the parcel in Section 14 for transfer to her adult children: Patricia A. Anderson, daughter; Margaret R. Clark, daughter; Gene and Evelyn Leistiko, son and daughter-in-law; Fred A. and Constance Leistiko, son and daughter-in-law; Steven G. and Melneeta R. Leistiko, son and daughter-in-law; and William P. and Theresa M. Leistiko, son and daughter-in-law. She also will be transferring an 11 acre parcel remainder parcel in Section 10 which was created by highway right-of-way and is located on the east side of Highway 83 to Jerome C. and Deanna J. Spletstoser, son-in-law and daughter.

The history of the parcel is as follows: Mrs. Leistiko and her late husband, Eugene, purchased the parent parcels through tax deed in February, 1968. Mr. and Mrs. Leistiko used the occasional sale exemption in July, 1981 to create a 1.16 parcel as shown on COS 2639. Mr. and Mrs. Leistiko sold the remainder parcel created by highway right-of-way in Section 14 on the west side of Highway 83 and the remaining property was placed in Trust in 1991, after Mr. Leistiko passed away. Mrs. Leistiko also used the occasional sale exemption in June 1993 to create a 2 acre parcel as shown on COS 4230 which was transferred to the Catholic Church. In addition, Mrs. Leistiko has been placed in a care facility and Deanna Spletstoser and Fred Leistiko took over as successor co-trustees in 1994, pursuant to the terms of the Trust. Further, Mrs. Spletstoser has been appointed as guardian for her mother.

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

The hearing was opened for public comment.

Dick Ainsworth, PCI, representing the Leistiko family, said he had nothing else to add, but would be happy to answer questions.

No one else came forward to speak and the hearing was closed.

Barbara Evans moved and Fern Hart seconded the motion to approve the family transfer exemption to the Montana Subdivision and Platting Act for parcels as described in Book 11, Page 429 less Highway 83 and Tract 1, COS 4004 and Tracts 2-A, 2-B and 2-C, COS 4005 and less Tract A, COS 2639 located in Section 14, T21N R17W and that parcel as described in Book 11, Page 431 less Highway 83 and COS 4230 located in Section 10, T21N R17W. The parcel in Section 10 is located on either side of Highway 83 and is approximately 149 acres; the parcel in Section 14 is located east of Highway 83 and is approximately 121.49 acres for transfer to her adult children: Patricia A. Anderson, daughter; Margaret R. Clark, daughter; Gene and Evelyn Leistiko, son and daughter-in-law; Fred A. and Constance Leistiko, son and daughter-in-law; Steven G. and Melneeta R. Leistiko, son and daughter-in-law; and William P. and Theresa M. Leistiko, son and daughter-in-law. The motion carried on a vote of 2-0.

#### HEARING: CERTIFICATE OF SURVEY - FAMILY TRANSFER - BLOCK

Information provided by Kathy Smith, Paralegal in the County Attorney's Office, indicated that this is a consideration of a request for a family transfer and boundary relocation between COS 881 and that parcel as described in Book 40 Micro, Page 151 and shown on Deed Exhibit 2917 less COS 881 located in Section 31, T14N R20W for Warren D. and Darlyne A. Block.

Warren Block has submitted a request for a family transfer and boundary relocation exemption to the Montana Subdivision and Platting Act for two adjacent parcels of 3 acres and 8.32 acres located off LaVoie Lane in the Grass Valley area. Mr. Block proposes to relocate the boundaries of COS 881 (3 acres) to make a larger parcel of approximately 3.8 acres. He then proposes to create a family transfer parcel in the middle of approximately 4.5 acres for transfer to his adult son, Brian Dennis Block. There would be a 3 acre remainder parcel.

The history of the parcel is as follows: The parent parcel was created by Deed Exhibit 2916 in 1971 as an 11.32 acre parcel. Mr. and Mrs. Block purchased the parcel at that time. Mr. and Mrs. Block filed COS 881 in June, 1976 using the mortgage exemption to create a 3 acre parcel. The Blocks applied to use the boundary relocation exemption between these parcels in May, 1997 to enlarge the mortgage exemption parcel to 5.32 acres. This request was approved May 22, 1997. The current request was submitted instead of the earlier request on July 7, 1997.

The history of the claimants is as follows: Other than that set forth above, Mr. Block purchased property as shown on COS 1467 in June, 1978 located in Section 25, T14N R21W. He used an occasional sale exemption and family transfer exemption filing COS 1717 in December, 1978 transferring the family transfer parcel to his wife, Darlyne A. Block. Mr. Block then used another occasional sale exemption on the remaining portion of COS 1717 and filed COS 2281 in February, 1980. Mrs. Block sold the family transfer parcel to Michael J. and E. Lynn Wood in May, 1985.

According to the records kept by the Missoula County Surveyor, the applicants have used any exemptions to the Subdivision and Platting Act as described above.

The hearing was opened for public comment.

Dick Ainsworth, PCI, representing the family, said he would be available to answer any questions. He introduced the Block family who were present at the hearing.

Fern Hart asked Mr. Block what his intentions were for this property.

Warren Block said that his son wants to build on the property, and the family would sell the proposed remainder. He said that in 1997, a boundary relocation had been granted by the County for part of this property, but at this time, he wished to remove that boundary line and change it to what is proposed now.

Colleen Dowdall, Deputy County Attorney, told the Commissioners that the easiest thing to do would be to vacate the previous boundary relocation in the same motion as the approval, if that was the Commissioner's desire or intent.

Barbara Evans moved and Fern Hart seconded the motion to approve the family transfer and boundary relocation between COS 881 and that parcel as described in Book 40 Micro, Page 151 and shown on Deed Exhibit 2917 less COS 881 located in Section 31, T14N R20W for Warren D. and Darlyne A. Block. In addition, the previous boundary relocation approval granted on May 22, 1996 between these two parcels would be vacated. The motion carried on a vote of 2-0.

#### CONSIDERATION OF PONDA ROSA ACRES (3 LOT SUMMARY SUBDIVISION)

Information provided by Pat Keiley, OPG, indicated that Ponda Rosa Acres Lots 1A, 1B, 1C Subdivision is a request from Frank and Betty Ann Kibbee to create a 3-lot residential summary plat subdivision on a 16.16 acre parcel of land located approximately one mile east of Petty Creek Road, north of the Clark Fork River in the Alberton, MT area of Missoula County. The property is legally described as the NE 1/4 of Section 7, T14N, R22W.

#### Recommendations

The Office of Planning and Grants recommends **approval** of the Ponda Rosa Acres Lots 1A, 1B, 1C summary plat subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report.

He said that the neighbors in the adjoining subdivision were under the impression that lot one in this proposed subdivision had originally been dedicated a common area or a park, but the park or common area was, in fact, located outside this proposed subdivision. He indicated the common area/park on a map.

Ron Ewart, Eli and Associates, representing the Kibbees, said he was available to answer questions. He introduced Frank Kibbee, who told the Commissioners where he currently lives on the property, and where he wishes to give property to his children.

John Horwitch, who lives across the street from this proposed subdivision, said he approved of it, but had concerns with the proposed covenants and their enforceability.

A general discussion of the proposed covenants ensued, with suggested wording for changes in the conditions and covenants proposed and agreed upon by all parties concerned.

Barbara Evans moved and Fern Hart seconded the motion to approve the requested variances for Ponda Rosa Acres Subdivision. The variances are as follows: from the Missoula County Subdivision Regulation Section 3-2 (3) to reduce the required Cinderella Drive right-of-way width from 60 to 54 feet; from Section 3-2 (13) to reduce the required Terrace View Drive right-of-way width from 60 to 54 feet; and a variance from Section 3-2 (5) to exclude sidewalk or pedestrian walkways from the subdivision. The motion carried on a vote of 2-0.

Barbara Evans moved and Fern Hart seconded the motion to approve Ponda Rosa Acres Lots 1A, 1B, 1C Subdivision, subject to the following conditions and the findings of fact contained in the staff report:

1. The County Surveyor shall approve access prior to filing the final plat and approach permits prior to construction.
2. The County Surveyor shall approve grading, drainage, erosion control, road and driveway plans prior to filing the final plat.
3.
  - a. The applicant shall provide for dust abatement during construction of the subdivision. Plans for dust abatement shall be approved by the County Surveyor prior to final plat approval
  - b. To reduce dust in the area, the individual lot owners shall share in the cost and provide regular dust abatement from the driveway access to Lot 1C to the intersection of Terrace View Drive and Cinderella Drive until a dust abatement district is formed, or the roads are paved. Plans for dust abatement shall be approved by the County Surveyor.
4. The owner shall establish covenants for the following items that relate to the mitigation of predator intrusion and the mitigation of fire and local fire department access, and that this document shall be filed with the final plat:
  - A. That domestic pets are to be kept in a contained area to avoid wild animal harassment.
  - B. Pets shall be fed indoors and pet food shall be stored indoors.
  - C. Garbage shall be stored in well sealed containers and inside storage units.
  - D. Permanent barbecue pits are prohibited. All portable barbecues shall be cleaned regularly and stored indoors when not in use.
  - E. Do not allow salt blocks and feeding platforms for deer or mineral blocks for horses on any premises. Store horse or livestock feed in a secured area, not accessible to wildlife.
  - F. 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 to not allow an accumulation of rotting organic matter which is prime wildlife attractant.
  - G. 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.
  - 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. Do not or use any 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 in containers of metal, plastic, or other suitable material which has sufficiently tight fitting covers to prevent the escape of noxious odors and to prevent entrance or destruction by wild animals. Store all garbage cans indoors or in a wildlife-proof container in a clean, orderly condition. Compost piles shall be enclosed.
  - J. The brochure, "Living with Wildlife" shall be distributed to all lot owners.
  - K. To assist with the reduction of wood stove particulates in the air, wood burning stoves in this subdivision are restricted to efficient stoves with low emissions.
  - L. 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,
  - M. Provide a minimum unobstructed width of not less than 20 feet and an unobstructed clearance of 13 feet 6 inches for any driveway over 150 feet, to be approved by the appropriate fire jurisdiction..
  - N. Provide approved provisions for turning around of fire apparatus for dead-end driveways in excess of 150 feet, to be approved by the appropriate fire jurisdiction.
  - O. 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 as 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 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."
  - P. Only Class A or B fire-rated roofing materials shall be used for any new construction.
  - Q. Provide a defensible space for fire protection and be approved by the Frenchtown Rural Fire District provisions for turning around of fire apparatus for dead-end driveways in excess of 150 feet, to be approved by the appropriate fire jurisdiction.



- R. The Ponderosa Pine Trees on the site of each lot shall be preserved to the maximum extent possible, while not conflicting with the WRI standards.
- S. The Frenchtown Rural Fire District shall approve the water supply for fire protection purposes for the lots.
- T. The installation of woodstoves shall be limited to those with 4.0 grams per hour emissions.
- U. To reduce dust in the area, the individual lot owners shall share in the cost and provide regular dust abatement from the driveway access to Lot 1C to the intersection of Terrace View Drive and Cinderella Drive until a dust abatement district is formed, or the roads are paved. Plans for dust abatement shall be approved by the County Surveyor.

OPG staff shall review and approve the covenants prior to approval of the final plat.

- 5. All utilities shall be placed underground and shown on the final plat. Utility easements shall be a minimum of 20 feet wide and their location shall be approved by the appropriate utility and the governing body. In addition to the easement location, the following statement shall be shown on the face of 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 in, over, under, and across each area designated on the plat as "Utility Easement" to have and to hold forever."
- 6. The Frenchtown Rural Fire District shall approve the water supply for fire protection purposes for the proposed lots prior to plat filing.
- 7. The following statement shall be placed on the face of the final plat:

"The appropriate fire jurisdiction shall approve all drive way turnarounds in excess of 150 feet the water supply for fire protection purposes and the defensible space for each lot prior to construction"
- 8. The applicant shall donate \$100.00 per lot to the Frenchtown Rural Fire District for the purchase of a large diameter hose, prior to plat filing.
- 9. The following statements 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 assent of the lot owner to waive the right to protest a future RSID/SID for public water and sewer systems based on benefit, and may be used in lieu of their signatures on an RSID/SID petition."
- 10. The following statements 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 assent of the lot owner to waive the right to protest a future RSID/SID for any improvements to Cinderella Drive and Terrace View Drive, including, dust abatement, paving, sidewalk, based on benefit, and may be used in lieu of their signatures on an RSID/SID petition."

The motion carried on a vote of 2-0.

#### RECONSIDERATION OF LUCY LOTS (2 LOT SPLIT)

Information provided by Pat Keiley, Office of Planning and Grants, indicated that: this is a request from land owners Joseph and Tamara Lucy to reconsider the Board of County Commissioner's denial of the Lucy Lots subdivision on June 11, 1997. This subdivision would have split a 20.69 acre parcel located at 10110 Oral Zumwalt Way into two lots of 10.69 and 10.00 acres for placement of one single family dwelling unit per lot. This reconsideration request is based on new information developed by the applicant for an alternative access. The property is legally described as Tract 5, COS 3936, Sec 25, T12N, R20W.

#### INTRODUCTION/UPDATE

On May 28, 1997 and June 11, 1997 the Board of County Commissioners heard a request for the proposed Lucy Lots Summary Subdivision which lies six miles southwest of Missoula off Oral Zumwalt Way. On June 11, 1997 the Board of County Commissioners denied this request based on the findings of fact and conclusions of law presented in the Staff report. One of the primary concerns was the grade of the access to Lot 2. The applicant is proposing a new access alignment for Lot 2 which utilizes the driveway of Lot 1 and has submitted detailed grade and cut and fill data.

On July 3, 1997 the applicant's representative and the Assistant Chief/Fire Marshall for the Missoula Rural Fire District reviewed this new alignment at the site. The Fire Marshall has found this alternative to be acceptable. The OPG Comprehensive Planning Division has reviewed the new proposed access plan via private driveway to Lot 2. The OPG staff has noted the following concerns with the proposed driveway access to Lot 2:

- a. The proposed driveway access to Lot 2 is fairly steep (in excess of 8 percent for a considerable distance.).
- b. The proposed driveway access to Lot 2 is fairly long (approximately 1800 feet).
- c. The proposed driveway access to Lot 2 is somewhat visible from lower elevations, but not as visible as the original proposed driveway access to Lot 2.
- d. The proposed driveway access to Lot 2 will have an effect on the hillside with regard to cuts and fills.

- e. The proposed driveway access to Lot 2 will have an effect on the gully corridor.
- f. The proposed driveway access to Lot 2 will have an effect on wildlife that use the area, especially the gully corridor.

The County Surveyor has reviewed the new proposed driveway access to Lot 2 and has determined that the slope is steep but meets county road standards and is acceptable.

#### STAFF RECOMMENDATIONS

THE OFFICE OF PLANNING AND GRANTS RECOMMENDS APPROVAL OF THE LUCY LOTS SUMMARY SUBDIVISION BASED ON THE FINDINGS OF FACT IN THE STAFF REPORT, AND SUBJECT TO COMPLIANCE WITH THE CONDITIONS IN THE STAFF REPORT.

He also noted that three variances had also been requested.

Pat Keiley and Tim Wolfe showed the Commissioners the proposed changes in the road leading to lot 2, and answered questions.

Barbara Evans moved and Fern Hart seconded the motion to approve the following variances for the Lucy Lots Summary Subdivision: variances from the Missoula County Subdivision Regulation Section 3-2 (4) for no sidewalks; Section 3-2(3) to reduce the off-site private access easement width from 54 to 40 feet; and from Sec 3-2-(3) to reduce the private road's travel surface width from 24 to 20 feet. The motion carried on a vote of 2-0.

Barbara Evans moved and Fern Hart seconded the motion to approve the summary plat for Lucy Lots Summary Subdivision, subject to the following conditions and the findings of fact in the staff report:

1. 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 assent of the lot owner to waive the right to protest a future RSID/SID for improvements to Oral Zumwalt Way and Trails End Road, including drainage, paving and pedestrian facilities, based on benefit, which may be used in lieu of signatures 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."
2. 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 assent of the lot owner to waive the right to protest a future RSID/SID for a community sewer and/or community water system, based on benefit, which may be used in lieu of signatures 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".
3. The private access road serving Lots 1, 2 and a neighboring residence to the west shall be named and the name shall be posted with a black and white sign at the road's intersection with the private access easement off Oral Zumwalt Way, prior to plat approval. The road name is subject to the approval of the County Surveyor.
4. The driveways shall have a minimum unobstructed width of 20 feet and vertical clearance of 13 feet 6 inches, and have provisions for turning around a fire apparatus within 150 feet of each building site and either be paved or shall have a suitable base material and a minimum of four inches of 3/4" minus gravel surfacing at least 12 feet wide with grades not exceeding ten percent. The driveway plans for Lot 2 shall be reviewed and approved by the County Surveyor's office prior to issuance of a building permit.
5. A statement shall be placed on the plat which says each lot owner in this subdivision understands that in order to receive dependable, timely and year round emergency assistance, the driveways must be well maintained and the snow must be removed a sufficient width for travel by fire apparatus and other emergency vehicles.
6. All areas with slopes greater than 25% shall be designated as "No Build Zones" on the plat.
7. The applicant shall pay a fee for new subdivision lots of \$100.00 to be paid to the Missoula Rural Fire District prior to plat filing.
8. The applicant shall mitigate the impact of additional traffic on Miller Creek Road by contributing \$1800.00 to a transportation improvements fund for the Miller Creek Road system. The funds shall be received, or a guarantee to pay the contribution within two years of plat approval shall be secured, prior to plat approval.
9. All new utilities shall be placed underground in easements a minimum of 20 feet wide and their location approved by the appropriate utility and the governing body. These easements shall be shown on the plat. The easement for the above ground power lines running north/south approximately midway over Lot 2 shall be designated on the plat.
10. A plan to mitigate building impacts for Lots 1 and 2 shall be developed to protect views, reduce visual impacts and respect the natural environment and wildlife corridors. This plan shall be reviewed and approved by OPG prior to plat approval and shall include efforts to keep residential and accessory buildings compact and clustered and to reflect natural topography by stepping up and down the dwelling for Lot 2 such as with a daylight basement. A developers agreement shall be executed and recorded which allows limited fencing to preserve open slopes, restricts the use of reflective glass, promotes the use of natural exterior

colors, encourages planting with site appropriate native vegetation, provides buffers of vegetation including trees to aide in blending both residences with surrounding open space and to preserve the wildlife habitat corridor in the gully located in the northern portion of Lots 1 and 2. The agreement shall also provide for the application of dust palliatives to driveways and weed management practices.

11. The applicant shall quit claim his interest in the private access easement located on the northern border of Lot 1.

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 3:15 p.m.

**THURSDAY, JULY 24, 1997**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was attending an ICBEMP meeting in LaGrande, Oregon through Friday, July 25.

DAILY ADMINISTRATIVE MEETING

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

Note - The Commissioners signed a note to Mike Hutchin.

Resolution - The Commissioners signed Resolution No. 97-071, a resolution relating to \$63,000.00 pooled Rural Special Improvement District Bonds (for RSID Nos. 8461, 8462 and 8463), authorizing the issuance and calling for the public sale thereof.

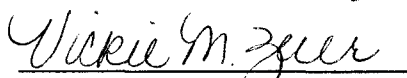
Other items included:

- 1) The Commissioners approved an offer of \$28,000.00 to purchase 2.27 acres with a gravel mine in the Miller Creek area.

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

**FRIDAY, JULY 25, 1997**

The Board of County Commissioners did not meet in regular session; Commissioner Hart was in Helena, where she attended a meeting of the Legislative Interim Property Tax Committee held at the State Capitol.

  
Vickie M. Zeier  
Clerk & Recorder

  
Fern Hart, Chair  
Board of County Commissioners

**MONDAY, JULY 28, 1997**

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

DAILY ADMINISTRATIVE MEETING

At the daily administrative meeting held in the forenoon, the following item was signed:

Extension Request - The Commissioners signed a letter granting a 180-day extension for High Country Addition. The new filing deadline is February 3, 1998.

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

**TUESDAY, JULY 29, 1997**

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.

Audit List -- Commissioners Kennedy and Hart signed the Audit List, dated July 28, 1997, pages 2-36, with a grand total of \$144,397.57. The Audit List was returned to the Accounting Department.

Indemnity Bond -- Chair Hart examined, approved, and ordered filed an Indemnity Bond naming Gary Gagermeier as principal for Warrant #47899 issued 9/20/95 on the Missoula County MCPS Payroll Fund in the amount of \$1,794.87 now unable to be found.

Application for Issuance of Replacement Warrant -- Chair Hart approved an Application for Issuance of Replacement Warrant naming Marchell Hauf as principal for Warrant #32864, issued on the Missoula County MCPS Payroll Fund in the amount of \$266.23, not received in the mail.

Application for Issuance of Replacement Warrant -- Chair Hart approved an Application for Issuance of Replacement Warrant naming Christopher Winther as principal for Warrant #31032, issued on the Missoula County MCPS Payroll Fund in the amount of \$18.81, not received in the mail.

#### DAILY ADMINISTRATIVE MEETING

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

Resolution - The Commissioners signed Resolution No. 97-074, a resolution to accept real property from High Country Wilderness, Inc., Randy Triplett and Darlene Triplett, for public road and all other public purposes, located in a portion of the NW1/4 of Section 3, T16N, R15W, PMM, Missoula County (Seeley Lake).

HUD Submittal Letter and Documents - The Commissioners signed a submittal letter and documents for a HUD Renewal Application for funding for the YWCA Transitional Housing Program and the SHARE House. The County will receive \$685,271 in HUD grant funds for a three year renewal period. The letter and documents were returned to Leslie McClintock in OPG for further handling.

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

#### WEDNESDAY, JULY 30, 1997

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

Application for Issuance of Replacement Warrant -- Chair Hart approved an Application for Issuance of Replacement Warrant naming Anthony Marino as principal for Warrant #33503, issued 6/30/97 on the Missoula County MCPS Fund in the amount of \$182.80, not received in the mail.

#### DAILY ADMINISTRATIVE MEETING

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

Payroll Authorization Forms - The Commissioners signed Payroll Authorization Forms for the Montana Disaster and Emergency Services Division, for Bill Silverman, OEM Coordinator, and Gwen Sebestin, OEM Secretary. The forms enable Missoula County to be reimbursed for a portion of OEM salaries. They were returned to OEM for further handling.

Agreement - Chair Hart signed an Agreement with the Montana Department of Environmental Quality for public information and outreach services regarding radon. Compensation to Missoula County shall be a maximum of \$7,000.00. Performance schedule is from July 30, 1997 through June 30, 1998. The Agreement was forwarded to DEQ in Helena.

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

#### PUBLIC MEETING - JULY 30, 1997

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present were Commissioners Barbara Evans and Michael Kennedy, County Surveyor Horace Brown, County Attorney Mike Sehestedt, and Clerk and Recorder/Treasurer, Vickie Zeier.

Chair Hart asked for public comment at the beginning of the meeting. As there was none, she moved to the first agenda item.

#### PRESENTATION OF PLAQUES TO OUTSTANDING LAW ENFORCEMENT OFFICERS OF THE YEAR FOR THE STATE OF MONTANA

Sheriff Doug Chase explained that he was presenting plaques to four officers who received Outstanding Law Enforcement Officer of the Year for the State of Montana awards. He presented Willis Hintz, Dave Walrod, and Roy Van Wormer with the Sheriff's Star Award, and Joe McNeal received the Sheriff's Meritorious Performance Award, all for their service during the Alberton derailment incident in April, 1996.

#### INTRODUCTION OF BOY SCOUT TROOP

Chair Hart welcomed the Boy Scout troop in the audience, and asked the Scoutmaster to come forward and introduce himself and his troop. Scoutmaster Randy Wilcox explained that this was Boy Scout Troop 80, sponsored by the Latter Day Saints Church, and they are working on merit badges.

#### BID AWARD - DEMOLITION AND REMOVAL OF COUNTY ROAD SHOP BUILDINGS (postponed from July 23)

Chair Hart explained that this was a bid to remove the buildings at the County Shop complex and to restore the site. The bids were opened on July 28, 1997 at 10:00 am with the following results:

G. Nelson Construction	\$188,208.00
Mo Mike	\$ 58,700.00
Triple A Construction	\$ 94,036.00

The recommendation of Horace Brown, County Surveyor, was to award the bid to Mo Mike for \$58,700.00, as the lowest and most responsive bid. This money would come from the Shop sale proceeds.

Commissioner Evans asked where Mo Mike was from. Horace Brown said they were from Spokane, WA. He said they have 30 days from the signing of the contract to complete the work.

Commissioner Kennedy asked whether or not they had insurance. Mike Sehestedt, Deputy County Attorney, said this is usually part of the bid package. Commissioner Kennedy asked if the bid was within Horace's estimates for the project. Horace Brown said he didn't do an estimate, but the company knows what it needs to do the job.

Commissioner Evans asked about local preference, and Mike Sehestedt said that local preference is 3%.

Commissioner Evans moved to accept the bid from Mo Mike for \$58,700.00 as it is the lowest and most responsive bid. Commissioner Kennedy seconded the motion. Motion carried with a vote of 3-0.

CONSIDERATION OF PROPOSED RESOLUTION REGARDING ENVIRONMENTAL ASSESSMENT OF PROPOSED PINE STREET TRANSFER SITE FOR MOUNTAIN LINE

Chair Hart asked a representative of Mountain Line to come forward and explain, for the record, about this request.

Beryl Stover, Chair of the Missoula Urban Transportation District Board, explained the purpose of the resolution was to do an Environmental Assessment of the proposed Pine Street Transfer Site. The process has taken about one year, and sites were narrowed down from 14 to one - Pine Street. Only two County parking spaces would be lost, and several spaces would be freed up on Broadway and Woody. There would be a net gain of 8-12 parking spaces. There would be protection from the weather by using canopies. It is possible that the old fire station could be used for a waiting room, ticket vending, and/or housing for MR TMA.

Chair Hart asked about Pine Street traffic flow, and Beryl indicated it would be one-way for one block.

Commissioner Evans asked if the Corradino Group checked with the City for the use of the old Fire Station. Beryl said the City supported the EA proposal.

Anne Guest, Parking Commission, said that the Parking Commission Board supports pursuing the proposal, as the new transfer site would help alleviate parking demand.

Ray Orcutt said he was impressed with the presentation. He is representing physically challenged people. The new project would reduce van driving and give the group a reason to use Mountain Line buses.

Dan Poe Newman said that the Mountain Line drivers are courteous and the new facility is a good idea. It needs more publicity...and the buses need longer hours. He also spoke of a person who was very offended by the 24 hour notice requirement to pick up disabled people.

Matt West, a Boy Scout, said he appreciates the free bus transportation for kids under age 18.

Commissioner Kennedy commented that this is a good demonstration that we don't have to sacrifice one mode of transportation for another.

Commissioner Kennedy moved to approve the Environmental Assessment resolution. Commissioner Evans seconded it, but had concerns about access on Pine Street. Motion carried with a vote of 3-0. The Commissioners signed Resolution No. 97-075, a resolution to support the effort of the Missoula Urban Transportation District (MUTD) to proceed with an Environmental Assessment of the proposed Pine Street Transfer Center site.

There being no further business before the Board, the Commissioners were in recess at 2:00 pm.

PUBLIC HEARING - FY98 BUDGET

The Fiscal Year 1998 Missoula County Budget Hearing was called to order at 7:00 pm by Chair Fern Hart. Also present were Commissioners Barbara Evans and Michael Kennedy, and Chief Financial Officer Jane Ellis.

Chair Hart explained that this is a preliminary budget at this time. She explained mill amounts, and that in 1986 the counties were limited in the amount they could tax. The County's mandate is to promote public health, safety, and welfare. The proposed FY 98 budget is over \$40 million.

Jane Ellis briefly explained the budget handouts she provided. She discussed the new Partnership Health Center building, and answered a citizen question regarding the Superintendent of Schools.

Chair Hart then opened the public hearing.

The following persons spoke regarding various issues:

NAME	SUPPORTER OF
Howard Reinhardt	Missoula Aging Services
Vi Thomson	Missoula Aging Services
Elvin Reeves	Missoula Aging Services
Margaret Watson	Mental Health Emergency Services

Kathryn Taylor	Missoula Aging Services
Charles Parker	Missoula Aging Services
Jim Dew	Missoula Aging Services
Dennis Swallow	Missoula Youth Homes
Tom Nimlos	Missoula Public Library
Joyce Anderson	Mental Health Emergency Services
Doug Campbell	Missoula Aging Services
Alice Campbell	Missoula Aging Services
Sam Redfern	Weed District
Woody Baxter	Weed District
Michael Chandler	Weed District
Rita Tucker	Extended Family Services
Edie Tarum	Family Basics Program
Jodi Feist	Parents Anonymous/Child Care
Don Stinger	Missoula Aging Services
Sally Brown	Missoula Parent Coop.
Tamara Jackson	Missoula Parent Coop.
Mary Alexander	Weed District
Charles Weber	Weed District
Shannon Parker	SSIT Program
Kate Jerrim	SSIT Program
Warren Little	Aging Services/Weed District
John Rimel	Weed District
Kelly Rosenleaf	Child Care Resources
Karyn Collins	Partnership Health Center
Lisa Lovejoy	Partnership Health Center
Ralph McDonald	Partnership Health Center
Diane Sands	Partnership Health Center
Diana Ross (letter)	Partnership Health Center
Georgia Honey	Aging Services/PHC
Kate Wenninger	Partnership Health Center
Peter Rice	Weed District

Chair Hart asked for other speakers, and reminded everyone of the continuation of this public hearing at 1:30 pm July 31 in Room 201. The Commissioners will leave the hearing open until 10:00 am August 4. As there were no further comments, the Commissioners were in recess at 9:40 pm.

#### THURSDAY, JULY 31, 1997

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

#### DAILY ADMINISTRATIVE MEETING

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

#### Provider Contracts - The Commissioners signed four provider contracts:

- (1) A Pathology Services Provider Contract with Pathology Consultants of Western Montana, for provision of pathology services for the Montana Breast and Cervical Health Program in Missoula County. Performance schedule is from July 1, 1997 through June 30, 1998. Total screening amount is \$32,945.00.
- (2) A Mammography Provider Contract with Community Medical Center Breast Center for provision of breast and cervical cancer screening services for the Montana Breast and Cervical Health Program in Missoula County. Performance schedule is from July 1, 1997 through June 30, 1998. Total screening amount is \$32,945.00.
- (3) Two Colposcopy Provider Contracts, one with Dr. J. Paul Ferguson, and one with Dr. Gary P. Harvey, for provision of colposcopy services for the Montana Breast and Cervical Health Program in Missoula County. Performance schedule is from July 1, 1997 through June 30, 1998. Total screening amount is \$32,945.00.

Lease, Financing Agreement, and Memorandum of Understanding - The Commissioners signed a Lease, Financing Agreement, and Memorandum of Understanding with Partnership Health Center, Inc. for Lots 7, 8, 9, and 10 of Block 8 of C.P. Higgins Addition to the City of Missoula, Montana. Term of the lease shall be 10 years, beginning on July 31, 1997, with renewal option. PHC agrees to pay \$1.00 per year as rent during the initial term of the lease, and during any subsequent renewal. The County agrees to loan PHC a sum not to exceed \$500,000.00 for construction of the new facility.

Professional Services Contracts - The Commissioners signed 18 Professional Services Contracts (listed below). Each contract has a limit of \$10,000.00 for the year. Performance schedule for each contract is from July 1, 1997 through June 30, 1998.

- (1) Druyvestein, Johnson and Anderson
- (2) Professional Consultants, Inc.
- (3) WGM Group
- (4) FBB Architects
- (5) Eric Hefty and Associates
- (6) JCM Architecture
- (7) MacArthur, Means and Wells
- (8) O'Neill and Zimet
- (9) Paradigm Architecture
- (10) Kent Watson and Associates

- (11) AR Appraisal
- (12) Kembel, Kosena and Company
- (13) Stevens and Company
- (14) First American Title Company of Montana
- (15) GMT Consultants
- (16) Land and Water Consulting
- (17) Maxim Technologies
- (18) Shannon Environmental

All contracts were returned to Orin Olsgaard in Projects for further handling.

Other items included:

- 1) The Commissioners approved an advertisement for a Wastewater Treatment and Water System Operator for El Mar Estates/New Meadows.

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

#### CONTINUATION OF PUBLIC HEARING ON FY 1998 BUDGET

The continuation of the public hearing on the Fiscal Year 1998 budget was called to order at 1:30 pm by Chair Fern Hart. Also present were Commissioners Barbara Evans and Michael Kennedy, and Chief Financial Officer Jane Ellis.

Chair Hart welcomed everyone to the meeting, and announced that the hearing would remain open until 10:00 am on Monday, August 4. She then explained the taxation process and the hearing process.

Jane Ellis explained the budget handouts she provided.

The following people spoke regarding various issues:

NAME	SUPPORTER OF
Vicki Fleischer	Missoula Aging Services
Dan Lucas	Weed District
Susan Dietrich	Community Dispute Res. Center
Art Lusse	Community Dispute Res. Center
Carl Flood	Weed District
Ruth Royter	Meals on Wheels/Aging Services
Larry Burlingame	Meals on Wheels/Aging Services
Judith Anderson	Weed District
Bob Bassett	Partnership Health Center
Bob Rich	Weed District
Steve Hayes	Weed District
Darrell Chambers	Stephens House/Crisis Intervention
Cyndi Raymond	Emergency Transport/Food Program
Carol Graham	YWCA Battered Women's Shelter
Cindy Weese	YWCA Pathways
John Hart	Weed District
Bob Clark	Meals on Wheels/Aging Services
Cindy Bartling	Friends to Youth
Brooke Jaqueth	Stephens House/Mental Health Center
Dr. Don Goeke	SSIT Program/Stephens House
Ruby Dunn-Owens	Partnership Health Center
Edie Tarum	SSIT Program
Pat Hiscoe	Partnership Health Center
Paul Allen Hanson	Weed District
Gail Gutsche	MUD Project/Weed/Aging/Friends to...
Robert Wood	Partnership Health Center
Fran Maronick	Extended Family Services
Howard Reinhardt	Missoula Aging Services
Tony Tweedale	Weed District

Chair Hart thanked everyone for attending, asked for further comment, and as there was none, the Commissioners were in recess at 3:45 pm.

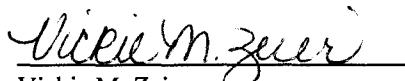


## FRIDAY, AUGUST 1, 1997

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

No administrative meeting was held; however, the following item was signed:

Agreement for Services - The Commissioners signed an Agreement for Services with GMT Consultants, Inc. for Geotechnical Investigation Services on a road failure on Six Mile Road. Compensation shall be \$1,945.00. The agreement term is August 4 - August 11, 1997.

  
Vickie M. Zeier  
Clerk & Recorder

  
Fern Hart, Chair  
Board of County Commissioners

## MONDAY, AUGUST 4, 1997

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

DAILY ADMINISTRATIVE MEETING

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

Plat - The Commissioners signed the plat for San-Flo Subdivision, located in the NW1/4 of Section 1, T16N, R15W, PMM, Missoula County, a gross and net area of 4.57 acres, with the owners of record being Sandra K. Beseman and Flora M. Oman.

Professional Services Contract - The Commissioners signed a Professional Services Contract with Cathy Joy, to provide training for Crime Victim Advocate Claudia Marieb for Seeley Lake/Condon Rural Advocacy Program. Performance schedule is from August 1, 1997 through June 30, 1998. Compensation shall not exceed \$500.00.

Agreement - Chair Hart signed an agreement with the Montana Department of Environmental Quality for providing local sanitary review of minor subdivisions. Performance schedule is from July 1, 1997 through June 30, 1998. Compensation shall be paid by DEQ on a quarterly basis, using the fees set out in the most current version of rule 17.36.804 of the Administrative Rules of Montana. The Agreement was forwarded to DEQ in Helena.

Standard Listing Contract - The Commissioners signed a Standard Listing Contract with Scott Hollenbeck and Merilynn Foss for lots 17-20, Block 7, Westview #3 in Lolo; and an Agreement to Sell and Purchase for lots 17-20, Block 7, Westview #3, and Lot 2, Block 2, Mountain Shadows Addition. Total purchase price is \$63,630.00. The contracts were returned to Doreen Culver, Bidding Officer, for further handling.

Interlocal Agreement - Chair Hart signed an Interlocal Agreement with the State Department of Justice and the Department of Corrections for use of the current County Jail by state agencies. The Agreement shall be in effect from July 1, 1997 through June 30, 1998. State will pay \$47 per day, with a booking fee of \$20, and a half day rate for any term under 12 hours. The Agreement was returned to Mike O'Hara, Sheriff's Department, for further signatures and handling.

Other items included:

The Commissioners adopted the Missoula County Budget for Fiscal Year 1998.

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

## TUESDAY, AUGUST 5, 1997

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

Audit List -- Commissioners Kennedy and Hart signed the Audit List, dated August 5, 1997, pages 2-38, with a grand total of \$130,644.79. The Audit List was returned to the Accounting Department.

Indemnity Bond -- Chair Hart approved an Indemnity Bond naming Julie Sisler as principal for Warrant #P017561 issued 1/20/97 on the Missoula County General/Payroll Fund in the amount of \$1,130.34 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Secondary Road Priority - The Commissioners approved the use of Secondary Road Funds for epoxy pavement striping on Pulp Mill Road. The approval was forwarded to the Montana Department of Transportation in Helena.

Agreement Form - The Commissioners signed an Agreement Form with the Mo Mike Company for demolition and site restoration at the old County Shops site. Work shall be complete by September 12, 1997. Compensation shall be \$58,700.00. The Form was returned to Doreen Culver, Bidding Officer, for further handling.



Resolution - The Commissioners signed Resolution No. 97-076, Adopting a Budget for Missoula County for Fiscal Year 1997-1998.

RESOLUTION NO. 97-076  
ADOPTING A BUDGET FOR MISSOULA COUNTY  
FOR FISCAL YEAR 1997-1998

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 1997-1998, 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;

NOW, THEREFORE, BE IT HEREBY RESOLVED by this Board of County Commissioners that the Budget be approved and adopted, and that warrants be issued in accordance with the laws appertaining thereto.

IT IS HEREBY MOVED, SECONDED, AND CARRIED by this Board of County Commissioners that the resolution be adopted for Fiscal Year 1997-1998, as displayed in Attachments A and B; 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;

WHEREAS, THE COUNTY estimated the value of a mill in each taxing jurisdiction in the County;

WHEREAS, Section 11 of Senate Bill 195 enacted by the 55th Legislature extends all deadlines related to taxable values as reasonable and necessary;

NOW, THEREFORE, BE IT RESOLVED, that the final County Budget 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 by this Board of County Commissioners that the levies as detailed below be fixed and adopted for Fiscal Year 1997-1998, based on the estimated value of a mill of \$146,254 County-wide, and a value of \$72,711 outside the city limits of Missoula.

NOW, THEREFORE, BE IT RESOLVED that appropriations or reserves will be reduced accordingly in the event actual mill values are less than those estimated above. In the event actual mill values are greater than those estimated above, reserves will be increased.

IT IS HEREBY MOVED, SECONDED, AND CARRIED by the Board of County Commissioners "that the resolution be adopted, subject to the foregoing condition," for Fiscal Year 1997-1998 as detailed below:

<u>MISSOULA COUNTY-WIDE FUNDS</u>	<u>MILLS</u>	<u>ATTACHMENT</u>
General Fund	45.05	A and B
Bridge Fund	3.84	
Poor Fund	3.66	
Fair Fund	.61	
Museum Fund	1.88	
Extension Fund	1.25	
Weed Fund	0.65	
Planning Fund	2.00	
District Court Fund	6.07	
Open Space	0.01	
Mental Health Fund	0.47	
Developmentally Disabled	0.04	
Aging Fund	0.44	
Park/Recreation Fund	.31	
Risk Management	1.89	
Child Daycare	0.25	
Library	<u>5.00</u>	
<u>SUB-TOTAL</u>	<u>73.42</u>	
<u>MISSOULA COUNTY-WIDE DEBT SERVICE</u>		
Jail	1.17	
G O Issue (Computer)	<u>1.00</u>	
<u>SUB-TOTAL</u>	<u>2.17</u>	
<u>TOTAL COUNTY-WIDE &amp; DEBT SERVICE LEVIES</u>	75.59	

Road Fund	13.83
Health Fund	6.47
Disaster Levy	.91
Animal Control	.83
<u>TOTAL COUNTY-ONLY LEVY</u>	<u>22.04</u>

DATED THIS 4th DAY OF AUGUST, 1997  
BOARD OF COUNTY COMMISSIONERS

The attachments for Resolution No. 97-076 are on file with the original Resolution in the Clerk and Recorder's Office.

Other items included:

The Commissioners appointed Michael Kennedy to serve as their representative on the Missoula County Program Council and the District XI Human Resource Council Board.

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

### WEDNESDAY, AUGUST 6, 1997

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

Monthly Report -- Chair Hart examined, approved and ordered filed the Report of the Clerk of the District Court, Kathleen Breuer, showing fees and collections made in Missoula County for the month of July, 1997.

#### DAILY ADMINISTRATIVE MEETING

At the daily administrative meeting held in the forenoon, the following item was signed:

Resolution - The Commissioners signed Resolution No. 97-077, a resolution calling a public hearing on proposed industrial infrastructure development projects and the issuance of industrial infrastructure tax increment bonds therefor. The public hearing shall be August 27, 1997 at 1:30 pm in Room 201 of the Courthouse.

Addendum to Real Estate Purchase and Sale Agreement - The Commissioners signed an Addendum to Real Estate Purchase and Sale Agreement (with Earnest Money Provision) with Harlan D. Douglass for Tracts 1, 2 and 3 of COS No. 4440 (old County Shops property). This Addendum extends to time for release of Purchaser's contingency to September 30, 1997, the date of closing. The Addendum was forwarded to Pinnacle Realty for signature and return.

Other items included:

The Commissioners approved abatement of old tax bills and a waiver of penalty and interest for Art and Kathryn Lusse's real estate tax bill, per the recommendation of Vickie Zeier, Clerk and Recorder/Treasurer.

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

#### PUBLIC MEETING -- August 6, 1997

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present were Commissioners Michael Kennedy and Barbara Evans, County Surveyor Horace Brown, and Clerk and Recorder/Treasurer, Vickie Zeier.

#### Continuation of Hearing: Certificate of Survey/Family Transfer - McDonald

Commissioner Fern Hart said that this was a continuation of a hearing begun on July 9, 1997. She told Mr. McDonald that since that time, she had been studying the matter, and this proposal still looked like an evasion of the subdivision laws to her, largely because of the remainder in the middle. She asked if anyone would like to speak as this was a public hearing.

Dick Ainsworth PCI, representing the McDonalds, said that all the children intended to live on the parcels, and there would be no additional infrastructure needed. He said that Mr. McDonald qualifies for a family transfer exemption.

Jim McDonald said that he had changed his mind about giving one parcel to his mother, as he had just gotten married and acquired a step-daughter, and he would be giving her that parcel instead of his mother. He said he needed the rental on lot #3 to pay off the loan for the property.

Kathy Smith, Paralegal in the County Attorney's Office, said that Mr. McDonald's step-daughter would not be eligible to receive a family transfer as the law says the child must be a blood relative, or be adopted by the donor.

Michael Kennedy asked Mr. McDonald why he had not gone through the subdivision review process.

Mr. McDonald said that the manufactured homes that two of his children were planning to put on the property were better than most of the other houses in the area, and that he would still have to go through some county review with the Health Department. He said that if he went through subdivision review with this property, it would put him behind in his plans.

Barbara Evans said that in her opinion, the law clearly allows for family gifts, and the Board of County Commissioners was charged only with determining if the applicant was trying to evade the subdivision laws. If Mr. McDonald gives this property to his children, the law clearly allows him to do that.

Kathy Smith said that when the plat or COS is filed, the deeds giving the property to the children have to be filed at the same time. She said Mr. McDonald would have to set up some sort of trust or deed procedure for the stepdaughter. She said that the current deed could be changed so that Mr. McDonald's wife is named as a co-owner of the deed, or an adoption would have to take place. But the step-daughter's deed would still need to be put in trust, or some sort of protected mechanism so the property is protected until the child is 21 years old.

No one else came forward to speak, and the hearing was closed.

Barbara Evans moved and Fern Hart seconded the motion to grant the family transfer exemption on James McDonald for that parcel as described in Book 414 Micro, Page 1619 located in Section 35, T11N, R20W for James M. McDonald, contingent upon the deed for the property being put in his wife's name as well as his, and contingent upon the property for his step-daughter, Felicia Foote, being placed in a trust or some other mechanism to protect the property. The motion carried on a vote of 2-1, Michael Kennedy opposed.

#### Public Comment

Dan Poe Newman said that in his opinion, the word "adopted" should not enter into this process. When two families are joined in marriage, all the children should be treated equally under the Uniform Gift to Minors Act. He said his law was a little rusty, but he felt very strongly about this.

There being no further business to come before the Board, the Commissioners were in recess at 2:50 p.m.

### THURSDAY, AUGUST 7, 1997

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Evans was at the Western Montana Fair all day August 7-8.

Monthly Report -- Chair Hart examined, approved, and ordered filed the Report of the Sheriff, Douglas Chase, showing fees and collections on account of civil business in Missoula County for the month ending July 31, 1997.

#### DAILY ADMINISTRATIVE MEETING

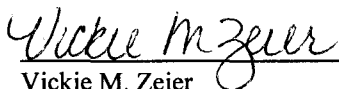
At the daily administrative meeting held in the forenoon, the following item was signed:

Change Order - Chair Hart signed Change Order Number 1 for the Sapphire Drive RSID 8460 Project. The Order is for the County to replace a culvert under the road, and to handle ground water and drainage. The increase shall not exceed \$10,500.00.

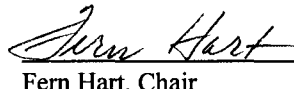
The minutes of the Administrative Meeting are on file in the Commissioners Office.

### FRIDAY, AUGUST 8, 1997

The Board of County Commissioners did not meet in regular session; Commissioner Hart was in Helena attending a Department of Public Health and Human Services (DPHHS) Advisory Council Meeting.



Vickie M. Zeier  
Clerk & Recorder



Fern Hart, Chair  
Board of County Commissioners

### MONDAY, AUGUST 11, 1997

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

#### DAILY ADMINISTRATIVE MEETING

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

Contract - The Commissioners signed a contract with Idaho Asphalt Supply for CRS-2 Emulsified Asphalt Oil. Cost of the contract is \$36,630.00. Work will commence within 10 calendar days following mailing of the "Notice to Proceed." The contract was returned to Doreen Culver, Bidding Officer, for further handling.

Professional Services Contracts - The Commissioners signed two Professional Services Contracts for restoration of the Drummond Depot:

(1) with Alain Deroulette of Multicolor Painting, for exterior painting. Compensation shall not exceed \$14,300.00. Performance shall commence on September 2, 1997, and conclude on October 15, 1997.

(2) with Burrige Construction, for repair and refacing of the Depot. Compensation shall not exceed \$4,000.00. Performance shall commence on August 25, 1997, and conclude on September 12, 1997.

Other items included:

- 1) In the late afternoon, the Commissioners signed Resolution No. 97-092, adopting a project budget for the Missoula County Adult and Juvenile Correction Center.

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

**TUESDAY, AUGUST 12, 1997**

The Board of County Commissioners met in regular session; all three members were present. In the evening, Commissioner Hart attended a Legislative Informational Hearing on the Mental Health Managed Care Plan held in Room 201 of the Courthouse.

Audit List -- The Commissioners signed the Audit List, dated August 12, 1997, pages 2-38, with a grand total of \$374,560.47. The Audit List was returned to the Accounting Department.

**WEDNESDAY, AUGUST 13, 1997**

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

DAILY ADMINISTRATIVE MEETING

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

Resolution - The Commissioners signed Resolution No. 97-078, a resolution to adopt the Miller Creek Area Comprehensive Plan, in its final draft form, as an amendment to the 1990 Missoula Urban Comprehensive Plan Update.

Resolution - The Commissioners signed Resolution No. 97-079, a resolution of intention to create Rural Special Improvement District No. 8924, dust abatement maintenance for a portion of Zaugg Drive from Division Street to 9th Street in Missoula County, and setting the hearing date for September 3, 1997 at 1:30 pm.

Contract - The Commissioners signed a Contract with Johnson Brothers Contracting for provision of prepared aggregate material. Compensation shall be \$20,375.00. Work shall commence within 10 days following mailing of "Notice to Proceed." The Contract was returned to Doreen Culver, Bidding Officer, for further handling.

Resolutions - The Commissioners signed Resolution No. 97-080, a resolution fixing salaries of certain elected officials. They also signed Resolution No. 97-081, a resolution fixing salaries of County Justices of the Peace.

Notice of Sale of Real Property - Chair Hart signed a Notice of Sale of Real Property for Tract 1, COS 4702 (18 acres), located to the west of the new jail site. Minimum bid price is \$1,570,000.00. Public auction will be held September 24, 1997 in Room 201 of the Courthouse Annex.

Employment Agreement - The Commissioners signed an Employment Agreement for Karyn Collins as the Executive Director of Partnership Health Center. Salary shall be \$43,012.00, effective June 15, 1997.

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

PUBLIC MEETING -- AUGUST 13, 1997

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present were Commissioners Michael Kennedy and Barbara Evans, County Surveyor Horace Brown, and Clerk and Recorder/Treasurer, Vickie Zeier.

Public Comment

Dan Poe Newman, candidate for Justice of the Peace in 1998, thanked the Commissioners for placing the public comment portion of the meeting at the beginning.

Proclamation: - Correctional Detention Officers Week

The Board of County Commissioners signed a proclamation declaring the week of August 17 through the 23rd as Correctional Detention Officers Week in Missoula County. Several Detention Officers were in attendance and expressed their gratitude for this recognition.

Bid Award - Sale of Bonds for RSID'S 8461, 8462, and 8463 - Seeley Lake Street Improvements

Information provided by Paul Webber, Chief Administrative Officer, indicated that the Seeley Lake RSID'S for street improvements were created earlier this year. The pooled bond issue would be \$63,000. The bids opening results were that R.J. Rangitsch bid 6%. The recommendation was to award the bid to R.J. Rangitsch at the interest rate of 6%.

Michael Kennedy moved and Barbara Evans seconded the motion to award the bid for the Sale of Bonds for RSID'S 8461, 8462, and 8463 - Seeley Lake Street Improvements to R.J. Rangitsch at the interest rate of 6%. The motion carried on a vote of 3-0/

Hearing: Certificate of Survey - Burns/Engelstad - Agricultural Exemption

Information from Kathy Smith, Paralegal in the County Attorney's Office, indicated that this is a request to create two parcels using the agricultural exemption to the Subdivision and Platting Act for COS 1968 less parcel B, a utility parcel, located in Section 13, T13N R19W for Ray D. and Susan C. Burns and William H. and Roberta L. Engelstad.

**BACKGROUND**

Ray Burns and William Engelstad have submitted a request to divide their joint ownership utilizing the agricultural exemption to the Montana Subdivision and Platting Act. The 9.879 acre parcel is described as COS 1968 and is located in East Missoula adjacent to Meadowview Court in the Sunny Meadows subdivision. They wish to divide the parcel in half, placing an agricultural use covenant on each half and divide the ownership between the parties. Both parties reside on adjacent lots in the Sunny Meadows subdivision.

The history of the parcel is as follows: The parcel was created in March 1979 through the family transfer exemption by Russell and Norma Price. The parcel was transferred to Kevin Price, their son, in October 1979, who had been in receipt of family transfer parcels before and after the creation of COS 1968. In addition, a history of the use of exemptions is attached which was part of a request made in this regard after the transfer of COS 1968. At some point, Kevin Price transferred COS 1968 back to Russell and Norma Price and this, along with numerous other parcels, some which were also created using the family transfer exemption, was transferred to Pring Ranches, Inc. in December 1982, then transferred by Pring Ranches to Appleway Chevrolet in December 1988 and finally to the Burns and Engelstads in November 1990. Other than the Sunny Meadows water system which exists on a utility parcel within COS 1968, there have been no improvements to the parcel.

According to the records kept by the Missoula County Surveyor, the applicants have not used any exemptions to the Subdivision and Platting Act.

The hearing was opened for public comment.

John Kellogg, PCI, representing the two families, said he was available to answer questions.

Barbara Evans asked him if he had informed his clients that an agricultural covenant, once granted, cannot be lifted without the approval of the Board of County Commissioners. Mr. Kellogg said he had informed his clients of that fact.

No one else came forward to speak and the hearing was closed.

Barbara Evans moved and Michael Kennedy seconded the motion to create two parcels using the agricultural exemption to the Subdivision and Platting Act for COS 1968 less parcel B, a utility parcel, located in Section 13, T13N R19W for Ray D. and Susan C. Burns and William H. and Roberta L. Engelstad. The motion carried on a vote of 3-0.

Consideration of: Green Acres Subdivision for Lease/Rent.

Information provided by Pat Keiley, OPG, indicated that

Mr. Todd Green is requesting to create the Green Acres summary subdivision for lease or rent. The proposed subdivision is a 1-lot, two dwelling unit residential summary plat subdivision for lease or rent on a 20.0 acre parcel of land. The proposed subdivision is located approximately 2 1/2 miles west of Frenchtown, MT off of the Erskine Fishing Access Road in Missoula County. The property is legally described as Certificate of Survey Number 3066, Section 32 Township 15North, Range 21West, P.M.M., Missoula County.

**Recommendations**

The Office of Planning and Grants recommends **approval** of the Green Acres 2-unit Summary Subdivision For Lease or Rent on 20.0 acres, based on the findings of fact in the staff report and subject to the conditions in the staff report.

Todd Green, the applicant, said he was present to answer any questions the Commissioners might have.

Gilbert Larson, DJA, representing Mr. Green, said he was also available for additional information.

Ken Bender, a neighbor of Mr. Green's, expressed concern with the fact that this property was in the floodplain, and with potential problems with the septic. He said that two mobile homes have already been placed on the property, which was putting the cart before the horse.

The Board of County Commissioners discussed the suggestion that he and his neighbors get together and look at designing a zoning district for their area.

Dan Poe Newman said he agreed with Mr. Bender's comments, and said that the Commissioners need consistent rules in order to govern better.

Barbara Evans and Michael Kennedy discussed the suggestion conditions of the proposed summary subdivision

Mr. Ken Bender again discussed sewer issues.

Todd Green said he had approval from the Health Department for his two mobile homes.

Barbara Evans moved and Michael Kennedy seconded the motion to approve all five variance requests for the Green Acres Summary Subdivision as follows:

1. **Variance request from Section 3-2(10), Missoula County Subdivision Regulations to not increase the off-site State Fish and Game Erskine Fishing Access Off-Site Road gravel surface width from approximately 22-24 feet to 24 feet.**
2. **Variance request from Section 3-2(10), Missoula County Subdivision Regulations, to not increase the no-name private off-site access road easement width from 30 to 60 feet.**
3. **Variance request from Section 3-2(10), Missoula County Subdivision Regulations, to not increase the no-name private gravel road surface width from 18 to 24 feet.**
4. **Variance request from Section 3-2(10), Missoula County Subdivision Regulations, to not increase the paved surface width of Mullan Road from 22 feet to 24 feet.**
5. **Variance request from Section 3-2(5), Missoula County Subdivision Regulations, to exclude sidewalk or pedestrian walkways from the subdivision**

The motion carried on a vote of 3-0.

Barbara Evans moved, and Michael Kennedy seconded the motion to approve the Green Acres summary subdivision for lease or rent subject to the findings of fact and the conditions listed below, finding it in the public interest to do so.

1. Prior to final plan approval, the applicant shall provide a document of record showing legal access (easement) from the Erskine Fishing Access Road to the subject property.
2. Prior to final plan approval, the applicant shall request and receive approval and post the road sign for the naming of the private road that extends from the Erskine Fishing access Road to the subject property.
3. Prior to final plan approval, the applicant shall record a document of record running with the property stating the following: "The purchaser and/or owner of this lot within the Green Acres Summary Subdivision For Lease Or Rent agrees to waive the right to protest a future RSID/SID for improvements to Mullan Road and the Erskine Fishing access Road, including easement width, surface width, paving, drainage and pedestrian facilities, based on benefit, which may be used in lieu of signatures 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."
4. Prior to final plan approval, the applicant shall record a document of record running with the property stating the following: "The purchaser and/or owner of this lot within the Green Acres Summary Subdivision For Lease Or Rent agrees to waive the right to protest a future RSID/SID for a community sewer and/or community water system, based on benefit, which may be used in lieu of signatures 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".
5. Prior to final plan approval, the applicant shall record a document of record running with the property stating the following: "The purchaser and/or owner of a lot within this subdivision understands and agrees that the no-name (substitute the new name) private Road and the Erskine Fishing access Road construction, maintenance, and snow removal shall be the obligation of the property owners and the County of Missoula is in no way obligated to perform such maintenance or upkeep until the road is brought up to County standards and accepted by the County of Missoula for maintenance."
6. All utilities shall be placed underground and shown on the final plan. Utility easements shall be a minimum of 20 feet wide and their location shall be approved by the appropriate utility and the governing body. Prior to final plan approval, the applicant shall record a document of record running with the property stating the following: In addition to the easement location, the following statement shall be shown on the face of the plan:  
  
*"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 in, over, under, and across each area designated on this property as "Utility Easement" to have and hold forever."*
7. The property owner shall make efforts to control air particulate emissions from sources on their lot. Wood burning stoves shall be restricted to those with emissions under 4.0 grams per hour according to the EPA method. Dust palliatives or other means of preventing driveway particulate matter from becoming airborne shall be the responsibility of the lot residents for the private driveway, the private no-name road and the Erskine Fishing Access Road. Plans for the control of these emissions shall be reviewed and approved by the Missoula City-County Health Department prior to final plan approval.
8. The applicant shall pay a fee for new subdivision lots of \$100.00 (\$100.00 per new dwelling unit) to be paid to the Missoula Rural Fire District prior to final plan approval.
9. The owner shall enter into a development agreement with Missoula County for the following items that relate to the mitigation of predator intrusion and the mitigation of fire and local fire department access, and that this document shall be filed with the final plat:
  - A. That domestic pets are to be kept in a contained area to avoid wild animal harassment.
  - B. Pets shall be fed indoors and pet food shall be stored indoors.
  - C. Garbage shall be stored in well sealed containers and inside storage units.

- D. Permanent barbecue pits are prohibited. All portable barbecues shall be cleaned regularly and stored indoors when not in use.
  - E. Flowers, ornamental shrubs and fruit trees may be susceptible to damage from wildlife, therefore planting of native vegetation is encouraged.
  - F. 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.
  - G. Compost piles shall be enclosed.
  - H. The brochure, "Living with Wildlife" shall be distributed to all lot owners.
  - I. To assist with the reduction of wood stove particulates in the air, wood burning stoves in this subdivision are restricted to efficient stoves with low emissions.
  - 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. Provide a minimum unobstructed width of not less than 20 feet and an unobstructed clearance of 13 feet 6 inches for any driveway over 150 feet, to be approved by the appropriate fire jurisdiction
  - L. Provide approved provisions for turning around of fire apparatus for dead-end driveways in excess of 150 feet, to be approved by the appropriate fire jurisdiction..
  - M. The appropriate fire jurisdiction shall approve the water supply for fire protection purposes for the lots.
  - N. The property owner shall make efforts to control air particulate emissions from sources on their lot. Wood burning stoves shall be restricted to those with emissions under 4.0 grams per hour according to the EPA method. Dust palliatives or other means of preventing driveway and roadway particulate matter from becoming airborne shall be the responsibility of the lot residents for the private driveway, the private no-name road and the Erskine Fishing Access Road. Plans for the control of these emissions shall be reviewed and approved by the Missoula City-County Health Department prior to final plan approval. OPG staff shall review and approve the development agreement prior to approval of the final plat.
10. The appropriate fire jurisdiction shall approve the water supply for fire protection purposes for the proposed lots prior to approval of the final plan.
  11. The appropriate fire jurisdiction shall approve the driveway turnaround and the driveway minimum unobstructed clearance prior to approval of the final plan.
  12. The applicant shall designate on the face of the final plan the 100-year floodplain area and the Missoula County Floodplain Permit File Number associated with the development of the floodplain in this area.
  13. The applicant shall obtain a final signed off floodplain permit from the Missoula Office of Planning and Grants for the work that has been accomplished and the additional work required prior to approval of the final plan.
  14. The applicant shall obtain the required NOV pending on this property. (Mr. Green is required to obtain a separate approval for the second trailer he moved in and connected to the system approved for his residence. Any new drainfield and replacement area must maintain 100' from the floodplain), to be approved by the Health Department prior to approval of the final plan.
  15. The applicant shall rename the subdivision as there is an existing county subdivision called "Green Acres," to be approved by the County Surveyor and OPG prior to approval of the final plan.

The motion carried on a vote of 3-0.

Hearing: Mountain Sheep Vista Preliminary Plat Subdivision

Information provided by Pat Keiley Office of Planning and Grants, indicated that this is a request from Mr. Zane Owen to create the Mountain Sheep Vista, a 6-lot preliminary plat subdivision on 7.67 acres. The proposed subdivision is located at West Riverside in Bonner, MT., located adjacent to Starr Drive and Flagler Drive, one-quarter mile from Interstate 90. This 7.67 acre parcel is legally described as the SW 1/4 of Section 16, T13N, R18W. See Map Z.

Recommendations

The Missoula Consolidated City-County Planning Board held a public hearing on July 15, 1997 to make a recommendation on this subdivision request to the governing body. The Planning Board made the following recommendations:

1. *The Planning Board voted 5-0 to recommend approval of the Mountain Sheep Vista variance request from Section 3-2 to reduce the gravel surface width standard for Starr Drive from 24 to 22 feet, based on the findings of fact set forth by the Planning Board in the public hearing.*
2. *The Planning Board voted 4-1 to recommend approval of the Mountain Sheep Vista Preliminary Plat Subdivision, based on the findings of fact set forth by the Planning Board in the public hearing, and subject to conditions as amended by the Planning Board.*

Gilbert Larson, DJA, representing the developer, said he was present to answer questions. He said he would like to eliminate conditions 7,10, and 17.

The hearing was opened for public comment. No one came forward to speak, and the hearing was closed.

A considerable and general discussion ensued relative to the connection of Flagler Drive to Starr Drive.

Michael Kennedy moved and Fern Hart seconded the motion to approve the variance request for Mountain Sheep Vista: . A variance request from Section 3-2 to reduce the gravel surface width of Starr Drive from 24 to 22 feet.. The motion carried on a vote of 3-0.

Michael Kennedy moved to approve the Mountain Sheep Vista preliminary plat subdivision. The motion died due to a lack of a second.

Again, a discussion ensued regarding the connection of Flagler Drive to Starr Drive.

Fern Hart asked Gilbert Larson if he could come back next week with a new design for Flagler Drive.

Gilbert Larson said that he, the engineering firm, the applicant, and the Office of Planning and Grants had worked very hard on the proposal, and the one that had been submitted fit all needs the best. He said he did not think that any other configuration would work.

Fern Hart ruled that the hearing would be continued for another week, and that this issue would appear on the agenda of the August 20, Public Meeting Agenda.

Hearing: Linda Vista Executive Golf Course PUD Rezoning Request

Information prepared by Jennie Dixon and Dave Loomis from the Office of Planning and Grants indicated that the conditions should be met before the rezoning occurs.

Gilbert Larson, DJA, representing Mr. Twite, said he was present to answer questions, and said his client agreed with all the conditions except for some wording on the beer and wine on-premise sale and consumption. He asked for some different wording which would allow beer and wine to be sold on the course as well as in the building.

The hearing was opened for public comment. No one came forward to speak and the hearing was closed.

Mike Sehestedt said there had been some question about the SID Assessment for Lower Miller Creek Road.

Gilbert Larson said that no increased usage of the road would occur because of this rezoning.

A general discussion of beer and wine usage on the course ensued.

Barbara Evans moved and Michael Kennedy seconded the motion to approve the Linda Vista Executive Golf Course PUD Rezoning Request subject to the following conditions:

1. Class II bicycle parking facilities shall be provided to accommodate employees and patrons at a ratio of 20% of the motor vehicle parking spaces. These bicycle parking facilities shall 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.
2. All conditions of rezoning must be met within 120 days of approval of the rezoning request or by the time of implementation of the approved use, if implementation of the approved use is delayed more than 120 days. Failure to meet any zoning condition shall result in the scheduling of a public hearing for review and possible revocation of the rezoning approval.
3. The following PUD Standards for the Linda Vista Executive Golf Course Planned Unit Development shall apply:
  - A. **INTENT**

The district boundary shall consist of Tract 1 of Certificate of Survey #2537, a recorded document in Missoula County, Montana, being a portion of Tract 1, Executive Golf Course Estates, containing approximately 5½ acres. The purpose of the district shall be to provide a mix of neighborhood commercial uses consistent with the objectives of the Miller Creek Comprehensive Plan Amendment (1997) within the existing clubhouse building. This PUD does not authorize additional construction to the clubhouse building which expands the gross floor area of this building or other buildings on the tract. Any building modifications shall be compatible with the architectural style of the existing clubhouse building.

**B. GENERAL STANDARDS**

1. See General Provisions - Chapter I, Supplemental Regulations - Chapter III, and Administration and Enforcement - Chapter VIII of the Missoula County Zoning Resolution.
2. The hours of operation for all permitted uses within the clubhouse shall be restricted to between 6:00 a.m. to 10:00 p.m., except that the permitted hours of operation of the banquet room may be 6:00 a.m. to 12:00 a.m. (midnight).
3. There shall be no new exterior lighting.



4. The size, location, lighting and materials of all permanent signs shall not detract from the design of the clubhouse building and the surrounding properties. Signage for this PUD shall be limited to one ground sign a maximum of thirty-six (36) square feet, with no more than 50% of the sign as changeable copy and no taller than six (6) feet. One wall sign per business at a maximum of six (6) square feet is permitted. No signage may be internally lit.

**C. PERMITTED USES**

**1. ON THE TRACT**

- a. Golf Course
- b. Public Utility Installation
- c. Accessory Buildings and Uses

**2. WITHIN THE EXISTING CLUBHOUSE** - Any one use may not exceed more than 40% of the gross floor area of the clubhouse building.

- a. Retail
- b. Personal Service
- c. Professional, Business, and Governmental Offices
- d. Eating and Drinking Establishment, excluding drive-in and drive-through
- e. Church Services
- f. Banquet Services
- g. Beer and Wine On-premise Sale and Consumption, only as an accessory use to an Eating Establishment. This permitted use shall be extended to the Golf Course tract in addition to the clubhouse tract.

**D. PROHIBITED USES**

- 1. Residential
- 2. Gaming machines

The motion carried on a vote of 3-0.

HEARING: CLAWSON MANUFACTURING REQUEST FOR TAX INCENTIVES (continued from July 9)

Mike Sehestedt, Deputy County Attorney, said that Clawson Manufacturing had applied to both the City and the County for tax incentives. The City had granted the request, and in his opinion, Clawson met all the legal criteria set by the state and by the county.

The hearing was opened for public comment.

Rob Braach, an employee of Clawson Manufacturing, described the company's operation, staffing needs, and production projections. He said 8 additional employees have been hired and the business is doing well.

Ron Klapahke, MAEDC, spoke in favor of the request.

Michael Kennedy said that he felt this was a request for some improvements that had already been made, rather than a reward for something the company is planning to do. He said the County keeps losing money on these tax incentives, and for him, the low wages at Clawson were an issue.

Ron Braach said the average earnings of the employees was \$8.65 an hour with bonuses factored in. He said a 3% wage adjustment had been given to employees on April 1. The profits and ability to raise wages depends on the company's ability to sell the product, and he felt that the company's wages were a livable wage in Missoula. He added that the company adds to the economy of Missoula, and if growth continues as projected, an additional 30 people could be employed.

No one else came forward to speak, and the hearing was closed.

Barbara Evans moved and Michael Kennedy seconded the motion to grant Clawson Manufacturing's request for Missoula County Tax Incentives, finding it in the public interest to do so, and finding that they meet all the required conditions. 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 5:35 p.m.

After the public meeting, the Commissioners signed Resolution No. 97-082, a resolution relating to \$63,000.00 pooled Rural Special Improvement District bonds, series 1997 (RSIDs 8461, 8462 and 8463), awarding the sale thereof to R.J. Rangitsch.

**THURSDAY, AUGUST 14, 1997**

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

DAILY ADMINISTRATIVE MEETING

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

Resolution - The Commissioners signed Resolution No. 97-083, a resolution of intent to rezone property located in the SW1/4 of Section 1, T12N R20W, PMM, described as Tract 1, Certificate of Survey 2537, being a portion of Tract 1, Executive Golf Course Estates, containing approximately 5-1/2 acres, from C-A3 to C-A3 with a PUD overlay (Planned Unit Development), subject to conditions. This property is located at 4915 Lower Miller Creek Road, and is the site of the Linda Vista Executive Golf Course Clubhouse.

Modification of Agreement - Chair Hart signed a Modification of Agreement with the Montana Department of Environmental Quality, agreeing to modify Section III of the Agreement regarding local sanitary review of minor subdivisions, to add Edward Zuleger and Tom Barger to the list of personnel to review minor subdivisions. The modification was forwarded to DEQ in Helena.

Modification No. 3 of Agreement - Chair Hart signed Modification No. 3 of Agreement with the Montana Department of Public Health and Human Services to increase funding for the WIC program. Total payments by DPHHS under this agreement may not exceed \$448,693.00. The Modification was forwarded to DPHHS in Helena.


Agreement - Chair Hart signed an Agreement with the Montana Department of Environmental Quality for the purpose of assisting Missoula County with conducting its own air pollution control program. Performance schedule is from July 1, 1997 through June 30, 1998. DEQ will pay Missoula County a maximum of \$82,472.00. The Agreement was forwarded to DEQ in Helena.

Mammography Provider Contract - The Commissioners signed a Mammography Provider Contract with Western Montana Clinic for provision of breast and cervical cancer screening services for the Montana Breast and Cervical Health Program in Missoula County. Performance schedule is from July 1, 1997 through June 30, 1998. Total screening dollars through June 30, 1998 is \$32,945.00.

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

**FRIDAY, AUGUST 15, 1997**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Hart was in Kalispell attending a Mental Health Board Meeting.

  
Vickie M. Zeier  
Clerk & Recorder

  
Fern Hart, Chair  
Board of County Commissioners

**MONDAY, AUGUST 18, 1997**

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

**DAILY ADMINISTRATIVE MEETING**

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

Resolution - The Commissioners signed Resolution No. 97-084, approval of the application of Clawson Manufacturing Co., Inc. for tax incentives under Resolution No. 91-101.

Contract - The Commissioners signed a Contract with Jensen Paving Co. for providing plant mix asphaltic concrete. Compensation will be \$52,550.00. Contractor will commence work within 10 calendar days following mailing of the "Notice to Proceed." The Contract was returned to Doreen Culver, Bidding Officer, for further handling.

Payroll Transmittal Sheets - The Commissioners signed Payroll Transmittal sheets for Pay Period 9 (total Missoula County Payroll of \$584,969.25), Pay Period 9-2 (total Missoula County Payroll of \$606.33), Pay Period 10 (total Missoula County Payroll of \$578,150.12), Pay Period 11 (total Missoula County Payroll of \$585,180.75), Pay Period 12 (total Missoula County Payroll of \$629,725.70), and Pay Period 15-2, Sheriff Clothing Allowance (total Missoula County Payroll of \$36,489.59). The sheets were returned to the Auditor's Office.

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

**TUESDAY, AUGUST 19, 1997**

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

Audit List -- Commissioners Kennedy and Hart signed the Audit List, dated August 19, 1997, pages 2-41, with a grand total of \$333,732.63. The Audit List was returned to the Accounting Department.

**DAILY ADMINISTRATIVE MEETING**

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

Leadership Missoula Request Form - The Commissioners approved and Chair Hart signed a request form for Paul Webber, CAO, to attend the Leadership Missoula Program. Cost of the program is \$625.00, paid out of the Personnel Training Budget. The request form was returned to Paul Webber, CAO.

Warranty Deed - The Commissioners signed a Warranty Deed to Kenneth Allen for purchase of Lots 17-20 in Block 7 of West View No. 3, and Lot 2 in Block 2 of Mountain Shadows No. 1, along with Sellers Settlement Statement. The Deed was returned to Insured Titles.

Deed Restriction Agreement and Subordinate Deed of Trust - Chair Hart signed a Deed Restriction Agreement and Subordinate Deed of Trust with Jerry C. and Diana T. Spurlock for the purpose of providing HOME Investment Partnerships Program funds to assist with downpayment, closing costs, and mortgage reduction assistance, as per the terms and conditions set forth. Funds in the amount of \$16,587.00 for the property located at 1323 Phillips, Missoula, dated August 1, 1997. The documents were returned to Cindy Wulfekuhle in OPG for further handling.

Amendment to 1996 HOME Project - Chair Hart signed Amendment No. 1 to the 1996 Housing Investment Partnerships Program Home Repair Revolving Loan Project, with the District XI Human Resource Council, Inc. A minor language change regarding a five-year file retention period was inserted. The amendment was returned to Cindy Wulfekuhle in OPG for further handling.

Other items included:

- 1) The Commissioners voted 3-0 to reject the offer made by Montana Rail Link in the discussions on settlement of costs related to the chlorine spill.

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

#### WEDNESDAY, AUGUST 20, 1997

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Hart attended a MACo Retreat from August 20-22 at the Radisson Northern Hotel in Billings.

#### DAILY ADMINISTRATIVE MEETING

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

Professional Services Contract - The Commissioners signed a Professional Services Contract with Land and Water Consulting for preparation of packets for persons eligible to petition to withdraw from the Missoula Irrigation District under Senate Bill 284. Performance schedule is from August 13, 1997 through September 30, 1997. Compensation shall be \$8,440.00.

Professional Services Contracts - The Commissioners signed two Professional Services Contracts for survey work in the Lower Rattlesnake Historic Survey area:

- (1) with Christine Kennedy, with a performance schedule of August 20, 1997 through September 15, 1997, and compensation not to exceed \$1,000.00; and
- (2) with William Babcock, with a performance schedule of August 20, 1997 through September 15, 1997, and compensation not to exceed \$2,500.00.

Both contracts are fully funded by a grant from the State of Montana.

Payroll Transmittal Sheets - The Commissioners signed Payroll Transmittal Sheets for Pay Period 13 (total Missoula County Payroll of \$593,157.96), Pay Period 14 (total Missoula County Payroll of \$592,838.32), and Pay Period 15 (total Missoula County Payroll of \$617,623.12). The sheets were returned to the Auditor's Office.

Pay Adjustment - The Commissioners signed a letter to Steve Johnson, Personnel and Labor Relations, increasing the salary for Paul Webber, Chief Administrative Officer, by 5% for FY 98.

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

#### PUBLIC MEETING - AUGUST 20, 1997

The Public Meeting was called to order at 1:30 p.m. by Acting Chair Barbara Evans. Also present were Commissioner Michael Kennedy, County Surveyor Horace Brown, Kathy Smith, Paralegal, and Colleen Dowdall, Deputy County Attorney.

Commissioner Evans asked for public comment.

Curtis Horton came forward and stated that he was intervening on behalf of his recently widowed mother, regarding dust control on Nine Mile Road. He explained that his parents and one other home on the road had paid to apply dust control oil, which had been scraped off by the County Road Dept., and when further dust oil was applied to Nine Mile Road, none was applied in front of these two homes. His mother has been dealing with the County for a couple of months, and is not getting any satisfaction. They want to have dust control applied before the dust gets any more serious.

Horace Brown stated that the County is not the contractor for putting dust control on the road. People up Nine Mile put money in a pot and have magnesium chloride or oil put on the road. If the County graded up the oil control in front of Curtis' mother's home and the neighbor's home, the County needs to replace it, so long as there was a permit to do it on file. Horace indicated that he would work things out with Curtis after the public meeting.

Commissioner Evans asked for other public comment, and Dan Poe Newman came forward and announced two birthdays on today's date. As there was no further public comment, Commissioner Evans proceeded to the next agenda item.

#### FAMILY TRANSFER - HARLAN

Kathy Smith, paralegal in the County Attorney's Office, asked if the Commissioners wanted to proceed with the Harlan family transfer, as no representative was present.

Commissioner Evans said she had spoken with the Harlans' representative, Tim Wolfe, and she was willing to continue, but they could hold off on a decision until next week, if necessary.

Commissioner Kennedy said he was not willing to continue without a representative present.

Colleen Dowdall, Deputy County Attorney, stated that it would be appropriate to postpone the hearing until a representative of the Harlans was present.

Commissioner Evans moved to reschedule the Harlan family transfer to August 27. Commissioner Kennedy seconded. Motion carried with a vote of 2-0.

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

#### THURSDAY, AUGUST 21, 1997

The Board of County Commissioners did not meet in regular session; Commissioner Kennedy was out of the office August 21-22.

Indemnity Bond -- Acting Chair Evans approved an Indemnity Bond naming Scott Duffner as principal for Warrant #30216 issued 5-16-97 on the Missoula County MCPS Payroll Fund in the amount of \$43.44 now unable to be found.

#### FRIDAY, AUGUST 22, 1997

The Board of County Commissioners did not meet in regular session.

  
Vickie M. Zeier  
Clerk & Recorder

  
Fern Hart, Chair  
Board of County Commissioners

#### MONDAY, AUGUST 25, 1997

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was in Helena attending an Interior Columbia Basin Ecosystem Management Project (ICBEMP) meeting.

Monthly Reports -- Chair Hart examined, approved, and ordered filed the Monthly Reconciliation Reports for Justice of the Peace, Michael Jaworsky, for the months ending June 30, 1997 and July 31, 1997.

#### DAILY ADMINISTRATIVE MEETING

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

Payroll Transmittal Sheets - The Commissioners signed Payroll Transmittal sheets for Pay Period 16 (total Missoula County Payroll of \$603,189.78) and Pay Period 17 (total Missoula County Payroll of \$615,133.69). The sheets were returned to the Auditor's Office.

Resolution - The Commissioners signed Resolution No. 97-087, granting an agricultural use covenant to Ray D. and Susan C. Burns and William H. and Roberta L. Engelstad for a parcel of land described in COS 1968 and located in Section 13, T13N R19W.

Amendment No. 2 - The Commissioners signed Amendment No. 2 to the Missoula County Flexible Benefits Plan, to conform with legislation. Section 1.13A is added, and Section 1.14 is amended in its entirety.

Resolution - The Commissioners signed Resolution No. 97-086, providing overlay and chipseal for Secondary Route No. 507 (Alberton - East) at no cost to the County.

Professional Services Contract - The Commissioners signed a Professional Services Contract with Roy F. Weston, Inc. for AIM/GIS needs assessment. Performance schedule is from September 8, 1997 through March 1, 1998. Compensation shall not exceed \$65,000.00. The Contract was returned to Doug Burreson in the Surveyor's Office for further signatures and handling.

Professional Services Contract - Chair Hart signed a Professional Services Contract with the Montana Department of Agriculture and the Missoula County Weed District, assigning Alan Knudsen and Bill Otten as qualified agents to perform the duties of Noxious Weed Seed Free Forage field inspectors. The County retains \$1.25 of the \$1.50 per

acre inspection fees. Term of Contract is through December 30, 1997. The Contract was returned to Sharon Reed at the Weed Department for further signatures and handling.

Resolution - The Commissioners signed Resolution No. 97-085, fixing the form and details of Seeley Lake RSID bonds for districts 8461, 8462, and 8463. The Resolution was returned to Jesse Sattley, RSID Coordinator, for further handling.

Extension for Conservation of Riparian Areas - Chair Hart signed an Extension for Conservation of Riparian Areas in Missoula County with the Department of Natural Resources and Conservation. Term of the Agreement is from January 2, 1996 to October 31, 1998. Grant assistance is in the amount of \$100,000.00. The extension was returned to Cindy Klette in OPG for further signatures and handling.

Memorandum of Understanding - Chair Hart signed a Memorandum of Understanding concerning preparation of the Yellowstone Pipeline Missoula to Thompson Falls Reroute Environmental Impact Statement. The MOU was returned to Cindy Klette in OPG for further signatures and handling.

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

#### TUESDAY, AUGUST 26, 1997

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

Audit List -- Commissioners Kennedy and Hart signed the Audit List, dated August 25, 1997, pages 2-42, with a grand total of \$167,058.65. The Audit List was returned to the Accounting Department.

Indemnity Bonds -- Chair Hart examined, approved, and ordered filed four Indemnity Bonds naming Ellen Darby as principal for Warrant #93812 issued 2/19/97 in the amount of \$43.00, Warrant #95337 issued 3/27/97 in the amount of \$47.00, Warrant #96488 issued 4/24/97 in the amount of \$45.00, and Warrant #97737 issued 5/22/97 in the amount of \$29.00, on the Missoula County General Fund, now unable to be found.

Indemnity Bond -- Chair Hart examined, approved, and ordered filed an Indemnity Bond naming David Johnson as principal for Warrant #245718 issued 8/1/97 on the Missoula County Payroll Fund, in the amount of \$562.33, now unable to be found.

#### DAILY ADMINISTRATIVE MEETING

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

Modification B of Task Order 11 - Chair Hart signed Modification B of Task Order 11 with the Montana Department of Public Health and Human Services, regarding the tuberculosis program, extending the performance of the task order to August 31, 1998, and adding funding for a total of \$24,000.00. The Modification was forwarded to DPHHS in Helena.

Task Order No. 16 - Chair Hart signed Task Order No. 16 with the Montana Department of Public Health and Human Services for provision of services under the Maternal and Child Health Services Block Grant Community Integrated Service System (CISS). Performance schedule is from July 1, 1997 through June 30, 1998. Maximum compensation is \$50,000.00 to the Missoula City-County Health Dept. Nursing Division budget. The Task Order was forwarded to DPHHS in Helena.

Memorandums of Agreement - The Commissioners signed the following Memorandums of Agreement:

- 1) with Women's Opportunity and Resource Development, Inc. (WORD) Family Basics to provide rent mediation services to families at risk of homelessness. Duration of the agreement is from July 1, 1997 through June 30, 1998. Cost of the agreement is \$5,000.00.
- 2) with the Missoula Food Bank, to provide basic food to persons who are out of both money and food. County funds will be used to pay partial salaries of the Director and the Jesuit volunteer. Duration of the agreement is from July 1, 1997 through June 30, 1998. Cost of the agreement is \$20,500.00.
- 3) with Friends to Youth, for counseling and education services for non-SED youth and their families. Duration of the agreement is from July 1, 1997 through June 30, 1998. Cost of the agreement is \$10,000.00.
- 4) with the Poverello Center, to provide basic needs assistance for indigent residents of Missoula County. Duration of the agreement is from July 1, 1997 through June 30, 1998. Cost of the agreement is \$35,000.00.
- 5) with the Missoula YWCA, for vocational services and shelter programs for displaced homemakers. Duration of the agreement is July 1, 1997 through June 30, 1998. Cost of the agreement is \$11,697.00.
- 6) with Community Care, Inc., for substance abuse prevention services for youth in Missoula County. Duration of the agreement is July 1, 1997 through June 30, 1998. Cost of the agreement is \$22,422.00.
- 7) with the Missoula YWCA, for group facilitation services at CS Porter Middle School. Duration of the agreement is July 1, 1997 through June 30, 1998. Cost of the agreement is \$16,036.00.
- 8) with Women's Opportunity and Resource Development, Inc. (WORD) Family Basics, for family advocacy services for CS Porter Middle School families. Duration of the agreement is from July 1, 1997 through June 30, 1998. Cost of the agreement is \$12,696.00.
- 9) with Missoula Youth Homes, Inc., for shelter care services through the Attention Home for troubled children in Missoula County. Duration of the agreement is July 1, 1997 through June 30, 1998. Cost of the agreement is \$29,000.00.

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

WEDNESDAY, AUGUST 27, 1997

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

DAILY ADMINISTRATIVE MEETING

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

Agreement - The Commissioners signed an Agreement for Provision of Professional Security Services by the Missoula County Sheriff's Department with Frenchtown School District. The Agreement is valid for the 1997/98 school year, for uniformed officers to perform security at school functions. Compensation to the Sheriff's Department shall be \$15.00 per hour, plus 21.37% of the total for work performed by regular deputies, and 12.7% of the total for work performed by reserve deputies.

Memorandums of Agreement - The Commissioners signed the following Memorandums of Agreement:

- 1) with Montana Legal Services: The Family Law Advice Clinic, for provision of legal assistance for clients who cannot access the legal system because of economic barriers. Duration of the Agreement is from July 1, 1997 through June 30, 1998. Cost of the Agreement is \$4,585.00.
- 2) with Lutheran Social Services, for group support for children of divorced or separated families who are attending CS Porter School. Duration of the Agreement is July 1, 1997 through June 30, 1998. Cost of the Agreement is \$500.00.

Other items included:

- 1) The Commissioners appointed Michael Kennedy to serve as their appointee to the Upper Clark Fork Basin Steering Committee.
- 2) Bid Award - The Commissioners awarded a bid to build 1/2 mile of rail fence at Seeley Lake to Ibey Sprinkler and Landscaping, in the amount of \$23,483.00, per the recommendation of Horace Brown, County Surveyor. 20% of the cost will be paid by the County, or \$4,696.60.
- 3) The Commissioners approved payment of the Missoula Area Economic Development Corporation's annual dues, in the amount of \$10,000.00.

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

PUBLIC MEETING -- AUGUST 27, 1997

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present were Commissioners Michael Kennedy and Barbara Evans, County Surveyor Horace Brown, and Clerk and Recorder/Treasurer, Vickie Zeier.

Public Comment

None

Hearing: Certificate of Survey Review - Family Transfer - Harlan

Information provided by Kathy Smith, Paralegal in the County Attorney's Office, indicated that this is a request for a family transfer for Tract 2, COS 4377, located in Section 13, T12N R20W for William and Gladys Harlan. The 74.11 acre parcel is located in the Miller Creek area near the intersections of Upper and Lower Miller Creek Roads. Mr. Harlan proposes to create a 5 acre parcel for transfer to his adult daughter, Renee Bigart. Mr. and Mrs. Harlan have owned and resided on the property for more than 25 years. They requested and received approval to create a 5 acre family transfer parcel for their son, Gary, in July 1994.

Bill Harlan said he was present to answer questions, and said that he understood the law, and that he intended to deed over the property to his daughter.

The hearing was opened for public comment. No one came forward to speak, and the hearing was closed.

Barbara Evans moved and Michael Kennedy seconded the motion to approve the family transfer exemption for William and Gladys Harlan, finding it in the public interest to do so, and finding that there is no intent to evade the subdivision laws. The motion carried on a vote of 3-0.

Continuation of hearing: Mountain Sheep Vista Preliminary Plat (continued from August 13)

Gilbert Larson, DJ&A, representing the developer, said that since August 13, he and his clients have worked to re-design the roads in the subdivision, making a cul-de-sac with six lots. He said it could be done, but it has negative aspects to it, and would raise the price of each lot \$2,500 more. He also felt that the re-design would encourage more traffic on Starr Dive.

The hearing was opened for public comment. No one came forward to speak, and the hearing was closed.

A general discussion of how the streets would be engineered, paved, and RSID options ensued.

Michael Kennedy moved, and Barbara Evans seconded the motion to approve the Mountain Sheep Vista Preliminary Plat subject to the conditions listed below.



1. The lot owners shall be required to obtain an approach permit from the County Surveyor through building permit issuance.
2.
  - a. The applicant shall contribute \$100.00 per lot for the purchase of a large diameter hose, to be approved by the Missoula Rural Fire District prior to final plat filing.
  - b. The applicant shall secure a fire protection water supply subject to the approval of the Missoula Rural Fire District prior to final plat approval.
3. The applicant shall provide dust abatement on all roads during the construction of the roads, with plans to be approved by the Health Department prior to final plat filing.
4. Easements shall be provided for drainage for the subdivision according to the recommendation of the County Surveyor, to be shown on the final plat and approved by the County Surveyor prior to final plat filing.
5. Final road and drainage plans and specifications, including typical sections showing the depth of the ditch culverts, shall be provided for review and approval by the County Surveyor prior to final plat filing.
6. Plans for meeting the Sanitation in Subdivision Act shall be submitted to the local and state Health Departments and approved prior to final plat filing.
7. The applicant shall redesign the transportation system to increase connectivity with adjacent roads:
  - a. Provide for a continuous road connection between Flagler Drive and Starr Drive (which eliminates the need for the Rams Horn Court cul-de-sac ending) by modifying Rams Horn Court to a 60 foot wide public access easement on the face of the final plat and paving the Rams Horn Court road to a surface width of 24 feet, extending from Flagler Drive to Starr Drive. Plans shall be approved by the OPG and County Surveyor prior to filing of the final plat.
8. All new utilities shall be placed underground in easements a minimum of 20 feet wide and their location approved by the appropriate utility and governing body. These easements shall be shown on the final plat. In addition, the following statement shall be placed 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 in, over, under, and across each area designated on this property as "Utility Easement" to have and hold forever."

9. The applicant shall modify the proposed typical street section to install a flat 5 foot wide either asphalt or concrete boulevard pathway or sidewalk along one side of Rams Horn Court (that extends all around the Rams Horn cul-de-sac) within the subdivision. The boulevard pathway or sidewalk shall be placed on the inside of the grassy swale ditch area (not adjacent to the street) in order to provide safe pedestrian access for residents within and adjacent to the proposed subdivision, and to provide efficient snow removal area, to be approved by the County Surveyor and OPG prior to final plat filing.
10. The applicant shall modify the proposed typical street section to install a 5-7 foot wide grassy swale ditch area section, to be installed along both sides of Rams Horn Court and along the portion of Starr Drive that abuts the subdivision, in accordance according to the applicant's plans, to be approved by the County Surveyor and OPG prior to final plat filing.
11. The applicant shall modify the covenants to require that the lot owners shall be responsible for:
  - a. the installation and maintenance of landscaping on the lot, including deciduous street trees with a minimum of 2 inch caliper (at the time of planting), to be placed within 5-7 feet of the front property line(s), to be placed approximately every 30 feet and;
  - b. the maintenance of the 5-foot wide asphalt or concrete pathway in the boulevard right-of-way.
  - c. the maintenance of the 5-7 foot wide grassy swale ditch area adjacent to the individual's respective lot.

Language shall be approved by OPG and the County Surveyor prior to final plat filing.

12. The individual lot owners shall landscape the individual lots with grass and street trees. The individual lot owners shall install deciduous street trees with a minimum of 2 inch caliper (at the time of planting) within 5-7 feet of the front property line(s), spaced approximately every 30 feet, to be approved through building permit issuance.
13. The following statement shall be placed on the face of the final plat and in all instruments of conveyance:

***"Ownership within this subdivision constitutes assent of the owners to waive the right to protest a future RSID/SID for any improvements to Starr Drive, Flagler Drive and the reconstruction of the Rams Horn Court roadway and this waiver may be used in lieu of their signatures on a RSID/SID petition."***

14. The following statement shall be placed on the face of the final plat and in all instruments of conveyance:

*"Ownership within this subdivision constitutes assent of the owners to waive the right to protest a future RSID/SID for a public water system and a public sewer system and this waiver may be used in lieu of their signatures on a RSID/SID petition."*

15. The applicant shall show two building envelopes per lot on the face of the final plat, with the exception of Lot 4. Building location will be restricted to a site within these envelopes. Building envelopes shall be shown on the final plat and approved by the Office of Planning and Grants before filing of final plat.
16. The applicant shall pay a cash-in-lieu payment for the parkland/common area/cash-in-lieu requirement, to be determined by the County Assessor prior to final plat filing.
17. Prior to filing the final plat, the applicant shall verify whether the subdivision is within the groundwater arsenic plume of the Milltown Superfund site or meets the requirement of the Local Aquifer Protection Ordinance.
18. That the portion of the subdivision which is for roadway purposes that is outside of the lotted area be included as part of a subdivision lot or be deeded to adjacent landowners.

The motion carried on a vote of 3-0.

At this point, the meeting adjourned as the Board of County Commissioners and reconvened as a hearing before the Planning and Zoning Board. Members present were: Commissioners Fern Hart, Barbara Evans, and Michael Kennedy; County Surveyor, Horace Brown; and County Clerk and Recorder/Treasurer, Vickie Zeier.

Amending Development Standards of Planning and Zoning District #4 (Planning and Zoning Commission) - (continued from July 16).

Jennie Dixon from the Office of Planning and Grants, said that since the hearing was last continued, she had worked with the residents of the area and with other planning staff to refine and polish the proposed standards.

The hearing was opened for public comment.

Clem Work, President of the Pattee Canyon Homeowners, thanked Jennie for all her hard work and said that the Homeowners were pleased with the resulting standards.

Sydney McKenna, a new member of the Homeowners, said she had worked on the new language and thanked OPG for their assistance.

Ron Erickson discussed the document in depth, noting changes he wished to make to the wording.

Barbara Evans said that she would like to address a comment to the OPG staff: "When the State Legislature passes legislation, very often, when the folks are trying to determine out to enforce that legislation, they go back and look at the intent. This is not going to be easy for the staff to interpret on every case, so I would suggest that if you have questions you go back and look at the intent to make your decision."

Jan Sousa said she has 40 acres and with the language suggested by Ron Erickson, the larger parcels in Pattee Canyon would be adversely affected.

Clem Work spoke again, in favor of the original wording without Mr. Erickson's suggested changes

Greg Martinson said that some areas of the proposed document make him nervous, and what he was looking for was some sensibility in the document and enforcement policies.

Larry Westover suggested some additional language changes, since he has property that has some unique topographical features.

Bill Lindstrom, Missoula Rural Fire, said the wording about the grades and steepness of the roads in the new document are acceptable to the Missoula Rural Fire Department.

Greg Martinson spoke again about the need for "reasonable" language.

Suggested language changes by the Planning and Zoning Commission were discussed and added to the draft document.

Barbara Evans moved and Horace Brown seconded the motion to recommend approval of the proposed Amended Development Standards of Planning and Zoning District #4, as contained in Resolution No 97-089;

The motion carried on a vote of 5-0.

The Planning and Zoning Commission adjourned. The meeting was reconvened as the Public Meeting for the Board of County Commissioners.

Barbara Evans moved and Michael Kennedy seconded the motion to accept the recommendation of the Planning and Zoning Commission relative to the approval of the Amended Development Standards of Planning and Zoning District #4, contained in Resolution No. 97-089. The motion carried on a vote of 3-0.



Hearing: County Law Enforcement Block Grant Program

Information provided by Doug Chase, Missoula County Sheriff, indicated that an application for a Block Grant in the amount of \$67,401.00 has been sent. A committee met on August 20, 1997 to decide how the money would be expended. Those attending were Jane Ellis, Dusty Deschamps, John Odlin, Jon Fimmel, Judy Wing, and Doug Chase. If accepted, the money will be spent on patrol and detention overtime; computer upgrade; gun safe; bullet resistant vests; law books; pagers; vehicle for new deputy; and ammunition. His recommendation was that the Commissioners sign and accept the Block Grant Application.

The hearing was opened for public comment. No one came forward to speak, and the hearing was closed.

Barbara Evans moved and Michael Kennedy seconded the motion to accept and approve the Block Grant Application from the Sheriff's Office in the amount of \$67,401.00. The motion carried on a vote of 3-0.

Hearing: Proposed Industrial Infrastructure Development Projects and the Issuance of Industrial Infrastructure Tax Increment Bonds.

Information received from Jane Ellis, Fiscal Officer, indicated that the Commissioners were being asked to approve a resolution identifying the interchange and infrastructure projects in the Development Park as tax increment district projects, determining the issuance of \$2,465,000 in tax increment bonds is in the best interest of the County and the Tax Increment District; and authorizing the County's Staff to proceed with the issuance of bonds.

The hearing was opened for public comment. No one came forward to speak and the hearing was continued to September 3.

Other Business

Ken Knie spoke with the Commissioners about his involvement in the Glen Eagle Project. He was advised that a working session on the issue was being scheduled in the future.

There being no further business to come before the Board, the Commissioners were in recess at 4:50 p.m.

**THURSDAY, AUGUST 28, 1997**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was in Helena attending an ICBEMP meeting.

DAILY ADMINISTRATIVE MEETING

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

Sympathy Notes - The Commissioners signed sympathy notes for John Larson and Helena Maclay, Patty Peplow, and Carol Bishop.

Plat - The Commissioners signed the plat for Moose Lodge Addition, a subdivision of Missoula County located in the NE1/4 of Section 10, T12N R20W, a total area of 7.416 acres, with the owner of record being Vincent A. Sweeney, as trustee of the Vincent A. Sweeney Living Trust.

Contract - Chair Hart signed a Contract with the Board of Crime Control for the Crime Victims' Advocate position in the County Attorney's Office. Contract duration is from July 1, 1997 through June 30, 1998. Cost of the Contract is \$36,089.00. The Contract was returned to Leslie McClintock in OPG for further handling.

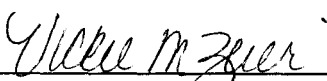
Standard Agreement - Chair Hart signed a Standard Agreement with the Montana Department of Transportation, Traffic Safety Bureau, for Missoula County Traffic Records Support for the Sheriff's Department. Project shall be started within 10 days from the execution of this Agreement, and shall be completed no later than September 30, 1997. Payment to Missoula County shall not exceed \$15,000.00. The Agreement was returned to Don Morman in the Sheriff's Department for further handling.

Agreement for Professional Engineering Services - The Commissioners signed an Agreement for Professional Engineering Services with Druyvestein, Johnson and Anderson, Inc. for the final design and final plat for Phase 2, Missoula Development Park. Cost of the Agreement is \$40,350.00 for basic services. Estimated date of completion for work included in this agreement shall be six months from date of the last signature on this agreement.

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

**FRIDAY, AUGUST 29, 1997**

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

  
Vickie M. Zeier  
Clerk & Recorder

  
Fern Hart, Chair  
Board of County Commissioners

**MONDAY, SEPTEMBER 1, 1997**

The Courthouse was closed for the Labor Day Holiday.

**TUESDAY, SEPTEMBER 2, 1997**

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

Indemnity Bond -- Chair Hart examined, approved, and ordered filed an Indemnity Bond naming Roman Sysa as principal for Warrant #5565 issued 7/28/97 on the Missoula County Justice Court Fund in the amount of \$220.00 now unable to be found.

Application for Issuance of Replacement Warrant -- Chair Hart approved an Application for Issuance of Replacement Warrant naming Norco, Inc. as principal for Warrant #99138, issued 6/26/97 on the Missoula County General Fund in the amount of \$401.14, not received in the mail.

**DAILY ADMINISTRATIVE MEETING**

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

Resolution - Chair Hart signed Resolution No. 97-088, a resolution authorizing participation in the InterCap Program. The loan amount is \$575,372.76, with a draw amount of \$442,590.11 to cover capital expenditures. One copy was sent to the Clerk and Recorder, and two copies were returned to Jane Ellis, CFO, for further handling.

Resolution - The Commissioners signed Resolution No. 97-089, a resolution to amend the development standards of Planning and Zoning District #4 in Pattee Canyon, located in the East 1/2 of Section 4, all of Section 3, and that part of Section 2 lying West of the Fort Missoula Timber Reserve, T12N, R19W, PMM.

Agreements - The Commissioners signed three labor agreements. All three were returned to Steve Johnson in Personnel for further signatures and handling.

- 1) with the Federation of Missoula County Employees; from July 1, 1996 through June 30, 1998;
- 2) with Local Unit Number One of the Montana Public Employees Association; from July 1, 1997 through June 30, 1999;
- 3) with Teamsters Local No. 2, Civilian Detention Officers; from July 1, 1997 through June 30, 1999.

Other items included:

- 1) The Commissioners approved minor changes to the Missoula Development Park subdivision, for Block 2, Lots 2, 3, and 3A, and Block 4, Lots 1A and 1B.

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

**WEDNESDAY, SEPTEMBER 3, 1997**

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

Audit List -- Commissioners Hart and Kennedy signed the Audit List, dated September 3, 1997, pages 2-37, with a grand total of \$233,970.64. The Audit List was returned to the Accounting Department.

Monthly Reports -- Chair Hart examined, approved and ordered filed the Report of the Clerk of District Court, Kathleen Breuer, showing fees and collections made in Missoula County for the month of August, 1997; and the Monthly Reconciliation Report for Justice of the Peace, Michael Jaworsky, showing receipts and distributions for the month ending August 31, 1997.

**DAILY ADMINISTRATIVE MEETING**

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

Plat and Development Agreement - The Commissioners signed the plat and development agreement for Bissell Subdivision, a two-lot subdivision of Tract B-3A, COS 2994, located in the SE1/4 of Section 34, T12N R17W, PMM, Missoula County, with the owners of record being Kendall G. and Deborah K. Bissell.

Memorandum of Agreement - The Commissioners signed a Memorandum of Agreement with Child Care Resources, Inc. to provide recruitment, training and support for child care providers that serve working families in Missoula. Cost of the Agreement is \$47,822.00. Duration of the Agreement is from July 1, 1997 through June 30, 1998.

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

**PUBLIC MEETING -- SEPTEMBER 3, 1997**

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present was Commissioner Michael Kennedy, County Surveyor Horace Brown, and Clerk and Recorder/Treasurer, Vickie Zeier.

Public Comment

None.

Hearing: Certificate of Survey Review- Family Transfer - Bennett

Information provided by Kathy Smith, Paralegal with the County Attorney's Office, indicated that this is a request for a family transfer for Tract 65-B of COS 3453 located in Section 16, T14N R20W for Larry S. and Judith Ann Bennett.

BACKGROUND

Larry Bennett has submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The 10.85 acre parcel is located in the Meadows of Baron O'Keefe off Tookie Trek just northwest of the Wye. Mr. Bennett proposes to split the parcel in half for transfer to his mother and father, Sylvester O. and Wilma H. Bennett.

The history of the parcel is as follows: COS 1925 was filed in 1975 by Geneva Cates creating 65 parcels greater than 20 acres in size. COS 3453 was filed in 1987 by Ron Lane creating Tract 65A as a family transfer parcel and 65B the remainder. Larry and Judith Bennett purchased Tract 65B on July 3, 1997.

According to the records kept by the Missoula County Surveyor, the applicants have not used any exemptions to the Subdivision and Platting Act.

Ron Ewart, from Eli and Associates, representing the Bennetts, said that his clients lived in Oregon and were unable to attend the hearing. He presented letters from the Bennetts, detailing their proposed uses for the property, the reasons for the request, and their family situation.

The hearing was opened for public comment. No one came forward to speak, and the hearing was closed.

Michael Kennedy moved, and Fern Hart seconded the motion to approve the request for a family transfer for Tract 65-B of COS 3453 located in Section 16, T14N R20W for Larry S. and Judith Ann Bennett, for transfer to his mother and father, Sylvester O. and Wilma H. Bennett, finding it in the public interest to do so, and finding no attempt to evade the subdivision laws. The motion carried on a vote of 2-0.

The Commissioners informed Mr. Ewart that they would notify the Bennetts of their decision by letter, and would also inform them that this approval does not guarantee the availability of water on the property.

Hearing: Intent to Create RSID No. 8924 (dust abatement maintenance for a portion of Zaugg Drive)

Information provided by Jesse Sattley, Chief Administrative Officer's Assistant, indicated that the Resolution of Intent was signed on the 13th of August, 1997 with a petition representing 76% of the freeholders. The annual estimated assessment as determined by the frequency of the dust abatement application is \$38.28 per lot for the first year, rebating the petition fee back to the district upon creation, and \$43.45 per lot thereafter. He said there had been no protests received.

The hearing was opened for public comment.

Beverly Hand spoke in favor of the project, citing health reasons.

No one else came forward to speak, and the hearing was closed.

Michael Kennedy moved and Fern Hart seconded the motion to Create RSID No. 8924 dust abatement maintenance for a portion of Zaugg Drive in Milltown, finding it in the public interest to do so, and receiving no protests. The motion carried on a vote of 2-0.

Hearing: Petition for Annexation into Frenchtown Rural Fire District (Gouaux property - 3 parcels)

Information provided by Shirley Faust, Recording Supervisor, indicated, a petition has been received by the Recording Section of the Clerk and Recorder's Office to annex to the Frenchtown Rural Fire District the parcels of land described as follows:

Parcel 1: Petty Creek Place, Plat A, Section 17, Township 16 North, Range 23 West, 23 AC

Parcel 2: In E 1/2 Plat E, Section 17, Township 16 North, Range 23 West, 70.44AC

Parcel 3: In SE 1/4 SE 1/4 Plat B1, Section 8, Township 16 North, Range 23 West, 24.81 AC

The petition for annexation to the Frenchtown Rural Fire District, as presented to the Clerk and Recorder's Office, has been checked and verified and is filed in the petition file; and the petition has been checked and verified and contains the signatures of more than 50% of the owners of the privately owned land in the area to be annexed and a majority of the tax-paying freeholders with the area described

Scott Waldron of the Frenchtown Fire District explained that part of this property had been annexed into the Frenchtown Rural Fire District earlier, but due to a divorce and a subsequent property settlement, the remainder of this property is being included in the district. He assured the Commissioners that this property is contiguous with the other property previously annexed, and is also contiguous to the Frenchtown Fire District.

The hearing was opened for public comment. No one came forward to speak, and the hearing was closed.

Michael Kennedy moved and Fern Hart seconded the motion to annex to the Frenchtown Rural Fire District the parcels of land described as follows:

- Parcel 1: Petty Creek Place, Plat A, Section 17, Township 16 North, Range 23 West, 23 AC
- Parcel 2: In E 1/2 Plat E, Section 17, Township 16 North, Range 23 West, 70.44AC
- Parcel 3: In SE 1/4 SE 1/4 Plat B1, Section 8, Township 16 North, Range 23 West, 24.81 AC

The motion carried on a vote of 2-0.

Continuation of Hearing: Proposed Industrial Infrastructure Development Projects and the Issuance of Industrial Infrastructure Tax Increment Bonds (continued from August 27.)

Information received from Jane Ellis, Fiscal Officer, indicated that the Commissioners were being asked to approve a resolution identifying the interchange and infrastructure projects in the Development Park as tax increment district projects, determining the issuance of \$2,465,000 in tax increment bonds is in the best interest of the County and the Tax Increment District; and authorizing the County's Staff to proceed with the issuance of bonds. She said the Development Authority had met, discussed the issue, and authorized the signing of the agreement, finding it in the public interest to do so. She said that the sale of the bonds would be handled by the firm of Dorsey and Whitney, and final decisions regarding the Development Park will be made by the Board of County Commissioners at a later date.

Michael Kennedy moved and Fern Hart seconded the motion to authorize the Chair of the Board of County Commissioners to sign and adopt a resolution relating to Missoula County Airport Tax Increment Industrial Infrastructure District; making findings and determination with respect to certain industrial infrastructure development projects and the District; determining that the issuance of bonds in the amount of \$2,465,000 is in the best interest of the County and the District, and authorizing the County's staff to proceed with the issuance of bonds. The motion carried on a vote of 2-0.

#### Resolution No. 97-090

Chair Fern Hart signed Resolution No. 97-090, a resolution to authorize the Chair of the Board of County Commissioners to sign and adopt a resolution relating to Missoula County Airport Tax Increment Industrial Infrastructure District; making findings and determination with respect to certain industrial infrastructure development projects and the District; determining that the issuance of bonds in the amount of \$2,465,000 is in the best interest of the County and the District, and authorizing the County's staff to proceed with the issuance of bonds.

There being no further business to come before the Board, the Commissioners were in recess at 2:10 p.m.

After the Public Meeting, the Commissioners signed Resolution No. 97-091, a resolution for Annexation to the Frenchtown Fire District Parcels of Land Located in Missoula County. The parcels of land are described as follows:  
Parcel 1 - Petty Creek Placer, Plat A, Section 17, T16N, R23W, 23 acres  
Parcel 2 - In E1/2 Plat E, Section 17, T16N, R23W, 70.44 acres  
Parcel 3 - In SE1/4 SE1/4, Plat B1, Section 8, T16N, R23W, 24.81 acres

### **THURSDAY, SEPTEMBER 4, 1997**

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

Indemnity Bond -- Chair Hart examined, approved, and ordered filed an Indemnity Bond naming FedEx as principal for Warrant #305464 issued 12/16/96 on the Missoula County Water Quality District Fund in the amount of \$86.00 now unable to be found.

#### DAILY ADMINISTRATIVE MEETING

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

Modification No. 1 of Task Order - Chair Hart signed Modification No. 1 of Task Order with the Montana Department of Public Health and Human Services, modifying tasks and funding for HIV prevention activities. The maximum amount payable for CTRPN and/or HIV prevention services is \$67,753.00 for calendar year 1997. The task order was forwarded to DPHHS in Helena.

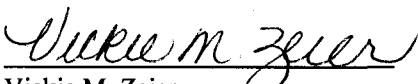
Change Order - The Commissioners signed a Change Order with Quality Construction Company for additional costs for installation of footing drains and culverts at the County Road Department. Total cost of the Change Order is \$17,606.00. The new substantial completion date is December 11, 1997.

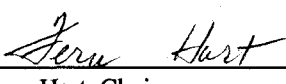
Memorandum of Agreement - The Commissioners signed a Memorandum of Agreement with the Child and Family Resource Council to provide parent education services for families at CS Porter Middle School. Cost of the Agreement is \$5,892.00, provided by the Montana Department of Public Health and Human Services. Duration of the project is July 1, 1997 through June 30, 1998.

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

### **FRIDAY, SEPTEMBER 5, 1997**

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

  
Vickie M. Zeier  
Clerk & Recorder

  
Fern Hart, Chair  
Board of County Commissioners

**MONDAY, SEPTEMBER 8, 1997**

The Board of County Commissioners did not meet in regular session; Commissioner Hart was in Helena attending a MACo Taxation and Finance Committee/DOR Liaison Committee meeting, and Commissioner Evans was on vacation September 8 and 9.

**TUESDAY, SEPTEMBER 9, 1997**

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

**DAILY ADMINISTRATIVE MEETING**

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

**Agreement** - The Commissioners signed a Section 00500 Agreement Form with Ibey Sprinkler and Landscaping for construction of a 3-rail split rail fence along the ROW of MT State Highway 83 in Seeley Lake. Cost of the Agreement to the County is \$4,696.60. Total cost is \$23,483.00.

**Contract** - Chair Hart signed a Contract with the Montana Department of Public Health and Human Services for the Partnership to Strengthen Families Project. Performance schedule is from July 1, 1997 through June 30, 1998. Cost of the contract is \$133,000.00. The contract was returned to Peggy Seel, Grants Administrator in OPG, for further handling.

**Memorandums of Agreement** - The Commissioners signed three Memorandums of Agreement, all with a performance schedule of July 1, 1997 through June 30, 1998:

- 1) with the Western Montana Comprehensive Developmental Center (CDC), to provide respite services for families in Missoula County who have a family member with a developmental disability. Cost of the Agreement is \$7,000.00.
- 2) with the Missoula Indian Center for chemical dependency services for eligible individuals. Cost of the Agreement is \$12,174.00.
- 3) with Partnership Health Center for basic needs assistance for indigent Missoula County residents. Cost of the agreement is \$198,068.00.

**Addendum to Special Conditions** - Chair Hart signed an Addendum to Special Conditions for the Seeley Lake Crime Victims' Advocate grant, asking that copies of proposed publications be submitted to the Board of Crime Control, and that acknowledgment of funding source statement be printed on any publications. The Addendum was returned to Leslie McClintock, Grants Administrator in OPG, for further handling.

**Resolutions** - The Commissioners signed two resolutions:

- 1) Resolution No. 97-093, a resolution to accept real property from Heritage Village, LLC, for public road and all other public purposes, located in a portion of Government Lot 3 of Section 3, T16N R15W, PMM, Missoula County.
- 2) Resolution No. 97-094, a resolution to accept real property from Jerrie Coyle for public road and all other public purposes, located in a portion of Lot 4 in Coyle Addition, a recorded Subdivision of Missoula County, Montana, located in Government Lot 3 of Section 3, T16N, R15W, PMM, Missoula County.

Other items included:

- 1) The Commissioners approved taking the additional cost (\$325+) of mailing irrigation packets from the contingency fund.

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

**WEDNESDAY, SEPTEMBER 10, 1997**

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. In the evening, Commissioner Hart attended the Comprehensive Plan Community Forum held at the Orchard Homes Country Life Club.

**Audit List** -- Commissioners Kennedy and Hart signed the Audit List, dated September 9, 1997, pages 2-31, with a grand total of \$85,639.42. The Audit List was returned to the Accounting Department.

**Monthly Report** -- Chair Hart examined, approved, and ordered filed the Report of the Sheriff, Douglas Chase, showing fees and collections on account of civil business in Missoula County for the month ending August 29, 1997.

**DAILY ADMINISTRATIVE MEETING**

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

Memorandum of Agreement - The Commissioners signed a Memorandum of Agreement with Thomas R. Carter dba Technical Contracting, for operation and maintenance of the El-Mar Estates and New Meadows Subdivisions sewer and water system. Term of the Agreement is from September 16, 1997 through September 15, 1998. Compensation for services shall be \$55,000.00.

Designation of Applicant's Agent Resolution - The Commissioners signed a Designation of Applicant's Agent Resolution, designating Horace Brown, County Surveyor, or Jane Ellis, Chief Financial Officer, as agent for the County for the purpose of obtaining federal financial assistance under the Disaster Relief Act. The Resolution was returned to Horace Brown for further handling.

Professional Services Contract - The Commissioners signed a Professional Services Contract with Chem-Safe Services for waste collection, transportation and disposal services associated with its hazardous waste collection events to be held September 18, 19, and 20, 1997. Compensation for services should be approximately \$13,000 - \$15,000, depending upon amount of waste collected. The Contract was returned to the Health Department for further signatures and handling.

Other items included:

- 1) Bid Award - The Commissioners awarded a bid for fuel for the County Shops and the Fairgrounds to Finest Oil, in the amount of \$82,496.00, as per the recommendation of Horace Brown, County Surveyor.

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

#### PUBLIC MEETING -- SEPTEMBER 10, 1997

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present were Commissioners Michael Kennedy and Barbara Evans, County Surveyor Horace Brown, and Clerk and Recorder/Treasurer, Vickie Zeier.

#### Public Comment

None.

#### HEARING: ANNEXATION TO FRENCHTOWN RURAL FIRE DISTRICT

Information received from Shirley Foust, Recording Supervisor in the Clerk & Recorder's Office, that a single petition received by the Clerk & Recorder's Office to annex various parcels of land located in Missoula County to the Frenchtown Rural Fire District. The petition for annexation has been checked and verified. The petition contained signatures of more than 50% of owners of the privately owned land in the area to be annexed and a majority of the tax-paying freeholders within the area described, so they meet the requirements of 7-33-2125 M.C.A. for annexation of adjacent territory. These are parcels of land previously thought to be annexed into the Frenchtown Rural Fire District on which landowners have been paying taxes for fire protection, but no record of the annexations can be found in the Clerk and Recorder's Office.

The area to be annexed is described as follows:

Numerous parcels lying in Sections 12, 24 & 25 in Township 13 North Range 23 West, Sections 2, 10, 11 & 12 in Township 14 North Range 20 West, Sections 3, 10, 23 & 26 in Township 14 North Range 21 West, Section 6 in Township 14 North Range 22 West, Sections 6, 28, 31, 32 & 34 in Township 15 North Range 20 West, Sections 2, 4, 6, 22, 24, 25, 26, 27 & 32 in Township 15 North Range 21 West, Sections 26, 28, 30, 32, 33 & 34 in Township 15 North Range 22 West, Sections 20, 29 & 32 in Township 16 North Range 20 West, Sections 6 & 16 in Township 16 North Range 23 West

The hearing was opened to public comment. No one came forward to speak, and the hearing was closed.

Barbara Evans moved and Michael Kennedy seconded the motion to annex property into the Frenchtown Rural Fire District described as: Numerous parcels lying in Sections 12, 24 & 25 in Township 13 North Range 23 West, Sections 2, 10, 11 & 12 in Township 14 North Range 20 West, Sections 3, 10, 23 & 26 in Township 14 North Range 21 West, Section 6 in Township 14 North Range 22 West, Sections 6, 28, 31, 32 & 34 in Township 15 North Range 20 West, Sections 2, 4, 6, 22, 24, 25, 26, 27 & 32 in Township 15 North Range 21 West, Sections 26, 28, 30, 32, 33 & 34 in Township 15 North Range 22 West, Sections 20, 29 & 32 in Township 16 North Range 20 West, Sections 6 & 16 in Township 16 North Range 23 West. The motion carried on a vote of 3-0.

#### Consideration of College Fund Addition Summary Plat

Information provided by Denise Alexander, OPG, indicated that the proposal is for a 2-lot subdivision of Sorrel Springs Lot 37, to be named College Fund Addition. The property is located in the southeast ¼ of Section 21, Township 15 North, Range 21 West, Principal Meridian, Missoula County, Montana. This subdivision is located 1½ miles from Interstate-90 and Frenchtown Frontage Road via Roman Creek Road to Sorrel Springs Lane. The lot is on the downhill (south) side of Sorrel Springs Lane just past the s-curve.

Mr. Gary Ardeson is the land owner and developer of the subdivision. The subdivision totals 10 acres. Lot 37A will be 6.00 acres, and Lot 37B will be 4.00 acres. The property slopes from an elevation of 3195 at Sorrel Springs Lane, to an elevation of 3100 feet at the southern end of the property. This comprises an overall slope on the lot of approximately 11%, with a "shelf" between the two proposed lots of an approximate 20% grade. The existing home on the property has

driveway access to Sorrel Springs Lane. The proposal is to divide the lot horizontally, with access to the lower building site on a 500 foot long easement across the front lot from Sorrell Springs Lane. The site layout also proposes that the septic and drainfield for the lower lot be located on the upper lot.

The property is unzoned. The 1975 Missoula County Comprehensive Plan designates it Rural Low Density Residential District with a maximum recommended density of one dwelling unit per ten acres. It is outside the Frenchtown activity center.

Single family residential uses bound on all sides of the property. The lots on the east and west side of the site have been divided into five acres tracts. The lots to the south (below the site) are 3.65 acre tracts created by certificates of survey. The access to these lower tracts is off Felicia Lane, a gravel drive on a 30 foot private access easement that connects with Roman Creek Lane, a paved, county road. This private access easement abuts the south lot line of the property that is the subject of this application.

The existing Sorrel Springs system will provide water. The site layout shows the proposed water line for Lot 37B routed from Sorrel Springs Lane to the new building site within the private access and utility easement. An additional individual sewage system is planned for this subdivision. The septic and drainfield for Lot 37B is shown located on Lot 37A due to lack of adequate soils to support a septic system on the lower lot. When this subdivision is fully completed, it will produce an estimated 300 gallons of sewage per day. The nearest public sewage system is in Missoula, located about 18 miles to the east.

John Kellogg, PCI, representing Mr. Gary Ardeson, said that his client preferred the proposed east/west split instead of the north/south split recommended by the Planning staff. He said that the entire request was well within the requirements of the comprehensive plan and met all requirements for approval. He said that splitting the land east/west would require the request and approval of more variances.

Braden Butterfield, representing the Frenchtown Fire District, said the department had doubts about the slope for fire and other emergency access, and that the best access to this property for emergency vehicles would be off Felicia Lane, as a year-around access would be needed.

Fern Hart asked Gary Ardeson several questions about the topography of the land, water system, and access to the home already on the property.

Gary Ardeson said that the water issues had already been addressed, and that the roads in the area were plowed in the winter.

A general discussion ensued relative to the proposed access, other possible accesses, and the best way to split the property.

Barbara Evans moved and Michael Kennedy seconded the motion to approved the two variance requests for the College Fund Addition based on the findings of fact in the staff report. The two variance requests are: 1. From the requirement to construct sidewalks and pedestrian walkways in all subdivisions and 2. From lot width to length width ratio. The motion carried on a vote of 3-0.

A discussion ensued relative to the approval of the College Fund Subdivision, the proposed conditions, and the requirements of the Frenchtown Rural Fire District.

Fern Hart asked John Kellogg and Gary Ardeson if they would agree to request an additional week for consideration by the Board of County Commissioners to resolve these issues. Mr. Kellogg and Mr. Ardeson agreed, and were asked to put the request in written form to the Board of County Commissioners.

The issue was continued and placed on the agenda for the September 17, 1997 Public Meeting.

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

#### THURSDAY, SEPTEMBER 11, 1997

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Evans was on vacation September 11 and 12. In the evening, Commissioners Evans and Hart attended the 110th Annual Chamber Banquet held at the UC Ballroom.

No administrative meeting was held; however, the following items were signed:

Infrastructure Improvements Agreement - Chair Hart signed an Infrastructure Improvements Agreement with the Missoula Development Authority for the I-90 Interchange Project and the Development Park Infrastructure Improvements Project. Cost of the improvements will be \$2,495,000.00. Agreement shall remain in effect so long as any Series 1997 Bonds are outstanding. The Agreement was returned to Jane Ellis, CFO, for further handling.

Resolution - The Commissioners signed Resolution No. 97-095, for annexation to the Frenchtown Rural Fire District several parcels of land located in Missoula County, described as follows:

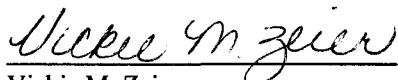
Numerous parcels lying in Sections 12, 24 and 25 in T13N R23W, Sections 2, 10, 11, and 12 in T14N R20W, Sections 3, 10, 23 and 26 in T14N R21W, Section 6 in T14N R22W, Sections 6, 28, 31, 32 and 34 in T15N R20W, Sections 2, 4, 6, 22, 24, 25, 26, 27 and 32 in T15N R21W, Sections 26, 28, 30, 32, 33 and 34 in T15N R22W, Sections 20, 29 and 32 in T16N R20W, Sections 6 and 16 in T16N R23W.

## FRIDAY, SEPTEMBER 12, 1997

The Board of County Commissioners met in regular session; a quorum of members was present. In the forenoon, Commissioners Hart and Kennedy and Rachel Vielleux, County Superintendent of Schools, canvassed the results of the City Primary Election, which was held September 9.

No administrative meeting was held; however, the following was decided:

Commissioners Hart and Kennedy reviewed the Ken Knie proposal with Mike Sehestedt, Deputy County Attorney, and Orin Olsgaard, Projects Coordinator, and determined that it is not in the best interest of the County to execute the proposal. Commissioner Evans abstained from voting.



Vickie M. Zeier  
Clerk & Recorder



Fern Hart, Chair  
Board of County Commissioners

## MONDAY, SEPTEMBER 15, 1997

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

DAILY ADMINISTRATIVE MEETING

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

Payroll Transmittal - The Commissioners signed the Payroll Transmittal sheet for Pay Period 18, with a total Missoula County Payroll of \$675,237.07. The sheet was returned to the Auditor's Office.

Contract and Certification Page - Chair Hart signed a Contract and Certification Page with the Montana State Department of Public Health and Human Services for the Missoula County Domestic Violence Program. Cost of the Contract is \$26,550 from the state, and a match of \$13,400 from the County, for the YWCA domestic violence shelter. Term of the Contract is from July 1, 1997 through June 30, 1998. It was returned to Leslie McClintock, Grants Administrator in OPG, for further handling.

Agreement - Chair Hart signed an Agreement with the Butte/Silver Bow Unified Government for the purpose of conducting childhood lead poisoning prevention activities. Cost of the Agreement is \$20,000.00. The Agreement is for Fiscal Year 1997-1998. It was returned to the Health Department for further signatures and handling.

Memorandum of Agreement - The Commissioners signed a Memorandum of Agreement with the Salvation Army for basic needs assistance for indigent residents of Missoula County. Value of the Agreement is \$15,000.00. Duration of the Agreement is from July 1, 1997 through June 30, 1998.

Memorandum of Agreement - The Commissioners signed a Memorandum of Agreement with the Missoula City-County Health Department to provide student and family health assessments for students and families of CS Porter Middle School. Value of the Agreement is \$4,088.00. Duration of the of the Agreement is from July 1, 1997 through June 30, 1998.

Amended Professional Services Contract - The Commissioners signed an Amended Professional Services Contract with Donald O. Nordstrom, DDS, for continuation of dental treatment for Partnership Health Center children. Compensation for services shall be a maximum of \$2,600.00. Performance schedule is from July 1, 1997 through June 30, 1998. The Contract was returned to the Health Department for further signatures and handling.

Agreement - The Commissioners signed an Agreement with Doyle Riley, to retain him as a consultant for El-Mar Estates water and sewer system. Mr. Riley's fee is \$25.00 per hour, and the term of the Agreement is September 15 - 30, 1997.

Building Evacuation/Policy Statement - The Commissioners signed Building Evacuation/Policy Statement 97-C, a policy and procedure statement for the evacuation of Missoula County buildings. The Policy Statement was forwarded to Bill Silverman, OEM Coordinator, for distribution.

Contract - The Commissioners signed a Contract with SatCom Support for provision of microwave equipment and maintenance. Compensation shall be \$10,000.00, upon completion of the contract obligations.

Change Order - The Commissioners signed a Change Order with Quality Construction Company for additional costs associated with purchase and installation of various connection hardware for the Missoula County Road Department Project. Cost of the Change Order is \$3,330.00. The new substantial completion date is December 12, 1997.

Other items included:

- 1) The Commissioners approved the provision of gas from the east side of the Shops site to the Sander/Truck shed at an estimated cost of \$10,600.00, and the provision of electricity from the Dolly Stewart property to the Sander/Truck shed at an estimated cost of \$8,000.00.

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



**TUESDAY, SEPTEMBER 16, 1997**

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

**DAILY ADMINISTRATIVE MEETING**

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

**Memorandums of Agreement** - The Commissioners signed three Memorandums of Agreement:

- 1) with Turning Point, Western Montana Mental Health Center, to provide services for the ICC Project in Missoula County. Value of the Agreement is \$20,788.00. Duration of the Agreement is from August 1, 1997 through June 30, 1998.
- 2) with Missoula Child and Family Resource Council, for the Nurturing Program to benefit parents of 0-3 year olds (and their children) who have been referred to the Partnership Project. Value of the Agreement is \$25,767.00. Duration of the Agreement is from July 1, 1997 through June 30, 1998.
- 3) with Seeley Lake Community Council, for provision of services to advance and promote the interests and welfare of the residents of Seeley Lake, Montana. Value of the Agreement is \$1,500.00. Duration of the Agreement is from July 1, 1997 through June 30, 1998.

**Memorandum of Understanding** - Chair Hart signed a Memorandum of Understanding with the Nature Conservancy, the US Department of Interior Bureau of Land Management - Butte District, and the State of Montana Department of Fish, Wildlife and Parks, to effect the management of land along a portion of the Blackfoot River. The area covered by the MOU is 11,730 acres within Missoula County, along a 10.4 mile stretch of the Blackfoot River. This MOU will remain in force and effect for a period of five years after the date of last signature to the agreement. The MOU was forwarded to Janice Jessen at BLM in Billings, Montana for further signatures and handling.

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

**WEDNESDAY, SEPTEMBER 17, 1997**

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

**Audit List** -- Commissioners Kennedy and Hart signed the Audit List, dated September 16, 1997, pages 2-38, with a grand total of \$227,836.03. The Audit List was returned to the Accounting Department.

**DAILY ADMINISTRATIVE MEETING**

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

**Memorandum of Agreement** - The Commissioners signed a Memorandum of Agreement with the Western Montana Mental Health Center, to purchase mental health crisis response and stabilization services for the residents of Missoula County through the Crisis Response Team and Stephens House. Value of the Agreement is \$170,000.00. Duration of the Agreement is from July 1, 1997 to June 30, 1998.

**Agreement** - Commissioners Hart and Evans (Commissioner Kennedy opposed) signed an Agreement with the Montana Department of Transportation - Highways Division, for construction on North Reserve Street. The County agrees to contribute \$350,000.00 toward the cost of the project. The Agreement was forwarded to MDT in Helena for signature and handling.

**Contract Agreement and Petition for Annexation** - The Commissioners signed a Contract Agreement for City Public Sanitary Sewer and a Petition for Annexation to the City with the City of Missoula and Keith Krumbeck of Spectrum Pool Products for the property described as: (7100 Spectrum Lane) a 4.6 acre parcel located in the SE corner of Tract 1 of COS No. 3858, also known as Lot 6 of Block 2 in the approved preliminary plat of the Missoula Development Park subdivision and more fully described on Exhibit A, Page 1 of 2 and as shown on Exhibit A, Page 2 of 2, attached to the Agreement. Spectrum and County agree to pay the City such fees as established by the City in accordance with Montana State Law. The Agreement and Petition were returned to Orin Olsgaard in Projects for further signatures and handling.

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

**PUBLIC MEETING - SEPTEMBER 17, 1997**

The Public Meeting was called to order at 1:35 pm by Chair Fern Hart. Also present were Commissioner Michael Kennedy, Mike Sehestedt and Colleen Dowdall, Deputy County Attorneys, Kathy Smith, Paralegal, and Barbara Martens and Denise Alexander from the Office of Planning and Grants.

**PUBLIC COMMENT**

None.

**FAMILY TRANSFER - LARSON**

**Kathy Smith**, Paralegal in the County Attorney's office, presented the following information:

This is a request for a family transfer for Lot 1, COS 2801 located in Section 21, T15N R22W for James D. and Virginia A. Larson.

Jim and Ginny Larson have submitted a request for a family transfer exemption to the Montana Subdivision and Platting Act for a 12.68 acre parcel located off Remount Road adjacent to the Nine Mile Creek. Mr. and Mrs. Larson propose to create a 2 acre parcel for transfer to their adult son, Leonard James Larson.

The history of the parcel is as follows: COS 2656 was filed in August, 1981 by Ida V. Slemmons creating five parcels greater than 20 acres in size. Mr. and Mrs. Larson purchased Tract c of COS 2656 in December, 1981 and filed COS 2801 in September, 1982 creating an occasional sale parcel and remainder.

According to the records kept by the Missoula County Surveyor, the applicants have used the exemption to the Subdivision and Platting Act as described above.

Chair Hart opened the hearing. She asked if Leo planned to live on the property. Leo said he did plan to build a home there. As there were no further comments, Chair Hart closed the hearing.

Commissioner Kennedy moved to grant the family transfer for Lot 1, COS 2801, located in Section 21, T15N R22W for James D. and Virginia A. Larson. Chair Hart seconded the motion. Motion carried with a vote of 2-0.

#### FAMILY TRANSFER - DISHMAN

Kathy Smith, Paralegal in the County Attorney's office, presented the following information:

This is a request for a family transfer for Tract 2, COS 3836 located in Section 26, T11N R20W for Ronald and Rina Dishman.

Ronald Dishman has submitted a request for a family transfer exemption to the Montana Subdivision and Platting Act for a 9.02 acre parcel located off Sun Valley Road just off Highway 93 and north of the Missoula County line. Mr. Dishman originally proposed to create a 1.79 acre parcel on the north end of the parcel for transfer to his wife, Rina Dishman. However, upon review, it was discovered both Mr. and Mrs. Dishman were owners of record and were not eligible to transfer the parcel to Mrs. Dishman. They subsequently changed their request to transfer the parcel to their adult daughter, Wendy V. Dishman. Prior to the change, the Dishmans' representative, Gilbert Larson, indicated the reason for the creation of the parcel was so that Mrs. Dishman could sell that portion of the property on which Mrs. Dishman had previously run a daycare business.

The history of the parcel is as follows: COS 3836 was filed in September, 1990 by Delyla Dishman relocating the boundaries between two parcels and creating Tract 2 as a family transfer parcel. Tract 2, COS 3836 was transferred to Ronald Clifton Dishman in July, 1992. Mr. Dishman quitclaimed half-interest to Rina M. Dishman in February, 1994.

According to the records kept by the Missoula County Surveyor, the applicants have not used any exemptions to the Subdivision and Platting Act.

Chair Hart asked to hear from the developer's representative.

Gilbert Larson of DJ&A came forward, and explained that the site has been in the Dishman family for approximately 35 years. Delyla Dishman split the property in 1990 for her two sons. They want a COS for separate financing and eventual sale of the separate daycare building.

Ronald Dishman came forward and said he had a copy of the loan application for refinancing. He needs to document that the property can be a rental. He wants the County Surveyor to move a tree from the side of the road, and the County Surveyor needs proof that the tree is on County land, so they wanted a survey done, and wanted the property in their daughter's name, in case something happens to Mr. Dishman.

Chair Hart opened the hearing. There were no comments, so she closed the hearing.

Commissioner Kennedy asked why the property was being transferred to the Dishmans' daughter. Mr. Dishman explained that it was in order to receive the loan. Some discussion regarding zoning and the daycare on the property followed.

Chair Hart asked why the property could not be handled through a mortgage exemption. Colleen Dowdall explained that those were limited to construction loans.

Commissioner Kennedy said he was concerned about the split for the purpose of eventual sale of the property. Chair Hart expressed the same concern. Kennedy wondered if we missed anything by not going through subdivision review. Colleen Dowdall explained that there was no real benefit to subdivision review because there were already existing buildings on the property.

Commissioner Kennedy moved to grant the family transfer for Tract 2, COS 3836, located in Section 26, T11N R20W, for Ronald and Rina Dishman. Chair Hart seconded the motion. Motion carried with a vote of 2-0.

#### CONSIDERATION OF COLLEGE FUND ADDITION (continued from September 10, 1997)

(On September 10, Barbara Evans moved and Michael Kennedy seconded the motion to approve the two variance requests for the College Fund Addition based on the findings of fact in the staff report. The two variance requests are: 1. From the requirement to construct sidewalks and pedestrian walkways in all subdivisions and 2. From lot width to length width ratio. The motion carried on a vote of 3-0.)

Denise Alexander, OPG, read into the record a letter from Scott Waldron, Fire Chief of Frenchtown Rural Fire District, stating that "written approval of the driveway access, by the Frenchtown Fire Chief, must be completed prior to construction."

Chair Hart asked John Kellogg of PCI about the access. Discussion followed regarding follow-up on Waldron's request. According to Alexander, the area does not require building permits, so OPG staff doesn't look at site plans. Kellogg suggested having the approval occur prior to filing the final plat, and Colleen Dowdall agreed.

Dowdall explained the Health Department's procedure for approval of septic systems, and OPG procedure noting conditions have been met.

Discussion of access location, whether it should be off Felicia Lane or off Sorrel Springs Rd., continued. Commissioner Kennedy was concerned about emergency access and the steep, long grade of the driveway. Waldron said the developers can create a road that would meet his needs. FRFD accesses 10% grade roads routinely. Kennedy said it was the Commissioners' prerogative to impose standards they feel necessary for safety. Length and steep grade of the driveway is a problem.

Chair Hart said she was not willing to give approval for three options here. Commissioner Kennedy said he would impose driveway limitations of 8% grade, plus turnarounds at 450 feet and at the building site, or whatever the FRFD proposes, whichever is more stringent. Waldron agreed.

Commissioner Kennedy moved to approve College Fund Subdivision, subject to the following conditions:

1. In the event of a horizontal division of the property, then access from Sorrel Springs Road shall not exceed 8% grade and shall have adequate emergency turnarounds at the building site and the one-half way point, approximately 450 feet from Sorrel Springs Road, or the access shall be designed to Frenchtown Rural Fire District requirements, whichever is more stringent, or the proposed subdivision be redesigned with the new property line oriented in a north/south direction, with no lot less than 200 feet wide adjacent to Sorrel Springs Lane.
2. The following statements 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 assent of the lot owner to waive the right to protest a future RSID/SID for any improvements to Sorrel Springs Lane, including but not limited to paving, dust abatement, and sidewalk based on benefit, and may be used in lieu of their signatures on an RSID/SID petition." *Sections 3-2 and 3-4, Missoula County Subdivision Regulations.*  
  
"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, and may be used in lieu of their signatures on an RSID/SID petition." *Sections 3-2 and 3-4, Missoula County Subdivision Regulations.*
3. The developer shall file covenants or a development agreement with the plat which addresses the following:
  - a. Provide a copy of the brochure titled *Living with Wildlife* to the owners and tenants. *Staff recommendation*
  - b. The appropriate fire jurisdiction approve plans to create a defensible space for fire protection around the structure on Lot 37B. *Article 5-1(5)(H), Missoula County Subdivision Regulations.*
4. The developer shall designate the woody draw and any slopes over 25% as "no build" areas. These areas shall be shown on the face of the plat.

Chair Hart seconded the motion. Motion carried with a vote of 2-0.

#### CONSIDERATION OF MOUNTAIN HEIGHTS SUMMARY SUBDIVISION

Barbara Martens of OPG gave the staff report.

Robert Wimmett and Steven Hall are proposing a five lot summary subdivision of Tract 9 of Massey McCullough Acres. This proposal is located on a knoll separating Lower Linda Vista from the Ravenwood Subdivision of Upper Miller Creek. The total size of the property is 5.06 acres. Each of the proposed lots are approximately one acre in size. The subdivision is zoned C-RR2 which permits two dwelling units per acre. Water will be provided by Mountain Water Company. The developers anticipate connection to the city owned Linda Vista Sewer system.

#### Recommendations

The Office of Planning and Grants recommends **approval** of the Mountain Heights Summary Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report.

The Office of Planning and Grants recommends **disapproval** of the variance request from Section 3-2(5) to exclude sidewalks or pedestrian walkways from the subdivision, based on the findings of fact set forth in the staff report.

The 1997 Miller Creek Area Comprehensive Plan Amendment recommends a density of one dwelling unit per acre. The 1990 Missoula Urban Area Comprehensive Plan Update, which preceded the Miller Creek Plan and was in effect at the time the subdivision was submitted, designated this parcel as Suburban-Residential with a maximum density of two dwelling units per acre.

Mountain Heights Subdivision is a proposed summary subdivision of Tract 9 of Massey McCullough Acres located on a knoll separating Lower Linda Vista from Ravenwood Subdivision of Upper Miller Creek. The homesites in the immediate area range in size from 1/2 acre to 5 acres. The individual lots proposed within this subdivision are approximately one acre in size.

Access to the development is via Upper Miller Creek Road to St. Michael Drive, and then to St. Francis Drive, all of which are County maintained roadways. The developer is proposing a private drive to serve the lots within the subdivision. Ownership and maintenance of the private drive will be the responsibility of the Property-owners Association. (See comments stated under Criterion 2 - Effects on Local Services, Roads in the staff report.)

Water is to be provided by Mountain Water Company. The developer proposes to connect to the city owned Linda Vista Sewer system.

Chair Hart asked for comments from the developers' representative.

Steven Hall, one of the developers, read a prepared statement into the record. He explained the idea of a private cul-de-sac, and the benefits thereof. The developers and homeowners would not protest sidewalks if an RSID is put in place in the future, but no other street in the area currently has sidewalks.

The following individuals, all of whom live in the area, commented on the proposed subdivision:

Bob McCue

Tim Shelton

Sue Monroe

Jo Shelton

Commissioner Kennedy discussed land use as pertains to the Miller Creek Comp. Plan. He said he had a problem with the exclusive nature of the subdivision. With the open area nearby, a through street would be useful, for pedestrian and motorized access. Boulevards and sidewalks need to be included.

Bob Wimmatt, one of the developers, said the elevation change from their subdivision to Marias is substantial, regarding making a connecting road. The road will be built to County standards. He wondered if staff considered an easement to the west.

Barbara Martens said there were three concerns over placing a walkway on that side. She said Steve King, City Engineer, felt the connection was feasible.

Chair Hart said the Commissioners needed to look ahead to the future. Taxes in the area will go up with new development. Property will eventually be annexed to the City, and the Commissioners need to do things properly so residents won't be taxed again later.

A discussion of utility and access easements ensued, in regard to people on St. Thomas accessing the back of their lots.

Commissioner Kennedy moved to deny the variance request from Section 3-2(5), Missoula County Subdivision Regulations, to exclude sidewalk or pedestrian walkways from the subdivision. Chair Hart seconded. Motion carried with a vote of 2-0.

Commissioner Kennedy moved to approve the Mountain Heights Summary Subdivision, based on the findings of fact in the staff report and subject to the following conditions:

1. Street, sidewalk, and erosion control plans shall be approved by the County Surveyor and the City Engineer prior to plat filing. The private access easement on the plat shall be amended and labeled a public road and utility easement. *Subdivision Regulations 3-2 and City Engineer recommendation.*
2. Mountain Meadow Court shall be renamed. The new name shall be approved by the County Surveyor and shown on the face of the plat. *County Surveyor recommendation.*
3. The developer shall mitigate the impact of additional traffic on Miller Creek Road by contributing \$1800.00 per lot to a transportation improvements fund for the Miller Creek Road system. The funds shall be received, or a guarantee to pay the contribution within two years of plat approval shall be secured, prior to plat filing. *Subdivision Regulations 3-1 (8)*
4. The developer shall construct a 5-foot wide boulevard and 5-foot wide concrete sidewalk on both sides of Mountain Meadow Court from St. Francis Drive to the south end of the temporary cul-de-sac. *Subdivision Regulations 3-2(5)*
5. The developer shall redesign the plat to provide for a through street. The 60 foot roadway easement shall extend from St. Francis Drive to the southern boundary of Lot 3. A temporary turn-around shall be constructed until such time as the development occurs to the south and the through street connection occurs. Location of the easement shall be approved by the County Surveyor and the City Engineer prior to plat filing. *Subdivision Regulations 3-2(E) and 1-3(2)*
6. The developer shall obtain approval to connect to the city owned Linda Vista Sewer system prior to plat filing. *City Engineer 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 owner to waive the right to protest a future RSID/SID for future road improvements to St. Francis Drive, the interior roadway, and stormwater facilities in the Miller Creek drainage basin, 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." *City Engineer recommendation.*
8. All utilities shall be placed underground. Utility easements shall be a minimum of 20 feet wide and their location shall be approved by the appropriate utility and the governing body and shown on the face of the plat.
9. 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 the extension of the Missoula Urban Transit District and may be used in lieu of their signature on a separate annexation 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."

Chair Hart seconded the motion. Motion carried with a vote of 2-0.

There being no further business to come before the Board, the Commissioners were in recess at 4:15 pm.

**THURSDAY, SEPTEMBER 18, 1997**

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.

DAILY ADMINISTRATIVE MEETING

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

Memorandum of Agreement - The Commissioners signed a Memorandum of Agreement with Child Care Resources, Inc., for services to benefit the Partnership to Strengthen Families Project, which serves families with children ages 0-3 years who are at risk of abuse and/or neglect. Value of the Agreement is \$9,250.00. Duration of the Agreement is from July 1, 1997 through June 30, 1998.

Modification of Crisis Care Project - Chair Hart signed a Modification of the Crisis Care Project, changing the dollar amount to \$19,026.00. Duration of the project is from February 1, 1997 through September 29, 1997. The Modification was returned to Peggy Seel, Grants Administrator in OPG, for further handling.

Resolution - The Commissioners signed Resolution No. 97-096, a resolution to rezone property located in the SW1/4 of Section 1, T12N R20W, PMM, described as Tract 1, COS 2537, being a portion of Tract 1, Executive Golf Course Estates, containing approximately 5-1/2 acres, from C-A3 to C-A3 with a PUD overlay, subject to conditions. This property is located at 4915 Lower Miller Creek Road, and is the site of the Linda Vista Executive Golf Course Clubhouse.

CTEP Proposal - The Commissioners signed a CTEP Proposal form for a walkway adjacent to Highway 93 in Lolo, Montana. Fiscal impact is \$58,564.00, budgeted into the 1999 fiscal year. The form was returned to Chuck Wright in the Surveyor's Office for further handling.

Agreement - The Commissioners signed an Agreement for acquisition of a water well site with William and Ramona Holt, for RSID 901. The Agreement shall lapse if the improvements on the property are not substantially completed by October 31, 1998.

Other items included:

- 1) The Commissioners approved condemnation procedures for easement interests related to the Sunset West water system.
- 2) The Commissioners denied Karen Teeple's request for waiver of penalty for late payment of taxes for Montana Bolt and Hardware.

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

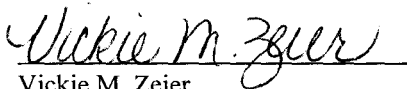
**FRIDAY, SEPTEMBER 19, 1997**

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

Indemnity Bond -- Chair Hart examined, approved, and ordered filed an Indemnity Bond naming Alayne Dolson as principal for Warrant #32477 issued 6/13/97 on the Missoula County MCPS Payroll Fund in the amount of \$133.24 now unable to be found.

No administrative meeting was held; however, the following issue was decided:

- 1) The Commissioners voted to notice and hold a hearing on Wednesday, October 22, for presentation and public comment on the Human Resource Council's application for Industrial Revenue Bonds in the amount of \$400,000.00, in that the Board of County Commissioners finds that the application merits a public hearing. Chair Hart then signed Resolution No. 97-098, relating to Economic Development Revenue Bonds in an amount not to exceed \$400,000.00 for the Human Resource Council.

  
Vickie M. Zeier  
Clerk & Recorder

  
Fern Hart, Chair  
Board of County Commissioners

MONDAY, SEPTEMBER 22, 1997

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

Monthly Reports -- Chair Hart examined, approved and ordered filed the Monthly Reconciliation Reports for Justice of the Peace, John Odlin, for the month ending July 31, 1997, and for the month ending August 31, 1997.

DAILY ADMINISTRATIVE MEETING

At the daily administrative meeting held in the forenoon, the following item was signed:

Agreement - The Commissioners signed an Agreement for Provision of Professional Security Services between the Missoula County Sheriff's Department and Kim Haines of Seeley/Swan High School, for uniformed officers to perform security duties at school functions. Compensation shall be \$15.00 per hour plus 21.37% of the total for work performed by regular deputies, and 12.7% of the total for work performed by reserve deputies. Term of the Agreement is the 1997-98 school year.

Other items included:

- 1) The Commissioners appointed Paul Glidewell to serve out Peter Templeton's term on the Lolo Community Council until the next election.
- 2) The Commissioners approved the appointment of Ginny Cass to the Aging Board as a regular member.

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

TUESDAY, SEPTEMBER 23, 1997

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

DAILY ADMINISTRATIVE MEETING

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

Plat - The Commissioners signed the plat for Hillcrest Heights, Phase I, a subdivision located in the NE1/4 of Section 2, T16N R16W, PMM, Missoula County, a total area of 12.57 acres with the owners/developers being Smith/Hauser Investments, LLC.

Service Agreements - Chair Hart signed two Service Agreements with US West Communications for provision of US West Private Line Transport DS1 Service; one contract for the City Wastewater Treatment Plant, and one contract for the new Missoula County Shops. The total monthly recurring charge for each Agreement is \$219.96. The term of each Agreement is 60 months. The Service Agreements were returned to Teresa Emery in Communications for further signatures and handling.

Memorandum of Agreement - The Commissioners signed a Memorandum of Agreement with Missoula Correctional Services for purchase of a Community Service Program in Missoula County. Compensation for services shall be \$69,520.00. Term of the Agreement is July 1, 1996 through June 30, 1997.

Assistance Agreements - Chair Hart signed two Assistance Agreements with the Bureau of Land Management:

- 1) for providing a framework for providing road work/maintenance needed for the Blackfoot River Road between Johnsrud Park Campground and Dunnigan Gulch Road. The work will be completed by September 30, 1998. Value of the Agreement is not to exceed \$75,000.00.
- 2) to reduce/eliminate non-point pollution to the Blackfoot River from road sediments, by providing a maintained road for public access. Term of the Agreement is five (5) years.

Chair Hart also signed Certifications Regarding Debarment, Suspension, and Other Responsibility Matters, Drug-Free Workplace Requirements and Lobbying, regarding the above Assistance Agreements. All three items were returned to BLM for further signatures and handling.

Other items included:

- 1) The Commissioners appointed Jennifer Copley to the Library Board.

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

**WEDNESDAY, SEPTEMBER 24, 1997**

The Board of County Commissioners met in regular session; all three members were present. Late in the afternoon, Commissioners Hart and Kennedy accompanied representatives of the Weed Department, et. al, on the Miller Creek/Dean Stone weed tour.

**DAILY ADMINISTRATIVE MEETING**

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

Agreements - The Commissioners signed three Agreements with the Western Montana Clinic:

- 1) for provision of colposcopy services for the Breast and Cervical Health Program in Missoula County. Term of the Agreement is from July 1, 1997 through June 30, 1998. \$32,945.00 total is available for screenings.
- 2) for provision of primary care services for the Breast and Cervical Health Program in Missoula County. Term of the Agreement is from July 1, 1997 through June 30, 1998. \$32,945.00 total is available for screenings.
- 3) for provision of laboratory services for the Breast and Cervical Health Program in Missoula County. Term of the Agreement is from July 1, 1997 through June 30, 1998. \$32,945.00 total is available for screenings.

Professional Services Contract - The Commissioners signed a Professional Services Contract with Child and Family Resource Council for parenting education for parents who are developmentally delayed. Performance schedule is from September 18, 1997 through June 30, 1998. Compensation for services shall be \$3,000.00. The Contract was returned to the Health Department for further signatures and handling.

Claim #3 - Chair Hart signed Claim #3 and the gross receipts withholding report for Quality Construction's contract for the County Shops project, for work completed in August, 1997. Cost of the claim is \$234,885.42. The claim was returned to Jesse Sattley for further handling.

Notice of Federal Reversionary Interest - The Commissioners signed a Notice of Federal Reversionary Interest for real estate described as follows:

Lots 7, 8, 9 and 10 of Block 8 of CP Higgins Addition to the City of Missoula, Missoula County, Montana. This is for the Partnership Health Center building to be constructed on the property.

Other items included:

- 1) The Commissioners signed an extension request for Magnolia Estates Preliminary Plat, Barbara and Colbert Howell, developers/owners, extending the filing deadline to September 25, 1998.

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

**PUBLIC MEETING -- SEPTEMBER 24, 1997**

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present were Commissioners Michael Kennedy and Barbara Evans.

**Public Comment**

Bob Massey asked the Commissioners to drive down Blue Mountain Road in the evenings to experience the dust created by the road not being paved in some areas.

**Bid Award: 4x4 Pickup Truck for Junk Vehicle Program**

Information received from Richard Corrigan, Junk Vehicle Specialist, indicated that the 1991 Isuzu Rodeo that now belongs to the Junk Vehicle Program has approximately 120,000 miles on it and is starting to require a great deal of mechanical work. The budget for this year includes a trade in for a new vehicle. On August 25, 1997, bids were requested for the new vehicle. On September 15, 1997, the following bids were received:

<u>BIDDER</u>	<u>UNIT PRICE</u>	<u>TRADE-IN ALLOWANCE</u>	<u>NET COST</u>
Karl Tyler Chevrolet	\$22,512.00	\$4,750.00	\$17,762.00
DeMarois Olds-GMC	22,987.00	5,000.00	17,987.00
Ronan Auto Body	23,836.00	7,500.00	16,336.00

The recommendation was to award the bid to Ronan Auto Body for a net cost of \$16,336.00.

Michael Kennedy moved and Barbara Evans seconded the motion to award the bid for a 4x4 Pickup Truck for Junk Vehicle Program to Ronan Auto Body for a net cost of \$16,336.00. The motion carried on a vote of 3-0.

Sale of Real Property: Tract 1 COS 4702 (north side of Mullan Road between West Broadway and Reserve Street - adjacent to the new Jail site - approximately 18 acres)

Information provided by Mike Sehestedt, Deputy County Attorney, indicated that this was property adjacent to the new jail site that had been included in the original purchase of the property, but had been intended for resale as property not needed for the jail project. The notice of the sale contained the following facts:

The Missoula County Board of County Commissioners will offer for sale at public auction at 1:30 p.m., on September 24, 1997, in Room 201 of the Missoula County Courthouse, 200 West Broadway, Missoula, MT 59802, Tract 1 COS 4702, 18 acres more or less. The minimum acceptable bid for the property is the appraised value of \$1,570,000.

Further Description of the Property. Tract 1 COS 4702 is located on the north side of Mullan Road between West Broadway and Reserve Street immediately to the west of the site on which the Missoula County Jail will be constructed. Tract 1 has approximately 599 feet of frontage on Mullan Road. Copies of the Level One Environmental Assessment of the property, of the appraisal of the property and of the Certificate of Survey for the property are available for inspection and copying in the Office of the Jail Project Manager located in the basement of the Courthouse Annex. Missoula County does not warrant the information contained in the Environmental Assessment or the appraisal and makes these documents available only as additional information for potential purchasers.

Manner of Sale. The minimum bid price is the appraised value of \$1,570,000. County will accept sealed bids for the property at any time up to the time set for the auction. Sealed bids may be delivered to the Board of County Commissioners Office in Room 200 of the Courthouse. At the time set for the auction the sealed bids will be opened and read. The oral auction will then begin with bidding in increments of \$10,000 with the highest sealed bid as a starting point. If no sealed bids are received then the oral auction will begin with the minimum bid amount of \$1,570,000. Sealed bids must be accompanied by bid security/earnest money in the amount of \$157,000 in the form of cash, cashier's check, certified check or equivalent made payable to Missoula County. Bidders at the oral auction should be prepared to deliver to Missoula County the same security at the auction as a condition of acceptance of their bid. The bid security of unsuccessful bidders will be returned within three working days. The bid security of the successful bidder will be retained by Missoula County and applied against the bid price at closing. In the event that the successful bidder fails to close the transaction as required Missoula County shall be entitled to retain the bid security as liquidated damages.

Terms of Sale. The successful bidder shall pay the balance of the purchase price to Missoula County in cash no later than 60 days after the date of auction.

Title. Missoula County will convey to the purchaser by warranty deed subject only to exceptions appearing in the title insurance policy dated July 23, 1997, and issued by Western Title and Escrow. A copy of the title insurance policy is available for inspection and copying at the Office of the Jail Project Manager in the basement of the Courthouse Annex.

Closing. The sale will be closed at Western Title and Escrow at a mutually agreed time within sixty (60) days of the sale with closing costs to be divided equally between County and purchaser provided, however, that purchasers shall be solely responsible for the cost of any desired title insurance.

The County reserves the right to waive irregularities and informalities in any bid and to reject any and all bids. Information on the sale may be obtained from Mike O'Hara, Jail Project Manager, at Missoula County Courthouse, 200 West Broadway, Missoula, MT 59802, or (406) 523-2705.

Fern Hart said that no sealed bids had been received. She asked if anyone in the audience was prepared to offer a bid. No one spoke, and the sale/auction was closed.

Resolution for Issuance and sale of \$2,465,000.00 in Tax Increment Bonds for the Interchange and Infrastructure in the Missoula Development Park and the Refund of Neptune Bonds.

Information received from Jane Ellis, Chief Financial Officer, indicated that on September 3, 1997, the Board of County Commissioners adopted a resolution that identified the interchange, development park infrastructure, and the Neptune apron to be tax increment projects, and authorized staff to proceed with the necessary work to issue tax increment bonds for these projects. In order to be salable, these bonds require the backing of the 2 mill Port Authority levy. On September 11, 1997, the executive Committee of the development Authority agreed to support the use of the Port Authority levy for this purpose. (They had been authorized the previous week to do so by the full Development Authority) Also on September 11, 1997, the County executed a bond purchase agreement with D.A. Davidson establishing the net interest cost on these bonds at 5.63%. The process for refunding the 1996 increment bonds requires the attached escrow agreement. This resolution is the final step in the process for issuing these bonds. Her recommendation was to adopt the resolution, adopt the escrow agreement, and authorize the chair to sign the necessary documents. She said doing so would increase the County's outstanding debt by 42,165,000. The annual debt service will not exceed \$215,000. The two-mill Port Authority Levy can generate \$288,000. As land sales occur, and incremental value is created in the District, the need for the two mill levy will diminish.

Barbara Evans said that she wished to note for the record that the value of the land concerned has increased, and Missoula County was not in any danger of over-extending their debt service.

Barbara Evans moved, and Michael Kennedy seconded the motion to the adopt the resolution, adopt the escrow agreement, and authorize the chair to sign the necessary documents relative to issuance and sale of \$2,465,000.00 in Tax Increment Bonds for the Interchange and Infrastructure in the Missoula Development Park and the Refund of Neptune Bonds. The motion carried on a vote of 3-0.

Consideration of Double "R" Acres No. 4 - Summary Subdivision

Information provided by Denise Alexander, Office of Planning and Grants, indicated that Kenneth and Lorna Richardson are proposing a five lot summary subdivision of Certificate of Survey #851 to be named Double R Acres No. 4. This proposal is located on pasture land west of Clements Road, in the Target Range area. The site is located at the end of Kenwood Drive, south of Spurgin Road. The total size of the property proposed for subdivision is 5.89 acres. Each of the proposed lots are one acre in size. The subdivision is zoned C-RR1 which permits one dwelling unit per acre. The landowners live on the remainder 50 acres and at this time intend to keep it in pasture. Water will be provided by individual wells. Sewer will be provided by individual septic systems with step tanks.



Recommendations

The Office of Planning and Grants recommends **approval** of the Double R Acres No. 4 Summary Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report.

The Office of Planning and Grants recommends **approval** of the variance request from Section 3-2(5) to exclude sidewalks or pedestrian walkways from the subdivision, based on the findings of fact set forth in the staff report.

The Office of Planning and Grants recommends **approval** of the variance request from Section 3-2 (3)(A) to exceed the maximum length of a cul-de-sac road, based on the findings of fact set forth in the staff report.

Nick Kaufman, WGM Group, representing the Richardsons, explained the planning process and the results from neighborhood meetings concerning this project. He said he and his clients concurred with the conditions contained in the staff report, but would propose an amendment to the covenants relative to the improvements within the right-of-way and the road ditches.

Joyce Anderson said she lived in the neighborhood, and thought the process for this proposal had been good, but she had concerns over the safety of children in the neighborhood due to the narrowness of the road. She said she also had concerns about the prospect of attaching Kenwood to Mount, which would increase traffic. She favored keeping this neighborhood "residential."

A discussion of the proposed conditions, potential flooding dangers, ditch issues and the roads inside the subdivision ensued. During the discussion, Nick Kaufman made the following statement:

"As you look at the property, there are a number of opportunities for walkways in this subdivision, and really, fantastic opportunities. One of those opportunities, while the Richardsons may disagree with me, is that there is an irrigation waterway system that comes through the subdivision that has the opportunity to become a site amenity, and again, this is conceptual. Please look at it as conceptual, and not an absolute design. What this is saying is that entrance to this property can become quite a nice feature. And this can say that you are changing from Spurgin into another development. It can say that 'no, it is not going to be a linear street connection system, but a curvilinear street connection that helps preserve neighborhood and reduce streets. It also means that a walkway system may be developed down an open area behind the lots, so that a walkway system adjacent to the roadway may be a secondary system. I, for the life of me, can't remember on Pfau Acres and Pfau Ranches - the first time we came in, we had a gravel extension of the shoulder. But then we came back and we wound up with an asphalt walkway. So, I think we came in with the second subdivision, and you actually put a condition on the first subdivision about walkways, which we may be able to do. I'm just asking you to consider that we haven't thrown away any options in terms of an advanced walkway system. It's true that we are asking you to postpone the final design of those, until the final design of this could emerge through what may be a multi-year process."

Fern Hart relinquished the chair to Commissioner Barbara Evans in order to make the following motions:

Fern Hart moved and Barbara Evans seconded the motion to approve the variance request from Section 3-2(5) to exclude sidewalks or pedestrian walkways from the Double R Acres No. 4 Summary Subdivision, based on the findings of fact set forth in the staff report. The motion carried on a vote of 2-1, Michael Kennedy voted no.  
Fern Hart moved and Barbara Evans seconded the motion to approve the variance request from Section 3-2 (3)(A) to exceed the maximum length of a cul-de-sac road, walkways from the Double R Acres No. 4 Summary Subdivision based on the findings of fact set forth in the staff report. The motion carried on a vote of 2-1, Michael Kennedy voted no.

Fern Hart moved and Barbara Evans seconded the motion to approve the Double R Acres No. 4 Summary Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report. 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 3:10 p.m.

Resolution - Following the Public Meeting, the Commissioners signed Resolution No. 97-097, a resolution relating to Missoula County Airport Tax Increment Industrial Infrastructure District; ratifying the issuance and sale of \$2,465,000.00 tax increment industrial infrastructure district revenue bonds.

**THURSDAY, SEPTEMBER 25, 1997**

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

Audit List -- Commissioners Kennedy and Hart signed the Audit List, dated September 23, 1997, pages 2-38, with a grand total of \$129,260.40. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Plat and Improvements Agreement - Commissioners Evans and Hart signed the plat and improvements agreement for Reeves Addition, a minor subdivision located in the E1/2 of Section 28, T14N R20W, PMM, Missoula County, a gross and net area of 7.18 acres, with the owners of record being Marc H. and Rebecca L. Reeves.

Memorandum of Agreement - The Commissioners signed two Memorandums of Agreement:

- 1) with Extended Family Services for services for children who are victims of domestic violence, abuse, and neglect in Missoula County. Value of the Agreement is \$25,000.00. Duration of the Agreement is July 1, 1997 through June 30, 1998.

- 2) with Women's Opportunity and Resource Development, Inc., Futures for services to benefit pregnant and parenting teens. Value of the Agreement is \$10,686.00. Duration of the Agreement is July 1, 1997 through June 30, 1998.

Agreement - Chair Hart signed an Agreement with the Montana Department of Public Health and Human Services to provide the services of the USDA Special Supplemental Nutrition Program for Women, Infants and Children (WIC) to the residents of Missoula County. Performance schedule is from October 1, 1997 through September 30, 1998. Contract amount shall not exceed \$347,754.00. The Agreement was forwarded to DPHHS in Helena.

Contracts - Chair Hart signed two contracts with the Montana Children's Trust Fund Board for prevention of child abuse/neglect. Contract No. 9823CTFS0012 has a performance schedule of September 1, 1997 through June 30, 1998. Value of the contract is \$10,000.00. Contract No. 9823CTFS0011 has a performance schedule of July 1, 1997 through June 30, 1998. Value of the contract is \$15,000.00. The contracts were returned to the Health Department for further handling.

Change Order - The Commissioners signed Change Order #9 with Quality Construction Company for changes in the Missoula County Road Department Project. Amount of the Change Order is \$15,774.00. Contract time is increased by three days by this Change Order.

Community Rating System Annual Recertification - Chair Hart signed a Community Rating System Annual Recertification for the National Flood Insurance Program for Missoula County. The form was returned to Bud Hettich in OPG for further handling.

Memorandum of Agreement - The Commissioners signed a Memorandum of Agreement with the Nine Mile Community Council for purchase of services which would advance and promote the interests and welfare of Nine Mile residents. Term of the Agreement is from July 1, 1997 through June 30, 1998. Value of the Agreement is \$500.00.

Contract - The Commissioners signed a Contract with Finest Oil Co. for supplying of fuel to Missoula County for FY98. Cost of the contract is \$82,496.00. The Contract was returned to Doreen Culver, Bidding Officer, for further handling.

Other items included:

- 1) The Commissioners approved a change order for \$4,344.00 for an automatic gate opener to be purchased next year at an approximate cost of \$9,000.00, for the Missoula County Road Department project.

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

In the afternoon, the Board of County Commissioners met with the following members of the Management Team: Jane Ellis, Paul Webber, and Hal Luttschwager. Vaughn Anderson and Jennie Dixon were also at the meeting, to discuss the request for extension of the Purchase and Sale Agreement for the Shops property for Harlan Douglass.

Barbara Evans moved, and Michael Kennedy seconded to respond that Missoula County is in favor of an extension of the Purchase and Sale Agreement to October 31, 1997, and the County will consider further extension based on our assessment of the viability of this project. Motion carried with a vote of 3-0.

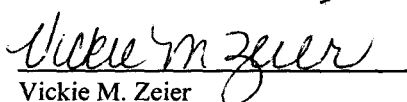
Michael Kennedy moved and Fern Hart seconded to authorize Paul Webber, CAO, to sign the agreement. Motion carried 2-0, as Barbara Evans had left for an appointment.

**FRIDAY, SEPTEMBER 26, 1997**

The Board of County Commissioners did not meet in regular session; Commissioners Hart and Kennedy were out of the office all day.

Indemnity Bond -- Acting Chair Evans examined, approved, and ordered filed an Indemnity Bond naming 2M Company as principal for Warrant #42551 issued 5/14/97 on the Missoula County MCPS (SD#1 - Elementary) Fund in the amount of \$316.08 now unable to be found.

Application for Issuance of Replacement Warrant -- Acting Chair Evans approved an Application for Issuance of Replacement Warrant naming Tim Barr as principal for Warrant #35514, issued 9/19/97 on the Missoula County MCHS Payroll Fund in the amount of \$484.96, not received in the mail.

  
Vickie M. Zeier  
Clerk & Recorder

  
Fern Hart, Chair  
Board of County Commissioners

**MONDAY, SEPTEMBER 29, 1997**

The Board of County Commissioners did not meet in regular session; Commissioner Kennedy stopped briefly at the office in the morning for signature items. Commissioners Hart and Kennedy attended the MACo Annual Conference in Great Falls from September 29 through October 2.

No administrative meeting was held; however, the following item was signed:

Plat - The Commissioners signed the plat for Clark Fork Meadows, a minor subdivision plat located in the NW1/4 of Section 2, and the NE1/4 of Section 3, T11N R17W, PMM, and in the SE1/4 of Section 34, and the SW1/4 of Section 35, T12N R17W, PMM, Missoula County, a total area of 20.06 acres gross and net, with the owner of record being Scott G. Cooney.

TUESDAY, SEPTEMBER 30, 1997

The Board of County Commissioners did not meet in regular session.

Application for Issuance of Replacement Warrant -- Acting Chair Evans approved an Application for Issuance of Replacement Warrant naming Norman Rick Stoflet as principal for Warrant #246838, issued 9/26/97 on the Missoula County Payroll Fund in the amount of \$927.48, not received in the mail.

**WEDNESDAY, OCTOBER 1, 1997**

The Board of County Commissioners did not meet in regular session; Commissioners Hart and Kennedy were in Great Falls attending the MACo Annual Conference. However, Commissioner Kennedy returned to the office briefly late in the afternoon.

Audit List -- Commissioners Evans and Kennedy signed the Audit List, dated September 30, 1997, pages 2-47, with a grand total of \$514,287.89. The Audit List was returned to the Accounting Department.

**PUBLIC MEETING**

The Weekly Public Meeting scheduled for this date was canceled.

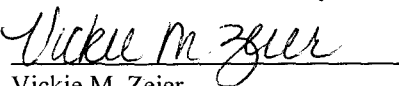
**THURSDAY, OCTOBER 2, 1997**

The Board of County Commissioners did not meet in regular session; Commissioner Hart was in Great Falls attending the MACo Annual Conference through Friday, October 3, and Commissioner Kennedy was out of the office all day October 2 and 3.

**FRIDAY, OCTOBER 3, 1997**

The Board of County Commissioners did not meet in regular session. In the forenoon, Commissioner Evans attended a meeting of the Judicial Standards Commission held at the Federal Courthouse, and in the afternoon, she attended the dedication of the John Mullan statue in Bonner.

On Saturday afternoon, October 4, Commissioner Hart attended the Clinton Community Celebration.

  
Vickie M. Zeier  
Clerk & Recorder

  
Fern Hart, Chair  
Board of County Commissioners

**MONDAY, OCTOBER 6, 1997**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was in Walla Walla, WA attending an ICBEMP meeting October 6 and 7. In the evening, Commissioner Evans attended a meeting of the Hamilton-Lolo Advisory Committee held at the Stevensville Community Center.

Monthly Report -- Chair Hart examined, approved, and ordered filed the Monthly Reconciliation Report for Justice of the Peace, Michael Jaworsky, for the month ending September 30, 1997.

**DAILY ADMINISTRATIVE MEETING**

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

Note - The Commissioners signed a note to Alice and Marvin Rickett on the death of their son.

Payroll Transmittal Sheet - The Commissioners signed a Payroll Transmittal Sheet for Pay Period 19, a total Missoula County payroll of \$642,544.49. The sheet was returned to the Auditor's office.

Collective Bargaining Agreement - The Commissioners signed a Collective Bargaining Agreement with the United Food and Commercial Workers Union Local 1981 (Library). Term of the Agreement is from July 1, 1997 through June 30, 1999. The Agreement was returned to Steve Johnson in the Personnel Office for further signatures and handling.

Memorandums of Agreement - The Commissioners signed three Memorandums of Agreement with Missoula Correctional Services. Duration of all three Agreements is from July 1, 1997 through June 30, 1998.

1. for a Community Service Program in Missoula County. Cost of the Agreement is \$78,304.00.
2. for a Misdemeanor Supervision Program in Missoula County. Cost of the Agreement is \$121,489.00.
3. for a Pre-Trial Supervision Program in Missoula County. Cost of the Agreement is \$44,645.00.

All three Agreements were returned to Sue Wilkins of Missoula Correctional Services for further signatures and return to the Commissioners' office.

Memorandums of Agreement - The Commissioners signed three Memorandums of Agreement, as follows:

1. with the YWCA for domestic violence victim services. Value of the Agreement is \$41,215.00, of which, \$14,665.00 is County match support. Term of the Agreement is July 1, 1997 through June 30, 1998.
2. with the Human Resource Council District XI, Supplemental Security Income Transition Program (SSIT), for basic needs assistance for indigent residents of Missoula County. Value of the Agreement is \$168,634.00. Duration of the Agreement is July 1, 1997 through June 30, 1998.
3. with the Missoula Parent Co-op., Inc., for affordable daycare for the citizens of Missoula County. Value of the Agreement is \$13,275.00. Duration of the Agreement is from July 1, 1997 through December 31, 1997.

Amendment to Employee Benefits Plan - The Commissioners signed Exhibit 7 a.25, an Amendment to the Employee Benefits Plan adding the Frenchtown Rural Fire District to the Plan.

Contract - Chair Hart signed Contract Number 370231 with the Montana State Department of Public Health and Human Services, for technical assistance related to the Child Fatality Review Contract. Duration of Contract is from July 1, 1997 through June 30, 1998. The Contract was forwarded to DPHHS in Helena.

Replacement Bond - Chair Hart signed Registered Bond #R-65, issued to CEDE and Co. for the County of Missoula Hospital Revenue Refunding and Improvement Bond, Series 1978 (Missoula Community Hospital Project). This Bond is replacing Bond #R-64, for \$2,151,000.00, which has been canceled. The Bond was returned to First Interstate Bank.

Change Order - The Commissioners signed Change Order No. 8 for the Missoula County Road Department Project, adding a concrete stoop to the front of the main electrical service structure, and reducing contract prices by \$3,568.00. The new contract amount is \$1,938,694.00. Contract time is unchanged by this Change Order.

Extension Requests - The Commissioners approved four extension requests:

1. Branco Court (180 days), with letter to Andy Fisher of Eli and Associate;
2. Guest Ranch Road Tracts (180 days), with letter to Ron Ewart of Eli and Associate;
3. Pilgrim's Parcels (120 days), with letter to Steve Jackson;
4. Bissell Subdivision (120 days), with letter to Erica Brown of Professional Consultants, Inc.

Other items included:

- 1) Commissioner Evans moved to approve the proposed change for Mountain Heights Subdivision to amend Condition #4 to construct the sidewalk on the east side. Chair Hart seconded. Motion carried with a vote of 2-0.

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

#### TUESDAY, OCTOBER 7, 1997

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

Audit List -- Commissioners Evans and Hart signed the Audit List, dated October 7, 1997, pages 2-36, with a grand total of \$280,190.01. The Audit List was returned to the Accounting Department.

Monthly Report -- Chair Hart examined, approved, and ordered filed the Monthly Reconciliation Report for Justice of the Peace, John Odlin, for the month ending September 30, 1997.

No administrative meeting was held; however, the following item was signed:

Sanitary Sewer Agreement and Petition for Annexation - Commissioners Evans and Hart signed a Contract Agreement for City Public Sanitary Sewer with the City of Missoula and MC<sup>2</sup> Investments, LLP for property at 6333 Butler Creek Road. The Agreement is in perpetuity. They also signed a Petition for Annexation to City for property at 6333 Butler Creek Road. Both items were returned to Ken Johnson of MC<sup>2</sup> for further signatures and handling.

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

#### WEDNESDAY, OCTOBER 8, 1997

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

#### PUBLIC MEETING -- OCTOBER 8, 1997

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present were Commissioners Michael Kennedy and Barbara Evans, County Surveyor Horace Brown, and Clerk and Recorder/Treasurer, Vickie Zeier.

#### Public Comment

None.

#### Proclamation - Domestic Violence Awareness Month

The Board of County Commissioners signed a proclamation designating October, 1997 as Domestic Violence Awareness Month.

#### Hearing: Certificate of Survey - Family Transfer-Richardson

Information provided by Kathy Smith, Paralegal for the County Attorney's Office, indicated that this is request to create two parcels using the family transfer exemption for a parcel described in Book 152 Deeds, Page 123 less that parcel as described in Book 2 Micro, Page 1611; less that parcel described in Book 3 Micro Page 314; less that parcel as described in Book 29 Micro, Page 726; less that parcel as described in Book 29 Micro, Page 725; and less a portion of Highway 90 located in Section 26, T15N R22W for James B. and Ida S. Richardson.

#### BACKGROUND

Jim and Ida Richardson have submitted a request to create two parcels using the family transfer exemption to the Montana Subdivision and Platting Act for an approximately 56 acre parcel located off Six Mile Road just North of

Highway 90. The transfers are to be for the Richardsons' adult sons, Jim L. Richardson and Eddie R. Richardson. I do not know the size or location of the proposed parcels as no sketch was included with the Exemption Affidavit.

The history of the parcel is as follows: Mr. and Mrs. Richardson purchased the 153 acre parent parcel in 1948. Since that time they have split off a 15 acre parcel in 1966 and shown in Book 2 Micro, Page 1611, a 25 acre parcel in 1966 and shown in Book 3 Micro, Page 314, a 33 acre parcel in 1966 and described in Book 29 Micro, Page 725, a 21 acre parcel in 1970 and shown in Book 29 Micro, Page 726 and a portion that was taken by Highway 90. The property divided into the 15 and 25 acre parcels and on the east side of Six Mile Road was platted in 1971 as the Hidden Hills subdivision of which the average parcel size is 5.5 acres.

According to the records kept by the Missoula County Surveyor, the applicants have not used any exemptions to the Subdivision and Platting Act.

Michael Kennedy moved and Barbara Evans seconded the motion to create two parcels using the family transfer exemption to the Montana Subdivision and Platting Act for an approximately 56 acre parcel located off Six Mile Road just North of Highway 90. The transfers are to be for the Richardsons' adult sons, Jim L. Richardson and Eddie R. Richardson., finding it in the public interest do so. The motion carried on a vote of 3-0.

#### Hearing: Certificate of Survey - Family Transfer-Fontaine

Information provided by Kathy Smith, Paralegal for the County Attorney's Office, indicated that this is a request to create a parcel using the family transfer exemption for a parcel described in Book 238 Micro, Page 1543 located in Section 1, T11N R21W for Raymond R. and Donna J. Fontaine.

Ray and Donna Fontaine have submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act for a 2 acre parcel located off Lolo Creek Road just West of Lolo. The Fontaines proposed to create a one acre parcel for transfer to their adult daughter, Korin Brayton. The comprehensive plan designation is rural low density and the Exemption Affidavit states the Fontaines currently reside on what would be the one acre remainder.

The history of the parcel is as follows: The parcel was created through deed in 1952. There have been no changes to the parcel and the Fontaines purchased the parcel in 1986.

According to the records kept by the Missoula County Surveyor, the applicants have not used any exemptions to the Subdivision and Platting Act.

Michael Kennedy moved and Barbara Evans seconded the motion to approve the family transfer exemption for a parcel described in Book 238 Micro, Page 1543 located in Section 1, T11N R21W for Raymond R. and Donna J. Fontaine, finding it in the public interest to do so. The motion carried on a vote of 3-0.

#### Consideration of Alloy Lots #2 Summary Plat

Information provided by Nancy Heil, Office of Planning and Grants, indicated that Elden and Ione Inabnit are proposing a four lot summary subdivision of Lot 3, Block 2 of Momont Industrial Park, Phase I. This proposal is located north of the airport on the east side of Alloy South. The total size of the property is 1.11 acres. Each of the proposed lots is 0.28 acres in size. The subdivision is zoned C-II, Light Industry. City of Missoula sewer and Mountain water lines are located adjacent to the property on Alloy South. The applicant anticipates connection to these existing lines.

Ron Ewart, Eli and Associates, representing the Inabnits, discussed the history of the parcel, the Inabnits' plans for the land, and addressed proposed changes to the conditions.

A general discussion of sidewalks, private easements, and access to the lots in the subdivision ensued.

Michael Kennedy moved and Fern Hart seconded the motion to deny the variance request of Alloy Lots #2 from Section 3-2(5), Missoula County Subdivision Regulations, to not provide sidewalk or pedestrian walkways from the subdivision. The motion carried on a vote of 2-1 (Barbara Evans opposed).

Michael Kennedy moved and Barbara Evans seconded the motion to approve the variance request of Alloy Lots #2 from Section 3-2(3), Missoula County Subdivision Regulations to allow 60 foot and 43 foot access and maintenance easements on Alloy Court. The motion carried on a vote of 3-0.

Michael Kennedy moved and Barbara Evans seconded the motion to approve the variance request of Alloy Lots #2 from Section 3-2(3), Missoula County Subdivision Regulations to allow a 24 foot paved road surface. The motion carried on a vote of 3-0.

Michael Kennedy moved and Barbara Evans seconded the motion to approve the variance request of Alloy Lots #2 from Section 3-2(4) Missoula County Subdivision Regulations regarding curb and gutter. The motion carried on a vote of 3-0.

Michael Kennedy moved and Barbara Evans seconded the motion to allow a change of name of the proposed subdivision from Alloy Lots #2 to Alloy Court. The motion carried on a vote of 3-0.

Michael Kennedy moved and Barbara Evans seconded the motion to approve the Summary Plat of Alloy Court Subdivision, located in the Momont Industrial Park, North of the Missoula International Airport, legally described as

Lot 3, Block 2, Momont Industrial Park, SE ¼ Section 35, SW ¼ Section 36, T14N, R20W, subject to the following conditions. The motion carried on a vote of 3-0.

1. Street, sidewalk, drainage, curb and gutter, and erosion control plans as shown on the site plan shall be approved by the County Surveyor and City Engineer prior to plat filing. The City Engineer shall review parking plans during the building permit review process.
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 the assent of the lot owner to waive the right to protest a future RSID/SID for future road improvements including installation of pedestrian walkways to Alloy South, 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."
3. The covenants shall be amended to require that sidewalks or pedestrian walkways be extended to the boundaries of each lot to provide continuous walkways between lots. OPG approval of the location and sidewalk plans shall be required at the time of building permit review.
4. The subdivision shall include a provision for a boulevard sidewalk along Alloy South. The sidewalks shall allow public access and shall be constructed prior to filing of the plat or provision shall be made for the construction of sidewalks as a condition of issuance of the building permits for lots 1 and 4.
5. The applicant shall obtain approval of sewer utility plans from the City Engineer prior to plat filing
6. An avigational easement shall be obtained for this property in compliance with the Airport Influence Area Resolution prior to plat filing.
7. The following statement shall appear on the face of the plat and in each instrument of conveyance:  
"This property is within the Airport Influence Area and subject to the requirements of the Airport Influence Area Resolution."
8. The applicant shall provide evidence that the plat includes the vacated portion of Alloy South or shall amend the plat to show revised property lines and acreage of Lot 1.
9. The applicant shall amend the covenants to reflect the changes in the amended plat application and the conditions of subdivision approval.
10. The plat shall include a one foot no access easement around the perimeter of the property. The location shall be approved by the County Surveyor and City Engineer.

There being no further business to come before the Board, the Commissioners were in recess at 2:15 p.m.

**THURSDAY, OCTOBER 9, 1997**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was in Drummond attending a meeting of the Upper Clark Fork River Basin Steering Committee.

Monthly Report -- Chair Hart examined, approved, and ordered filed the Report of the Sheriff, Douglas Chase, showing fees and collections on account of civil business in Missoula County for the month ending September 30, 1997.

DAILY ADMINISTRATIVE MEETING

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

Payroll Transmittal Sheet - The Commissioners signed a Payroll Transmittal Sheet for Pay Period 20, with a total Missoula County payroll of \$623,038.09. The sheet was returned to the Auditor's office.

Verification of Elected Officials Raises - Chair Hart signed a Verification of Elected Officials Raises for the Montana State University Extension Service, showing a 3.26% change between FY 97 and FY 98. The form was forwarded to MSU in Bozeman.

Professional Services Contract - The Commissioners signed a Professional Services Contract with the Missoula AIDS Council for HIV prevention activities. Compensation shall be up to \$15,702.00. Performance schedule is October 1, 1997 through December 31, 1997. The Contract was returned to the Health Department for further signatures and handling.

Modification of Agreement - Chair Hart signed a Modification of Agreement with the Montana Department of Environmental Quality amending the Agreement regarding the Lolo Wastewater Treatment Facility Plan. This modification extends the completion date to February 28, 1998. The modification was forwarded to DEQ in Helena.

Memorandum of Agreement - The Commissioners signed a Memorandum of Agreement with Missoula Correctional Services, Inc. for a Misdemeanor Supervision Program in Missoula County. Cost of the Agreement is \$56,399.00. Term of the Agreement is from January 1, 1997 through June 30, 1997. The Agreement was returned to Sue Wilkins at Missoula Correctional Services for further signatures and return.

GIS Fees Concurrence - The Commissioners signed a request from Horace Brown, County Surveyor, for concurrence to pay two years of fees to the Local Government GIS Coalition. The fees will be paid from the Contracted Services line item in the Surveyor's budget.

Lease Agreement - The Commissioners signed a Lease Agreement with Plum Creek Timber Company, LP, to lease the following tracts of land located in Missoula County:

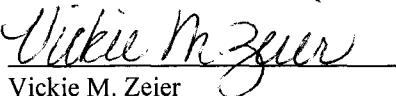
- (1) T14N R15W, PMM, Section 2, NE1/4
- (2) T21N R16W, PMM, Section 33, NE1/4 of the NE1/4

The leases are for 2 radio transmission sites and maintenance and operation of a passive repeater board. Term of the Agreement is from October 1, 1997 through September 30, 2007. Cost of the Agreement is \$2,400.00.

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

**FRIDAY, OCTOBER 10, 1997**

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

  
Vickie M. Zeier  
Clerk & Recorder

  
Fern Hart, Chair  
Board of County Commissioners

**MONDAY, OCTOBER 13, 1997**

The Courthouse was closed for the Columbus Day Observed holiday.

**TUESDAY, OCTOBER 14, 1997**

The Board of County Commissioners met in regular session; all three members were present. In the evening, the Commissioners met with the Lolo Community Council and Lolo residents at the Lolo Community Center, regarding several issues pertaining to the Lolo area.

Monthly Report -- Chair Hart examined, approved, and ordered filed the Report of the Clerk of the District Court, Kathleen Breuer, showing fees and collections made in Missoula County for the month of September, 1997.

DAILY ADMINISTRATIVE MEETING

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

Memorandums of Agreement - The Commissioners signed two Memorandums of Agreement:

1. with the Art Museum of Missoula for access to the arts for Missoula area residents. Value of the Agreement is \$104,875.00. Duration of the Agreement is from October 1, 1997 through June 30, 1998.
2. with Missoula Aging Services for the meals-on-wheels and foster grandparent programs. Value of the Agreement is \$94,900.00. Duration of the Agreement is from July 1, 1997 through June 30, 1998.

Extension Request - The Commissioners approved a 180-day extension request for Huson Heights Subdivision final plat, with a letter to Ron Ewart of Eli and Associate.

Re-registration of Bonds - Chair Hart signed two \$3,000.00 bonds for re-registration of RSID 8442 to a new holder. The bonds were returned to Jesse Sattley, RSID Coordinator, for further handling.

Other items included:

- 1) Commissioner Kennedy moved to move the Lolo RSID 901 bank account for loans, and to follow the policy of ordering repair work if necessary to protect the system, or to turn off the water. Commissioner Evans seconded, and the motion carried with a vote of 3-0.

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

**WEDNESDAY, OCTOBER 15, 1997**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy traveled to Helena to attend a meeting of the Upper Clark Fork River Basin Steering Committee.

Audit List -- Commissioners Hart and Evans signed the Audit List, dated October 15, 1997, pages 2-35, with a grand total of \$232,803.41. The Audit List was returned to the Accounting Department.

Application for Issuance of Replacement Warrant -- Chair Hart approved an Application for Issuance of Replacement Warrant naming Renee Kincaid as principal for Warrant #246677, issued 9/26/97 on the Missoula County Payroll Fund in the amount of \$73.03, not received in the mail.

DAILY ADMINISTRATIVE MEETING

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



Plat and Subdivision Improvements Agreement - Commissioners Evans and Hart signed the Plat and Subdivision Improvements Agreement and Guarantee for Windemere Estates, a minor subdivision located in the NE1/4 of Section 17, T13N R20W, PMM, Missoula County, with the owner of record being Mark R. Hancock.

Payroll Transmittal Sheet - The Commissioners signed a Payroll Transmittal Sheet for Pay Period 19-2 (Jail Clothing Allowance), with a total Missoula County payroll of \$9,405.00. The sheet was returned to the Auditor's office.

Request to Amend Conditions of Approval - The Commissioners signed a letter to Steve Jackson, approving his request to amend the conditions of approval for the Pilgrim's Parcels subdivision, allowing for the two lots on the cul de sac to not show building envelopes.

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

#### PUBLIC MEETING - OCTOBER 15, 1997

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present were Commissioner Barbara Evans, County Surveyor Horace Brown, Deputy County Attorneys Mike Sehestedt and Colleen Dowdall, and Clerk and Recorder/Treasurer, Vickie Zeier.

#### Public Comment

Dan Poe Newman stated he was a candidate for Justice of the Peace in 1998, and asked about the Commissioners' interest in Eagle Hardware.

Commissioner Evans responded with information on the current offer from Eagle Hardware, saying it was enough to move the jail to the other end of the property.

McCarthy Coyle spoke regarding the recent newspaper article about the Commissioners. His interest is first amendment rights. Coyle said people are disappointed, and don't know what the Commissioners are doing. He suggested the Commissioners use MCAT to publicize their activities, and have an open door policy once a week - time when the public can meet informally with the Commissioners.

Alice Campbell said she was disappointed in the idea to sell County lands. She wants the Commissioners to keep the land and use it for the good of Missoula County.

#### PRESENTATION OF JAIL FUNDS BY US MARSHAL

Mike O'Hara, Jail Captain, introduced Sheriff Doug Chase and Bill Strizich, US Marshall for the Montana District. Bill Strizich presented Missoula County with a check for \$924,000.00 for the jail project, to be used to purchase beds for US Marshal prisoners.

#### SALE OF TAX DEED PROPERTY

Mike Sehestedt explained that this piece of property, located in the upper Rattlesnake area, was taken by tax deed and listed with a County Realtor for sale. There was significant interest by neighbor Paul Cooley, to lease or purchase for far less than fair market value. Subsequently, the property was offered for sale by bid by publicly advertising it in the Missoulian and mailing notice to all adjacent land owners. The following bids were received:

Britt Finley - \$10,100

Paul O'Connell - \$10,501

Fair market value as of 1997 is \$10,449.00.

Staff recommendation is to sell the property to Paul O'Connell for \$10,501.00.

Commissioner Evans moved to approve the sale of tax deed property to Paul O'Connell for \$10,501.00. Commissioner Hart seconded. Motion carried with a vote of 2-0.

#### HEARING - CERTIFICATE OF SURVEY - FOTOPoulos

Kathy Smith, paralegal in the County Attorney's office, gave the following presentation:

This is a request to create a parcel using the family transfer exemption for Tract 10, COS 49 located in Section 17, T15N R21W for Angelo C. Fotopoulos, Jr. and Deborah J. Fotopoulos.

#### BACKGROUND

Angelo Fotopoulos, Jr. has submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act for a 10.08 acre parcel located off Pond Road Northeast of Huson. Mr. Fotopoulos proposes to split the parcel in half for transfer to his adult daughter, Jenny Matson. The comprehensive plan designation is rural low density.

The history of the parcel is as follows: COS 49 was filed in August, 1973 creating 13 parcels greater than 20 acres in size. Numerous other parcels were also created in the same area using the same exemption as shown on the attached section map. Mr. and Mrs. Fotopoulos purchased Tract 10 of COS 49 in January, 1990.

According to the records kept by the Missoula County Surveyor, the applicants have not used any exemptions to the Subdivision and Platting Act.

Chair Hart asked Angelo Fotopoulos Jr. if his daughter intended to live on the property, and he said she planned to live there, in a modular home.

Chair Hart opened the hearing for public comment. As there was none, she closed the hearing.

Commissioner Evans moved to approve a family transfer exemption for Angelo C. Fotopoulos Jr. and Deborah J. Fotopoulos, for Tract 10, COS 49, located in Section 17, T15N R21W, as it does not appear to be an attempt to evade the Montana Subdivision and Platting Act. Chair Hart seconded the motion.

Motion carried with a vote of 2-0.

#### HEARING - CERTIFICATE OF SURVEY - HOBBS

Kathy Smith, paralegal in the County Attorney's office, gave the following presentation:

This is a request to create a parcel using the family transfer exemption for a parcel described in Book 498 Micro, Page 407 located in Section 15, T13N R16W for Thomas W. and Kathleen E. Hobbs.

#### BACKGROUND

Tom and Kathleen Hobbs have submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act for a 9.945 acre parcel located off Morrison Drive and Highway 200 in Potomac. The Hobbs propose to create a 7 acre parcel for transfer to their adult son, Dustin Allen Hobbs. According to the Exemption Affidavit, a home and cabinet shop would exist on the family transfer parcel and a home on the 3 acre remainder.

The history of the parcel is as follows: The parcel was created through deed using the mortgage exemption to the Subdivision and Platting Act in January, 1987. Mr. Hobbs purchased the parcel in November, 1994 and he quitclaimed half interest to Mrs. Hobbs in February 1997.

According to the records kept by the Missoula County Surveyor, the applicants have not used any exemptions to the Subdivision and Platting Act.

Chair Hart asked Tom Hobbs if his son planned to live on the parcel, and he said his son did plan to live there.

Chair Hart opened the hearing for public comment. As there was none, she closed the hearing.

Commissioner Evans moved to approve a family transfer exemption for Thomas W. and Kathleen E. Hobbs, for a parcel described in Book 498 Micro, Page 407, located in Section 15, T13N R16W, as it does not appear to be an attempt to evade the Montana Subdivision and Platting Act. Chair Hart seconded the motion.

Motion carried with a vote of 2-0.

#### CONSIDERATION OF ENGBRETSON ADDITION

Brian Maiorano of the Office of Planning and Grants gave the staff report.

The Engbretson Addition is a request from Murray and Nancy Engbretson for a subdivision for lease or rent on their 22 acres of land, located near Alberton, on the Southside Road east of Petty Creek. The property is legally described as Tract H of COS 113, located in the east 1/2 of Section 7, T14N, R22W. There is currently a home on the property and the applicants are seeking approval to add an additional dwelling unit for lease or rent to the property.

Access to the existing homesite is from Southside Road. A separate driveway, also from Southside Road, is proposed to serve the second homesite.

An individual well and septic are in place to serve the existing homesite. The new home is proposed to share the well and install an additional septic system.

Surrounding land uses in the area include the Clark Fork River, which borders the property to the north, but is separated from the residences by the Burlington Northern railway and Southside Road. A number of residences are along Southside Road near the property, on lots sized from one to eighteen acres. U.S. Forest Service land borders the property to the south and east.

#### Recommendation

The Office of Planning and Grants recommends **approval** of the **Engbretson Addition Subdivision For Lease or Rent**, based on the findings of fact in the staff report and subject to the conditions in the staff report.

The Office of Planning and Grants recommends **approval** of the variance request from Section 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways from the subdivision, based on the findings of fact set forth in the staff report.

Chair Hart asked about the \$100.00 contribution - is it only for the additional unit? Colleen Dowdall said that it was just for the new unit.

Chair Hart asked Colleen to clarify the Commissioners' involvement in septic and water issues. Colleen said the Health Department and the State do this type of review - not the Commissioners.

Chair Hart asked if there were any comments.

Nancy Engebretson, property owner, commented that the two sewer systems were laid out by Bob Johnson, and he said there should be no problem. The systems should not interfere with the wells.

Chair Hart asked if Nancy had any problems with the conditions. Nancy said she was unfamiliar with them. Her husband and attorney were more familiar with the issues. Chair Hart explained the conditions, and Commissioner Evans explained the dust abatement waiver.

Commissioner Evans moved to approve the variance request from Section 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways from the subdivision, based on the findings of fact set forth in the staff report. Chair Hart seconded the motion.

Motion carried with a vote of 2-0.

Commissioner Evans moved to approve the Engebretson Addition Subdivision For Lease or Rent, based on the findings of fact in the staff report and subject to the following conditions, as recommended by the Office of Planning and Grants:

1. The developer shall contribute \$100.00 per new dwelling unit to the Frenchtown Fire District. Evidence of contribution shall be presented to the Office of Planning and Grants prior to issuance of a Comprehensive Plan Compliance Permit for the second dwelling unit. *Comments from Frenchtown Rural Fire District.*
2. The developer shall file a document of record with Missoula County waiving the right to protest future upgrading and improvements of Southside Road, including installation of pedestrian walkways and participation in a dust abatement district, based on benefit. Such document shall be filed prior to issuance of a Comprehensive Plan Compliance Permit for the second dwelling unit. *Subdivision Regulation 3-2(5)*
3. The developer shall file a document of record with Missoula County waiving the right to protest a future RSID for community water and/or sewer, based on benefit. *Subdivision Regulation 3-2(6A)*
4. Access from Southside Road to the new dwelling unit will be via the existing driveway.

Chair Hart seconded the motion. Motion carried with a vote of 2-0.

#### HEARING - TOWN PUMP/WEST RIVERSIDE SUBDIVISION

Pat Keiley of the Office of Planning and Grants gave the staff report.

Mr. Thomas F. and Mrs. Mary Ann Kenneally are requesting approval for an 8-lot preliminary plat subdivision called Town Pump/West Riverside Subdivision on 11.5 acres. The lot size ranges from 1.2 to 1.7 acres in size. The land is currently vacant.

The proposed subdivision is located adjacent to 1st Street, West Riverside Drive and Old U.S. Highway 10 West, and just to the north of Montana Highway 200 in the West Riverside portion of Missoula County, Montana. Adjacent land uses include a Stimson lumber yard to the east, a commercial bank to the west, residential single-family to the north and highway and the Town Pump Travel Plaza to the south.

The property is legally described as a portion of a larger deed of Stimson Lumber Company which is all of Stimson's land west of the Blackfoot River of record in Book 396 of Micro at Page 1166, generally described as follows: A tract of land being all that portion of the NW 1/4 of Section 21, Township 13 North, Range 18 West, Principal Meridian, Missoula County. The area is zoned C-11 (Light Industrial). The 1990 Missoula County Comprehensive Plan Update designation is "Suburban Residential, with a maximum density of 2 dwelling units per acre."

#### Recommendations

The Missoula Consolidated City-County Planning Board held a public hearing on September 2, 1997 to make a recommendation on this subdivision request to the governing body. The Planning Board made the following recommendations, with which the OPG staff concurs:

1. The Planning Board voted 7-0 to recommend approval of the Town Pump/West Riverside Subdivision variance request from Section 3-2(10) to not increase the easement width of 1st Street from the existing 60 feet to the required 80 feet, based on findings of fact.
2. The Planning Board voted 7-0 to recommend denial of the Town Pump/West Riverside Subdivision variance request from Section 3-2(10) to not increase the paved surface width of 1st Street from the existing 22 feet to the required 32 feet, based on findings of fact.
3. The Planning Board voted 7-0 to recommend approval of the Town Pump/West Riverside Subdivision variance request from Section 3-2(10) to not increase the easement width of West Riverside Drive from the existing 45 feet to the required 80 feet, based on findings of fact.

4. The Planning Board voted 7-0 to recommend denial of the Town Pump/West Riverside Subdivision variance request from Section 3-2(10) to not increase the paved surface width of West Riverside Drive from the existing 22 feet to the required 32 feet, based on findings of fact.
5. The Planning Board voted 7-0 to recommend approval of the Town Pump/West Riverside Subdivision variance request from Section 3-2(10) to not increase the easement width of Old Highway 10 West from the existing 60 feet to the required 80 feet, based on findings of fact.
6. The Planning Board voted 7-0 to recommend approval of the Town Pump/West Riverside Preliminary Plat Subdivision, 8 lots on 11.5 acres, based on findings of fact and subject to conditions.

The staff recommends approval of the Town Pump/West Riverside Subdivision, subject to conditions.

Chair Hart asked for comments from the developer's representative.

Gordon Sorenson came forward and stated he was representing the Keneallys. He said they are against having a sidewalk on the Old Highway 10 side of the subdivision. A good system on the north and east would be sufficient for bike/pedestrian traffic. He wants a waiver of the staff recommendation for sidewalks on the south and southwest side of lots 7, 8, and 1. He felt that more effort should go on West Riverside Drive.

Regarding Condition #30, Sorenson said there is no way to maintain the berm/buffer until the lots are developed. Until there are users, there is no real need for a buffer, and no way to care for young trees.

Commissioner Evans asked about the 7 foot soil berm. Sorenson answered that the vegetation is to be at a height of 7 feet - not the soil berm.

Sorenson also wanted condition #29 struck, as the two existing trees it refers to are in the middle of lots 5 and 6.

Chair Hart opened the hearing for public comment.

Mary White, a resident of the area, said she and a neighbor did a survey of the area, and talked to 300 people. Concerns were a traffic light at 1st Street and Highway 200, landscaping, a speed limit, "green" barriers between the residential and light industrial areas, and lighting. She was concerned with condition #30, and wanted a time frame for landscaping.

Scott Kuehn, representing the Bonner School Board of Trustees, wanted a continuous sidewalk around the subdivision. He was concerned about the lack of a crosswalk at 1st Street. The School Board wants to limit the number of potential student/vehicle accidents.

Bruce Hall, of the Bonner Development Group, said the parcel of land is significant to the community. He wants to see a separation of light industrial and residential areas. He said there are heavy traffic patterns and high speeds in the area. Having a sidewalk at Highway 200 and Highway 10 might encourage more use. It might be better to concentrate on West Riverside Drive and 1st Street.

Pete Barthelmess, an employee of Town Pump, agreed with Hall.

As there were no further comments, Chair Hart closed the hearing. She said this was a good development, and work has been done with the neighbors. The sidewalk issue is a hard decision. She proposed a waiver for Highways 10/200 for a bike/ped system, when it is developed in the future.

Colleen Dowdall said she had problems with condition #30. It is a zoning condition, not a subdivision condition. It exceeds zoning requirements. Our enforcement ability will be limited. The sidewalk could be part of the subdivision improvements guarantee.

Chair Hart, Colleen Dowdall, Horace Brown, and Pat Keiley discussed the issue of landscaping and sidewalks in the subdivision.

Commissioner Evans agreed that we should not impose rules that do not exist, but we should do things that look good for the community.

Gordon Sorenson said that his client wants the lot owners to be responsible for berm areas. He also does not want sidewalks on the southwest side.

Commissioner Evans asked about travel corridors and drip irrigation along them for the trees. Colleen said that the covenants can say subsequent owners need to handle those issues.

Colleen and Pat discussed rewriting condition #30 as a subdivision condition.

Commissioner Evans moved to approve variance requests 1, 3, and 5; and to deny variance requests 2 and 4, based on staff recommendation and findings of fact. Chair Hart seconded the motion.

Motion carried with a vote of 2-0.

Commissioner Evans moved to accept conditions 1-13, with changes. The motion died for lack of a second.

Chair Hart and Pat Keiley agreed to strike original condition #29.

Commissioner Evans asked if Sorenson was willing to strike the sidewalk on Highway 10 in favor of a gravel pathway and sidewalks on the north and east of the property. Colleen said the gravel path could be installed by the developer but maintained by the landowners.

Sorenson said the developer will treat Highway 10 as a travel corridor. The gravel thru-connection could be meandered through the 25 foot strip.

Commissioner Evans moved to approve the Town Pump/West Riverside Subdivision, based on the staff report, findings of fact, and subject to the following conditions:

1. Grading, drainage, erosion control, road and driveway plans shall be approved by the County Surveyor, prior to recording the final plat. Article 3-2, *Missoula County Subdivision Regulations*.
2. Access and approach permits, if applicable, shall be approved by the County Surveyor. Article 3-2(10)(A), *Missoula County Subdivision Regulations*.
3. The driveways for all lots shall be paved at the time of building permit issuance, to be approved by the County Surveyor and Health Department. *Comments from the Missoula City-County Health Department and staff recommendation*.
4. 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 assent of the lot owner to waive the right to protest a future RSID/SID for any improvements to West Riverside Drive, 1st Street, Old Highway 10, including but not limited to drainage, paving, dust abatement, sidewalk, and road surface and easement widening, based on benefit, and may be used in lieu of their signatures on an RSID/SID petition." Articles 3-2 and 3-4, *Missoula County Subdivision Regulations*.
5. 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 assent of the lot owner to waive the right to protest a future RSID/SID for public water and sewer systems based on benefit, and may be used in lieu of their signatures on an RSID/SID petition." Articles 3-2 and 3-4, *Missoula County Subdivision Regulations*.
6. The Missoula Rural Fire District shall approve the following fire access issues at the time of building permit issuance:
  - a. A minimum unobstructed width of not less than 20 feet and an unobstructed clearance of 13 feet 6 inches for any driveway over 150 feet shall be provided and approved by the Missoula Rural Fire District.
  - b. Dead-end driveways in excess of 150 feet shall be provided with approved provisions by the Missoula Rural Fire District for the turning around of fire apparatus. Article 3-2(6), *Missoula County Subdivision Regulations*.
7. The water supply for fire protection purposes for the existing and proposed structures shall be approved by the Missoula Rural Fire District prior to final plat recording. Article 3-7, *Missoula County Subdivision Regulations*.
8. The applicant shall pay a \$100.00 fee per lot or dwelling unit for the purpose of providing funding for the Missoula Rural Fire District water supply for fire fighting purposes, to be approved by OPG prior to final plat recording. Article 3-7, *Missoula County Subdivision Regulations*, *Missoula Rural Fire District Recommendation*.
9. All utilities shall be placed underground and shown on the final plat. Utility easements shall be a minimum of 20 feet wide and their location shall be approved by the appropriate utility and the governing body. In addition to the easement location, the following statement shall be shown on the face of the plan:

"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 in, over, under, and across each area designated on the plat as "Utility Easement" to have and to hold forever." Article 3-5, *Missoula County Subdivision Regulations*.
10. The applicant shall provide dust abatement on all roads during the construction of the roads, with plans to be approved by the Health Department prior to the recording of the final plat. Chapter 76-3-603, *M.C.A.*, Article 3-1(2), *Missoula County Subdivision Regulations*, Article 5-1(4)(J), *Missoula County Subdivision Regulations*, Article 4-1(11), *Missoula County Subdivision Regulations*, *Staff Recommendation*.
11. Plans for meeting the Sanitation in Subdivision Act shall be submitted to the local and state Health Departments and approved prior to recording of the final plat. Article 5-2(4)(G), *Missoula County Subdivision Regulations*, *Staff Recommendation*.
12. The individual lot owners shall install a 6 foot wide boulevard area along the south side of West Riverside Drive, along the west side of 1st Street, and along the portion of Old Highway 10 that abuts the subdivision. The individual lot owners shall be responsible for the installation and maintenance of landscaping on the lot and in the boulevard area, including grass, and deciduous street trees with a minimum of 3 inch caliper (at

the time of planting), to be placed in the boulevard area, within 5-7 feet of the front property line(s), to be placed approximately every 30 feet at the time of building permit issuance. *Article 3-2, Missoula County Subdivision Regulations, Article 3-2(5), Missoula County Subdivision Regulations.*

13. The applicant shall place a 5 foot wide either boulevard pathway or boulevard sidewalk on the inside of the boulevard area (not adjacent to the street), within the various West Riverside Drive and 1st Street, and a meandering compacted gravel pathway along the Old Highway 10 frontage, between the primary travel corridor landscaping easements, in order to provide safe pedestrian access/travel for residents within and adjacent to the proposed subdivision, and to provide an efficient snow removal area, to be approved by the County Surveyor and OPG prior to final plat filing or subject to an improvements guarantee. *Article 3-2, Missoula County Subdivision Regulations, Article 3-2(5), Missoula County Subdivision Regulations.*
14. The applicant shall modify the subdivision covenants to require that the lot owners shall be responsible for:
  - a. the installation and maintenance of landscaping on the lot, including deciduous street trees with a minimum of 3 inch caliper (at the time of planting), to be placed within 5-7 feet of the front property line(s), to be placed approximately every 30 feet and;
  - b. the maintenance of the 5-foot wide concrete sidewalk in the boulevard right-of-way or a meandering compacted gravel pathway (whichever applicable) through the required primary travel corridor landscaping.
  - c. the maintenance of the grassy boulevard swale ditch area adjacent to the individual's respective lot.
  - d. the rolling mound/berm buffer area.

Language shall be approved by OPG and the County Surveyor prior to the recording of the final plat. *Staff Recommendation, Article 3-2, 3-2(5), Missoula County Subdivision Regulations.*

15. All encroachments and requests for access to state-maintained roadways require the appropriate permits from the local MDT Office. This shall be approved prior to building permit issuance. *Montana Department of Transportation, State of Montana Recommendation.*
16. No direct access to either Highway 200 or Old Highway 10 shall be allowed for Lots 1-6 . **Lots 7 and 8** may access Old Highway 10, subject to permission by MDT. *Montana Department of Transportation, State of Montana Recommendation.*
17. The owners of Lots 4 and 7 shall meet with the Missoula Urban Transportation District to discuss the location of potential bus stops and bus stop signs, at the time of building permit issuance. *Article 3-2, Missoula County Subdivision Regulations, Mountain Line Staff Recommendation.*
18. 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 assent of the lot owner to waive the right to protest a future RSID/SID for future development of a fire fighting, water supply system, based on benefit, and may be used in lieu of their signatures on an RSID/SID petition." *Article 3-7, Missoula County Subdivision Regulations.*
19. The applicant shall incorporate shared driveways for access to the following individual lots: Lots 2 and 3, Lots 4 and 5, Lots 6 and 7 (Note Lot 1 and Lot 8 would have individual access). *Article 3-2, Missoula County Subdivision Regulations, Staff Recommendation.*
20. The individual lot owners shall pave the internal driveways to be approved by the County Surveyor and Health Department through building permit issuance. *Health Department Recommendation.*
21. The applicant shall increase the West Riverside Drive and 1st Street paved surface width from 22 to 28 feet, plans to be approved by the County Surveyor. *Article 3-2, Missoula County Subdivision Regulations, Staff Recommendation.*
22. The individual lot owner shall implement the required Missoula County Primary Travel Corridor standards for Lots 1,2, and 8 at the time of building permit issuance. This statement shall be placed on the face of the final plat and in all instruments of conveyance. Improvements shall be made either prior to final plat filing or provided for in the covenants as provided in Article 3-14, Missoula County Subdivision Regulations. *Article 3-14, Missoula County Subdivision Regulations, Staff Recommendation.*
23. The applicant shall improve Old Highway 10 for access to Lots 7 and/or 8, to be approved by the Montana Department of Transportation prior to the recording of the final plat. This statement shall be placed on the face of the final plat and in all instruments of conveyance. *Article 3-2, Missoula County Subdivision Regulations, Staff Recommendation.*
24. The applicant shall designate a 5 foot wide public pedestrian/utility easement on the face of the final plat for the northern portion of Lots 1-4 for the purpose of providing enough easement for the required pedestrian improvements. *Article 3-2, Article 3-6, Missoula County Subdivision Regulations, Staff Recommendation.*
25. 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 assent of the lot owner to waive the right to protest a future RSID/SID for funding traffic signalization or traffic controls for the intersection of 1st Street and West Riverside Drive, for the intersection of 1st Street and Highway 200, and for the intersection of Old

Highway 10 and Highway 200, based on benefit, and may be used in lieu of their signatures on an RSID/SID petition." Articles 3-2 and 3-4, *Missoula County Subdivision Regulations, Planning Board Recommendation*.

26. The applicant shall submit a master plan for a buffer area between the proposed subdivision and the residential area adjacent to the north (West Riverside Drive) with the goal to provide noise reduction and compatibility between the proposed subdivision and the adjacent residential area to the north. The buffer shall consist of a 3-5 foot high rolling mound/berm buffer within a grassy outer layer of 25 feet in width (with the steep height of the berm to be as far away from the sidewalk as possible), to a 75% opacity at a height of 7 feet from finished grade, within 5 years of installation, consisting of deciduous trees placed every 30 feet at a 3" diameter at planting, evergreen trees placed at an alternative scale every 20 feet at a 3" diameter at planting, lilac and other shrubbery placed throughout the two types of trees (the goal being to fill in the area between the trees with alternative landscaping). The master plan development/construction plan for the rolling mound/berm buffer and maintenance/irrigation plan shall be approved by OPG prior to the filing of the final plat. Actual construction of the rolling mound/buffer shall occur pursuant to the requirements in the covenants which shall require installation of improvements by the property owner at the time of building permit issuance. *Article 4-1(12), Missoula County Subdivision Regulations*.

Chair Hart seconded the motion. Motion carried with a vote of 2-0.

There being no further business to come before the Board, the Commissioners were in recess at 4:00 pm.

#### THURSDAY, OCTOBER 16, 1997

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

Application for Issuance of Replacement Warrant -- Chair Hart approved an Application for Issuance of Replacement Warrant naming Target Stores as principal for Warrant #47486, issued 1/10/97 on the Missoula County General Fund in the amount of \$30.80, not received in the mail.

#### DAILY ADMINISTRATIVE MEETING

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

Memorandum of Agreement - The Commissioners signed a Memorandum of Agreement with the Western Montana Mental Health Center, Turning Point, for provision of substance abuse treatment services for at-risk populations. Value of the Agreement is \$99,970.00. Duration of the Agreement is from July 1, 1997 through June 30, 1998.

Contract and Certification - Chair Hart signed a Contract and a Certification Regarding Environmental Tobacco Smoke with the Montana State Department of Public Health and Human Services for the Partnership to Strengthen Families Crisis Nursery Project (for respite care). Compensation for services shall not exceed \$30,037.00. Term of the Contract is from October 1, 1997 through September 30, 1998. The Contract and Certification were returned to Peggy Seel in OPG for further handling.

Other items included:

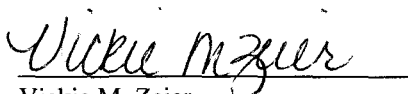
- 1) Commissioner Kennedy moved, and Commissioner Hart seconded a motion to accept the Management Team's recommendation to retain the east portion of the Barrier/Wirth property for the new County correctional facility. Motion carried with a vote of 2-0 (Commissioner Evans was not present at the time).
- 2) Commissioner Kennedy moved and Commissioner Hart seconded a motion that Paul Webber will respond to MDT's request for an increased contribution from Missoula County for construction of the I-90 Interchange. Paul will ask MDT to pursue other sources for funds. Motion carried with a vote of 2-0 (Commissioner Evans was not present at the time).

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

#### FRIDAY, OCTOBER 17, 1997

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Hart was in Superior attending a Mental Health Board meeting.

On Saturday, October 18, Commissioner Hart and Commissioner Kennedy attended the "Search for Common Solutions to Common Problems" seminar held at the Salish-Kootenai Campus in Pablo.

  
Vickie M. Zeier  
Clerk & Recorder

  
Fern Hart, Chair  
Board of County Commissioners

#### MONDAY, OCTOBER 20, 1997

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

**TUESDAY, OCTOBER 21, 1997**

The Board of County Commissioners met in regular session; all three members were present. In the evening, Commissioner Hart attended a meeting in Seeley Lake with the Seeley Lake Fire District Board.

**DAILY ADMINISTRATIVE MEETING**

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

Notes - The Commissioners signed sympathy notes to Norm Laughlin, Dan Cox, and Leonard Combs.

Letter - The Commissioners co-signed a letter (with Mayor Kadas) to Richard Buley regarding Missoula Irrigation District contract with Land and Water Consulting. The letter was returned to the Mayor's office for further handling.

Resolution - The Commissioners signed Resolution No. 97-099, a Resolution of Intention to Create Rural Special Improvement District No. 8458, for construction of a domestic water supply and distribution system including fire hydrants for Sunset West area - a portion of T14N, R20W, Section 8, Missoula County, Montana.

Payment Approval - The Commissioners approved, and Chair Hart signed, a request for a 4th payment from Quality Construction for the County Shops project, in the amount of \$1,954,468.00. The document was returned to Paul Webber, CAO, for further handling.

Contract for Exchange of Real Property - The Commissioners signed a Contract for Exchange of Real Property with Dodd Development Co., Inc., whereby Dodd will convey to County Tract B-2 of COS 3687, and will pay the County \$30,000.00. The County will convey to Dodd Lots 5, 6, and 7 of Block 9 of Missoula Development Park. The Contract was returned to Mike Sehestedt, Deputy County Attorney, for further signatures and handling.

Change Order - The Commissioners signed Change Order #10 with Quality Construction Company for the Missoula County Road Department Project. The change is for \$25,884.00 due to an increase in costs due to a building code oversight in the original plans. Contract time is increased by one day by this Change Order.

Other items included:

- 1) The Commissioners approved the Youth Court grant request to the Montana Board of Crime Control.

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

**WEDNESDAY, OCTOBER 22, 1997**

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

Audit List -- The Commissioners signed the Audit List, dated October 21, 1997, pages 2-36, with a grand total of \$227,951.27. The Audit List was returned to the Accounting Department.

Application for Issuance of Replacement Warrant -- Chair Hart approved an Application for Issuance of Replacement Warrant naming Leota Fred as principal for Warrant #20508, issued 10/7/97 on the Missoula County Claims Fund in the amount of \$138.16, not received in the mail.

**DAILY ADMINISTRATIVE MEETING**

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

Note - The Commissioners signed a note to Sharon Evans regarding her retirement from the Treasurer's Office.

Memorandum of Agreement - The Commissioners signed a Memorandum of Agreement with the University of Montana Psychology Department for evaluation services for the C.S. Porter Project. The County will receive \$10,000.00 from the Montana Children's Trust Fund, which will be disbursed to UM. Duration of the project is from September 1, 1997 through June 30, 1998.

Task Order - Chair Hart signed Task Order No. 17 with the Montana Department of Public Health and Human Services, for funding for the MCH Block Grant, MIAMI, and Follow Me Home visiting programs. Maximum compensation is \$165,737.00 grant funding. Performance schedule is from July 1, 1997 through June 30, 1999. The Task Order was forwarded to DPHHS in Helena.

Extension Request - Commissioners Hart and Evans approved a 180-day Extension Request for Evan's Ridge Final Plat, with a letter to Dick Ainsworth at Professional Consultants, Inc.

Change Order - Chair Hart signed Change Order #2 for RSID 8460 - Sapphire Drive paving - for an additional cost of \$14,483.19 to cover the cost of additional fill. The Change Order was returned to Jesse Sattley, RSID Coordinator, for further handling.

Professional Services Contract - The Commissioners signed two Professional Services Contracts:

1. between the Missoula City-County Health Department and the Missoula County Sheriff's Department, to participate on the DUI Enforcement Team, for DUI enforcement activities. Compensation shall be up to \$4,000.00, from drivers license reinstatement fees. Performance schedule is from October 15, 1997 through June 30, 1998.



2. between the Missoula City-County Health Department and the Montana Highway Patrol, to participate on the DUI Enforcement Team, for DUI enforcement activities. Compensation shall be up to \$4,000.00, from drivers license reinstatement fees. Performance schedule is from October 15, 1997 through June 30, 1998.

Both contracts were returned to the Health Department for further signatures and handling.

Other items included:

- 1) The Commissioners reviewed and approved the final engineering claim of \$9,920.00 for RSID 8460 - Sapphire Drive paving in Lolo, Montana - for additional engineering services.

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

#### PUBLIC MEETING -- OCTOBER 22, 1997

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present were Commissioners Michael Kennedy and Barbara Evans, County Surveyor Horace Brown, and Clerk and Recorder/Treasurer, Vickie Zeier.

#### PUBLIC COMMENT

None.

#### Hearing: Certificate of Survey (Family Transfer) Bernardini

Information provided by Kathy Smith, Paralegal with the County Attorney's Office, indicated that this is a consideration of a request to create two parcels using the family transfer exemption for a parcel described in Book 231 Micro, Page 313 located in Section 21, T12N R19W for Gloria H. Bernardini. Gloria Bernardini has submitted a request to create two parcels using the family transfer exemption to the Montana Subdivision and Platting Act for a 15.21 acre parcel located off Miller Creek Road five miles Southeast of Missoula. Ms. Bernardini proposes to create two parcels of what appear to be approximately 5 acres each, pursuant to the map included, for transfer to her adult children, Tracie Roeder and John J.B. Kozlowski. The parcel is intersected by Miller Creek which Ms. Bernardini proposes to use as the boundary between the two family transfer parcels. Ms. Bernardini currently resides on what would be the approximately 5 acre remainder. The parcel was created by deed in July, 1975. Ms. Bernardini purchased the parcel in October, 1985. According to the records kept by the Missoula County Surveyor, the applicant has not used any exemptions to the Subdivision and Platting Act.

Fern Hart asked Gloria Bernardini if her children planned to live on the property. The answer was affirmative.

The hearing was opened for public comment. No one came forward to speak, and the hearing was closed.

Barbara Evans moved and Michael Kennedy seconded the motion to approve the request to create two parcels using the family transfer exemption for a parcel described in Book 231 Micro, Page 313 located in Section 21, T12N R19W for Gloria H. Bernardini for transfer to her adult children, Tracie Roeder and John J.B. Kozlowski, finding it in the public interest to do so. The motion carried on a vote of 3-0.

#### Hearing: Human Resource Council application for Industrial Revenue Bonds in the amount of \$400,000 for purchase of a building at 1801 South Higgins.

Information provided by Jim Morton of the District XI Human Resource Council, Inc., indicated that HRC was created in 1965 to serve the counties of Mineral and Missoula. The purpose was to serve the low income populations of these counties by providing services and advocacy to increase their ability to become self-sufficient. In 1973, Ravalli County was added to the original two counties to form a three county service district. In 1983, the three counties entered into an agreement with HRC under the Inter-Governmental Cooperations Act, and designated HRC as a provider of services to the low income populations of the three counties as multi-jurisdictional service district. HRC maintains offices in Missoula, Hamilton, and Superior.

The proposed project is the purchase of a building at 1801 South Higgins for the purpose of moving the Missoula office to that location. This location is approximately 3950 square feet on the main floor and 1500 square feet in the basement; with 39 parking spaces. The building was formerly the "Good Times Burger Emporium" and will need some minor remodeling. The purchase price is \$400,000 including contents which have been sold for about \$25,000. HRC meets the requirements in Section IIB. Because the building will be the regional headquarters for the three county business activities of the corporation.

Mike Sehestedt, Deputy County Attorney, explained the process, and said that HRC's application meets the basic criteria, and in his opinion, was worthy of a hearing.

The hearing was opened for public comment. No one came forward to speak and the hearing was closed.

Barbara Evans moved and Michael Kennedy seconded the motion to adopt the proposed resolution, finding the Human Resource Council project to be in the public interest, approving the project, and authorizing the issuance of a note therefore. The motion carried on a vote of 3-0.

#### Consideration of Frenchtown Homesites (two lots for lease or rent)

Information provided by Nancy Heil, Office of Planning and Grants, indicated that Marvin and Deanna Smith are proposing to add one additional home to each of two one acre lots. Currently one manufactured home is located on each

of the two lots upon which a new home is to be placed. The property is located on the north side of Mullan Road in Frenchtown in Section 34, Township 15 North, Range 21 West. The parcels are recorded as Townsite of Frenchtown Lots 13 and 14, Block 10, which is an amended subdivision plat relocating boundaries between Lots 13 and 14, Block 10 and Tracts A, B, and C, as shown on Deed Exhibit 3246.

### Recommendations

The Office of Planning and Grants recommends approval of the Frenchtown Homesites Subdivision for **Lease or Rent**, based on the findings of fact in the staff report and subject to the recommended conditions.

The Office of Planning and Grants recommends approval of the variance request from Section 3-2(5) to not provide sidewalks or pedestrian walkways for the subdivision, based on the findings of fact set forth in the staff report.

Ron Ewart, Eli and Associates, representing the Smiths, said he and the Smiths were available to answer any questions.

Barbara Evans moved and Michael Kennedy seconded the motion to approve the variance request from Section 3-2(5) to not provide sidewalks or pedestrian walkways for the Frenchtown Homesites Subdivision for lease or rent, based on the findings of fact set forth in the staff report. The motion carried on a vote of 3-0.

Barbara Evans moved and Michael Kennedy seconded the motion to approve the Frenchtown Homesites Subdivision for lease or rent, based on the findings of fact set forth in the staff report, and subject to the following conditions. The motion carried on a vote of 3-0.

1. The developer shall file a document of record with Missoula County waiving the right to protest future upgrading of Mullan Road including installation of pedestrian walkways, based on benefit, which may be used in lieu of signatures 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. Such document shall be filed prior to final plan filing.
2. The developer shall contribute \$100.00 per new dwelling unit to the Frenchtown Fire District. Evidence of contribution shall be presented to the Office of Planning and Grants at the time of final plan filing.
3. Approach permits shall be obtained prior to final plan filing.
4. The developer shall file a document of record with Missoula County stating that the driveways for both lots will comply with Missoula County Subdivision Regulations 3-2(6). Such document shall be filed prior to final plan filing.
5. The developer shall file a document of record with Missoula County waiving the right to protest a future RSID/SID for public water and sewer systems, based on benefit, which may be used in lieu of other signatures 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. Such document shall be filed prior to final plan filing.

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

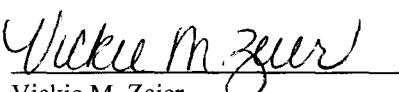
Following the Public Meeting, Chair Hart signed Resolution No. 97-100, a resolution relating to a project on behalf of the District XI Human Resource Council, and the issuance of an economic development revenue note to finance the costs thereof, in the amount of \$400,000.00.

### THURSDAY, OCTOBER 23, 1997

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Hart was out of the office October 23 and 24.

### FRIDAY, OCTOBER 24, 1997

The Board of County Commissioners did not meet in regular session; Commissioner Kennedy attended a Growth Management -related meeting with the DEQ in Helena.

  
Vickie M. Zeier  
Clerk & Recorder

  
Fern Hart, Chair  
Board of County Commissioners

### MONDAY, OCTOBER 27, 1997

The Board of County Commissioners met in regular session; all three members were present. In the afternoon, the Commissioners and Mary Lou Gilman from the Health Department conducted an inspection of the Missoula County Jail.

DAILY ADMINISTRATIVE MEETING

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

Sympathy Notes - The Commissioners signed sympathy notes to Laurel Hegstad Deschamps and the John Lockridge family.

Memorandum of Agreement - The Commissioners signed a Memorandum of Agreement with the Missoula City-County Health Department to provide home visiting for families at risk of abuse or neglect of their children, using Partnership to Strengthen Families grant funds. Value of the Agreement is \$64,000.00. Term of the Agreement is July 1, 1997 through June 30, 1998.

Easement - The Commissioners accepted an Easement from William and Ramona Holt for a public water line, well and pump building located in the NE1/4 of Section 34, T12N, R20W, PMM, Missoula County. The permanent easement is perpetual, and shall run with the land provided, however, if Grantee ceases to use property as a well site and abandons its well for a period of more than 6 months, the property, including the well, shall revert to the Grantors, their successors, assigns or heirs. Cost of the Easement was \$20,000.00, paid from RSID 901.

Other items included:

- 1) The Commissioners approved a salary increase of 3% for Steve Johnson, Director of Personnel and Labor Relations, increasing his salary from \$52,000.00 to \$53,560.00, and effective September 7, 1997.

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

**TUESDAY, OCTOBER 28, 1997**

The Board of County Commissioners met in regular session; all three members were present in the afternoon. In the forenoon, Commissioner Kennedy reported for jury duty, but was not selected as a juror.

Audit List -- Commissioners Hart and Kennedy signed the Audit List, dated October 28, 1997, pages 2-37, with a grand total of \$818,952.56. The Audit List was returned to the Accounting Department.

Indemnity Bond -- Chair Hart examined, approved, and ordered filed an Indemnity Bond naming Patrick Reardon as principal for Warrant #37336 issued on the Missoula County MCPS Payroll Fund in the amount of \$601.53 now unable to be found.

DAILY ADMINISTRATIVE MEETING

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

Contract Agreement - Chair Hart signed a Contract Agreement with the Missoula City-County Health Department and the University of Montana Rural Institute on Disabilities for the Health Dept. to provide home-visiting services to assess health needs in the elderly and disabled populations. Term of the agreement is from September 30, 1997 through September 29, 1998. Cost of the agreement is \$49,349.00. The Contract Agreement was returned to the Health Department for further signatures and handling.

Quitclaim Deed - The Commissioners signed a Quitclaim Deed to Paul O'Connell for property described as Tract 3, COS 2472, SE1/4 of Section 11, T13N R19W, Missoula County (Lincoln Hills area). Income for Missoula County is \$10,501.00. The Deed was returned to Doreen Culver, Bidding Officer, for further handling.

Other items included:

- 1) Commissioners Hart and Evans approved a one-year extension request for filing the final plat for Osprey Subdivision, with a letter to Tim Wolfe of Territorial Engineering.
- 2) Commissioners Hart and Evans approved removal of uncalled County Warrants over one year old from the Outstanding Warrant Listing. The approval form was returned to Susan Reed, Auditor.

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

**WEDNESDAY, OCTOBER 29, 1997**

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

DAILY ADMINISTRATIVE MEETING

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

Grant Award and Special Conditions - Commissioner Kennedy signed the Grant Award and Special Conditions documents for the Sheriff's Department as recipients of the Bureau of Justice Assistance Local Law Enforcement Block Grant in the amount of \$67,401.00. The grant will be used for crime reduction and public safety programs in the Sheriff's Department. The documents were returned to Larry Weatherman, Undersheriff, for further handling.

Resolution - The Commissioners signed Resolution No. 97-101, a resolution authorizing the State Attorney General to provide assistance in prosecuting a case of alleged Worker's Compensation Fraud (State v. Patricia Houlihan).

Note - The Commissioners signed a note welcoming Dale Bosworth, the new Forest Service Regional Supervisor.

CTEP Maintenance Agreement and General Project Development and Construction Agreement - Chair Hart signed the CTEP Maintenance Agreement and General Project Development and Construction Agreement for the Target Range Walkway Project. Cost of the Agreement is \$40,920.00. Both documents were returned to Horace Brown, County Surveyor, for further signature and handling.

Other items included:

- 1) The Commissioners voted to refund the erroneously assessed taxes collected by the Missoula Rural Fire District.

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

#### PUBLIC MEETING - OCTOBER 29, 1997

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present were Commissioners Barbara Evans and Michael Kennedy, County Surveyor Horace Brown, and Deputy County Attorneys Mike Sehestedt and Colleen Dowdall.

#### PUBLIC COMMENT

None.

#### BID AWARD - REMOVAL OF JUNK VEHICLES IN MISSOULA COUNTY

Chair Hart explained that this was a request from Richard Corrigan, Junk Vehicle Coordinator in the Health Department, to reject all bids for the contract to remove Junk Vehicles within the Missoula area.

On September 2, 1997, bids were opened for the contract to remove junk vehicles within an area of Missoula County for the Missoula County Health Dept., bid number 9808-02. Only one bid was received on time, and another was received two days late. The on time bid was either a mistake, or a 28,000% increase. Corrigan's impression was that the bidder intended to bid \$35.00 per car, which is a 33% increase over the previous contract. However, the bid states \$7,000.00 per car. In any case, the increase is unacceptable and unaffordable under the current budget.

Corrigan's recommendation was to reject all bids from the proposal for the removal of Junk Vehicles within Missoula County, and continue under the terms of the present contract.

Commissioner Kennedy moved to reject all bids for removal of Junk Vehicles in Missoula County, and continue under the terms of the present contract. Commissioner Evans seconded. Motion carried with a vote of 3-0.

Mike Sehestedt stated that there is a contract in place now for junk vehicles, which will continue.

#### CONSIDERATION OF GRANDPA'S GARDEN PATCH

Denise Alexander of the Office of Planning and Grants gave the staff report, stating that Victoria Godkin-Palermo and Paul Palermo are proposing a subdivision for lease or rent to be named Grandpa's Garden Patch. This proposal is located in the Potomac Region north of Hwy. 200, approximately three-quarters of a mile west of Potomac Road. The property is a 20.01 acre tract describe as Tract A of Certificate of Survey #4591. There is a single family home on the property and the applicant wishes to construct an apartment above the existing detached garage. The property is unzoned and is designated as Open and Resource on the 1975 Comprehensive Plan. There is a well and septic on the site.

Grandpa's Garden Patch is a proposed subdivision for lease or rent in order to construct an additional dwelling unit on a 20 acre parcel of land located in the Potomac area. There is a single family home on the property and the applicant proposes to construct an apartment above an existing detached garage.

Access to the property is via Hwy 200 East from a state approved private joint-use approach. The existing home and garage are accessed from this approach by a 12 foot wide, gravel surfaced private driveway that ends in a circular turn-around at the homesite. The Fire Chief of the Greenough Potomac Rural Fire District has informed this office that he has no problem with the proposed development, and finds that the driveway adequately serves the subdivision for emergency access.

The property is a mixture of meadowland and wooded areas and is not mapped by FEMA. The development is within an Intermix Wildland/Residential Interface area. There is no surface water on the property or riparian areas. The applicant plans to provide water to the additional dwelling unit by sharing the existing well. The Health Department has commented that an additional septic system will need to be installed for the new dwelling. The area is outside the Air Stagnation Zone.

#### Recommendations

The Office of Planning and Grants recommends **approval** of the Grandpa's Garden Patch Subdivision for Lease or Rent, based on the findings of fact in the staff report and subject to the conditions in the staff report.

The Office of Planning and Grants recommends **approval** of the variance request from Section 3-2(5) to exclude sidewalks or pedestrian walkways from the subdivision, based on the findings of fact set forth in the staff report.

Chair Hart asked for comments from the property owner.

Victoria Godkin-Palermo commented that she was concerned about conditions 2 and 3, and their possible financial effect, should sidewalks have to be installed.

Chair Hart responded that conditions 2 and 3 would be in effect if a great deal of subdivision occurred in the area, or if a complete zoning change took place.

Commissioner Evans stated that OPG staff was recommending approval of a variance which is not needed in conjunction with the suggested conditions of approval.

Denise Alexander agreed.

Commissioner Evans moved to approve Grandpa's Garden Patch, a subdivision for lease or rent located in the Potomac region north of Highway 200, a 20.01 acre tract described as Tract A of Certificate of Survey 4591, subject to the following conditions, and excluding the need for a variance because of Condition number 2.

1. The developer shall provide written verification of compliance with the City-County Health Department water and sanitation requirements prior to issuance of a Zoning Compliance Permit for the second dwelling unit. *Missoula City-County Health Department*
2. The developer shall file a document of record with Missoula County waiving the right to protest a future RSID for community water and or sewer, based on benefit. *Subdivision Regulation 3-7(2&3)*
3. The developer shall file a document of record with Missoula County waiving the right to protest a future RSID for installation of sidewalks or pedestrian pathways, based on benefit. *Subdivision Regulation 3-2(5)*

Commissioner Kennedy seconded the motion. Motion carried with a vote of 3-0.

Chair Hart asked if there was other business, and as there was none, the Commissioners were in recess at 1:40 pm.

**THURSDAY, OCTOBER 30, 1997**

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

Indemnity Bond -- Chair Hart examined, approved, and ordered filed an Indemnity Bond naming S & D Distributing as principal for Warrant #16613 issued 10/14/97 on the Missoula County General Fund in the amount of \$840.22 now unable to be found.

No administrative meeting was held; however, the following items were signed:

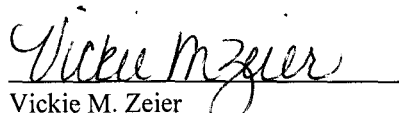
Plat and Subdivision Improvements Agreement - The Commissioners signed the plat and subdivision improvements agreement and guarantee for Racetrack Industrial Park, an amended subdivision plat of Lot 3, Haffner Subdivision No. 2, located in the SW1/4 of Section 21 and the SW1/4 NW1/4 and NE1/4 of Section 28, all in T14N R20W, PMM, Missoula County, a gross area of 92.2 acres, with the owner of record being Pat L. Haffner.

Professional Services Contract - The Commissioners signed a Professional Services Contract with Kathleen Magone to provide technical writing workshops for the Current Planning Division of the Missoula Office of Planning and Grants and some County Attorney's Office staff. Performance schedule is from October 30, 1997 through November 13, 1997. Compensation shall not exceed \$1,200.00.

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

**FRIDAY, OCTOBER 31, 1997**

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

  
Vickie M. Zeier  
Clerk & Recorder

  
Fern Hart, Chair  
Board of County Commissioners

**MONDAY, NOVEMBER 3, 1997**

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

Monthly Reports -- Chair Hart examined, approved, and ordered filed the Monthly Reconciliation Report for Justice of the Peace, Michael Jaworsky, for the month ending October 31, 1997; and the Report of the Clerk of the District Court, Kathleen Breuer, showing fees and collections for the month of October, 1997.

No administrative meeting was held; however, the following items were signed:

Payroll Transmittals - The Commissioners signed Payroll Transmittal sheets for Pay Period 21, with a total Missoula County payroll of \$613,407.09, and Pay Period 22, with a total Missoula County payroll of \$602,705.46. The sheets were returned to the Auditor's office.

Plat and Improvements Agreement - The Commissioners signed the plat and subdivision and improvements agreement and guarantee for Pilgrim's Parcels, a 6-lot subdivision of Lot 67 and a portion of Lot 68 of Dinsmore's Orchard Homes Addition No. 5, located in the NE1/4 of Section 25, T13N, R20W, PMM, Missoula County, a total area of 6.39 acres, with the owners of record being Thomas R. and Debbie A. Bastian and Stephen O. and Pamela S. Jackson.

**TUESDAY, NOVEMBER 4, 1997**

The Board of County Commissioners met in regular session; all three members were present. In the evening, Commissioner Kennedy attended a meeting of the Air Quality Advisory Council held at the Health Department's conference room.

Audit List -- Commissioners Hart and Kennedy signed the Audit List, dated November 3, 1997, pages 2-37, with a grand total of \$285,165.10. The Audit List was returned to the Accounting Department.

Indemnity Bond -- Chair Hart examined, approved, and ordered filed an Indemnity Bond naming Steve Donahue, S&D Distributing, as principal for Warrant #16613 issued 10/14/97 on the Missoula County General Fund in the amount of \$840.22 now unable to be found.

**DAILY ADMINISTRATIVE MEETING**

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

- 1) The Commissioners voted to refer an October 21, 1997 billing from Eagle Hardware for rezoning expenses to the Management Team for analysis;
- 2) Commissioners Hart and Kennedy voted to sign a letter to the Board of Land Commissioners regarding lease agreements on the McDonald Meadows Gold Project. Commissioner Evans abstained.
- 3) The Commissioners reviewed a petition from Nine Mile residents related to land-use planning. Attorney Zane Sullivan submitted more petitions, and estimated there would be 230 total when the final petitions are turned in. He proposed a new beginning, with a more representative group.

Carol Guthrie summarized the history of the planning process. Eleanor Danesh commented on the work involved in the development of the chapters which uses baseline data and strategies to achieve goals. Julie Bennett indicated she voted on the council members when there was a second (?) election. She got a copy of a "drafty draft," and others also received copies of this draft. Pat Paige claimed that the Board didn't vote to support it. Shirley Hager appreciated the work of the committee. Betty Swenson wants to form a new council with a legal election. The current chair of the Community Council is Connie Dove. Dave Murray wants to start over.

Cindy Klette said the position of OPG is that the office will work with the people when Nine Mile is ready to plan. Zane Sullivan will work with OPG, also.

Commissioner Evans said the Nine Mile area needs to come together; the Yellowstone Pipeline issue needs to be addressed. Commissioner Kennedy said it was good that the community wants to plan; but it must be a community plan, not something from the government.

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

**WEDNESDAY, NOVEMBER 5, 1997**

The Board of County Commissioners met in regular session; all three members were present. In the evening, Commissioner Kennedy attended a meeting of the Target Range Homeowners Association.

**PUBLIC MEETING -- November 5, 1997**

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present were Commissioners Michael Kennedy and Barbara Evans, County Surveyor Horace Brown, and Clerk and Recorder/Treasurer, Vickie Zeier.

**Public Comment**

Dan Poe Newman, future candidate for Justice of the Peace, discussed his health, the quality of care at St. Patrick Hospital, and the need for a small claims court to handle issues for people unable to afford the current system.

Bid Award: Three (3) Motor Pool Vehicles

Information provided by Doreen Culver, Central Services, indicated that bids were let and advertised on October 12 and October 19 for two cars and one utility vehicle for the motor pool fleet. Results from the bid opening are as follows:

Grizzly Auto	Taurus - 14,982 miles	\$13,700
	Taurus - 19028 miles	\$13,250
	No bid for utility vehicle	
Ronan Auto:	Intrepid - 16,000 miles	\$13,683
	Intrepid - 20,500 miles	\$13,683
	Jeep Cherokee - 18,500 miles	\$18,283
DeMarois Olds	Cutlass - no miles given	\$17,580
	Chev. Malibu - " "	\$17,580
	GMC Jimmy " "	\$24,209
Karl Tyler Chev.	Lumina - no miles given	\$14,200
	Lumina - " "	\$14,200
	No make or miles on utility	\$21,900

After inspecting and driving the vehicles, her recommendation was to purchase one Ford Taurus from Grizzly Auto for \$13,700; Purchase one Dodge Intrepid from Ronan Auto for \$13,683; and to Purchase one Jeep Cherokee from Ronan Auto for \$18,283. She indicated that these are the best vehicles for the money and have fewest miles. All vehicles have a 3-year or 30,000 mile warranty. The fiscal impact of this purchase would be \$45,666. The amount budgeted for this purchase is \$56,000.

Michael Kennedy moved and Barbara Evans seconded the motion to purchase three vehicles for the County Motor Pool - one Ford Taurus from Grizzly Auto for \$13,700; one Dodge Intrepid from Ronan Auto for \$13,683; and to and one Jeep Cherokee from Ronan Auto for \$18,283. The motion carried on a vote of 3-0.

Consideration of Grass Valley Estates

Information provided by Nancy Heil, Office of Planning and Grants, indicated that Loree Olson is proposing to split a twenty acre parcel into 4 five acre lots. The subdivision is located off of Snowdrift Lane, which exits to the northeast from Mullan Road, near Kona Ranch Road. The subdivision is zoned C-A3 Residential, which provides for low density residential development of an open and rural character in areas best suited for such purposes. Three driveways will provide access to Snowdrift Lane, a privately maintained gravel road. Each lot will served by an individual well and will connect to a community drainfield located at the end of Snowdrift Lane.

The Office of Planning and Grants recommends **approval** of the **Grass Valley Estates Subdivision**, based on the findings of fact in the staff report and subject to the conditions in the staff report.

The Office of Planning and Grants recommends **approval** of 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.

Barbara Evans moved and Michael Kennedy seconded the motion to approve the variance request from Section 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways in the Grass Valley Estates Subdivision, based on the findings of fact set forth in the staff report. The motion carried on a vote of 3-0.

Barbara Evans moved and Michael Kennedy seconded the motion to approve the Grass Valley Estates Subdivision, based on the findings of fact set forth in the staff report, and subject to the following conditions. The motion carried on a vote of 3-0.

CONDITIONS OF SUBDIVISION APPROVAL

1. Engineering plans for roadway and drainage improvements shall be approved by the County Surveyor prior to plat filing.
2. The developer shall contribute \$100.00 per lot to the large diameter hose fund of the Missoula Rural Fire Department prior to plat filing.
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 the assent of the lot owner to waive the right to protest a future RSID/SID public water and sewer systems, 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."
4. The applicant shall file a development agreement with Missoula County that requires that Lots 12D and 12A only access off of Snowdrift Lane.
5. A thirty (30) foot right of way will be granted along the frontage of the subdivision on Snowdrift Lane from the center line of the current easement. The developer will waive the right to protest an RSID for paving Snowdrift Lane in the event the remainder of Snowdrift Lane becomes a dedicated County right of way.

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

**THURSDAY, NOVEMBER 6, 1997**

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

Monthly Report -- Chair Hart examined, approved, and ordered filed the Monthly Reconciliation Report for Justice of the Peace, John Odlin, for the month ending October 31, 1997.

**DAILY ADMINISTRATIVE MEETING**

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

Plat - The Commissioners signed (as owners/developers) the plat of Phase I of the Missoula Development Park, and the Certificate of Dedication.

Property Use License - The Commissioners signed a Property Use License with the Swan Valley Volunteer Fire Company to upgrade emergency dispatch service in the Condon area by constructing a 10 X 24' building and an antenna tower on Fire Company property.

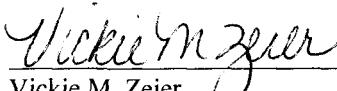
Professional Services Contract - The Commissioners signed a Professional Services Contract with Rainglow Services, Inc., dba Rocky Rail Services, for sorting and loading railroad ties used to build the Sheriff's Department Shooting House. Performance schedule is from November 3, 1997 through November 7, 1997. Compensation shall not exceed \$1,200.00.

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

**FRIDAY, NOVEMBER 7, 1997**

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 forenoon, Commissioners Evans and Hart and Kathleen Breuer, Clerk of District Court, canvassed the City Election, which was held November 4, 1997.

Monthly Report - Chair Hart examined, approved, and ordered filed the Report of the Sheriff, Douglas Chase, showing fees and collections for the month ending October 31, 1997.

  
Vickie M. Zeier  
Clerk & Recorder

  
Fern Hart, Chair  
Board of County Commissioners

**MONDAY, NOVEMBER 10, 1997**

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

**DAILY ADMINISTRATIVE MEETING**

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

Contract - Chair Hart signed a Contract for Services with Watson Agency, Inc. to provide transporting and isolated guard services for the Sheriff's Department on an as-needed basis. Initial rate of compensation shall be \$13.48 per hour plus \$.31 per mile driven. Minimum call out fee is \$26.96. The Contract was returned to Mike O'Hara in the Sheriff's Department for further signature and handling.

County Resolution - The Commissioners signed County Resolution No. 97-102, concurring with MDT's designation of Secondary Route No. 263 - overlay and seal construction project 8 km west of Missoula-West.

Professional Services Contract - The Commissioners signed a Professional Services Contract with Jean Clancy to facilitate domestic violence support groups in Seeley Lake, Montana. Performance schedule is from November 10, 1997 through March 1, 1998. Compensation shall not exceed \$2,940.00, which is funded by a Federal Rural Domestic Violence Grant.

Other items included:

- 1) Commissioners Evans and Hart approved a 3-year extension for filing the Preliminary Plan for Jellystone Park, with letter to Dale Mahlum. (Commissioner Kennedy opposed.)

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

**TUESDAY, NOVEMBER 11, 1997**

The Courthouse was closed for the Veterans Day holiday.

**WEDNESDAY, NOVEMBER 12, 1997**

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



No administrative meeting was held; however, the following item was signed:

Timber Purchase Agreement - The Commissioners signed a Timber Purchase Agreement with Pyramid Mountain Lumber, Inc. to sell timber on a 40 acre County Park on the Double Arrow Ranch. Purchase price is \$200.00 per MBF for sawlogs, and \$1.00 per ton for pulp logs. Pyramid shall complete the obligations of the contract by June 30, 1999. The Agreement was returned to Brian Maiorano, Park Planner in OPG, for further signature and handling.

Other items included:

- 1) The Commissioners voted to place three properties (SUID #s 1227606, 2130908, and 3104809) for tax deed auction.

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

#### PUBLIC MEETING - NOVEMBER 12, 1997

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present were Commissioners Michael Kennedy and Barbara Evans, Deputy County Attorneys Mike Sehestedt and Colleen Dowdall, and Clerk and Recorder/Treasurer, Vickie Zeier.

#### CONSENT AGENDA

Commissioner Kennedy moved to approve the Consent Agenda, which included the following items:

1. Approval of Claims List dated November 12, 1997, totaling \$172,032.58.
2. Contract to sell timber on 40-acre County Park at Double Arrow Ranch
3. Award Contract to Higgins Consulting Engineers to provide fueling facility inspection and sampling services for Oxygenated Fuels Program.

Commissioner Evans seconded the motion. Motion carried with a vote of 3-0.

#### PUBLIC COMMENT

None.

#### CONSIDERATION OF BUCK CREEK HOMESITES

Nancy Heil of the Office of Planning and Grants gave the staff report, stating that the applicants are proposing to split a 41.35 acre parcel into 3 lots approximately 13.8 acres in size. The property is located approximately 3 miles south of Condon along the west side of Highway 83. The property is legally described as Tract B of COS 3574 in the NE1/4 of Section 18, Township 20 North, Range 16 West. Buck Creek flows along the northern boundary of the property. The Swan River is located approximately 200 feet west of the property. The western portions of Lots 2 and 3 slope steeply toward the river.

The property is currently owned by three siblings who want to establish individual ownership. There is one existing residence on the property located on proposed Lot 3. The existing home is accessed via a driveway from Highway 83. The proposed access to Lots 1 and 2 is via a shared access easement with Swan Valley School. A driveway would then cross along the southern boundary of Lot 3 to provide access to Lots 1 and 2.

Individual well and septic systems are proposed for each lot.

#### Recommendations

The Office of Planning and Grants recommends **approval** of the **Buck Creek Homesites Subdivision**, based on the findings of fact in the staff report and subject to the conditions in the staff report.

The Office of Planning and Grants recommends **approval** of the variance request from Section 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways from the subdivision, based on the findings of fact set forth in the staff report.

Chair Hart asked for comments from the developers' representative.

Ron Ewart thanked the staff, and said the proposed conditions were acceptable. He explained the subdivision and building placements, and said a riparian management plan was in place. The Swan Valley Elementary School approved sharing their Highway 83 access with the Buck Creek Homesites.

Commissioner Kennedy said he was interested in a "no access" easement along Lot 3 and Highway 83. He also asked about the riparian management plan, and if any of the property was in the floodplain.

Ron Ewart said none of the property was in the floodplain, and Nancy Heil explained the riparian area and no-build zone.

Colleen Dowdall requested that Condition #9 be modified to state that written consent of the governing body be required before any restriction regarding the Riparian Management Plan, fire standards, wood burning devices, or primary travel corridors may be modified.

Commissioner Kennedy moved to approve the variance request from Section 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways from the subdivision, based on the findings of fact set forth in the staff report.

Commissioner Hart seconded the motion. Motion carried with a vote of 2-0 (Commissioner Evans was absent).

Commissioner Kennedy moved to approve the Buck Creek Homesites 3-lot summary subdivision, subject to the modified conditions and based on the findings of fact in the staff report.

1. The driveway easement shall be named subject to the approval of the local fire district. *County Surveyor recommendation.*
2. The developer shall show evidence that Swan Valley School has agreed to the shared use and joint access of its entrance from Highway 83 prior to plat filing. The agreement shall be subject to the approval of the County Attorney. *Staff recommendation.*
3. A joint use easement and approach permit shall be obtained from the Montana Department of Transportation prior to plat filing. *Montana Department of Transportation recommendation.*
4. The plat shall show a 54 foot easement along that portion of the proposed driveway that crosses Lot 2. *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 the assent of the lot owner to waive 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." *Staff recommendation.*
6. The plat shall show the limits of the riparian resource area along Buck Creek as a no build zone and shall show the steep slopes adjacent to the Swan River as a no build zone. *Staff recommendation.*
7. Paragraph 14 of the Covenants shall be revised to read: "Written permission of the governing body is required before any restriction regarding the Riparian Management Plan, fire standards, wood burning devices, or primary travel corridors may be modified." *Staff recommendation.*
8. The following information shall be made available to lot owners and tenants: "Living with Wildlife" available through the Office of Planning and Grants; literature provided by Montana Fish, Wildlife, and Parks regarding mountain lions and grizzly bears; the document "Managing Private Land in Swan Valley Linkage Zones for Grizzly Bears and Other Wildlife" by the Swan Valley Linkage Zone Working Group; and "Fire Protection Guidelines for Wildland Residential Interface Development" published by the Department of State Lands. *Staff recommendation.*
9. The covenants shall include language limiting the installation of solid fuel burning devices to low emission units of 4.1 grams per hour and less. They shall also include language requiring burn permits after March 1 of each year for vegetation clean-up purposes. *County Health Department recommendation.*
10. The applicant shall provide written documentation that the Swan Valley Volunteer Fire Company can provide service to the subdivision and that it approves the proposed driveway design prior to plat filing. *Staff recommendation.*
11. The plat shall show a utility easement serving Lots 2 and 3. *Staff recommendation.*
12. The plat shall show a "no access" strip along the portion of Lot 3 that fronts Highway 83, exclusive of the existing driveway, location subject to the approval of the Montana Department of Transportation.

Commissioner Hart seconded the motion. Motion carried with a vote of 2-0 (Commissioner Evans was absent).

#### HEARING - PROPOSED NEW SHORELINE REGULATIONS FOR MISSOULA COUNTY

This issue was taken from the table from the Public Meeting of April 18, 1984.

Zoe Mohesky of the Office of Planning and Grants gave the staff report.

The 1975 Montana State Legislature wrote and adopted legislation that requires every governing body having jurisdiction over an area containing a lake to adopt regulations for the issuance or denial of permits for work in lakes including the lakeshore. The lakeshore is defined by the law as the land within 20 horizontal feet from the high-water elevation.

A staff field visit of a potential violation on an area lake and other lakeshore developments demonstrated that Shoreline Regulations should be developed and adopted in Missoula County. In the spring of 1996, the Missoula Board of County Commissioners directed the staff of the Office of Planning and Grants to develop lake and shoreline regulations in accordance with state law and to begin the process to adopt such regulations.

Shoreline Regulations for Missoula County were developed to comply with the Commissioners directive and state law and are before you today for consideration.

#### PURPOSE

The general purpose of these regulations is to conserve and protect natural lakes and shorelines. Other purposes of the Shoreline Regulations are to:

- 1) maintain the scenic quality of lakes,
- 2) maintain the value of lakeshore property,
- 3) maintain the water quality of the lakes, and
- 4) maintain the recreational value of these lakes for the state's residents and visitors.

These regulations only regulate that area specified by state code. The lakeshore area and 20 feet back from the high-water elevation. This area is the most critical habitat along lakeshores. This zone is also very important for filtering of nutrients, primarily nitrogen and phosphorous, generated from human land use activities, before it enters the lake and causes a decline in water quality.

#### PROCESS

Over the course of the past 7 months staff has worked with the public to familiarize them with the draft regulations and to incorporate many of their suggestions to improve the regulations.

The beginning of public input began in late March, when nearly 700 lakeshore owners or lessees were mailed notices to inform them of the first draft, solicit public comment, and notify them of upcoming public comment sessions.

Two evening informational sessions were held in mid-April and attended by approximately 20-50 people. Comments received from citizens were incorporated into an amendment sheet and distributed at a third information meeting in Seeley Lake on June 2.

Comments received from these three sessions with interested citizens and through written correspondence were used to develop a draft for the Planning Board's review on July 29th. Postcards were mailed to property owners and lessees to personally notify them of the upcoming public hearing and the availability of the July 18th draft to be considered at this first public hearing.

The Planning Board met on July 29th in Seeley Lake. They continued the hearing to August 19. The board passed a motion at the August 19 meeting directing staff to develop a Working Committee of lakefront property owners and interested citizens. The "working groups" responsibility was to review the regulations and bring a recommended draft back to the Planning Board.

The Working Group met 5 times (a total of almost 30 hours) to develop a revised draft. At the October 21st meeting the Planning Board was presented the Working Group's final draft of the Shoreline Regulations. The Planning Board accepted the recommendations of the group and forwards this copy to you for your consideration.

#### PUBLIC INPUT

Throughout this process, many letters, email messages and phone calls were received by citizens expressing concerns with the Shoreline Regulations. As the process drew closer to the final planning board meeting, public input tapered off to only an occasional phone call generally asking about the next stages of the process. Only one email message was received after the planning board that was in objection to the shoreline regulations. Public comment has been forwarded to the Board of County Commissioners and is also contained in this notebook.

#### REGULATIONS

I won't go into the details about the specifics of the regulations since the BCC and most others in the audience are knowledgeable of their contents but I will be glad to answer questions on any part of the Shoreline Regulations.

#### RECOMMENDATIONS

*The staff recommends that the Missoula Board of County Commissioners accept the Missoula Consolidated Planning Board's recommendation to approve the final draft of the Shoreline Regulations developed by the Working Group and dated October 21, 1997, with one modification. The staff recommends the Commissioners accept the suggestions from Peter Nielsen, City/County Health Department, regarding the prohibition of certain wood preservative products.*

*The staff also recommends that the Board adopt a resolution changing the definition of lake in Montana State Law from 160 acres to 20 acres as permitted by State law.*

Chair Hart opened the hearing to public comment.

Those speaking in support of the proposed Shoreline Regulations included:

Bonnie Gee, City-County Planning Board  
Len Broberg, University of Montana  
Peter Nielsen, Missoula City-County Health Department  
Keith Stockman, UM Graduate Student  
Sara Busey, League of Women Voters  
Carol Maier, Lake Inez resident  
Bruce Hall, Seeley Lake resident

Those speaking in opposition to the proposed Shoreline Regulations included:

Cal Bonnet, Turah resident  
Bill Thornby, Lindbergh Lake resident  
Pat Wallace, Placid Lake resident  
Jay Ottman, Lindbergh Lake resident  
Glen Wohl, Seeley Lake resident  
A.P. Hollinger, Big Sky Lake resident

Peter Nielsen suggested changes to the Regulations to include altering the permitting process, and limiting the types of wood preservatives that can be used on docks.

Zoe said that Weather Bos or Seal-Krete are OK to treat wood with, as they are not toxic to fish.

Vicki Watson, UM Professor, stated that the regulations were a good start, but not nearly strict enough regarding water quality. They mostly protect visual quality.

Dick Ainsworth, a property owner on Placid and Salmon Lakes, said we ultimately do not need these new regs., but since it looked like they were coming anyway, he decided to participate in the process. The regs. are much better now than they were when the group started.

As there were no further comments, Chair Hart closed the hearing to public comment.

Commissioner Evans asked not to adopt the plan today. She wanted to talk with staff and have some questions answered.

Commissioner Kennedy said the process was honorable. OPG and the Planning Board staff were exceptional. We are at this point because the Legislature said this regulation is necessary to help the environment. The lakes need to be protected for multiple use for all of us. He supports the work that has been done. With the addition of changes proposed by Peter Nielsen regarding substances not permitted for wood treatment, he said he was prepared to adopt the new regulations. He acknowledged that the County needs to work on providing notice to interested parties, but the people affected also need to work on the projects.

Commissioner Kennedy moved to support the Missoula County Shoreline Regulations, with the addition of the substances not permitted for wood treatment, as listed by Peter Nielsen.

Colleen Dowdall said the statutes regarding shoreline permits are clear. They need to go to the Planning Board and the Board of County Commissioners. Permitting will be done largely by OPG, but things will be brought to the Board of County Commissioners for signature.

Commissioner Kennedy modified his motion to remove Section 3.2C of Peter's request, and to approve the Shoreline Regulations.

Chair Hart asked for examples of variances that would cost \$500.00, and Zoe provided the example of a new boathouse, or a dock over 600 feet.

Chair Hart and Colleen Dowdall discussed the permitting process.

Chair Hart seconded Commissioner Kennedy's motion.

Commissioner Evans said she wanted more time to look at the regulations, or she wanted to ask some more questions. She asked about riprap only being natural materials, but concrete being allowed for dock anchors. Commissioner Kennedy stated that this reference prohibited asphaltic concrete, and Commissioner Evans said you should refer to "cement" concrete, then, in the regs.

Commissioner Evans asked about why boathouses were not allowed, and what was the definition of a "gabion," (Zoe stated this was wire basketing filled with rocks, and that she would add the definition and a graphic to the regulations).

Commissioner Evans also asked about why boat ramps have to be in a certain place, which Zoe said was referring to not having a ramp right next to someone else's property line (p. 36). Evans also said that, on Page 37, it should be explained why certain properties are not suitable for deck construction.

Evans asked why ground source heat pumps were not allowed, and Zoe explained that they are prohibited in the 20 foot shoreline protection zone. For ground source heat pumps located in the water, the section on water lines states that antifreeze used in these lines shall be non-toxic, non-corrosive, and non-flammable.

Evans was concerned about the money to administer the regulations. Zoe said permit fees will cover costs of administration. Evans said she wished the cost of a variance would be the actual cost, not a flat \$500.00. fee.

Commissioner Kennedy said actual costs are a problem. The fees need to be fair, and adequate to cover the services.

Peter Nielsen said that the cost of the variances defers frivolous requests. The Health Department refunds excess over the actual cost of the variance. OPG should approve work after permitting.

Commissioner Evans asked about Page 24, that a permit is accepted when complete, and that the staff will certify within 5 working days. She was concerned that this could not be done.

Zoe said that 5 days is what is also in the subdivision regulations, and should not be a problem. Evans asked about the length of time for Commissioner review. Zoe said it was within 90 days, but projects in compliance should be reviewed within 30 days, or sooner if everything is OK.

Evans noted a typo on Page 41 - should be "impervious." On Page 43, she asked why private boat ramps are prohibited within 1 lake mile or 3 driving miles of a public ramp. Zoe said this is because boat ramps can impact the lake bottom, causing disturbances. Many other ramps are already in place.

Dick Ainsworth said that, realistically, the language prohibits any more boat ramps. Peter Nielsen disagreed, saying it depends on the particular lake.

Evans asked about Page 51 and the reference to a "designated agent" to determine boat buoy anchors. Zoe said the reference actually referred to the Office of Planning and Grants. Zoe also explained about buoy anchors.

Evans asked if fertilizers were addressed. Zoe said they were, on pages 33-34. Colleen Dowdall said that a change in state legislation says only a particular department can regulate - not locally. The statute just mentions pesticides, so the County regs. could include fertilizers. Evans said she wanted fertilizers added. Chair Hart clarified that "the application of fertilizers shall be prohibited in the lake and shoreline protection area."

Commissioner Kennedy moved to accept the proposed Missoula County Shoreline Regulations, with addition of 3.4B from Peter Nielsen's memo, with the addition of "final approval within 1 year," adding "cement" to references to concrete, defining "gabion," explaining inappropriate docks, explaining buoy-boat anchors, prohibiting application of fertilizer in the lake and shoreline protection area.

Commissioners Evans and Kennedy discussed charging actual fees for variance request. Evans wanted actual costs charged, and Kennedy said doing things out of the ordinary costs more money than necessary.

Commissioner Evans seconded the motion. Motion carried with a vote of 3-0.

Commissioner Kennedy moved to support the Resolution to Apply Adopted Shoreline Regulations to Lakes 20 Acres or Greater in Water Surface Area.

Commissioner Evans seconded the motion. Motion carried with a vote of 3-0.

There being no further business to come before the Board, the Commissioners were in recess at 4:30 pm.

#### THURSDAY, NOVEMBER 13, 1997

The Board of County Commissioners met in regular session; all three members were present. In the afternoon, the Commissioners served on a panel at the Environmental Quality Council meeting held at the Boone and Crockett Club.

Audit List -- Commissioners Hart and Kennedy signed the Audit List, dated November 12, 1997, pages 2-36, with a grand total of \$172,032.58. The Audit List was returned to the Accounting Department.

Application for Issuance of Replacement Warrant -- Chair Hart approved an Application for Issuance of Replacement Warrant naming Tamara Jackson as principal for Warrant #247301, issued 10/24/97 on the Missoula County Payroll Fund in the amount of \$88.13, not received in the mail.

#### DAILY ADMINISTRATIVE MEETING

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

Memorandum of Agreement - The Commissioners signed a Memorandum of Agreement with the Missoula Public Library to purchase parent education materials such as books, videos, computer programs and play kits. Value of the Agreement is \$1,000.00 in funds from the Partnership to Strengthen Families grant. Duration of the Agreement is from July 1, 1997 through June 30, 1998.

Resolution - The Commissioners signed Resolution No. 97-103, Fixing Tax Levies for Missoula County for Fiscal Year 1997-1998.

#### RESOLUTION NO. 97-103 FIXING TAX LEVIES FOR MISSOULA COUNTY FOR FISCAL YEAR 1997-1998

WHEREAS, the Board of County Commissioners of Missoula County, Montana, has approved and adopted the budget for Fiscal Year 1997-1998, as required by law; and

WHEREAS, budgets have been received from various taxing entities; and

WHEREAS, hearings have been held in compliance with State law and in reference to the number of mills levied; and

WHEREAS, the value of a mill has been determined as \$148,729 County-wide, and a value of \$73,775 outside the City limits, with other values as stated and certified by the Department of Revenue, State of Montana; and

WHEREAS, emergency reimbursement has been received from FEMA, reducing the necessary emergency levy to .34 mills;

NOW, THEREFORE, BE IT HEREBY RESOLVED by this Board of County Commissioners that the Resolution be adopted for Fiscal Year 1997-1998 as moved, seconded and passed by the Board and as detailed below:

<u>MISSOULA COUNTY-WIDE FUNDS</u>	<u>MILLS</u>	<u>ATTACHMENT</u>
General Fund	45.05	A and B
Bridge Fund	3.84	
Poor Fund	3.66	
Fair Fund	.61	
Museum Fund	1.88	

Extension Fund	1.25
Weed Fund	0.65
Planning Fund	2.00
District Court Fund	6.07
Mental Health Fund	0.47
Developmentally Disabled	0.04
Aging Fund	0.44
Park/Recreation Fund	0.31
Risk Management	1.89
Child Daycare	0.25
Open Space	0.01
Library	5.00

SUB-TOTAL 73.42

MISSOULA COUNTY-WIDE DEBT SERVICE

Jail	1.17
G O Issue (Computer)	1.00

SUB-TOTAL 2.17

TOTAL COUNTY-WIDE & DEBT SERVICE LEVIES 75.59

Road Fund	13.83
Health Fund	6.47
Animal Control	.83
Disaster Levy	.34

TOTAL COUNTY-ONLY LEVY 21.47

CITY OF MISSOULA 137.62

MISSOULA COUNTY SCHOOLS VARIOUS (SEE ATTACHMENT)

STATE OF MONTANA	
UNIVERSITY MILLAGE FUND	6.00
STATE ASSUMPTION/CNTY WELFARE	9.00
STATE SCHOOL FOUNDATION	40.00

SPECIAL FIRE DISTRICTS	
CLINTON RURAL	27.02
MISSOULA RURAL	56.89
ARLEE/JOCKO VALLEY RURAL	10.66
FLORENCE-CARLTON RURAL	16.63
EAST MISSOULA RURAL	12.66
FRENCHTOWN RURAL	23.95
SEELEY LAKE	29.81

OTHER SPECIAL DISTRICT LEVIES	
SOIL CONSERVATION	1.45
S.O.S. HEALTH CENTER	10.00
CARLTON CEMETERY	1.34
MISSOULA URBAN TRANSIT	9.82
SEELEY LAKE CEMETERY	4.00

SPECIAL ASSESSMENT DISTRICTS	
LOLO MOSQUITO	VARIOUS (SEE ATTACHMENT)
JOCKO IRRIGATION	VARIOUS (SEE ATTACHMENT)
FRENCHTOWN IRRIGATION	VARIOUS (SEE ATTACHMENT)
MISSOULA IRRIGATION	VARIOUS (SEE ATTACHMENT)
FOREST FIRE PROTECTION ASSTN	VARIOUS (SEE ATTACHMENT)
ELK MEADOWS WATER DISTRICT	VARIOUS (SEE ATTACHMENT)
SEELEY LAKE REFUSE DISTRICT	VARIOUS (SEE ATTACHMENT)
BIG FLAT IRRIGATION	VARIOUS (SEE ATTACHMENT)
LORRAINE SO. WATER DISTRICT	VARIOUS (SEE ATTACHMENT)
CLINTON IRRIGATION	VARIOUS (SEE ATTACHMENT)
GREENOUGH/POTOMAC VOLUNTEER FIRE	VARIOUS (SEE ATTACHMENT)
SPECIAL IMPROVEMENT DISTRICTS	VARIOUS (SEE ATTACHMENT)
WATER QUALITY DISTRICT	VARIOUS (SEE ATTACHMENT)

All of the above attached, approved and ordered entered into the official minutes of the Board of County Commissioners this 13th day of November, 1997.

Agreement to Sell and Purchase - The Commissioners signed an Agreement to Sell and Purchase between the Missoula County Employee Benefits Plan and Sherri S. Wagner and Clifford G. Larsen for purchase of the building at 438 W. Spruce Street, Missoula, MT). Total purchase price is \$249,600.00.

Professional Services Contract - The Commissioners signed a Professional Services Contract with Higgins Consulting Engineers to insure compliance with Rule 1429 of the Missoula City-County Air Pollution Control Regulations Sections 4a and 7a-d, regarding oxygenated fuel in gasoline pumps. Performance schedule is November 3, 1997 through February 28, 1998. Compensation shall not exceed \$2,499.00.

Extension Request - Commissioners Kennedy and Hart denied a request for a one-year extension for filing the summary plat of Duke and Duchess Trailer Court, with a letter to Jenny Farrow. Commissioner Evans opposed.

Warranty Deeds - The Commissioners signed two Warranty Deeds from the Missoula County Airport Industrial District:

1. to MC2 Investments, LLP, for Lot 3B, Block 2, Missoula Development Park, Missoula County, Montana, for the sum of \$10.00;
2. to Keith and Cindy Krumbeck, for Lot 6, Block 2, Missoula Development Park, Missoula County, Montana, for the sum of \$10.00.

Both Deeds were returned to Mike Sehestedt for further handling.

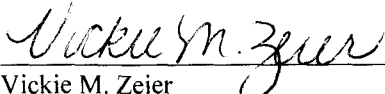
The minutes of the Administrative Meeting are on file in the Commissioners Office.

**FRIDAY, NOVEMBER 14, 1997**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Hart was in Helena attending a meeting of the Department of Public Health and Human Services Advisory Council.

No administrative meeting was held; however, the following item was signed:

Plat and Covenants, Conditions and Restrictions - The Commissioners signed the Plat and Covenants, Conditions and Restrictions for the Missoula Development Park - Phase I, a subdivision located in Section 35 and the W1/2 of Section 36, T14N R20W, PMM, a total area of 133.93 acres, with the owners/developers being the Missoula County Airport Industrial District Authority.

  
Vickie M. Zeier  
Clerk & Recorder

  
Fern Hart, Chair  
Board of County Commissioners

**MONDAY, NOVEMBER 17, 1997**

The Board of County Commissioners met in regular session; all three members were present. In the evening, Commissioner Kennedy attended a "Common Solutions to Common Problems" brainstorming session held at the Polson Library.

**TUESDAY, NOVEMBER 18, 1997**

The Board of County Commissioners met in regular session; all three members were present. In the evening, Commissioner Evans attended a presentation at the YWCA, and Commissioner Kennedy attended a County Transportation Committee meeting at the Frenchtown Elementary School Library.

DAILY ADMINISTRATIVE MEETING

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

Letter - The Commissioners signed a letter to Bruce and Ralph Thisted, qualifying them for the Partnerships for Conserving Riparian Areas program grant for establishing a conservation easement on their property.

Memorandum of Agreement - The Commissioners signed a Memorandum of Agreement with Child Care Resources, Inc. to provide respite child care for families participating in the Partnership to Strengthen Families Project. Value of the Agreement is \$29,712.00. Duration of the Agreement is from October 1, 1997 through September 29, 1998.

Certification of Acceptance for County Maintenance - Chair Hart signed Certification of Acceptance for County Maintenance for Sapphire Drive (Road No. L-0551), Ruby Court (Road No. L-0554), Ruby Lane (Road No. L-0557), Coral Lane (Road No. L-0552), and Diamond Drive (Road No. L-0553), all of which are in Lolo, and paved through RSID 8460. The certifications were returned to the Surveyor's Office.

Extension Request - The Commissioners approved a 6-month extension request for the preliminary plat of Linda Vista 8th Supplement, making the new filing deadline May 6, 1998, with a letter to Gilbert Larson of Druyvestein, Johnson and Anderson.

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

**WEDNESDAY, NOVEMBER 19, 1997**

The Board of County Commissioners met in regular session; all three members were present. In the evening, Commissioner Evans attended a Hamilton-Lolo Advisory Committee meeting held at the Hamilton Senior Center.

Audit List -- The Commissioners signed the Audit List, dated November 18, 1997, pages 2-40, with a grand total of \$244,739.68. The Audit List was returned to the Accounting Department.

PUBLIC MEETING --NOVEMBER 19, 1997

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present were Commissioners Michael Kennedy and Barbara Evans, County Surveyor Horace Brown, and Clerk and Recorder/Treasurer, Vickie Zeier.

Consent Agenda

Michael Kennedy moved and Fern Hart seconded the motion to approve the consent agenda which included the following item:

1. Approval of Claims List, dated November 18, 1997 (\$244,739.68)

The motion carried on a vote of 3-0.

Public Comment:

None

Hearing: Petition for Annexation to the Missoula Rural Fire District (10 parcels in Upper Rattlesnake area)

Information provided by Shirley Faust, Recording Supervisor, indicated that a petition had been received by the Clerk & Recorder's Office to annex 10 parcels of land, located in Missoula County, into the Missoula Rural 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 areas to be annexed and a majority of tax-paying freeholders within the areas described, thereby meeting the requirements of 7-33-2125 M.C.A. for annexation of adjacent territory.

The areas to be annexed are described as follows:

All lots (1-5) in Georganna Subdivision (including Exception, more particularly described as a Tract in N 1/2 NW 1/4 Plat B7 Section 12, Township 13 North, Range 19 West), all lots (Tract 1-A & Common Lot) in Georganna Recreational Subdivision and Lot 1 & North 1/2 of Lot 2 in Sunny Acres Homesites.

The hearing was opened for public comment. No one came forward to speak, and the hearing was closed.

Bill Lindstrom, representing Missoula Rural Fire, said that this property had previously been annexed into the city. When that annexation was overturned by the court, no record of this property ever having been annexed into the MRFD could be found. This was essentially a house-keeping matter.

Barbara Evans moved and Michael Kennedy seconded the motion to annex the following property into the Missoula Rural Fire District:

All lots (1-5) in Georganna Subdivision (including Exception, more particularly described as a Tract in N 1/2 NW 1/4 Plat B7 Section 12, Township 13 North, Range 19 West), all lots (Tract 1-A & Common Lot) in Georganna Recreational Subdivision and Lot 1 & North 1/2 of Lot 2 in Sunny Acres Homesites

The motion carried on a vote of 3-0.

Hearing: Family Transfer - Fuchs

Information provided by Kathy Smith, Paralegal with the County Attorney's Office, indicated that this is a request to create a parcel using the family transfer exemption for Tract 29, COS 135 located in Section 5, T16N R14W for Hans and Veronika Fuchs.

Hans and Veronika Fuchs have submitted a request for a family transfer exemption to the Montana Subdivision and Platting Act for a 10.10 acre parcel located in the Seeley Lake area and East of Highway 83. Mr. and Mrs. Fuchs propose to split the parcel in half for transfer to their adult daughter, Nadine Fuchs.

The history of the parcel is as follows: COS 135 was filed in November 1973 creating 35 parcels greater than 10 acres in size and is known as Double Arrow Ranch Phase V. Mr. and Mrs. Fuchs purchased Lot 29 in December 1993.

According to the records kept by the Missoula County Surveyor, the applicants have not used any exemptions to the Subdivision and Platting Act.

John Kellogg, PCI, representing the Fuchs, said this request met all the regulations and covenants in the area, and he was available to answer questions.

The hearing was opened for public comment

Vern Probst, a neighbor of the Fuchs, said he was in favor of the subdivision

No one else came forward to speak, and the hearing was closed.

Barbara Evans moved and Michael Kennedy seconded the motion to approve the request for a family transfer exemption to the Montana Subdivision and Platting Act for a 10.10 acre parcel located in the Seeley Lake area and East of Highway 83, for transfer to their adult daughter, Nadine Fuchs. The motion carried on a vote of 3-0.



Hearing: Family Transfer -Deuster

Information provided by Kathy Smith, Paralegal with the County Attorney's Office indicated that this is a request to create a parcel using the family transfer exemption for Tract 1, COS 3882 located in Section 31, T13N R15W for John and Marianne Deuster.

John and Marianne Deuster have submitted a request for a family transfer exemption to the Montana Subdivision and Platting Act for a 15.26 acre parcel located in the Potomac area south east of Highway 200. Mr. and Mrs. Deuster propose to create a 5 acre parcel for transfer to their adult daughter, Shannon Brewer.

The history of the parcel is as follows: COS 3265 was filed in 1985 using the agricultural exemption. The agricultural covenant was lifted by the Board of County Commissioners in 1990 and shown on COS 3882 as an occasional sale. The Deusters purchased the parcel in 1991.

According to the records kept by the Missoula County Surveyor, the applicants have not used any exemptions to the Subdivision and Platting Act.

Shannon Brewer said that she lives on the property now and planned to continue to live there.

The hearing was opened for public comment. No one came forward to speak, and the hearing was closed.

Barbara Evans moved and Michael Kennedy seconded the motion to grant the request for a family transfer exemption to the Montana Subdivision and Platting Act for a 15.26 acre parcel located in the Potomac area south east of Highway 200, for transfer to their adult daughter, Shannon Brewer. The motion carried on a vote of 3-0.

Consideration of Intoto Farm (2 lot summary subdivision)

Information provided by Nancy Heil, Office of Planning and Grants, indicated that David Fife is proposing a 2 lot residential subdivision of a 16 acre parcel recorded as C.O.S. 3901, Northwest 1/4 Section 7, T14N, R20W. The property is located two miles northwest of the Wye at the intersection of Highway 10 and Pulp Mill Road. Lot 1 would be 15 acres in size and Lot 2 would be 1 acre. The property is unzoned. The 1990 Missoula Urban Comprehensive Plan designates open and resource land use and recommends a density of 1 dwelling unit per 40 acres.

The Office of Planning and Grants recommends approval of the Intoto Farms Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report.

The Office of Planning and Grants recommends approval of the variance request from Section 3-2(5) to exclude sidewalks or pedestrian walkways from the subdivision, based on the findings of fact set forth in the staff report.

Ron Ewart, Eli and Associates, was present to explain the request and answer questions

David Fife explained that two of his employees currently live on the property, and he wanted to be able to subdivide the property in order to help his employees with living expenses and arrangements.

Peter Nielsen, Environmental Health, discussed his department's previous involvement with this property.

Michael Kennedy moved and Barbara Evans seconded the motion to approve the variance request from Section 3-2(5) to exclude sidewalks or pedestrian walkways from the subdivision, based on the findings of fact set forth in the staff report for Intoto Farm. The motion carried on a vote of 3-0.

Michael Kennedy moved and Fern Hart seconded the motion to approve the Intoto Farms Subdivision, based on the findings of fact in the staff report and subject to the following conditions:

1. The proposed Lot 2 and new homesite shall be located at the southeast end of the property at a location to be approved by OPG staff. This location shall be south of the existing house and north of the southernmost access from Highway 10 to effectively cluster development in this area.
2. A development agreement subject to the approval of the County Attorney shall be placed on the property that states that no further division of land shall occur. The restriction may be lifted by the Missoula Board of County Commissioners at such time as further development becomes indicated in the area through changes in the Comprehensive Plan, zoning, or provision of public sewer and water services.
3. Access to Highway 10 shall be limited to the existing 2 access points along proposed Lot 1. A no access strip shall be shown on the face of the plat at a location to be approved by the County Surveyor.
4. The applicant shall contribute \$100.00 per lot to the Missoula Rural Fire District. Evidence of contribution shall be presented to the Office of Planning and Grants at the time of plat filing.
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 the assent of the lot owner to waive the right to protest a future RSID/SID for future road improvements to Pulp Mill Road and Highway 10 including installation of pedestrian walkways/bikeways 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."
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 the assent of the lot owner to waive the right to protest a future RSID/SID for public sewer and water systems, 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.”.

7. The limit of the riparian resource area shall be defined as extending to the boundary of riparian vegetation and shall be shown on the plat as a no-build area.
8. The plat shall show utility easements.
9. Staff recommends that a development agreement be filed subject to the approval of the County Attorney that ensures that the Primary Travel Corridor requirements are met within one year of plat filing.

The motion carried on a vote of 2-1, Barbara Evans Opposed.

Hearing: Ross Homesites #2

Information provided by Pat Keiley, OPG, indicated that Mr. and Mrs. Glenn Ross, are requesting approval for a three-lot summary plat subdivision on 5.53 acres, called Ross Homesites #2. Lot 1 measures 1.63 acres, Lot 2 measures 1.43 acres, and Lot 3 measures 2.47 acres. There is an existing single-family home with private septic and private well on Lot 3.

The proposed subdivision is located one mile north of the “WYE”(Hwy 93 North and I-90), east of Jim and Mary’s RV Park, north of the Spring Meadows Subdivision. The property is legally described as the NE 1/4 of Section 21, Township 14 North, Range 20 West, and the NW 1/4 of Section 22, Township 14 North, Range 20 West, Principal Meridian, Missoula County, Montana.

The proposed Ross Homesites #2 subdivision is a subdivision of the original tract of record, Certificate of Survey 2204, Tract A. The Missoula County Commissioners approved the Lot 1, Ross Homesite summary plat subdivision in May of 1995. The proposed Ross Homesites #2 subdivision is a second summary subdivision of the original tract of record, or a second summary subdivision. This proposed second summary subdivision requires public notice and a public hearing before the Missoula City-County Consolidated Planning Board and a public hearing before the Missoula County Commissioners.

Legal notification is required and has been provided in the form of adjacent property owner letters, legal ad in the newspaper, and a notice of hearing poster placed on site.

The area is zoned C-RR3 (Residential, maximum density of 4 dwelling units per acre). The 1979 Wye/O’Keefe Missoula County Comprehensive Plan designation is “Medium Density Single and Multifamily Residential, 6 to 16 dwelling units per acre.”

The property is bounded on the north by a single-family residence, on the south by the Spring Meadows Subdivision (single-family residences), on the east by a single-family residence, and on the west by the Frenchtown Fire District and /Jim and Mary’s RV Park.

Access to the property will be from Ladyslipper Lane, Tucker Lane, and Ross Lane. Ladyslipper Lane is an existing 24 foot wide gravel, county maintained road, within an existing 50-80 foot wide public access easement. Tucker Lane is an existing county maintained gravel road that measures approximately 20 feet in gravel surface width within a 60 foot wide public access easement. Ross Lane is an existing 16 foot wide gravel private road that is within a 54 foot wide private road easement.

Water and sewer will be provided by individual systems. The nearest public sewage system is in Momont, located about two miles to the southeast.

Staff Recommends:

1. Approval of a variance request from Article 3-2 to reduce the required surface width standard of Ross Lane from 24 to 16 feet and to not pave the road to a width of 24 feet.
2. Approval of a variance request from Article 3-2 to reduce the required gravel surface width standard of Tucker Lane from 24 to 20 feet.
3. Approval of a variance request from Article 3-2(5) to construct sidewalks and pedestrian walkways in the subdivision.
4. Approval of the Ross Homesites #2 Summary Plat Subdivision, 3 lots on 5.53 acres.

Ron Ewart, Eli and Associates, discussed the development and answered questions.

Roxanne Ross said that the proposed condition regarding parkland was a surprise to her, and she doubted if they would have continued with the project had she known of this condition.

The hearing was opened for public comment.

Peter Nielsen, Environmental Health, discussed his department’s concerns with future groundwater quality in this general area.

Scott Waldron, Frenchtown Rural Fire, said that Mountain Water has plans to extend their water lines to this area. He requested that the private drives in this subdivision be named and addressed.

No one else came forward to speak, and the hearing was closed.

Michael Kennedy moved and Barbara Evans seconded the motion to grant the variance request from Article 3-2 to reduce the required surface width standard of Ross Lane from 24 to 16 feet and to not pave the road to a width of 24 feet. The motion carried on a vote of 3-0.

Michael Kennedy moved and Barbara Evans seconded the motion to grant the variance request from Article 3-2 to reduce the required gravel surface width standard of Tucker Lane from 24 to 20 feet. The motion carried on a vote of 3-0.

Michael Kennedy moved and Barbara Evans seconded the motion to grant a variance request from Article 3-2(5) to construct sidewalks and pedestrian walkways in the subdivision. The motion carried on a vote of 3-0.

Michael Kennedy moved and Barbara Evans seconded the motion to grant approval of the Ross Homesites #2 Summary Plat Subdivision, 3 lots on 5.53 acres subject to the following conditions:.

1. Grading, drainage, erosion control, road and driveway plans shall be approved by the County Surveyor, prior to summary plat record set sign-off.
2. Access and approach permits, if applicable, shall be approved by the County Surveyor prior to building permit issuance.
3. The following statement shall appear on the face of the summary plat record set and in all instruments of conveyance:

"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 any improvements to Ladyslipper Lane and Tucker Lane, including but not limited to drainage, paving, dust abatement, sidewalk, and road surface and easement widening, based on benefit, and may be used in lieu of their signatures 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"
4. The following statement shall appear on the face of the summary plat record set and in all instruments of conveyance:

"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, and may be used in lieu of their signatures on an RSID/SID petition. 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. "
5. The driveway plans for Lots 1-3 shall be approved by the Frenchtown Rural Fire District prior to summary plat record set sign-off:
  - a. A minimum unobstructed width of not less than 20 feet and an unobstructed clearance of 13 feet 6 inches for any driveway over 150 feet shall be provided and approved by the Missoula Rural Fire District.
  - b. Dead-end driveways in excess of 150 feet shall be provided with approved provisions by the Frenchtown Rural Fire District for the turning around of fire apparatus.
6. The water supply for fire protection purposes for the subdivision shall be approved by the Frenchtown Rural Fire District prior to summary plat record set sign-off.
7. The applicant shall pay a \$100.00 fee per lot or dwelling unit for the purpose of providing a water supply to the subdivision, to be approved by the Frenchtown Rural Fire District prior to summary plat record set sign-off.
8. The applicant shall provide and install a road sign for Ross Lane and provide address requests for each of the lots (using Ross Lane for the street address), to be approved by the County Surveyor prior to summary plat record set sign-off.
9. The applicant shall provide an all weather surface for Ross Lane, to be approved by the Frenchtown Rural Fire District prior to summary plat record set sign-off.

The motion carried on a vote of 3-0.

Hearing: Deschamps Lane #2

Information provided by Pat Keiley, Office of Planning and Grants, indicated that Mr. David Blatter, owner of Security Armored Express in Helena, MT, is requesting approval for a 5-lot subdivision on 69.29 acres, called Deschamps Lane No. 2. Lots 1-4 measure 2.25 acres. Lot 5 measures 60.29 acres.

The proposed subdivision is located on Deschamps Lane, south of the Go-West Drive Inn. The property is legally described as the West 1/2 of Section 28, Township 14 North, Range 20 West, Principal Meridian, Missoula County, Montana.

The proposed Deschamps Lane No. 2 subdivision is a subdivision of a tract of record from which the original Deschamps Lane summary subdivision (a two lot subdivision of an 87 acre tract approved by the Missoula County Commissioners on August 31, 1995) came from, or a second summary subdivision. This proposed second summary subdivision requires

public notice and a public hearing before the Missoula City-County Consolidated Planning Board and a public hearing before the Missoula County Commissioners.

Legal notification is required and has been provided in the form of adjacent property owner letters, legal ad in the newspaper, and a notice of hearing poster placed on site.

The area is zoned C-11 (Light Industrial). It is in the Airport Influence Area. The 1990 Missoula County Urban Area Comprehensive Plan designation is "Light Industrial".

The property is bounded on all sides by agriculture land uses or vacant parcels.

Access to the property will be from Deschamps Lane, an existing 22-24 foot wide gravel, county maintained road, within an existing 60 foot wide public access easement.

Water and sewer will be provided by individual systems. The nearest public sewage system is in Momont, located about two miles to the east.

#### **STAFF RECOMMENDATION**

1. Approval of a variance request from Article 3-2 to reduce the required paved surface width standard of the on-site portion of Deschamps Lane from 32 to 24 feet.
2. Approval of a variance request from Article 3-2 to reduce the required paved surface width standard of the Security Court road from 32 to 24 feet.
3. Approval of a variance request from Article 3-2 to reduce the required easement width standard of the Security Court road from 80 to 60 feet.
4. Approval of a variance request from Article 3-2 to reduce the required easement width standard of the off-site portion of Deschamps Lane extending from the northern portion of Lot 1 to Highway 10 from 80 to 60 feet.
5. Approval of a variance request from Article 3-2 to reduce the required gravel surface width standard of the off-site portion of Deschamps Lane extending from the northern portion of Lot 1 to Highway 10 from 32 to 24 feet.
6. Approval of a variance request from Article 3-2(5) to construct sidewalks and pedestrian walkways in the subdivision.
7. Approval of the Deschamps Lane No. 2 Summary Plat Subdivision, 5 lots on 69.29 acres.

Ron Ewart, Eli and Associates discussed the proposal and answered questions.

The hearing was opened for public comment.

Bruce Anderson, representing the homeowners in the area, said they would like to have more paving done as Deschamps Lane has a bad dust problem, and traffic has increased a great deal in this area, and with approval of this proposal, more traffic is anticipated.

At this point, Commissioner Barbara Evans left the meeting.

No one else came forward to speak, and the hearing was closed.

Michael Kennedy moved and Fern Hart seconded the motion to grant the variance request from Article 3-2 to reduce the required paved surface width standard of the on-site portion of Deschamps Lane from 32 to 24 feet. The motion carried on a vote of 2-0.

Michael Kennedy moved and Fern Hart seconded the motion to grant the variance request from Article 3-2 to reduce the required paved surface width standard of the Security Court road from 32 to 24 feet. The motion carried on a vote of 2-0.

Michael Kennedy moved and Fern Hart seconded the motion to grant the variance from Article 3-2 to reduce the required easement width standard of the Security Court road from 80 to 60 feet. The motion carried on a vote of 2-0.

Michael Kennedy moved and Fern Hart seconded the motion to grant the variance from Article 3-2 to reduce the required easement width standard of the off-site portion of Deschamps Lane extending from the northern portion of Lot 1 to Highway 10 from 80 to 60 feet. The motion carried on a vote of 2-0.

Michael Kennedy moved and Fern Hart seconded the motion to grant the variance from Article 3-2 to reduce the required gravel surface width standard of the off-site portion of Deschamps Lane extending from the northern portion of Lot 1 to Highway 10 from 32 to 24 feet. The motion carried on a vote of 2-0.

Michael Kennedy moved and Fern Hart seconded the motion to grant the variance request from Article 3-2(5) to construct sidewalks and pedestrian walkways in the subdivision. The motion carried on a vote of 2-0.

Michael Kennedy moved and Fern Hart seconded the motion to approve the Deschamps Lane No. 2 Summary Plat Subdivision, 5 lots on 69.29 acres, subject to the following conditions:

1. Grading, drainage, erosion control, road and driveway plans shall be approved by the County Surveyor, prior to summary plat record set sign-off.
2. Access and approach permits, if applicable, shall be approved by the County Surveyor prior to building permit issuance.

3. The driveways for Lots 1,2,3 and 4 off of Security Court road shall be paved at the time of building permit issuance, to be approved by the County Surveyor and Health Department. Article 3-2, Missoula County Subdivision regulations,
4. The following statement shall appear on the face of the summary plat record set and in all instruments of conveyance:

"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 any improvements to Deschamps Lane, including but not limited to drainage, paving, dust abatement, sidewalk, and road surface and easement widening, based on benefit, and may be used in lieu of their signatures 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."
5. The following statement shall appear on the face of the summary plat record set and in all instruments of conveyance:

"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, and may be used in lieu of their signatures on an RSID/SID petition. 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. "
6. The applicant shall provide an avigation easement to the Missoula Airport Authority. Such easement shall be filed with the Clerk and Recorder prior to summary plat record set sign-off.
7. The applicant shall amend the Deschamps Lane No. 2 covenants to include the following Airport Influence information:
  - a. Complete the pertinent requirements of the Airport Influence Area.
  - b. Notify future owners of the requirements of the Airport Influence Area.
  - c. All future construction will have to be approved by the Missoula Office of Planning and Grants. When you submit the building plans and specifications, please include a scaled map showing the distance from the proposed facilities to the airport, elevation art construction site and heights of the proposed construction.
  - d. Submit a "Notice of Proposed Construction or Alteration", Form 7460 to the Federal Aviation Administration if the proposed construction exceeds 200 feet AGL or violates a slope of 100:1 from the nearest aircraft operations area. (This is a Federal requirement.)
  - e. Garbage dumps, recycling facilities or a development of that type, that would attract birds and or water fowl is prohibited within 5 nautical miles of the airport (This is a Federal requirement.).
8. The following "a" ,"b" subdivision driveway access standards for the subdivision shall be placed on the face of the summary plat record set. The driveway plans for Lots 1-5 shall be approved by the Missoula Rural Fire District prior to summary plat record set sign-off:
  - a. A minimum unobstructed width of not less than 20 feet and an unobstructed clearance of 13 feet 6 inches for any driveway over 150 feet shall be provided and approved by the Missoula Rural Fire District.
  - b. Dead-end driveways in excess of 150 feet shall be provided with approved provisions by the Missoula Rural Fire District for the turning around of fire apparatus.
9. The water supply for fire protection purposes for the subdivision shall be approved by the Missoula Rural Fire District prior to summary plat record set sign-off.
10. The owner shall pay a \$100.00 fee per lot or dwelling unit for the purpose of providing a water supply to the subdivision, to be approved by the Missoula Rural Fire District prior to summary plat record set sign-off.
11. The following statement shall be placed on the face of the summary plat record set and in all instruments of conveyance:

"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 the development of a fire fighting water system based on benefit, and may be used in lieu of their signatures 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."
12. The proposed name of the road that provides access to Lots 1-4 shall be shown on the face of the summary plat record set. The name shall be approved by the County Surveyor prior to final plat approval.
13. The applicant shall dedicate a total 80 foot wide public access road easement for Deschamps Lane, extending from the northern portion of Lot 1 to the southern portion of Lot 5. The easement, with dedication language, shall be shown on the final plat, to be approved by the County Surveyor prior to summary plat record set sign-off.
14. The applicant shall pave Security Court road to a county road standard paved surface width of 24 feet, plans to be approved by the County Surveyor prior to summary plat record set sign-off.

15. The applicant shall pave Deschamps Lane to a county road standard paved surface width of 24 feet, extending from a point 20 feet south of the southerly right-of-way of Moccasin Lane and to a point 20 feet west of the westerly right-of-way line of Deschamps Lane, and that connects to the southern paving requirement along Deschamps Lane for the Deschamps Lane Subdivision approved by the Missoula County Commissioners on August 31, 1995, to be approved by the County Surveyor prior to summary plat record set sign-off.
16. That applicant shall develop a dust abatement plan and provide dust abatement to Deschamps Lane through construction and paving, extending from the northern portion of Lot 1 to a point that connects to the southern paving requirement along Deschamps Lane for the Deschamps Lane Subdivision approved by the Missoula County Commissioners on August 31, 1995. The dust abatement plan shall be approved by the Health Department prior to summary plat record set sign-off.
17. All utilities shall be placed underground and shown on the final plat. Utility easements shall be a minimum of 20 feet wide and their location shall be approved by the appropriate utility and the governing body. In addition to the easement location, the following statement shall be shown on the face of the summary plat record set:

"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 in, over, under, and across each area designated on the plat as "Utility Easement" to have and to hold forever."
18. That the following statement be placed on the face of the summary plat record set and in all instruments of conveyance:

"The lot owners within the Deschamps Lane No. 2 Subdivision shall waive the right to petition annexation into the Missoula Urban Transportation District."
19. The applicant shall place a 1 foot no access strip on the face of the final plat along the Lot 1 and Lot 3 Deschamps Lane easement (with the exception of the 60 foot wide access).

The applicant shall place a 1-foot no access strip on Lot 5 as it abuts Deschamps Lane from the end of the paving (Moccasin Lane) to the south end of Lot 5. Removal of the 1-foot no-access strip shall be conditional upon paving Deschamps Lane to the access point proposed. This shall be approved by the County Surveyor prior to summary plat record set sign-off.
20. The following statement shall be placed on the face of the summary plat record set and in all instruments of conveyance and in the Deschamps Lane No. 2 subdivision covenants:

"Prior to any improvements (including building permit issuance on Lot 5), road or other construction near the gas line on Lot 5, the owner of the Lot shall locate the 8 inch natural gas transmission line serving Stone Container and contact Montana Power Company for the exact location of the gas line and for any applicable rules or guidelines concerning the gas line."
21. The applicant shall provide plans for the installation of a turnaround at the end of Security Court, plans to be approved by the Missoula Rural Fire District prior to final plat filing. The turnaround shall be installed prior to building permit issuance.
22. The following statement shall be shown on the face of the summary plat record set and in each instrument of conveyance:

"The purchaser and/or owner of any lot within the Deschamps Lane No. 2 subdivision understands and agrees that private road construction, maintenance, and snow removal for Security Court 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."
23. The Deschamps Lane No. 2 covenants shall be amended to include the following statement:

"Access to the Deschamps Lane No. 2 subdivision for commercial and industrial traffic shall be strongly encouraged to use Highway 10 until an acceptable alternative paved road to the south of the subdivision is in place."
24. The Deschamps Lane No. 2 subdivision covenants shall be amended to state that "The covenants pertaining to required Missoula County Subdivision Regulations or covenants pertaining to conditions of approval for the Deschamps Lane No. 2 subdivision shall not be amended without governing body approval." The Deschamps Lane No. 2 covenants shall be recorded with the Clerk and Recorder and covenants pertaining to required subdivision conditions or conditions of approval for the Deschamps Lane No. 2 subdivision shall be approved by the OPG prior to approval of the summary plat record.

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 3:47 p.m.

**THURSDAY, NOVEMBER 20, 1997**

The Board of County Commissioners met in regular session; a quorum of members was present in the afternoon. Commissioner Kennedy was in Deer Lodge attending a meeting of the Upper Clark Fork Basin Steering Committee, and Commissioner Evans was out of the office until noon.

**DAILY ADMINISTRATIVE MEETING**

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

Professional Services Contract - The Commissioners signed a Professional Services Contract with Laurel C. Holsman for the Lolo Flood Event Management and Damage Mitigation Project. Performance schedule is from December 1, 1997 through June 1, 1998. Compensation shall not exceed \$7,500.00.

Resolutions - The Commissioners signed two resolutions:

1. Resolution No. 97-106, Application for Tax Deed, authorizing taking of three tax deed properties;
  2. Resolution No. 97-107, Sale of Tax Deed Property, setting the date of Tax Deed Sale for December 3, 1997.
- Both resolutions were returned to Shirley Faust in the Clerk and Recorder's office for further handling.

Modification of Task Order - Chair Hart signed Modification B of Task Order No. 12 with the Montana Department of Public Health and Human Services for the Breast and Cervical Health Program. The changes in the amendment are an increase in budget, language clarification, and a clarification of billable services. Funds available from DPHHS will be increased by \$32,945.00, for a total of \$115,890.00. The Modification was returned to the Health Department for further handling.

Professional Services Contract - The Commissioners signed a Professional Services Contract with the University of Montana Psychology Department to provide a graduate student intern to perform psychological services at Partnership Health Center. Performance schedule is from November 17, 1997 through June 30, 1998. Compensation shall not exceed \$5,600.00.

Memorandum of Agreement - The Commissioners signed a Memorandum of Agreement with the Lolo Community Council to provide services to advance and promote the interests and welfare of Lolo residents in Missoula County. Value of the Agreement is \$750.00. Duration of the Agreement is from July 1, 1997 through June 30, 1998.

Resolutions - The Commissioners signed two resolutions:

1. Resolution No. 97-104, a resolution to adopt shoreline regulations dated November 12, 1997, following a public hearing by the Missoula Board of County Commissioners, for lakes within Missoula County;
2. Resolution No. 97-105, a resolution to apply adopted shoreline regulations to lakes 20 acres or greater in water surface area.

Certificates of Substantial Completion - The Commissioners signed Certificates of Substantial Completion for Buildings 4 and 7 at the Missoula County Shops site. The Certificates were returned to Paul Bishop, Architect, for further signatures and return of one original for filing.

Notice of Hearing - Chair Hart signed a Notice of Hearing for Motor Vehicle Wrecking Facility located at 9784 Summit Drive, scheduling the hearing for November 26 at 1:30 pm in Room 201.

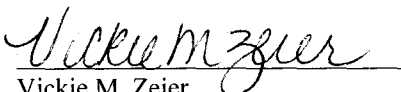
Quitclaim Deed - The Commissioners signed a Quitclaim Deed to Paul O'Connell for a property legally described as Tract 3, COS 2472, SE1/4 Section 11, T13N R19W, Missoula County. This is being redone because the prior claim (signed on October 28, 1997) listed his company name, which he did not want listed. The Deed was returned to Doreen Culver, Bidding Officer, for further handling.

Resolution - The Commissioners signed Resolution No. 97-108, Annexation to the Missoula Rural Fire District of Parcels of Land Located in Missoula County. The parcels are described as follows: All lots (1-5) in Georganna Subdivision (including Exception, more particularly described as a Tract in N1/2, NW1/4 Plat B7, Section 12, T13N, R19W), all lots (Tract 1-A and Common Lot) in Georganna Recreational Subdivision and Lot 1 and N1/2 of Lot 2 in Sunny Acres Homesites.

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

**FRIDAY, NOVEMBER 21, 1997**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Hart was in Polson attending a Mental Health Board meeting.

  
Vickie M. Zeier  
Clerk & Recorder

  
Fern Hart, Chair  
Board of County Commissioners

**MONDAY, NOVEMBER 24, 1997**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Hart attended the MACo District 10 and 11 Counties Meeting in Polson during the day.

Application for Issuance of Replacement Warrant -- Chair Hart approved an Application for Issuance of Replacement Warrant naming Donna McClure as principal for Warrant #321044, issued 11/12/97 on the Missoula County 7188 Fund in the amount of \$508.32, not received in the mail.

No administrative meeting was held; however, the following item was signed:

Plat - Commissioners Hart and Evans signed the plat for Lucy Lots, a minor subdivision plat located in the N1/2 of Section 25, T12N, R20W, PMM, Missoula County, a total area of 20.69 acres gross and net, with the owners of record being Joseph B. and Tamara L. Lucy. A check in the amount of \$1,800.00 for the Miller Creek Traffic Mitigation Fund was received by Missoula County.

**TUESDAY, NOVEMBER 25, 1997**

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

DAILY ADMINISTRATIVE MEETING

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

Draw Request - Chair Hart signed a draw request for HOME funds in the amount of \$24,075.23 to provide housing rehabilitation funds to low-income, owner-occupied households in Missoula, Mineral, and Ravalli Counties. The request was returned to Cindy Wulfekuhle in OPG for further handling.

Agreement - The Commissioners signed an Agreement with Summit Golf Management, LLC, to manage and operate Larchmont Golf Course. The Golf Course will pay Summit the fee of \$24,000.00 per year, plus a percentage of revenues from services offered by the Golf Course. Term of the Agreement is three years, commencing on February 1, 1998.

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

**WEDNESDAY, NOVEMBER 26, 1997**

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

Audit List -- Commissioners Evans and Kennedy signed the Audit List, dated November 25, 1997, pages 2-47, with a grand total of \$792,517.88. The Audit List was returned to the Accounting Department.

DAILY ADMINISTRATIVE MEETING

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

Release of Party - The Commissioners (representing Missoula County and the Missoula County Airport Industrial District) signed a Release of Party releasing Missoula County and the Airport Industrial District from any right or obligation under the Addendum and Deed of Trust dated September 20, 1995, executed by Keith and Cindy Krumbeck (Spectrum Pool Products).

Change Order - The Commissioners signed Change Order No. 11 with Quality Construction for the Missoula County Road Department. Total cost of Change Order is \$9,133.81. New contract amount is \$1,989,485.81. Contract time is unchanged by this Change Order. The Change Order was forwarded to Paul Bishop, Paradigm Architects, for further signatures and handling.

Petition for Annexation to City - The Commissioners signed a Petition for Annexation to City for property commonly known as Glen Eagle Way, legally described as that tract or parcel of land described in Certificate of Survey No. 3345, filed in the Missoula County Clerk and Records records on July 3, 1986, that was dedicated for road right-of-way and located in the E1/2 of Section 32, T14N, R19W, PMM, Missoula County. The Petition was forwarded to the Public Works Department at the City of Missoula.

Lease Agreement - The Commissioners signed a Lease Agreement with Mount Jumbo West Little League for two parcels of land located in the Missoula Development Park Subdivision, consisting of Lot 1 and Park 2, Block 3, Missoula County, Montana. Term of the lease for Park 2, Block 3 is 10 years, commencing on November 26, 1997. Term of the lease for Lot 1, Block 3 is 5 years, commencing on November 26, 1997. Payment for the lease is \$1.00. The minutes of the Administrative Meeting are on file in the Commissioners Office.

PUBLIC MEETING - NOVEMBER 26, 1997

The Public Meeting was called to order at 1:30 p.m. by Acting Chair Barbara Evans. Also present were Commissioner Michael Kennedy, and Deputy County Attorneys Michael Sehestedt and Colleen Dowdall.

Consent Agenda

Commissioner Kennedy moved to approve the consent agenda, which included the following items:

- a. Approval of Claims List, dated 11/25/97 (\$792,517.88)
- b. Approval of Lease for Mt. Jumbo Little League for land in the Missoula Development Park

Commissioner Evans seconded the motion. Motion carried with a vote of 2-0.



Public Comment

None.

Hearing - Family Transfer - McFarland

Kathy Smith, Paralegal in the County Attorney's office, stated that this is a request to create eight parcels using the family transfer exemption for Tract 4, COS 2957 located in Section 11, T11N R16W for Gene McFarland.

Gene McFarland has submitted a request to create eight parcels and a remainder using the family transfer exemption to the Montana Subdivision and Platting Act. The parcel is 18.81 acres in size and located in the Beavertail Hill area East of Missoula. Mr. McFarland proposes to create eight parcels, four for transfer to his adult children and wife, John D. McFarland; Julie Ann Espinosa; Brenda J. Simpson; and Linda J. McFarland. And four for transfer to his minor children, Nicole M. McFarland, 14 years; James D. McFarland, 15 years; Janelle R. McFarland, 11 years; and Melissa L. McFarland, 17 years. The proposed parcels range in size from 1 acre to 6.75 acres. A draft Trust Agreement for the minor children is attached.

The history of the parcel is as follows: COS 2957 was filed in 1983 as a retracement survey. Mr. McFarland purchased Tract 4 in December 1989.

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

Commissioner Evans asked for comments from the developer or his representative.

Gene McFarland came forward to speak. He said the land was being divided for his children to build homes on.

Evans asked about terms of the trust, and whether or not the land set aside for the minor children might be sold.

Julie Espinosa, McFarland's daughter, said the trust includes all children's names, but only those under age 21 would be affected by its requirements.

Commissioner Kennedy asked why the McFarlands are doing this now, rather than at some point in the future.

Gene McFarland said it was so the kids could build homes on the property. Julie is already living on the property, and Gene wants to build a shop where he can work on logging equipment. He may also build a home on the property eventually.

Greg Martinsen, representing the McFarlands, said that the reason they are requesting the family transfer is because Julie needs a sewer system installed, and they have to go through Health Dept. review to do it. The cost is less for the McFarlands to divide now, and all at once.

Commissioners Evans and Kennedy expressed concern that this looks like a subdivision. Evans asked Colleen Dowdall about adding conditions to an approval.

Colleen Dowdall said we cannot add conditions. If we create the parcels, we find there is not an attempt to evade subdivision review. If we find later that there was an attempt to evade subdivision review, then we may be able to do something.

Kennedy asked about why the McFarlands didn't pursue subdividing earlier. Gene said he was too busy. Martinsen said he recommended a family transfer, since all of the lots are going to the kids. Subdividing would be more expensive.

Evans was concerned about the possibility of the land being sold.

Julie Espinosa said her family has lived in the area for years. The property belongs to them, and they aren't going to sell it.

Kennedy was concerned that the only reason for the family transfer was to avoid the cost of subdividing.

Dowdall said that cost is only one piece of information to consider. Also need to look at the family and their right to do a family transfer.

Linda McFarland said she and her husband wanted to give some of their property to their kids. They want to do it legally. Greg said it would be easier and cheaper to do a family transfer. They are willing to put whatever is necessary into the trust agreement so they can do this.

Kennedy explained that he doesn't like the law that allows family transfers.

Evans reminded the McFarlands that the COS process does not look at roads, and does not guarantee septic approval.

She asked for other comment, and, as there was none, closed the public hearing.

Commissioner Kennedy moved to approve the request of Gene and Linda McFarland to create eight parcels and a remainder using the family transfer exemption to the Montana Subdivision and Platting Act.

Commissioner Evans seconded the motion. Motion carried with a vote of 2-0.

Mike Sehestedt explained the process for going forward, and said that compliance with the regulations was something the McFarlands have to deal with.

Hearing - Agricultural Exemption - Clark Fork Compost

Kathy Smith, Paralegal in the County Attorney's office, stated that this is a request to create a parcel using the agricultural exemption for that parcel shown in Book 415 Micro, Page 1729 located in Section 35, T13N R18W for Clark Fork Compost and Reclamation, Inc.

Clark Fork Compost has submitted a request to create a parcel and remainder using the agricultural exemption to the Montana Subdivision and Platting Act. The parcel is 95 acres in size and located between Turah and Piltzville south of Highway 90 and adjacent to the Clark Fork River. Clark Fork Compost proposes to create an approximately 20 acre parcel on a former landfill site and the remainder would continue to operate as a compost and reclamation plant. This request is being made pursuant to an agreement between Clark Fork Compost and the sellers as the landfill site was inadvertently transferred to Clark Fork Compost during the sale of the land in 1994. The agricultural parcel would then be transferred to the former owners, Frank and Viola Bauer.

The history of the parcel is as follows: There is no significant history regarding this parcel. It retains its original configuration and was purchased by Clark Fork Compost and Reclamation, Inc. in June 1994.

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

Commissioner Evans asked for comments from the representative.

Gregory Kennett came forward and spoke, showing an aerial photo and survey map.

Commissioner Evans asked if Kennett understood there would be an agricultural covenant in place, and Kennett said he was not familiar with that document, but it should not be a problem.

Kathy Smith explained that the current owners and the Commissioners enter into a covenant which runs with the land, and cannot be revoked without both parties' approval.

Commissioner Evans asked for further comments, and as there were none, closed the public hearing.

Commissioner Kennedy asked about restrictions.

Colleen Dowdall said she did not investigate them, but there should be a septic restriction.

Commissioner Kennedy moved to approve the request to create a parcel using the agricultural exemption for that parcel shown in Book 415 Micro, Page 1729 located in Section 35, T13N R18W for Clark Fork Compost and Reclamation, Inc.

Commissioner Evans seconded the motion. Motion carried with a vote of 2-0.

Hearing - Application for Proposed Motor Vehicle Wrecking Facility - 9784 Summit Dr.

Mike Sehestedt, Deputy County Attorney, explained that the Montana Department of Environmental Quality, Motor Vehicle Recycling and Disposal Program has received an application for a motor vehicle wrecking facility license for NAK Trade International (Nikolay Kashirets), 118 Amber Ct. #B, Missoula, MT 59803. The proposed motor vehicle wrecking facility will be located in Missoula County at 9784 Summit Drive. The legal description of the facility is the SW1/4, NW1/4, Section 28, T14N R20W.

Section 75-10-516(2), MCA, provides that within 30 days of receipt of this notification, the governing body of the County may (a) conduct a public hearing to determine whether the proposed facility will significantly affect the quality of life of adjoining landowners and the surrounding community, and (b) adopt a resolution in support of or in opposition to the location of the proposed facility, and transmit a copy of the resolution to the Department.

Commissioner Evans opened the public hearing.

Wayne Hiett, of Fred Deschamps and Associates, Realtors, said he was handling the land acquisition for Mr. Kashirets. He said Kashirets wants to be an asset and good member of the community, and wants to support his family with this business.

Nikolay Kashirets came forward to speak. Julie Styskin, a translator from the Refugee Assistance Corp., was also present. Kashirets said he wanted to open the business because he has the tools and equipment, and wants to support his 4 kids.

Commissioner Kennedy asked whether NAK Trade International was a corporation, and why was he locating in Montana.

Kashirets said the name is not a corporation, and he moved from California, because he did not like the heat there.

Commissioner Kennedy asked about where the cars would be coming from - out of state, or locally - and what the procedure for the business would be.

Kashirets explained that the cars would come from Montana, and be repaired and sold in Montana and elsewhere.

Kennedy asked about current employment, and Kashirets said he was employed as a custodian at Valley Christian School, and his wife operated a daycare.

Kennedy asked Richard Corrigan, Junk Vehicle Coordinator, about car importing. Corrigan said that he understood that most vehicles would be purchased from insurance companies in- and out-of-state. He said there were about 5 other wrecking facilities in Missoula; only one major one right now.

Kennedy asked about restrictions on the licensing of these facilities. Corrigan said that the license is permanent for the site. It is not transferable, and is site-specific. There are no restrictions, except that if you have 3 or more junk vehicles, you must have a license.

Wayne Hiett said that when you deal with wrecked cars, you must have a license to go to auctions, wholesalers, etc. He estimated the property was about 2.14 acres.

Commissioner Evans read some questions from a letter from Lavelle Evans, who works across the road from this site.

Hiett said Kashirets must comply with the Health Dept. regulations, there is no home on the property, there is some sawdust (just a pile of it). Richard recommends an 8' screened fence. Hours of operation, according to Kashirets, would be approx. 8 am to 8 pm. weekdays. The road is not paved.

Kennedy asked Mike Sehestedt if we could do conditions like seeing a site plan, and waiving SID protesting rights.

Sehestedt said requests could be made, but he didn't know how the State DEQ would handle the restrictions/conditions.

Corrigan said this is just a hearing. Before the DEQ grants a license, they will check the environmental conditions. The County can give conditional approval.

Evans asked about disposal of hazardous fluids, and Corrigan said the vehicles in the yard must be drained of fluids, and there must be a plan for dealing with the fluids.

Evans asked about the record of Mr. Kashirets' previous business. Did it have a good environmental record?

Kashirets said he had a business like this in California. As far as disposal, he collected the fluids in barrels, and recycled. He will follow Montana's laws, he said.

Kennedy asked about the number of vehicles restored by Kashirets, and the kind of people who buy these vehicles. Kashirets said in one year he redid about 50 cars. Some were sold to people in the area, and some were sent overseas. Kennedy asked about overseas contacts. Kashirets said he used to work for a humanitarian agency, and wants to provide cars to them. Russia, Latvia, Ukraine, and Belarus are the primary areas. It will take some time to get this going, and he will focus on Montana in the beginning.

Evans asked if this would be a successful business in Montana. Kashirets said the harsh weather causes accidents, so there are cars available for him to restore.

Evans asked Sehestedt if a waiver of protesting an RSID could be done. Sehestedt said yes.

Julie Styskin said her organization works with the Russian immigrants, and helps them to understand the laws of Montana.

Commissioner Evans closed the public hearing, as there were no further comments.

Commissioner Kennedy moved to support the application for a motor vehicle wrecking facility license for NAK Trade International, Nikolay Kashirets, for a facility located at 9784 Summit Drive, Missoula, Montana, subject to the following conditions being imposed:

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;
3. Development requirements like the subdivisions in the area will be imposed (paving/setbacks/screening), and Kashirets will waive his right to protest an RSID for roads, sidewalks, sewer/water systems, should they be desired in the future.

Commissioner Evans said she also wanted Corrigan to research Kashirets' past employment in California, and make sure there was no evidence of violations of environmental regulations.

Commissioner Evans seconded the motion. Motion carried with a vote of 2-0.

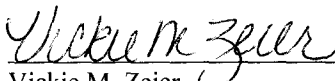
There being no further business to come before the Board, the Commissioners were in recess at 2:56 pm.

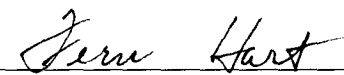
THURSDAY, NOVEMBER 27, 1997

The Courthouse was closed for the Thanksgiving Day holiday.

FRIDAY, NOVEMBER 28, 1997
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The Board of County Commissioners did not meet in regular session; Commissioners Hart, Evans and Kennedy were out of the office all day.

  
Vickie M. Zeier  
Clerk & Recorder

  
Fern Hart, Chair  
Board of County Commissioners

**MONDAY, DECEMBER 1, 1997**

The Board of County Commissioners did not meet in regular session; Commissioners Evans and Hart were out of the office all day. Commissioner Kennedy attended a training session held at the Forest Service Regional Office in the Federal Building, entitled "Public Participation Principles and Methods (3PM) from noon on Monday, December 1, through noon on Friday, December 5. However, he stopped by the office daily during this time for signature items.

**TUESDAY, DECEMBER 2, 1997**

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

Monthly Report -- Chair Hart examined, approved, and ordered filed the Report of the Clerk of District Court, Kathleen Breuer, showing fees and collections for the month of November, 1997.

ADMINISTRATIVE MEETING

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

Larchmont Budget - The Commissioners approved and adopted the Larchmont Golf Course Annual Budget, Capital Replacement and Debt Reduction Schedule and Fees for 1998.

Loan Request - The Commissioners approved a request from Patty Kent of the Garden City CHDO for a loan in the amount of \$7,340.00 to be used as interim financing to provide basic household furnishings at the Bridge Apartments. The approval form was forwarded to Cindy Wulfekuhle in OPG for further handling.

Extension Request - The Commissioners approved a 60-day extension for filing the preliminary plat for Montana Vista Phase I, making the new filing deadline February 11, 1998, with a letter to Ron Ewart, Eli and Associate.

Resolution - The Commissioners signed Resolution No. 97-109, supporting granting a motor vehicle wrecking license to NAK Trade International for a motor vehicle wrecking facility at 9784 Summit Drive in Missoula County.

Resolution - The Commissioners signed Resolution No. 97-110, granting an Agricultural Use Covenant to Clark Fork Compost and Reclamation, Inc. for the parcel as described in Book 415 Micro, Page 1729 and located in Section 35, T13N, R18W.

Other items included:

- 1) The Commissioners indicated they were not interested in hearing Pat Goodover, Jr.'s (Corrections Corp. of America) proposal regarding the possibility of locating a private prison in Missoula.

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

**WEDNESDAY, DECEMBER 3, 1997**

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

Audit List -- Commissioners Evans and Hart signed the Audit List, dated December 2, 1997, pages 2-40, with a grand total of \$176,873.88. The Audit List was returned to the Accounting Department.

Monthly Report -- Chair Hart examined, approved, and ordered filed the Monthly Reconciliation Report for Justice of the Peace, John Odlin, for the month ending November 30, 1997.

PUBLIC MEETING -- DECEMBER 3, 1997

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present were Commissioner Barbara Evans, County Surveyor Horace Brown, Deputy County Attorney Marnie McClain, and Shirley Faust, Recording Supervisor.

Public Comment

None.

Consent Agenda

Commissioner Barbara Evans noted for the record that the item on the Consent Agenda (Approval of Claims List, dated 12/2/97 for \$176,873.88) had been previously signed and approved by the Board of County Commissioners.

Sale of Tax Deed Property

Information provided by Shirley Faust, Recording Supervisor, indicated that the tax deed auction for the 1993 36-month and 1994 24-month delinquencies was set for this date by Resolution No. 97-107. No sale shall be made for a price less than the fair market value at this auction per M.C.A. 7-8-2301. Notice of the 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. A copy of the tax deed and a courtesy letter was mailed to all interested parties, stating that they had the right to redeem the property prior to the auction. The following properties were advertised:

<u>SUID #</u>	<u>LEGAL DESCRIPTION</u>	<u>FAIR MARKET VALUE</u>
1227606	FRENCHTOWN--LOT 7 BLK 18	\$ 2,055.00
2130908	CP HIGGINS--S 5' OF LOTS 7 THRU 10 BLK B 20' VAC ALLEY	183,100.00
3104809	TR 3 COS 4031 IN NW4 PLAT A1-3 7-14-22 0.16AC LEGAL ALSO KNOWN AS: TRACT 3 OF CERT. OF SURVEY #4031 IN NW1/4 PLAT A1-3 SEC. 7, T14N, R22W .016AC	1,009.00

She noted that the third property, SUID #3104809, had been redeemed and removed from the auction today.

Fern Hart read a description of each of the properties, and asked if there were any bids for each. No one responded to either of the offers. The sale was closed.

Certificate of Survey - Sisler

Information provided by Kathy Smith, Paralegal with the County Attorney’s Office, indicated that this is a consideration of a request to create a parcel using the family transfer exemption for Tract 2B, COS 1241 located in Section 28, T13N R20W for Matthew J. and Julie A. Sisler.

**Background:**

Matt and Julie Sisler have submitted a request to create a parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The parcel is 9.14 acres in size and is located in the O’Brien Creek area and is accessed and intersected by Cedar Ridge Road. The Sislers propose to split the parcel in half, using the road as a boundary, for transfer to Matt Sisler’s parents, James R. and Eva L. Sisler.

The history of the parcel is as follows: COS 366 was filed in June, 1974 creating ten parcels greater than 10 acres in size and referred to as O’Brien Estates. COS 783 was filed in February, 1976 creating a 6.34 acre parcel using the occasional sale exemption. When COS 783 was filed, it cut off approximately 2.5 acres from Tract 2 of COS 366. COS 1241 was then filed in September, 1977 as a retracement denoting the amended Tract 2 as Tract 2B consisting of 9.14 acres. Matt and Julie Sisler purchased the parcel in October, 1995.

According to the records kept by the Missoula County Surveyor, the applicants have not used any exemptions to the Subdivision and Platting Act.

James Sisler, the applicant’s father, was present to answer questions. He said he intended to build and live on the property.

The hearing was opened for public comment. No one came forward to speak, and the hearing was closed.

Barbara Evans moved, and Fern Hart seconded the motion to approve a family transfer exemption for Tract 2B, COS 1241 located in Section 28, T13N R20W for Matthew J. and Julie A. Sisler, finding it in the public interest to do so, and finding no attempt to evade the Montana Subdivision and Platting Act. The motion carried on a vote of 2-0.

Certificate of Survey/Agricultural Exemption/Relocation of a Common Boundary - Kemp

Information provided by Kathy Smith, Paralegal with the County Attorney’s Office, indicated that this is a consideration of a request to create a parcel using the agricultural exemption and to relocate common boundaries for Tract 1, COS 2919 and COS 1670 located in Section 14, T13N R16W for Michael E. and Delores A. Kemp and the Potomac-Greenough Community Center.

**Background:**

Michael and Delores Kemp and the Potomac-Greenough Community Center have submitted a request to create a parcel using the agricultural exemption and relocate common boundaries using the boundary relocation exemption the to the Montana Subdivision and Platting Act. The parcels are south of Potomac Road and consist of .67 acres and 1.55 acres each. The 1.55 acre parcel is connected by a 1 foot strip which runs along the bottom of COS 1670 which is owned by the Community Center. The Kemps propose to separate Tract 1, COS 2919 by relocating the 1 foot strip to create a .72 acre agricultural parcel on the west side of the property and a .83 acre parcel as a remainder. The Kemps then plan to transfer the west (agricultural) parcel to Gary Lancaster as a bee keeping operation. The Community Center would retain ownership and original .67 acres.

The history of the parcel is as follows: COS 1670 was filed in October, 1978 as a retracement pursuant to a parcel created by Court Decree dated August 13, 1948 in the *Estate of William F. Peters*. The recipient of the parcel shown on COS 1670, Ellen H. Geary, then transferred the parcel to the Potomac-Greenough Community Center in April, 1978. The parcel was granted to Missoula County for ten years until 1988 when it reverted back to the Potomac-Greenough Community Center. COS 2754 was filed in April, 1982 adding additional acreage through a boundary relocation to the parcel east of COS 1670. COS 2919 was filed in July, 1983 using the boundary relocation to create the current parcel as connected by the 1 foot strip.

According to the records kept by the Missoula County Surveyor, the applicants have not used any exemptions to the Subdivision and Platting Act.

Greg Martinsen, Martinsen Survey, representing the Kemps, was present to answer questions.

The hearing was opened for public comment. No one came forward to speak and the hearing was closed.

Barbara Evans moved, and Fern Hart seconded the motion to create a parcel using the agricultural exemption and relocate common boundaries using the boundary relocation exemption to the Montana Subdivision and Platting Act. For Michael E. And Delores A. Kemp and the Potomac-Greenough Community Center, finding it in the public interest to do so, and finding no attempt to evade the Montana Subdivision and Platting Act. The motion carried on a vote of 2-0.

Consideration of Jordan Ranch Tracts, Lots 64B-1&64B-2

Information provided by Nancy Heil, Office of Planning and Grants, indicated that

The applicants are proposing to split a 21.2 acre parcel into 2 lots 10.09 and 11.11 acres in size. The property is located approximately 3 miles southeast of Potomac along Copper Cliff Drive. Access to the lots is provided via a private road exiting from Copper Cliff Drive. Individual well and septic systems are proposed to serve the lots. The existing private road is approximately 1450 feet long from its beginning at Copper Cliff Drive to the edge of Lot 63A. The distance from Copper Cliff Drive across Lot 64A to the boundary of proposed Lot 64B-2 is approximately 830 feet. The portion of the road from the boundary of Lot 64B-2 to the furthest driveway access point on Lot 64B-1 is approximately 570 feet.

Three variances have been requested and OPG recommends approval of them:

- 1) 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.
- 2) from Section 3-2 of the Missoula County Subdivision Regulations to reduce the easement width of the private road from 54 feet to 40 feet and to reduce the road width from 24 to 20 feet.
- 3) from Section 3-2 of the Missoula County Subdivision to exceed the maximum cul-de-sac length of 1000 feet. The staff recommendation was approval of the Jordan Ranch Tracts, Lots 64B-1 and 64B-2, based on the findings of fact in the staff report and subject to the conditions in the staff report.

Ron Ewart, Eli and Associates, representing the developers was present to answer questions.

Horace Brown, County Surveyor, had some issues with the access road, and suggested an additional condition be added.

Barbara Evans moved and Fern Hart seconded the motion to approve all three variances for the Jordan Ranch Tracts, Lots 64B-1&64B-2 as follows:

- 1) 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.
- 2) from Section 3-2 of the Missoula County Subdivision Regulations to reduce the easement width of the private road from 54 feet to 40 feet and to reduce the road width from 24 to 20 feet.
- 3) from Section 3-2 of the Missoula County Subdivision to exceed the maximum cul-de-sac length of 1000 feet. The staff recommendation was approval of the Jordan Ranch Tracts, Lots 64B-1 and 64B-2, based on the findings of fact in the staff report and subject to the conditions in the staff report.

The motion carried on a vote of 2-0.

Barbara Evans moved and Fern Hart seconded the motion to approve the Jordan Ranch Tracts, Lots 64B-1&64B-2 Subdivision, subject to the findings of facts and conclusions of law in the staff report, and subject to the following conditions:

1. The private road shall be named, subject to the approval of the County Surveyor, prior to plat filing. Approach permits shall be granted prior to plat filing. Engineering and drainage plans for the roadway shall be approved by the County Surveyor prior to plat filing.
2. The private road shall have a reflective sign to conform to county standards for private roads relating to size, color of letter, background color and height on a steel or wood post. Such sign shall be in place prior to plat filing.
3. A development agreement shall be filed, subject to County Attorney approval, that states that driveways serving the lots shall be a minimum of 14 feet wide with a minimum unobstructed width of 20 feet and with an unobstructed vertical clearance of 13 feet 6 inches. Turnarounds within 100 feet of residences with adequate access for emergency vehicles shall be provided. Grades shall not exceed 10 percent. Driveways longer than 150 feet shall provide a passing zone every 150 feet, that is 50 feet long and 20 feet wide. The driveway base material shall be compacted gravel. Each house shall have a reflective sign with the house number the same size as the letters on the street sign. The house number shall be located at the beginning of the driveway, headlight height, on the right side of the road in the right of way area, on a steel or wood post. The development agreement shall be filed prior to or at the time of plat filing.
4. A private road maintenance agreement shall be developed and filed with the County among the lot owners along the private road. The agreement shall include provisions to maintain the private road to the furthest

access point within the subdivision or beyond, as well as Copper Cliff Drive from its intersection with the private road to Hole in the Wall Road.

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 the assent of the lot owner to waive the right to protest a future RSID/SID for future road improvements to Hole in the Wall Road and Copper Cliff Drive including paving and installation of pedestrian walkways 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."
6. All new utilities shall be placed underground in easements a minimum of 20 feet wide. The plat shall show the utility easements serving the lots.
7. The sections of the covenants addressing wildlife, fire standards, and air particulate matter mitigation shall not be changed or deleted without approval of the governing body. This statement shall be included in the covenants. The statement in Article 13 of the covenants that states "written permission of the governing body is required before any restrictions within these covenants may be modified" shall be deleted.
8. The recommended road standards shall be applied along the private road to at least the furthest driveway access point for Lot 64B-1. The developer shall install a turnaround, to be approved by the Fire Department, in this location.
9. The private road to the property which enters on Copper Creek Road shall be built as close as possible to a 90° angle within the easement

There being no further business to come before the Board, the Commissioners were in recess at 2:58 p.m.

**THURSDAY, DECEMBER 4, 1997**

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:

MDT Road Mileage Certification - The Commissioners signed a form from the Data and Statistics Bureau, Montana Department of Transportation, certifying the rural road mileage in Missoula County as 1529.299 miles. The form was returned to the Surveyor's Office for further handling.

Resolution - The Commissioners signed Resolution No. 97-111, granting an Agricultural Use Covenant to Michael E. and Delores A. Kemp for a parcel described as Tract 1, COS 2919, and located in Section 14, T13N R16W.

Certification of Acceptance - Chair Hart signed two Certifications of Acceptance for County Maintenance, one for Grace Court in the Pilgrims Parcels Subdivision, and one for Hauser Drive in the Hillcrest Heights, Phase I Subdivision. Both certifications were returned to the Surveyor's Office.

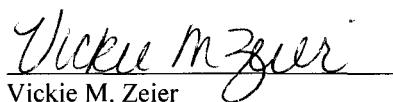
EMWIN HMGP Grant Concurrence Form - The Commissioners signed a Grant Concurrence Form for the Emergency Manager's Weather Information Network Hazard Mitigation Grant Program, providing a \$400.00 in-kind matching fund donation of an existing computer to run EMWIN software. The form was returned to Bill Silverman in the Office of Emergency Management for further handling.

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

**FRIDAY, DECEMBER 5, 1997**

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

Monthly Report -- Chair Hart examined, approved, and ordered filed the Monthly Reconciliation Report for Justice of the Peace, Michael Jaworsky, for the month ending November 30, 1997.

  
Vickie M. Zeier  
Clerk & Recorder

  
Fern Hart, Chair  
Board of County Commissioners

**MONDAY, DECEMBER 8, 1997**

The Board of County Commissioners met in regular session; all three members were present. In the evening, Commissioner Hart attended a meeting of the Missoula Irrigation District Board held at Attorney Ray Tipp's office.

**TUESDAY, DECEMBER 9, 1997**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was in Walla Walla, WA attending a meeting of the Eastside Ecosystem Coalition of Counties (EECC) December 9 and 10.



ADMINISTRATIVE MEETING

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

Annual Update for County Drug Prevention Treatment Plan - The Commissioners signed the annual update form for the County Drug Prevention Treatment Plan, allocating approximately \$104,000.00 for 1998 which will be split between the Missoula Indian Center and Turning Point. The form was returned to Peggy Seel in OPG for further handling.

Change Order - The Commissioners signed Change Order #12 for the Missoula County Road Department project, for ductwork and electrical changes in the amount of \$12,823.00. Contract time is unchanged by this Change Order. The Change Order was returned to Paul Bishop at Paradigm Architects for further signatures.

Other items included:

- 1) The Commissioners appointed Bob Brunson to the East Missoula Rural Fire District Board of Trustees.
- 2) The Commissioners appointed Gary Nash to the Lolo Water and Sewer Board.

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

**WEDNESDAY, DECEMBER 10, 1997**

The Board of County Commissioners did not meet in regular session; Commissioner Hart was in Helena attending a meeting of the MACo Taxation and Finance/DOR Liaison Committees.

The Weekly Public Meeting was canceled as two of the Commissioners were out of town.

**THURSDAY, DECEMBER 11, 1997**

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.

Audit List -- Commissioners Hart and Evans signed the Audit List, dated December 9, 1997, pages 2-35, with a grand total of \$194,483.26. The Audit List was returned to the Accounting Department.

Monthly Report -- Chair Hart examined, approved, and ordered filed the Report of the Sheriff, Douglas Chase, showing fees and collections for the month ending November 28, 1997.

ADMINISTRATIVE 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 City of Missoula's application for Brownfields Pilot Project funding.

Memorandum of Agreement - The Commissioners signed a Memorandum of Agreement between the Missoula County Park Board and the Target Range Neighborhood Watch Group for provision of up to \$1,000.00 to do landscaping for Schmutz Park. The Agreement was returned to Tammy Holshue in OPG for further handling.

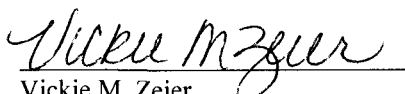
Other items included:

- 1) The Commissioners approved "Airway Boulevard" as the name for the crossroad between I-90 and Broadway in the Missoula Development Park.

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

**FRIDAY, DECEMBER 12, 1997**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was in Polson attending a Regional Juvenile Detention meeting. In the forenoon, Commissioner Hart attended and gave testimony at a Legislative Interim Property Tax Committee meeting held at the City Council Chambers; in the afternoon, Commissioner Evans participated in a tour of the Interchange Project.

  
Vickie M. Zeier  
Clerk & Recorder

  
Fern Hart, Chair  
Board of County Commissioners

**MONDAY, DECEMBER 15, 1997**

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

**TUESDAY, DECEMBER 16, 1997**

The Board of County Commissioners met in regular session; all three members were present. In the evening, Commissioner Evans attended a County Park Board Hearing on the Tower Street Lands Park Plan held at the Orchard Homes Country Life Club.

**ADMINISTRATIVE MEETING**

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

Authorization Letter - The Commissioners signed an authorization letter required by a new banking facility authorizing Fern Hart to sign documents related to credit card transactions/processing for Larchmont Golf Course. The letter was returned to Sharyn Solum for further handling.

Professional Services Contract - The Commissioners signed a Professional Services Contract with Mike Richmond of Northern Rockies Weather Watch to conduct work to develop a daily temperature profile and winds aloft for Missoula for air stagnation days. Performance schedule is from December 11, 1997 through March 15, 1998. Compensation for services is \$24.00 for each sounding performed (total cost will be approx. \$1,080.00 - 70% of which is State/Federal, and 30% is County). The Contract was returned to the Health Department for further signatures and handling.

Memorandum of Agreement - The Commissioners signed a Memorandum of Agreement with the City of Missoula for the Crime Victims' Advocate position in City Hall. Duration of the Agreement is from July 1, 1997 through June 30, 1998. Value of the Agreement is \$8,884.00.

Professional Services Contract - The Commissioners signed a Professional Services Contract with McCue Construction for construction of a shooting house for the Sheriff's Department. Performance schedule is as weather permits. Compensation for services shall not exceed \$25,418.00.

Payroll Transmittal Sheets - The Commissioners signed Payroll Transmittal sheets for Pay Period 23 (total Missoula County Payroll of \$606,256.84), and Pay Period 24 (total Missoula County Payroll of \$623,314.02). The sheets were returned to the Auditor's Office.

Engineering Request - The Commissioners approved a request for additional work by Territorial Engineering for the Sapphire Drive (RSID 8460) project, at an additional cost of \$1,190.00. The approval was returned to Paul Webber, CAO, for further handling.

Certificate of Substantial Completion - Chair Hart signed a Certificate of Substantial Completion for a water main extension to Lots B2 and B3, COS 2835, RSID 901, Lolo Water and Sewer District. The Certificate was returned to Paul Webber, CAO, for further handling.

Professional Services Contract - The Commissioners signed a Professional Services Contract with Steven A. Hall, MAI, to provide appraisals on five sample lots to establish price ranges for sale of lots in the Development Park. Performance schedule is from July 1, 1997 through June 30, 1998. Compensation for services shall not exceed \$10,000.00.

Budget Agreement - The Commissioners signed a Budget Agreement with the Montana State University Extension Service. Period of the Agreement is from July 1, 1997 through June 30, 1998. Total cost of the Agreement is \$307,974.00. The Agreement was returned to Jerry Marks in the Extension Office for further signatures and handling.

Other items included:

- 1) The Commissioners discussed proceeding with the rezoning of the Old County Shop parcel. Commissioners Hart and Kennedy voted to refer the issue to the Management Team for a recommendation. Commissioner Evans abstained.
- 2) Commissioners Hart and Kennedy voted to accept the Management Team recommendation to appoint a Public Works Director to work in conjunction with Horace Brown, County Surveyor, and that we begin the hiring process in the first quarter of 1998. Commissioner Evans opposed.

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

**WEDNESDAY, DECEMBER 17, 1997**

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

Audit List -- The Commissioners signed the Audit List, dated December 17, 1997, pages 2-43, with a grand total of \$362,128.01. The Audit List was returned to the Accounting Department.

**PUBLIC MEETING -- December 17, 1997**

The Public Meeting was called to order at 1:30 p.m. by Chair Fern Hart. Also present were Commissioner Barbara Evans, Commissioner Michael Kennedy, Clerk and Recorder/Treasurer Vickie Zeier, County Surveyor Horace Brown, and Deputy County Attorneys Michael Sehestedt and Colleen Dowdall.

Public Comment

Tony Tweedale, environmental activist, referred to House Bill 361, requiring noticing of pesticide application, and explained that this needed to be implemented. He also offered information on the pesticide 2-4-D. He said that he was concerned about Montana Rail Link’s safety record, and that the Local Emergency Planning Committee could impose requirements on MRL.

Ron Ewart explained that he recently completed a paper on planning as part of his master’s degree at the University of Montana. The paper discusses how comprehensive planning is helpful. Copies are available at OPG, or by contacting Ron.

Adoption of Resolution for District 11 Human Resource Council Note

Chair Hart explained that this issue was noticed, a hearing was held, and now the Commissioners need to adopt the resolution.

Mike Sehestedt explained the bond details, and said it does not involve the Missoula County taxpayers. The resolution authorizes sale of a \$375,000.00 Economic Development Revenue Note. In October, the Commissioners found it was in the public interest to issue the note. Staff has reviewed the resolution, and found it acceptable.

Commissioner Evans moved to adopt the resolution for the District 11 Human Resource Council Economic Development Revenue Note in the amount of \$375,000.00.

Commissioner Kennedy seconded. Motion carried with a vote of 3-0.

Adoption of Resolution for Economic Development Revenue Bonds for Connecticut Valley Sports (Cooper Arms)

Chair Hart explained that the Commissioners heard this request earlier in the day.

Mae Nan Ellingson, Bond Attorney with Dorsey and Whitney, said that Connecticut Valley Sports asked Missoula County to issue up to \$7,000,000.00 in bonds to acquire land and construct buildings for the manufacture of high-grade firearms. The land is in the Missoula Development Park. CVS wants to obtain financing at a tax-exempt rate. The Commissioners are being asked to adopt a preliminary inducement resolution, which sets in motion a public hearing (on January 14) and induces CVS to move forward with the project, so the proceeds of the bonds can reimburse costs. The bond proceeds are only to be used for capital improvements.

Dan Cooper, founder and president of Cooper Arms (now owned by CVS), said he started the business in 1991 in Stevensville, MT. He is now looking to expand, and wants a larger, more diverse labor pool.

George Snyder of Credit Research and Trading said the benefits of issuing the bonds are that this allows Cooper Arms to grow beyond a cottage industry, and it will provide increased employment (20-75 employees), and will pay property taxes to Missoula County.

Mike Sehestedt explained that the resolution indicates no commitment, but is just a plan to go forward with holding a hearing.

Commissioner Kennedy moved to support the resolution relating to economic development revenue bonds for Connecticut Valley Sports, in an approximate amount not to exceed \$7,000,000.00, granting preliminary approval thereto.

Commissioner Evans seconded. Motion carried with a vote of 3-0.

Sale of Tax Deed Property - Second Auction

Information provided by Shirley Faust, Recording Supervisor, indicated that the tax deed auction for the 1993 36-month and 1994 24-month delinquencies was set for this date by Resolution No. 97-107. No sale shall be made for a price less than the fair market value at this auction per M.C.A. 7-8-2301. Notice of the 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. A copy of the tax deed and a courtesy letter was mailed to all interested parties, stating that they had the right to redeem the property prior to the auction.

SUID #	LEGAL DESCRIPTION	FAIR MARKET VALUE
2130908	CP HIGGINS--S 5' OF LOTS 7 THRU 10 BLK B 20' VAC ALLEY	183,100.00
3104809	TR 3 COS 4031 IN NW4 PLAT A1-3 7-14-22 0.16AC LEGAL ALSO KNOWN AS: TRACT 3 OF CERT. OF SURVEY #4031 IN NW1/4 PLAT A1-3 SEC. 7, T14N, R22W .016AC	1,009.00

Chair Hart asked if anyone wished to bid on these properties. No bidders were present, and no bids were offered.

Consideration of Sorrel Springs Lots 6A and 6B

Denise Alexander of the Office of Planning and Grants gave the staff report.

The proposal is for a 2-lot subdivision of Sorrel Springs Lot 6. The property is located in the southeast ¼ of Section 21, Township 15 North, Range 21 West, Principal Meridian, Missoula County, Montana. This subdivision is located 1½ miles from Interstate-90 and Frenchtown Frontage Road via Roman Creek Road to Sorrel Springs Lane, both county roads. The property is then accessed off of Morgan Lane to Mustang Lane, which are private, graveled roads maintained by the Sorrel Springs Homeowner Association.

The applicants are proposing to split a 9.78 acre parcel into 2 lots 5.72 and 4.06 acres in size. The property is located approximately 1½ miles from the I-90 and Frenchtown Frontage Road via Roman Creek Road. Access to the lots is provided via private roads, Morgan Lane and Mustang Lane, from Sorrel Springs Lane, a County road. Individual well and septic systems are proposed to serve the lots.

Terry and Lois Botsford are the landowners and live in a home on the north side of the property. The subdivision request is to divide a 10 acre lot into Lot 6A, a 5.72 acre lot where the owners home is located, and Lot 6B, a 4.06 acre lot with a proposed second homesite. The property has a fairly uniform slope of 10% and is forested with pine. It is considered to be within a wildland-residential interface area and has no riparian resources on site.

The application packet includes a site map that locates a proposed homesite on Lot 6B with water and driveway access from Mustang Lane, and a proposed drainfield location. The driveway shown to the proposed home site is approximately 300 feet long, with negligible slope and a hammerhead turn-around for emergency vehicles. The applicant has added a note to the plat that increases the construction setback from the common property line between Lots 6A and 6B from the 50 feet required by Sorrel Springs Covenants, to 60 feet. Although the covenants also require that construction be setback 100 feet from any roadway, there will still be an adequate building envelope on Lot 6B.

The Office of Planning and Grants recommends **approval** of the **Sorrel Springs Lots 6A & 6B Subdivision**, based on the findings of fact in the staff report and subject to the conditions in the staff report.

The Office of Planning and Grants recommends **approval** of 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 and conditions set forth in the staff report.

Chair Hart asked for comments from the developers' representative.

Ron Ewart of Eli and Associate said he and his clients agree with the proposed conditions.

Chair Hart asked for public comment; none was received.

Commissioner Kennedy moved to 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 and conditions set forth in the staff report.

Commissioner Evans seconded. Motion carried with a vote of 3-0.

Commissioner Evans moved to approve the Sorrel Springs Lots 6A and 6B Subdivision, based on the findings of fact and conclusions of law, and subject to the following conditions:

1. Grading, drainage, erosion control, and driveway plans shall be approved by the County Surveyor prior to plat filing. *Subdivision Regulations 3-2 and County Surveyor recommendation.*
2. Remove note on plat regarding fire protection prior to plat filing. *Staff recommendation.*
3. The applicant shall file a development agreement between the governing body and the developer prior to plat filing that contains the Wildland Residential Interface defensible space guidelines and diagrams as described in Article 5-Submittal Requirements of the Missoula County Subdivision Regulations and the Driveway Standards as described in Article 3-Subdivision Design Standards Section 3-2(6)(A) through (E), with the stipulation that future and existing development shall comply with those standards. *Subdivision Regulations 5-1(5)(H), 3-2(6)(A), and Fire Department and Staff Recommendation.*
4. The subdivider shall provide the future lot purchaser with a copy of the brochure titled, "Living with Wildlife". *Staff recommendation.*

Commissioner Kennedy seconded. Motion carried with a vote of 3-0.

#### Consideration of Crossroad South Development Park

Nancy Heil of the Office of Planning and Grants gave the staff report.

The applicants are proposing to split a 28.32 acre parcel into 2 lots. Proposed Lot 1 would be 4.54 acres in size and Lot 2 would be 23.78 acres in size. The property is located southeast of the Missoula airport and is legally described as Certificate of Survey 4056 in SW 1/4, Section 1, Township 13 North, Range 20 West.

The property is zoned for light industrial use. Two businesses currently operate from the property. BJ's Metalworks owns an existing building on the site. Miller Roofing stores materials in a fenced area. A new building will be constructed on proposed Lot 2, which will then house the metalworks business. The roofing company will move into the existing building on proposed Lot 1.

The property is within the Airport Influence Area. The Comprehensive Plan designates Light Industrial and Parks and Open Space land uses. It is also located within the Wye/Mullan West Planning Area, where comprehensive neighborhood planning is currently in progress.

Access to the lots is currently provided via an existing gravel road. This road would continue to serve the lots in the short term. The plat also shows a new public access and utility easement which provides for the possibility of a north/south connection between Highway 10 and Mullan Road. The original application showed the new road and access easement located in a gully. The gully has since been determined to be a riparian resource area. The applicant has revised the application and moved the easement out of the gully area. (See revised plat and letter, Attachment A.)

The applicant may further divide Lot 2 in the future. The subdivision application shows an overall development concept for a future design, with lot splits occurring along the new road easement.

Individual well and septic systems are proposed for each lot. Lot owners will waive the right to protest an RSID for future water or sewer systems.

The Office of Planning and Grants recommends **approval** of the **Crossroad South Development Park Subdivision**, based on the findings of fact in the staff report and subject to the conditions in the staff report.

The Office of Planning and Grants recommends **approval** of 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.

The Office of Planning and Grants recommends **approval** of the variance request from Section 3-2(3) of the Missoula County Subdivision Regulations that requires a 32 foot paved width for the onsite portion of the existing road, based on the findings of fact set forth in the staff report.

The Office of Planning and Grants recommends **approval** of the variance request from Section 3-2(3) of the Missoula County Subdivision Regulations that requires an 80 foot easement width and 32 foot road width for the offsite portion of the existing road, based on the findings of fact set forth in the staff report.

The Office of Planning and Grants recommends **approval** of the variance request for the existing road from Section 3-3(1) of the Missoula County Subdivision Regulations, which states no single lot shall be divided by a road, based on the findings of fact set forth in the staff report.

The Office of Planning and Grants recommends **approval** of the variance request for the proposed new easement from Section 3-3(1) of the Missoula County Subdivision Regulations which states that no single lot shall be divided by an easement, based on the findings of fact set forth in the staff report.

Commissioners Kennedy and Hart asked about the reason for subdivision of the lot.

Nancy Heil explained that the subdivision regulations state that a lot shall not be divided by a road.

Ron Ewart of Eli and Associate, representing the owners, said the reason for the subdivision is so that BJ's Metalworks can move into a larger building. The other building is being sold to Miller Roofing. He agrees with the conditions and the variance requests.

Commissioner Evans moved to approve the five variance requests for Crossroad South Development Park summary subdivision.

Commissioner Kennedy seconded. Motion carried with a vote of 3-0.

Commissioner Evans moved to approve the Crossroad South Development Park, 2-lot summary subdivision, based on the findings of fact and conclusions of law, and subject to the following conditions:

1. Engineering plans for the roadway and drainage plans shall be approved by the County Surveyor prior to plat filing. The dedicated road shall be named on the plat and approved by the County Surveyor prior to plat filing. *County Surveyor recommendation.*
2. If additional buildings are constructed on Lot 2, the developer shall improve the onsite portion of the existing road to the access point for the new building to a minimum 24 foot paved width. The no access easement on the existing onsite road shall be removed prior to final plat filing. *Staff recommendation.*
3. The note on the plat pointing to both easements shall be clarified to refer only to the existing gravel road easement. An additional statement shall appear on the face of the plat and in each instrument of conveyance: "The location of the north/south dedicated easement may change or be vacated if and when a north/south road alignment is selected." *Staff recommendation.*
4. The developer shall contribute \$100.00 per lot to the large diameter hose fund of the Missoula Rural Fire Department prior to plat filing. *Missoula Rural Fire Department 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 the assent of the lot owner to waive the right to protest a future RSID/SID for improvements to all roads accessing the subdivision, including paving and installation of pedestrian walkways or bikeways, 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." *Staff 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 the assent of the lot owner to waive the right to protest a future RSID/SID for public water and sewer systems, 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." *Staff recommendation.*

7. Prior to plat filing, the riparian resource area shall be shown on the plat as a no-build area in a location to be approved by OPG. The Riparian Resource Management Plan shall include provision for removal of existing construction debris and for erosion control during road construction. The Riparian Resource Management Plan shall be recorded in the covenants and shall not be changed without approval of the governing body. *Staff recommendation.*
8. An avigational easement shall be obtained for this property in compliance with the Airport Influence Area Resolution prior to plat filing. *Request of Airport Authority.*
9. The following statement shall appear on the face of the plat and in each instrument of conveyance: "This property is within the Airport Influence Area and subject to the requirements of the Airport Influence Area Resolution." *Request of Airport Authority.*
10. Miller Roofing, the occupant of the fenced area on Lot 1, shall obtain a zoning compliance permit prior to occupying the existing structure on Lot 1. *Staff recommendation*

Commissioner Kennedy seconded. Motion carried with a vote of 3-0.

#### Hearing - Wallace Creek Estates

Pat Keiley of the Office of Planning and Grants gave the staff report.

Mr. Roy P. Handley is requesting approval for Wallace Creek Estates, a 64-lot preliminary plat subdivision on 205.58 acres.

The proposed subdivision is located near the Clinton Interchange at the mouth of the Wallace Creek Valley, east of the I-90 frontage road, and south of Wallace Creek Road. The property is legally described as portions of the SE 1/4 of Section 22, the NW 1/4 of Section 26 and the E 1/2, NE 1/4 of Section 27, T.12N, R.17W, P.M.M., Missoula County.

Legal notification is required and has been provided in the form of adjacent property owner letters, legal ad in the newspaper, and a notice of hearing poster placed adjacent to the subject property.

The area is unzoned. The 1975 Missoula County Comprehensive Plan recommends "Suburban Residential, maximum density of 2 dwelling units per acre", "Rural Medium Density Residential, maximum density of 1 dwelling unit per 5 acres", and "Open and Resource, maximum density of 1 dwelling unit per 40 acres" as the designated land uses and densities for the subject subdivision property. The proposed subdivision is located within the Clinton Activity Center.

There is an existing barn, with associated agricultural activities on Lot 14. The remainder of the property is vacant.

The property is bounded on the north by a single-family residence and timbered land, on the south by timbered land, on the east by a single-family residence and timbered land, and on the west by I-90 and the frontage road.

External access to Lots 1-10 is from the existing Frontage Road, a state maintained paved road that measures 24 feet in paved surface width within an approximate 75 foot right-of-way. Access to Lots 11-64 is from the existing Wallace Creek Road, a county maintained road that measures 24 feet in gravel surface width, within a 60 foot public road easement.

The proposed subdivision calls for "rural" type lots along the Frontage Road (Lots 1-10) and along the proposed common area (Lots 16,22-24), "rural/suburban" type lots along the initial portion of Wallace Creek Road (Lots 11-15) and "suburban" type lots along Wallace Creek Road and the proposed internal roads (Lots 17-21, 25-64).

The proposed subdivision calls for single-family residential as the primary land use for Lots 1-8, 13-64, with the potential for a neighborhood commercial land use on Lot 10 and duplex or multi-family land uses on Lots 9, 11, and 12.

Water and sewer will be provided by individual systems for each lot. According to the applicant's representative, the nearest public sewage system is at Hellgate Canyon, approximately 15 miles to the west.

The Missoula Consolidated City-County Planning Board held a public hearing on December 2, 1997 to make a recommendation on the proposed Wallace Creek Estates Preliminary Plat Subdivision request to the governing body. The Planning Board made the following recommendations to the governing body:

#### Recommendations:

1. The Planning Board voted 7-0 to recommend denial of the Wallace Creek Estates Preliminary Plat Subdivision variance request from Article 3-2, Missoula County Subdivision Regulations, to not pave Wallace Creek Road to a paved surface width of 32 feet, based on findings of fact in the variance section of the staff report and at the public hearing.
2. The Planning Board voted 7-0 to recommend denial of the Wallace Creek Estates Preliminary Plat Subdivision variance request from Article 3-2, Missoula County Subdivision Regulations, to not pave Common Drive to a paved surface width of 24 feet, based on findings of fact in the variance section of the staff report and at the public hearing.
3. The Planning Board voted 7-0 to recommend denial of the Wallace Creek Estates Preliminary Plat Subdivision variance request from Article 3-2, Missoula County Subdivision Regulations, to not pave Common Court to a paved surface width of 24 feet, based on findings of fact in the variance section of the staff report and at the public hearing.

4. The Planning Board voted 7-0 to recommend denial of the Wallace Creek Estates Preliminary Plat Subdivision variance request from Article 3-2, Missoula County Subdivision Regulations, to not pave Handley Loop to a paved surface width of 24 feet, based on findings of fact in the variance section of the staff report and at the public hearing.
5. The Planning Board voted 7-0 to recommend denial of the Wallace Creek Estates Preliminary Plat Subdivision variance request from Article 3-2, Missoula County Subdivision Regulations, to not pave Neighbor Way to a paved surface width of 24 feet, based on findings of fact in the variance section of the staff report and at the public hearing.
6. The Planning Board voted 7-0 to recommend approval of the Wallace Creek Estates Preliminary Plat Subdivision variance request from Article 3-14, Missoula County Subdivision Regulations, to not require the Primary travel Corridor Standards for Lots 1-10 that abut the Frontage Road, based on findings of fact in the variance section of the staff report and at the public hearing.
7. The Planning Board voted 7-0 to recommend approval of the Wallace Creek Estates Preliminary Plat Subdivision variance request from Article 3-6, Missoula County Subdivision Regulations, to reduce the required utility easement width from 20 to 10 feet for the lots along Wallace Creek Road and the Frontage Road and to reduce the required easement width from 20 to 5 feet along Common Drive, Common Court, Handley Loop and Neighbor Way, based on findings of fact in the variance section of the staff report and at the public hearing.
8. The Planning Board voted 6-0 to recommend approval of the Wallace Creek Estates Preliminary Plat Subdivision, based on findings of fact in the staff report and at the public hearing and subject to the Board's recommended conditions.

Pat Keiley explained the 41 conditions for the subdivision.

#### CONDITIONS OF APPROVAL:

1. Grading, erosion control, engineering plans for roadway and drainage, driveway plans, and road name plans shall be approved by the County Surveyor, prior to final plat record set signoff. Article 3-2, *Missoula County Subdivision Regulations*.
2. The subdivision covenants shall be amended to state that, "Access and approach permits, if applicable, shall be approved by the County Surveyor prior to building permit issuance or lot access. "The covenants shall also state that this covenant shall not be amended without prior approval by the governing body. The covenants shall be recorded with the County Clerk and Recorder and shall be approved by OPG prior to final plat record set signoff. Article 3-2(10)(A, *Missoula County Subdivision Regulations*.
3. 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 assent of the lot owner to waive the right to protest a future RSID/SID for any improvements to the Frontage Road, Wallace Creek Road, Common Court, Common Drive, Handley Loop, and Neighbor Way, including but not limited to drainage, paving, dust abatement, sidewalk, and road surface and easement widening, based on benefit, and may be used in lieu of their signatures 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" Articles 3-2 and 3-4, *Missoula County Subdivision Regulations*.
4. The applicant shall place a 1-foot no access strip along Wallace Creek Road on Lots 14,18,19, 35,39,40,45, and 60 so that these lots shall not access Wallace Creek Road, to be shown on the final plat and approved by the County Surveyor prior to final plat record set signoff. Article 3-2, *Missoula County Subdivision Regulations*
5. The applicant shall place on the face of the final plat shared driveways for the following lots along Wallace Creek Road :  
Shared Driveways:  
Lots 11,12; 36,37; 41,42; 43,44; 61,62; 63,64. **The County Surveyor shall review the shared driveway location for Lots 41 and 42 for site visibility and site safety issues.**  
This shall be approved by the OPG and County Surveyor prior to final plat record set signoff. Article 3-2, *Missoula County Subdivision Regulations*
6. The subdivision covenants shall be amended to include the following, "The individual lot owners shall provide an as-built drainage plan after the buildings within the subdivision are erected and improvements completed, to be approved by the County Surveyor." The covenants shall also state that this covenant shall not be amended without prior approval by the governing body. The covenants shall be recorded with the County Clerk and Recorder and shall be approved by OPG prior to final plat record set signoff. Article 3-Article 3-2, *Missoula County Subdivision Regulations*
7. The applicant shall place on the face of the final plat shared driveways for the following lots along the Frontage Road:  
Shared Driveways:  
Lots 1,2; 3,4; 5,6; 7,8.  
This shall be approved by OPG and the County Surveyor prior to final plat record set signoff. Article 3-2, *Missoula County Subdivision Regulations, Planning Board Recommendation*
8. The applicant shall amend the subdivision covenants to provide the following statement: "All requests for access to the Frontage Road parallel to I-90(Lots 1-10) require the appropriate approach permits from the Montana Department of Transportation."  
The covenants shall also state that this covenant shall not be amended without prior approval by the governing body. The covenants shall be recorded with the County Clerk and Recorder and shall be approved by OPG prior to building on or accessing the lot." Article 3-2, *Missoula County Subdivision Regulations*

9. The applicant shall amend the subdivision covenants to provide the following statement: "Each approach for Lots 5,6,7,8,9,10 shall require, at a minimum, a 48-inch diameter culvert, for the Wallace Creek drainage. All other approaches shall be reviewed separately, concerning drainage. Each approach shall be approved by the MDT prior to building on or accessing the lot."  
The covenants shall also state that this covenant shall not be amended without prior approval by the governing body. The covenants shall be recorded with the County Clerk and Recorder and approved by the OPG prior to final plat record set approval. *Article 3-2, Missoula County Subdivision Regulations*
10. The existing approach located in the corner of Lot 5 shall be removed by the applicant. This shall be approved by the Montana Department of Transportation prior to final plat record set approval. *Article 3-2, Missoula County Subdivision Regulations, Planning board Recommendation*
11. The applicant shall pave the following internal roads within the Wallace Creek Estates Subdivision according to the following standards:
  - a. Common Drive(to the Lot 17 access point) - 14 feet. If the Common Drive serves 3 or more lots, the road shall be paved to a paved surface width of 24 feet.
  - b. Common Court - 24 feet (Wallace Creek Road to Handley Loop)
  - c. Neighbor Way - 24 feet
  - d. Handley Loop - 24 feet
 Plans shall be approved by the County Surveyor prior to final plat record set approval. *Article 3-2, Missoula County Subdivision Regulations*
12. The applicant shall utilize the Missoula County/State of Montana Millings Project List for the paving of Wallace Creek Road. Missoula County, in conjunction with the State of Montana shall pave Wallace Creek Road, using millings, from the intersection of Wallace Creek Road and the Frontage Road to the access point to Lot 64, Wallace Creek Estates to a paved surface width of 24 feet.  
  
If Missoula County does not pave Wallace Creek Road, with millings, within 3 years of Wallace Creek Estates final plat approval, the applicant, Mr. Roy Handley or his successor, shall pave Wallace Creek Road from the intersection of Wallace Creek Road and the Frontage Road to the access point to Lot 64, Wallace Creek Estates to a paved surface width of 24 feet, according to County Road Standards.  
The County Surveyor shall approve road plans prior to final plat record set approval. *Article 3-2, Missoula County Subdivision Regulations, County Surveyor Recommendation, Planning Board Recommendation*
13. The applicant shall amend the subdivision covenants to provide the following: "Woodstoves installed in this subdivision shall be low emission and limited to 4.1 grams per hour." The covenants shall also state that this covenant shall not be amended without prior approval by the governing body. The covenants shall be recorded with the County Clerk and Recorder and approved by OPG prior to final plat record set approval. *Article 3-1(D), Missoula County Subdivision Regulations*
14. 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, and may be used in lieu of their signatures on an RSID/SID petition. 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. " *Articles 3-7(2), Missoula County Subdivision Regulations, Planning Board Recommendation.*
15. The subdivision covenants shall be amended to provide the following driveway standards for the subdivision:
  - a. A minimum unobstructed width of not less than 20 feet and an unobstructed clearance of 13 feet 6 inches for any driveway over 150 feet shall be provided and approved by the Clinton Rural Fire District.
  - b. Dead-end driveways in excess of 150 feet shall be provided with approved provisions by the Clinton Rural Fire District for the turning around of fire apparatus.  
*Article 3-2(6), Missoula County Subdivision Regulations*
  - c. All driveways for all lots within the subdivision shall be paved to a paved surface width of 14 feet, paved a minimum of 20 feet back from the approved access road, to be approved by the County Surveyor.  
The covenants shall also state that this covenant shall not be amended without prior approval by the governing body.  
  
The covenants shall be recorded with the County Clerk and Recorder and approved by OPG prior to final plat record set approval.
16. The applicant shall mitigate the subdivision's impact on the Clinton Rural Fire District, to be approved by the governing body prior to final plat record set approval. *Article 3-7,4-1(12) Missoula County Subdivision Regulations, Clinton Rural Fire District Recommendation, Planning Board Recommendation.*
17. The applicant shall mitigate the subdivision's impact on the Clinton Elementary School District No. 32. This may include the provision of bus pullouts for the subdivision). The mitigation shall be approved by the governing body prior to final plat record set approval. *Article 3-2, 4-1(12), Missoula County Subdivision Regulations, Staff Recommendation*



18. The applicant shall develop a dust abatement plan and provide dust abatement to all roads adjacent to and within the Wallace Creek Estates Subdivision during and through construction of the roads. The dust abatement plan shall be approved by the Health Department prior to final plat record set signoff. *Article 3-2, Missoula County Subdivision Regulations, Staff recommendation.*
19. All utilities shall be placed underground and shown on the final plat. Utility easement widths and locations shall be approved by the appropriate utility and the governing body. In addition to the easement location, the following statement shall be shown on the face of the summary plat record set:  
  
"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 in, over, under, and across each area designated on the plat as "Utility Easement" to have and to hold forever." *Article 3-5, Missoula County Subdivision Regulations*
20. The following statement shall be placed on the face of the final plat record set and in all instruments of conveyance:  
"The lot owners within the Wallace Creek Estates Subdivision shall waive the right to petition annexation into the Missoula Urban Transportation District." *Article 3-2, Missoula County Subdivision Regulations, Staff recommendation*
21. The subdivision covenants shall be amended for the following items that relate to the mitigation of predator intrusion and the mitigation of fire and local fire department access, and that this document shall be filed with the final plat:
  - A. Domestic pets are to be kept in a contained area to avoid wild animal harassment.
  - B. Pets shall be fed indoors and pet food shall be stored indoors.
  - C. Garbage shall be stored in well sealed containers and inside storage units.
  - D. Permanent barbecue pits are prohibited. All portable barbecues shall be cleaned regularly and stored indoors when not in use.
  - E. Flowers, ornamental shrubs and fruit trees may be susceptible to damage from wildlife, therefore planting of native vegetation is encouraged.
  - F. 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.
  - G. Compost piles shall be enclosed in a container.
  - H. The brochure, "Living with Wildlife" shall be distributed to all lot owners.
  - I. To assist with the reduction of wood stove particulates in the air, wood burning stoves in this subdivision are restricted to efficient stoves with low emissions.
  - 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. Grazing shall not be allowed in the riparian resource area.
  - L. A minimum unobstructed width of not less than 20 feet and an unobstructed clearance of 13 feet 6 inches shall be provided for any driveway over 150 feet, to be approved by the Clinton Rural Fire District. *Article 3-2(3)(C), Missoula County Subdivision Regulations.*
  - M. Provide approved provisions for turning around of fire apparatus for dead-end driveways in excess of 150 feet, to be approved by the Clinton Rural Fire District. *Article 3-2(G)(E), Missoula County Subdivision Regulations.*
  - N. The Clinton Rural Fire shall approve the water supply for fire protection purposes for the Wallace Creek Estates Subdivision.
  - O. Woodstoves installed in this subdivision shall be low emission and limited to 4.1 grams per hour.
  - P. The Clinton Rural Fire District shall require that all lots within the Wallace Creek Estates Subdivision conform to the following applicable fire standards:

Lots 16,22,23,24:

(1) 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 as 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

All Lots:

(2). Only Class A or B fire-rated roofing materials shall be used for any new construction. *Article 5-1(5)(H), Missoula County Subdivision Regulations.*

Q. Riparian Area Resource Management Plan for all areas of riparian resource on the property, to be approved by OPG prior to final plat record set approval

R. Noxious Weed Control Plan (For private lot property, grassy swales, common areas, and county park areas), to be approved by Missoula County Weed Control Department prior to final plat record set approval.

The covenants shall also state that these covenants shall not be amended without prior approval by the governing body. The covenants shall be recorded with the County Clerk and Recorder and approved by OPG prior to final plat record set approval. *Article 3-1(D), Article 5-1(5)(H), Article 3-2(3)(C), 3-2(G)(E), Article 3-7, Missoula County Subdivision Regulations.*

22. Lots 22,23, and 24 shall be deleted from the final plat, to be approved by OPG prior to approval of the final plat record set. *Article 3-1(C), 3-1(2) Missoula County Subdivision Regulations, Staff recommendation*
23. Common Court shall be shortened to extend only to the northwest corner of Lot 29 and not cross Wallace Creek, and shall be called Handley Loop (with Handley Loop extending from Wallace Creek Road, between Lots 45 and 60, to Wallace Creek Road, between Lots 19 and 35, to be approved by OPG prior to approval of the final plat record set. *Article 3-1(C), 3-1(2) Missoula County Subdivision Regulations, Staff recommendation*
24. Lot 16 shall be deleted from the final plat. The driveway to Lot 16 shall be deleted from the face of the plat. This shall be approved by OPG prior to approval of the final plat record set. *Article 3-1(C), 3-1(2) Missoula County Subdivision Regulations, Staff recommendation*
25. Common Drive shall be shortened to extend only to the access point to Lot 17 and be a driveway that measures 14 feet in paved surface width, to be approved by OPG prior to approval of the final plat record set. *Article 3-1(C), 3-1(2) Missoula County Subdivision Regulations, Staff recommendation*
26. Lot 15 shall access off of Wallace Creek Road (This may mean a reconfiguration of Lots 1-13.) , to be approved by OPG prior to approval of the final plat record set. *Article 3-1(C), 3-1(2) Missoula County Subdivision Regulations, Staff recommendation*
27. The applicant shall designate a building envelope or a building setback line on the face of the final plat on Lot 57 and Lot 58 to ensure a structure is not placed on the steep hillside area. This shall be approved by OPG prior to approval of the final plat record set. *Article 3-1(C), 3-1(2) Missoula County Subdivision Regulations, Staff recommendation*
28. The common area boundary shall be that area bounded by the east boundary of Lot 15; the southern boundaries of Lots 12,13,15, 17,21, 25,26,27,28, and 29; and the eastern boundary of Lots 1-9. The applicant shall designate on the face of the final plat the common area boundary. The subdivision covenants shall be amended to state the boundary of the common area.

The subdivision covenants shall be amended to state that the forest on the common area will be managed by the subdivision residents under a plan to be approved by OPG. In general, this plan will provide for continued forest health, reduced fire danger, protection of mature trees, and replication of historic conditions. In specific, no trees will be cut without the explicit permission of the Board of County Commissioners, and no trees greater than 18" dbh should be cut except when necessary to promote forest health. The covenants shall also state that these covenants shall not be amended without prior approval by the governing body. The covenants shall be recorded with the County Clerk and Recorder and approved by OPG prior to final plat record set approval.

*1997 Missoula County Parks and Conservation Lands Plan, Article 3-1(C), Missoula County Subdivision Regulations, Staff recommendation*

29. The applicant shall dedicate a 20 30 foot wide public pedestrian access easement (with vehicular use for administrative purposes), extending from the intersection of Wallace Creek Road and Common Drive to the common area for the purpose of providing public pedestrian-access to the common area from Wallace Creek Road, to be approved by OPG prior to approval of the final plat record set. *1997 Missoula County Parks and Conservation Lands Plan, Article 3-6, Article 3-1(C), Missoula County Subdivision Regulations, Staff recommendation*
30. The applicant shall install an 8 foot wide compacted gravel hardpack pathway with a 10 foot wide drainage or swale separation along:
  - a. Frontage Road: along the east, extending from the southern edge of Lot 1 to the northwestern edge of Lot 10.
  - b. Wallace Creek Road: along the south side, extending from the northwestern edge of Lot 10 to the northeastern edge of Lot 64.
  - c. Common Drive: along one side, extending from Wallace Creek Road to the southwestern edge of Lot 17.
  - d. Common Court: along one side, extending from Wallace Creek Road to the northwest corner of Lot 29
  - e. Handley Loop: along one side, extending the entire length of the road.
  - f. Neighbor Way: from Wallace Creek Road to the southern edge of either Lot 25 or 51.

The pathway plans shall be approved by the State of Montana Highway Department (Frontage Road) and the County Surveyor and OPG (Wallace Creek Road, Common Drive, Common Court, Handley Loop, Neighbor Way) prior to approval of the final plat record set. *1997 Missoula County Parks and Conservation Lands Plan, Article 3-2(5), Article 3-1(C), Missoula County Subdivision Regulations, Staff recommendation*
31. The applicant shall mitigate the impacts Wallace Creek will have on the proposed subdivision, specifically, Lots 1-13, 15, 57-59, and 61-64 with the ultimate goal of preventing flood damage to the developed portions of the subdivision and adjacent infrastructure. This mitigation shall include:

a. The applicant shall hire a licensed hydrogeological engineer to perform a hydrogeological/drainage investigation of Wallace Creek, extending from the Wallace Creek drainage and other drainages that flow into Wallace Creek above the dam through the proposed subdivision and ultimately to the Clark Fork River.

b. Based on a. above, the applicant shall prepare a stream restoration plan and a stream management plan for Wallace Creek and the area surrounding the creek, throughout the proposed subdivision, that contains the following objectives:

A. Upper Reach (Wallace Creek and the area surrounding the creek, extending from approximately the east property boundary abutting Lot 64 to the western portion of Lot 51):

1. achieve a semi-natural condition
2. allow for the creek to wander and recreate its historical channel
3. allow native vegetation to reestablish
4. manage flooding by not putting structures in an area that could be flooded

B. Middle or Common Area Reach (Wallace Creek and the area surrounding the creek, extending from approximately the western portion of Lot 51/Eastern portion of Lot 24 to the irrigation ditch along Wallace Creek Road adjacent to Lot 13):

1. achieve a natural condition
2. restore the channel to approximately its historical location and historical structure
3. restore native vegetation
4. allow natural flooding of the common area to occur if such flooding will not impact the developed portions of the property

C. Lower Reach (Wallace Creek/and or irrigation ditch and the area surrounding the creek and/or irrigation ditch, extending from approximately the intersection of Lot 13 and Wallace Creek Road to where the Wallace creek/and/irrigation ditch waters exist the property through the concrete culvert located on Lot 5):

1. intensively manage the stream to provide flood control
2. maintain existing woody vegetation along stream
3. allow vegetation to reestablish when it does not interfere with flood control
4. provide a development no-build setback from the stream to prevent flood damage

The mitigation shall be approved by the governing body prior to final plat record set approval.

*Article 3-1(c), 3-1(2), 3-13, 4-1(12) Missoula County Subdivision Regulations, Staff Recommendation*

32. The applicant shall designate the riparian resource areas on the face of the final plat record set and submit a riparian area resource management plan for all of the riparian resources in the subdivision, including along all areas along Wallace Creek, **along all areas along Wallace Creek Road** and, along all areas along the Frontage Road. The riparian area resource management plan shall be reviewed and approved by the OPG prior to approval of the final plat record set. *Article 3-1(2), 3-13, Missoula County Subdivision Regulations, Staff recommendation*
33. The applicant shall submit a landscaping plan for each of the Lots 1-10 and show alternative compliance for the required primary landscaping by placing the required primary travel corridor 2 inch trees on each lot so **as to buffer the structures from the Frontage Road and I-90**. The landscaping plan for Lots 1-10 shall be reviewed and approved by the OPG prior to approval of the final plat record set. The landscaping plan shall be placed into the subdivision covenants. The covenants shall also state that these covenants shall not be amended without prior approval by the governing body. The covenants shall be recorded with the County Clerk and Recorder and approved by OPG prior to final plat record set. *Article 3-14, Missoula County Subdivision Regulations, Staff recommendation*
34. The subdivision covenants shall be amended to include the Missoula County Subdivision required common area covenants. The covenants shall also state that these covenants shall not be amended without prior approval by the governing body. The covenants shall be recorded with the County Clerk and Recorder and approved by OPG prior to final plat record set. *Article 5-1(5)(I), Missoula County Subdivision Regulations, Staff Recommendation*
35. The subdivision covenants shall be amended to state that the Wallace Creek Homeowner's Association shall maintain the pathway system located within and adjacent to the subdivision. The covenants shall also state that these covenants shall not be amended without prior approval by the governing body. The covenants shall be recorded with the County Clerk and Recorder and approved by OPG prior to final plat record set approval. *Article 3-2(5), Article 5-1(5)(I), Missoula County Subdivision Regulations, Staff Recommendation*
36. The applicant shall place a building setback line/**no build zone** on the face of the final plat on all lots that front Wallace Creek, including Lots 17,21, 25-29, 51-58, 61-64, extending **from the top of the bench to the southern property line for each lot because of the extreme unstable nature of the creek (the creek will be migrating and could cut into the bench hillside areas), to avoid potential stream side flooding, to avoid potential stream side/adjacent resource degradation, and to avoid the visual impact of placing structures on the southern slope of the bench that overlooks the creek riparian/"floodplain" area.** The location of the no build zones shall be approved by OPG prior to final plat record set approval. *Article 3-1(c), 3-1(2), 3-13, Missoula County Subdivision Regulations, Staff Recommendation, Planning Board Recommendation*
37. Lots 13, 14, and 15 may be reconfigured to add as many as 4 additional lots, to be approved by OPG prior to final plat record set approval. *Planning Board Recommendation*

38. The applicant shall combine Lots 63 and 64 to form a single lot to provide a suitable building site and drainfield that does not disturb the stream side or adjacent areas that the stream could migrate to, and to avoid potential stream flooding. *Article 3-1(c), 3-1(2), 3-13, Missoula County Subdivision Regulations, Staff Recommendation*
39. The applicant shall amend the covenants to state that the pine trees located on the bench in the vicinity of Lots 14,17,21,28,29 shall be preserved and not removed. The covenants shall also state that these covenants shall not be amended without prior approval by the governing body. The covenants shall be recorded with the County Clerk and Recorder and approved by OPG prior to final plat record set approval. *Article 3-1(c), Missoula County Subdivision Regulations, Staff Recommendation*
40. The applicant shall attempt to relocate the power line that is located along Lots 14,15,17,21,25-29 that provides service to the property to the east of proposed Lot 24 to reduce the visual impact the line has on the proposed subdivision. The appropriate utility and OPG shall approve plans for power line relocation prior to final plat record set approval. *Article 3-1(c), Missoula County Subdivision Regulations, Staff Recommendation*
41. The applicant shall mitigate the impacts the overhead power line have on the proposed subdivision. This mitigation shall require that the subdivision covenants shall be amended to state that homes located on Lots 1-6 of the Wallace Creek Estates Preliminary Plat Subdivision shall be setback a minimum distance of X feet from the 161 kv overhead powerline, to be approved by the governing body and the utility. The covenants shall also state that these covenants shall not be amended without prior approval by the governing body. The covenants shall be recorded with the County Clerk and Recorder and approved by OPG prior to final plat record set approval. The appropriate utility and OPG shall approve plans for power line relocation prior to final plat record set approval. *Article 3-1(2), 4-1(12) Missoula County Subdivision Regulations, Staff Recommendation*

Brian Maiorano, Parks Planner for OPG, spoke regarding the 80+ acres of common/park area. The condition requiring a forest management plan helps manage timber resources in the area.

Colleen Dowdall asked about public access to the park area.

Brian Maiorano said access will only be for homeowners. Condition 29 refers to "public" access - should be replaced with "private."

Commissioner Kennedy asked about #28 - the resource management plan - how would it be administered?

Brian Maiorano said the County Park Board would help monitor the plan.

Colleen Dowdall said she thought a covenant would be included saying the area would not be logged. Homeowners would be charged with enforcement. She suggested some other language.

Commissioner Kennedy was concerned that the homeowners might change the covenants and develop or log the area.

A discussion of the riparian plan versus the forest resource management plan followed, as well as explanation of the conditions by Pat Keiley.

At 3:23 pm, after a short break, Roy Handley, developer/owner, gave background on himself and the property. He purchased the property approximately 10 years ago. He tried to sell it as a large chunk, and had no takers, so he decided to market smaller parcels. He wants to consider an RSID for paving Wallace Creek Road, but will pave the interior roads of the subdivision himself. He discussed keeping all of the roads as planned, and lots 16, 22-24. He said Wallace Creek is an intermittent stream. He thinks lot 63 is buildable - and lot 64 is going to be sold to an adjoining landowner. The NRCS is doing a stream management conservation plan.

Greg Martinsen, the developer's representative, discussed the conditions of approval, one by one.

2 - Strike

4 - Strike

6 - question arose regarding "prior approval by governing body"

8 - remove reference to covenants

9 - see #6

11 - Martinsen says they would prefer to pave after 50% of the lots are developed, using an RSID. They will develop lots 1-18 first

Pat Keiley explained that the key issue is that a phasing plan is in place, and improvements are in place for each phase.

12 - Martinsen says cost of paving should be shared among all users, to Hill Rd.

Commissioner Kennedy wants to see that paving of Wallace Creek Road is required within 3 years - regardless of how or who.

15 - see #6

16 - Chair Hart read a letter from Keith Bomstad of Clinton Rural Fire District, requesting a \$100 per lot fee for residential, and \$300 for commercial.

Commissioner Evans - (to Colleen Dowdall) Would you explain to me whether this is legal for any group to simply pick a number out of a hat and say this is what we've decided?

Commissioner Evans - (to Colleen Dowdall) Would you explain to me whether this is legal for any group to simply pick a number out of a hat and say this is what we've decided?

Colleen Dowdall - First of all, we asked the developer to go back and ask the fire district through Planning Board, how they could mitigate impacts. The testimony that the fire district gave at the Planning Board hearing was extensive. I think...it provided me with a level of comfort that they were thinking really hard about this. Frenchtown Fire District has come up with the figure of \$100, and they have done that through also some research and analysis. Because of that, I am more comfortable with the \$100 figure than the \$300 figure. At this point, the different fire districts are going to get together and look at how to measure impacts of development on their agencies, and provide us with better information, but in the meantime, I think this is something that everyone has come to terms with in this subdivision.

Chair Hart - I understand that if the developer agrees, then this is all right. It may not be that this is an established fee everywhere, but it is a mitigation that the developer has accepted, and that the fire district has proposed.

Martinsen said 16 was acceptable.

17 - cannot turn down a subdivision because of impact on schools. The subdivider cannot be required to do capital improvements for the school

18 - Colleen Dowdall suggested a change

21 - Strike "N" and a portion of "M"

22-26 and 29-30 - Martinsen discussed his dislike of these conditions. There needs to be good access for folks to use the common areas. These conditions would create poor vehicle access.

A discussion of park/common areas and forest management plan followed with Martinsen and staff.

Commissioner Evans - I have to tell you that I am distressed by this entire situation. We have a subdivision that I just heard Brian say he wrote a condition for this morning. I heard Greg, when I walked in the door, say that he had just gotten the list of conditions and stuff at noon. This, in my mind, is not fair to anybody. The public should not have to sit here and listen while we wrangle over all kinds of things that should have been settled before it came before us. They shouldn't have to try and follow this. I shouldn't have to try and follow this. And David Loomis, I hope you're listening, I'm not happy with this process, folks. This should not have taken this long, or this should have all been ironed out before it came to us. I don't want to sit here until 6 or 7 pm. I have another meeting at 7.

Chair Hart asked the developer if he would be willing to take public comment, and then continue discussing the conditions.

Greg Martinsen said he would extend the hearing to January 7, 1998 with the condition that no conditions are changed without him, Roy, and Colleen Dowdall being present.

Pat Keiley agreed, and discussed the problems staff had with the subdivision.

Chair Hart said revisions would be made, and copies would be made available.

Bob Sears of the Wallace Creek Homeowners Association said his group would be willing to return on January 7.

Elsie Rieger said the petition names are mostly people below the Wallace Creek drainage.

Greg White said he was concerned about a repeat of the detailed discussion of the conditions at the next meeting.

28 - Martinsen wants to allow homeowners to harvest merchantable timber.

30 - Martinsen disagrees with the path along the Frontage Road and Wallace Creek Road.

31,32, 36 - Martinsen feels that NRCS will work on a plan for this. He wants to strike it and replace with one accurate statement. He is concerned about the "no build zone" in #36.

37 - developer does not want to reduce the number of lots.

38 - lot 64 is being sold to an adjoining landowner. When it is sold, a boundary relocation will be done.

40 - developer will try to do this.

41 - understand you can build to the edge of MT Power's easement.

Commissioner Kennedy said staff tries to keep in mind the best interests of the community when working on subdivisions.

There being no further business to come before the Board, the Commissioners were in recess at 5:00 pm.

After the Public Meeting, Chair Hart signed the following resolutions:

- (1) Resolution No. 97-112, a resolution relating to economic development revenue bonds for Connecticut Valley Sports, Inc. in a principal amount not to exceed \$7,000,000.00, and granting preliminary approval thereto;
- (2) Resolution No. 97-113, a resolution authorizing issuance and sale of a \$375,000.00 economic development revenue note for the District XI Human Resource Council, Inc. project.

**THURSDAY, DECEMBER 18, 1997**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was in Deer Lodge attending a meeting of the Upper Clark Fork River Basin Steering Committee.

#### ADMINISTRATIVE MEETING

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

Payroll Transmittal Sheet - The Commissioners signed a Payroll Transmittal sheet for Pay Period 25 (total Missoula County Payroll of \$610,175.22). The sheet was returned to the Auditor's Office.

Draw Request - The Commissioners signed a draw request for HOME funds administered by the Human Resource Council. Total amount of payment requests submitted is \$75,127.86. The request was returned to Cindy Wulfekuhle in OPG for further handling.

Other items included:

- 1) The Commissioners approved a policy granting administrative leave for funeral services for County employees.
- 2) The Commissioners reappointed Jennifer Copley to the Library Board; Natalie Carlson to the Tax Appeal Board, Julie Gemar to the Fair Commission, and Gary Boe to the Airport Authority.
- 3) The Commissioners voted to withhold refunds for back taxes from MRFD due to insufficient records until a more in-depth search can be instituted.

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

**FRIDAY, DECEMBER 19, 1997**

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

  
Vickie M. Zeier  
Clerk & Recorder

  
Fern Hart, Chair  
Board of County Commissioners

**MONDAY, DECEMBER 22, 1997**

The Board of County Commissioners met in regular session; all three members were present. At noon, Commissioner Hart spoke to the Lions Club.

Indemnity Bond -- Chair Hart examined, approved, and ordered filed an Indemnity Bond naming Janet Skeslien as principal for Warrant #34757 issued 9/5/97 on the Missoula County Public Schools Fund in the amount of \$116.59 now unable to be found.

No administrative meeting was held; however, the following item was approved:

Budget Adjustment - The Commissioners approved a budget adjustment for 911 to purchase a Motorola radio console and upgrade 5 stations to take advantage of an incentive discount before December 31, 1997. It will be necessary to use \$41,000.00 more from the 911 State reserve fund held by Missoula County.

**TUESDAY, DECEMBER 23, 1997**

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

Audit List -- Commissioners Hart and Kennedy signed the Audit List, dated December 24, 1997, pages 2-39, with a grand total of \$272,846.935. The Audit List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

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

Plat - The Commissioners signed the plat for Hole in the Wall Addition, a minor subdivision located in the SW1/4 of Section 21, and in the NW1/4 of Section 28, T13N, R15W, PMM, Missoula County, a total gross and net area of 22.16 acres, with the owners of record being Richard F. and Janice E. Lasky and Gary L. and Diane S. Watson.

Plat and Improvements Agreement - The Commissioners signed the plat and improvements agreement for Town Pump-West Riverside Subdivision, a subdivision of Missoula County, located in portions of the NW1/4 of Section 21, T13N, R18W, PMM, a total lot area of 11.33 acres, and street easement area of 1.36 acres, with the owner of record being Stimson Lumber Company.

Amended Memorandum of Agreement - The Commissioners signed an Amendment to the Memorandum of Agreement with the Salvation Army for use of emergency winter shelter funds. Value of the Agreement is up to \$3,000.00. Duration of the Agreement is from December 1, 1997 through March 31, 1998.

Extension of Professional Services Contract - Commissioners Hart and Kennedy signed an extension to a Professional Services Agreement with Moore Iacofano Goltsman, Inc. to provide planning and design services for the County and the Growth Management Task Force. Performance schedule is from April 1, 1997 through May 31, 1998. Commissioner Evans opposed.

Collective Bargaining Agreement - The Commissioners signed a Collective Bargaining Agreement with the United Food and Commercial Workers Union Local 1981 (Missoula City-County Library Bargaining Unit). Duration of the

Agreement is from July 1, 1997 through June 30, 1999. The Agreement was returned to Steve Johnson, Personnel Director, for further signatures and handling.

FFY 98 Section 5303 Contract - The Commissioners signed an FFY 98 Section 5303 Contract with the Montana Department of Transportation to provide transportation planning funds to Missoula County, including Mountain Line's work program. Total cost of the project is estimated at \$55,730.00. The federal share is \$44,584.00, and the local share is \$11,146.00. Performance schedule is from October 1, 1997 through September 30, 1998. One original was recorded, and one was sent to OPG for forwarding to the State.

Amended 911 Advisory Board Agreement and Bylaws - The Commissioners signed amended Missoula County 911 Advisory Board Agreement and Bylaws. The document was returned to Susan Bomstad in 911 for further handling.

US West Service Agreement - The Commissioners signed a US West Enhanced 911 Service Agreement, providing Missoula County with enhanced 911 service. Installation costs and monthly service costs will not be incurred until the system is ready to go "live," in approximately January 1999. The Agreement was returned to Susan Bomstad in 911 for further signatures and handling.

Work Experience Site Agreement - The Commissioners signed a Work Experience Site Agreement with the Community Contribution Corps to assign work experience participants to specific work sites to gain employment skills. Missoula County sites include the Missoula Public Library, the Swan Valley Library, Partnership Health Center, and Women, Infants and Children office.

Other items included:

- 1) The Commissioners approved a proposed settlement for claims for rezoning and other costs associated with the Harlan Douglass, Inc. buy-sell agreement for the Old County Shops, with the recognition that Missoula County will become the owner of the work product of Sconzo/Hallstrom Architects, which is the site plan for the Missoula project. Commissioner Evans opposed the decision to request that Missoula County become the owner of the site plans.

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

**WEDNESDAY, DECEMBER 24, 1997**

The Board of County Commissioners did not meet in regular session. All three Commissioners were out of the office all day.

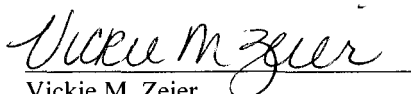
The Weekly Public Meeting was canceled.

**THURSDAY, DECEMBER 25, 1997**

The Courthouse was closed for Christmas Day.

**FRIDAY, DECEMBER 26, 1997**

The Board of County Commissioners did not meet in regular session. All three Commissioners were out of the office all day.

  
Vickie M. Zeier  
Clerk & Recorder

  
Fern Hart, Chair  
Board of County Commissioners

**MONDAY, DECEMBER 29, 1997**

The Board of County Commissioners did not meet in regular session. Commissioner Hart was on vacation December 29 through 31. Commissioners Evans and Kennedy were out of the office all day.

**TUESDAY, DECEMBER 30, 1997**

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

Audit List -- Commissioners Evans and Kennedy signed the Audit List, dated December 30, 1997, pages 2-22, with a grand total of \$152,357.29. The Audit List was returned to the Accounting Department.

Indemnity Bond -- Acting Chair Kennedy examined, approved, and ordered filed an Indemnity Bond naming Betty J. McGarvey as principal for Warrant #248064 issued 12/19/97 on the Missoula County Payroll Fund in the amount of \$494.57 now unable to be found.

**WEDNESDAY, DECEMBER 31, 1997**

The Board of County Commissioners did not meet in regular session.

The Weekly Public Meeting was canceled.

Professional Services Contract - The Commissioners signed a Professional Services Contract with Virginia Tribe for facilitation of meetings and consultation to the City and County Planning staff. Compensation shall be \$400.00 per day, as billed upon completion of meetings.

Amended Professional Services Contract - The Commissioners signed an Amended Professional Services Contract with James Ouellette, DDS, for an increase in the number of treatment hours covered and dollars appropriated. Performance schedule is from July 1, 1997 through June 30, 1998, up to a maximum of 120 hours. Compensation shall be a maximum of \$12,000.00.

Request for Proposals - The Commissioners signed a Request for Proposals for Realty Services for Commercial Property Marketing of properties owned by Missoula County. Realtor commission is to be determined. The RFP was returned to Hal Luttschwager of the Management Team for further handling.

Contract - The Commissioners signed a Contract with Purity Cleaning Services to provide complete cleaning services of the Missoula County Courthouse and Annex, Missoula County Health and Human Services Building, Missoula Public Defenders Office, Missoula Youth Court Office, Missoula Office of Planning and Grants, and Missoula County Print Shop. Compensation shall be \$77,940.00. Duration of the Contract is from March 30, 1997 through March 28, 1998.

Other items included:

- 1) The Commissioners selected Barbara Evans as the Board Chairman for 1998.
- 2) The Commissioners reappointed Ernest Dewey as a member, and Bob Tutskey and Mike Fussell as alternate members, of the Historical Museum Board of Trustees. They also appointed Margaret "Peggy" Sanner as an alternate member of the Missoula Public Library Board of Trustees.

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

### WEDNESDAY, JANUARY 7, 1998

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

Audit List -- The Commissioners signed the Audit List, dated January 6, 1998, pages 2-29, with a grand total of \$46,030.12. The Audit List was returned to the Accounting Department.

No administrative meeting was held; however, the following items were signed:

Modification of Task Order - Chairman Evans signed Modification No. 1 of Task Order No. 10 with the Montana Department of Public Health and Human Services for Medicaid administrative outreach services. Performance schedule is from September 15, 1996 through June 30, 1998. Maximum compensation shall be \$76,841.00. The Task Order was forwarded to DPHHS in Helena.

Task Order - Chairman Evans signed Task Order No. 18 with the Montana Department of Public Health and Human Services for provision of an immunization program within Missoula County's service area. Performance schedule is from January 1, 1998 through December 31, 1999. Maximum compensation shall be \$21,176.00. The Task Order was returned to the Health Department for further signatures and handling.

Modification of Task Order - Chairman Evans signed Modification No. 1 of Task Order No. 18 with the Montana Department of Public Health and Human Services for an immunization program. Performance schedule is from January 1, 1998 through December 31, 1998, unless master contract No. 360163 is NOT amended or superseded...in which case the task order must be continued only through June 30, 1998. The Task Order was forwarded to DPHHS in Helena.

### PUBLIC MEETING - JANUARY 7, 1998

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioners Michael Kennedy and Fern Hart; Mike Sehestedt and Colleen Dowdall, Deputy County Attorneys; Vickie Zeier, Clerk and Recorder/Treasurer; and Horace Brown, County Surveyor.

#### Public Comment

Michael Sehestedt announced that the Seeley Lake Estates Zoning hearing had been canceled.

#### Routine Administrative Items

Commissioner Hart moved to approve the Claims List in the amount of \$46,030.12. Commissioner Kennedy seconded, and the motion carried with a vote of 3-0.

#### Continuation of Hearing - Wallace Creek Estates

This hearing was continued from December 17, 1997.

Pat Keiley explained what has happened since the Dec. 17 meeting. The NRCS is doing a study of Wallace Creek, regarding flooding. At this point, the conditions that are acceptable are 1-10, 13-15, 19-20, 27, 34, and 36.

Commissioner Hart explained that, in a work session today, the Commissioners asked the Deputy County Attorney to draft some language regarding acceptable decisions. This includes some RSID waivers for supporting water needs for



the Clinton Fire Department. She is concerned about mitigation of the Wallace Creek drainage, and a waiver on a parks district for the Clinton School District. These lots, if approved, would be taxed for a park for the school.

Greg Martinsen said he still had problems with several of the conditions. 11 is an issue regarding phasing of roadway improvements. 12 and 16 are OK. 17 - we need to discuss with the school district. 18 is OK, 21 is redundant, and 33 is OK. I have problems with 22-26, 28-32, and 35.

Chairman Evans asked Pat to explain the conditions that are acceptable. Commissioner Hart helped explain the conditions.

Chairman Evans opened the hearing for public comment.

Jennifer Cote, Bounty Real Estate, said she is working on marketing the subdivision for Mr. Handley. The area is predominantly residential, so this is a good use of the land. She is also marketing the adjacent acreage - 100+ acres - the owners want to make sure they retain access to their property.

Elsie Rieger said she lives across from Wallace Creek, and knows the Handleys very well. She feels that the citizens and Roy have been manipulated by the planning board and the surveyor. She is concerned about contamination of wells in the area. She is also concerned with the potential for fire hazard because of homes in the trees.

Vicki Voss, Co-Chair of the Wallace Creek Landowners Association, said she approves of all conditions, and appreciates the work of OPG. Conditions 22-25 help provide no access across the creek. There are concerns about flooding around the creek, even now.

Bill Taber, a member of the Landowners Association, said he wants this to be developed properly.

Bob Sears, Co-Chair of the Wallace Creek Landowners Association, asked to be allowed to respond to the conditions as they are discussed.

Commissioners Hart and Evans said they would consider it.

Kay James, a trustee of the Clinton School District, let the people know she was in the audience.

JoAnn Ailport said there are too many homes on the property, and there are problems with dogs. She is worried about the wells and septs below the subdivision.

Dan Poe Newman said there appear to be liability issues, and he is concerned about responsibility.

Keith Bomstad, the Clinton Rural Fire Chief, said he is happy about the suggestion for water for the Fire District.

As there was no further public comment, Chairman Evans closed the public hearing.

Chairman Evans asked Colleen Dowdall to discuss the legal options here.

Colleen Dowdall said the Commissioners will review to determine whether the subdivision meets the comp. plan and zoning regulations - impact on environment. The issue of water/wells is addressed by application for water rights and by the Health Department. The Commissioners do not have jurisdiction over water issues.

Commissioner Hart said this is a big, complicated subdivision in a precious area. The creeks in the area are an issue, just like Mullan Trail. I cannot approve the subdivision without a complete mitigation plan. I'm inclined to approve the subdivision with a mitigation plan, but no work gets done until the final plat is filed. The Health Department has statutory right to decide where wells and septs go. I'm concerned about the high voltage power lines, and want research and mitigation done. The Health Department requests that all roads be paved. Jim Carlson of the Health Department is concerned about affordable housing located out of town - more people driving into Missoula. A waiver of protest for RSID for water for fire protection, and a waiver for the park district should be added.

Commissioner Kennedy moved to deny variance requests 1-5. Commissioner Hart seconded, and the motion carried with a vote of 3-0.

1. A variance request from Article 3-2 to not pave Wallace Creek Road to the required paved surface width of 32 feet, but to retain the existing 24 foot wide gravel surface width.
2. A variance request from Article 3-2 to not pave Common Drive to the required paved surface width of 24 feet, but to have a gravel surface width of 28 feet.
3. A variance request from Article 3-2 to not pave Common Court to the required paved surface width of 24 feet, but to have a gravel surface width of 28 feet.
4. A variance request from Article 3-2 to not pave Handley Loop to the required paved surface width of 24 feet, but to have a gravel surface width of 28 feet.
5. A variance request from Article 3-2 to not pave Neighbor Way to the required paved surface width of 24 feet, but to have a gravel surface width of 28 feet.

Commissioner Kennedy moved to approve variance requests 6-7. Commissioner Hart seconded, and the motion carried with a vote of 3-0.

6. A variance request from Article 3-14 to not require the Primary Travel Corridor Standards for Lots 1-10 of the subdivision.
7. A variance request from Article 3-6 to reduce the required utility easements from 20 to 10 or 5 feet within the subdivision.

A discussion of the conditions followed:

Commissioner Hart moved and Commissioner Kennedy seconded to approve revised conditions 1-6. Motion carried with a vote of 3-0.

Commissioner Hart said there was no plan to phase, but you have two years to do the paving. Colleen Dowdall said all paving must be done in two years, unless an extension is requested. You can phase installation of improvements if well-secured.

Commissioner Hart moved and Commissioner Kennedy seconded to approve revised conditions 7 and 8. Motion carried with a vote of 3-0.

Commissioner Hart moved and Commissioner Kennedy seconded to approve revised condition 9. Motion carried with a vote of 2-1 (Chairman Evans opposed).

Chairman Evans asked about why the Commissioners would approve this, not being experts.

Greg Martinsen said the National Electric Safety Code specifies the same width as this easement.

Chairman Evans said she thought we were asking the developer for something he cannot provide.

Commissioner Kennedy said he didn't know for sure if there was a problem with living near high voltage power lines. He wants a mitigation plan.

Martinsen said scientists cannot come up with a solution for this situation, so how can we?

Kennedy said mitigation plans will be reviewed/approved by the Commissioners.

Martinsen was concerned about access to lots across Wallace Creek.

Colleen Dowdall explained that the findings discourage crossing the creek in a riparian area, but the subdivision regs. do permit it.

Commissioner Hart wants to consider all issues the developer brought forward. I want a study of the flood area.

Colleen Dowdall explained to Greg and Roy that if the mitigation plan allows for not eliminating lots, then you can keep the roadways as shown.

Commissioner Hart moved and Commissioner Kennedy seconded to approve revised conditions 10-16. Motion carried with a vote of 3-0.

Colleen Dowdall discussed pathways, and recommended keeping condition 31 of the old conditions as number 17.

Commissioner Hart moved and Commissioner Kennedy seconded to approve condition 17. Motion carried with a vote of 3-0.

Commissioner Kennedy discussed the roadway/path/swale width. Martinsen was concerned that MDT typically does not allow such things in their right-of-way.

David Loomis suggested an alternate setup for the paths.

Roy Handley said that, even if we do move the ditch, water doesn't run uphill.

Pat Keiley said we may need to wait for the engineering study to determine how the ditch will be dealt with.

Chairman Evans suggested that section B of the condition be held until we receive the engineering study.

Commissioner Kennedy suggested we put in a parenthetical statement saying the route will be subject to the findings of the engineering study. He was also concerned about lot 16.

Martinsen said the slope of lot 12 is 15%. The road is 8-10%, and the driveway is 2000+ feet long.

Kennedy said that if lot 16 weren't constructed, you would not need the road. The driveway is too long.

Colleen Dowdall suggested asking the developer if there is any way to mitigate the problem.

Roy Handley addressed concerns regarding crossing the creek.

Martinsen said lots 14 and 15 have been configured to make two lots of each of them, shortening the road and making a better access to the new lot 15, away from the riparian area.

Chairman Evans asked Nancy Heil if Laura's Addition could be postponed for a week.

Nancy Heil said it is over the time limit now. Dec. 22 was the date, but because there were no Commissioner meetings, it was extended.

Commissioner Kennedy said it was not reasonable to ask people to wait - we should interrupt the proceedings and hear Laura's Addition.

Colleen Dowdall advised that the Commissioners should act on Wallace Creek, subject to the mitigation of lot 16.

Vicki Voss asked how the Landowners Association would know when a decision would be made.

Colleen Dowdall said that if mitigation doesn't work, lot 16 is gone.

Commissioner Kennedy moved to eliminate lot 16 based on findings that access is problematic from an access standpoint and from the comp. plan standpoint. Commissioner Hart seconded. Motion carried with a vote of 2-1 (Chairman Evans opposed).

Pat Keiley was concerned that the conditions which OPG worked very hard on are not being addressed. The new conditions were not given to OPG or the public.

Kennedy was concerned that the mitigation plan would not address placement of a home on the bench - visual disruption.

Commissioner Hart moved to approve the Wallace Creek Estates Subdivision with the following conditions, based on the findings of fact and conclusions of law, and a mitigation plan. Commissioner Kennedy seconded. Motion carried with a vote of 3-0.

1. 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 assent of the lot owner to waive the right to protest a future RSID/SID for improvements to the Frontage Road, Wallace Creek Road, Common Court, Common Drive, Handley Loop, and Neighbor Way, including but not limited to drainage, paving, dust abatement, road surface and widening, pedestrian facilities, based on benefit, and may be used in lieu of signatures 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."
2. The applicant shall place a one foot no access strip on the face of the final plat, along all lots which front on Wallace Creek Road, eliminating access to Wallace Creek Road from these lots.
3. The applicant shall show shared driveways for the following lots along Wallace Creek Road: 11 & 12, 36 & 37, 41 & 42, 43 & 44, 61 & 62, 63 & 64. The access between 41 and 42 shall be approved by the County for site visibility. Shared driveways for the Frontage Road shall be shown on the following lots: 1 & 2, 3 & 4, 5 & 6, 7 & 8.
4. Access to all lots onto the Frontage Road requires approach permits from the Montana Department of Transportation. Lots 5 through 10 shall require, at a minimum, a 48 inch diameter culvert for the Wallace Creek drainage. The existing approach to Lot 5 shall be removed prior to filing the final plat.
5. All roads within the subdivision shall be paved to a width of 24 feet except for Common Drive, up to the access to Lot 17 which may be paved to a width of 14 feet.
6. Wallace Creek Road shall be paved by the applicant to a width of 24 feet from its intersection with the Frontage Road to the end of Lot 64.
7. The covenants for the subdivision shall require the following:  
  
All woodstoves installed in this subdivision shall be low emission and limited to 4.1 grams of emissions per hour. This provision may not be modified without the permission of the Missoula County Commissioners.
8. 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 assent of the lot owner to waive the right to protest a future RSID/SID for a community sewer and/or community water system, based on benefit, which may be used in lieu of signatures 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."
9. The applicant shall mitigate the impact of the subdivision on the Clinton Elementary School District #32, the impact on the subdivision and on Wallace Creek Road of the drainage from Wallace Creek, the impact from sheet flooding from the hillside onto the developed portion of the subdivision. Further, the developer shall mitigate the presence of the overhead 161 kv powerlines within the subdivision by establishing a building setback line approved by the Commissioners.
10. The following statement shall appear on the face of the final plat:  
  
Acceptance of a deed for a lot within this subdivision constitutes an assent to the inclusion of the property within the subdivision into the Missoula Urban Transportation District.
11. The covenants shall include the following provisions:
  - A. Domestic pets are to be kept in a contained area to avoid wild animal harassment.
  - B. Pets shall be fed indoors and pet food shall be stored indoors.
  - C. Garbage shall be stored in well-sealed containers and inside storage units.

- D. Permanent barbecue pits are prohibited. All portable barbecues shall be cleaned regularly and stored indoors when not in use.
  - E. Flowers, ornamental shrubs, and fruit trees may be susceptible to damage from wildlife; therefore, planting of native vegetation is encouraged.
  - F. 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.
  - G. Compost piles shall be enclosed within a container.
  - H. Apiaries may attract species such as bear and should be avoided. Before an apiary is located on a lot, the owner of the bee hives should first contact the Department of Fish, Wildlife and Parks to discuss their plans and how to best avoid wildlife conflicts.
12. The subdivision shall include the language from the subdivision regulations required for areas located within the Wildlands/Residential Interface.
  13. The applicant shall designate a no-build area on all areas in excess of 25% slope.
  14. The applicant shall designate the area on the plat which is of riparian resource and shall submit a management plan for the area prior to filing the final plat.
  15. 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 the assent of the owner to the creation of an RSID for the maintenance of a park or parks in the Clinton area, defined as the Clinton School District, on an equal basis with other properties in the area.
  16. The applicant shall show compliance with the Primary Travel Corridor Standards with language in the covenants requiring the installation of 2 inch trees on each lot.
  17. The applicant shall install an 8 foot wide compacted gravel hardpack pathway with a 10 foot wide drainage or swale separation along:
    - a. Frontage Road: along the east, extending from the southern edge of Lot 1 to the northwestern edge of Lot 10.
    - b. Wallace Creek Road: along the south side, extending from the northwestern edge of Lot 10 to the northeastern edge of Lot 64.
    - c. Common Drive: along one side, extending from Wallace Creek Road to the southwestern edge of Lot 17.
    - d. Common Court: along one side, extending from Wallace Creek Road to the northwest corner of Lot 29.
    - e. Handley Loop: along one side, extending the entire length of the road.
    - f. Neighbor Way: from Wallace Creek Road to the southern edge of either Lot 25 or 51.

The pathway plans shall be approved by the State of Montana Highway Department (Frontage Road) and the County Surveyor and OPG (Wallace Creek Road, Common Drive, Common Court, Handley Loop, Neighbor Way) prior to approval of the final plat record set.

#### Hearing - Rezoning Request - Peters' PUD

Jennie Dixon of the Office of Planning and Grants gave the staff report.

The site is located approximately two miles south of the Buckhouse Bridge on the river side of Highway 93 South. The property is zoned C-11 (Light Industrial), which does not allow for commercial uses, between the highway and the railroad. The remaining portion of the property, between the railroad and the river, is zoned C-A3 (residential).

The Peters live in the residence situated behind the existing commercial building (second hand store) and propose PUD rezoning to allow for construction of commercial lease spaces in phases on the front portion of the property. Proposed commercial uses include retail, office, plant nursery, gunsmith shop and automobile, RV, marine, farm and garden machine repair and storage.

The rear portion of the property is designated in the PUD as a "no build/buffer" area to protect the riparian resources that exist there and to stay out of the Bitterroot River floodplain.

The planning board approved of the PUD.

Chairman Evans asked for comment from the developer.

Steve Peters said he generally agreed with the planning board. He wants a conservation easement, also. He doesn't want a bike path easement. He thinks the bike path could go up near the highway. He is concerned that condition 11 is not really necessary.

Chairman Evans opened the public hearing. As there was no public comment, she then closed the hearing.

Commissioner Hart said she is willing to omit condition 13.

Colleen Dowdall said staff wanted condition 11 so that the existing building disappeared. It is OK to delete 13.

Commissioner Kennedy said he supported deleting 13. He wondered if the Commissioners could be silent on the location of the bike easement, and it could be decided later.

Peters said he would withdraw his request if he must put the bike path where the planning board suggested.

Jennie Dixon said the trail may not ever be built.

Bill Nerison, the architect, said Mr. Peters agreed that the trail is OK, if you agree the location of the trail is subject to negotiation.

Commissioner Hart moved to rephrase condition 9 to state "The property owner shall grant a 25 foot non-motorized public access easement at a location to be determined." Commissioner Kennedy seconded the motion. Motion carried with a vote of 3-0.

Commissioner Hart moved to approve Peters' PUD, with conditions 1-12, and omitting 13. Commissioner Kennedy seconded. Motion carried with a vote of 3-0.

1. The residential component of this Planned Unit Development shall allow for only one single-family residence. *(at request of OPG, Health Department)*
2. Access design shall be subject to review and approval by OPG and the State Department of Transportation prior to issuance of a building permit. *(at request of OPG, Montana Department of Transportation)*
3. The site plan shall indicate the entire area between the railroad tracks and the Bitterroot River as "No Build," and no structures may be constructed in this area, unless otherwise indicated in the PUD. *(at request of OPG)*
4. The PUD zoning shall not be effective, and no building permit shall be issued, until the Health Department approves the commercial component for new sewer use, including but not limited to soils test, separation from wells, condition of old septic systems, groundwater and floodplain. *(at request of Health Department)*
5. Permitted uses in the commercial portion of this PUD shall be limited to specialty retail, professional office, and a gunsmith shop with any accessory commercial or retail use. Specialty retail is defined as a small cluster of shops containing a variety of retail uses specializing in such goods as clothing, furniture, and hardware, and may include services-oriented businesses such as florist, personal service, computer service or real estate office. *(at request of OPG)*
6. Where specific standards are not addressed in this PUD, such as definitions, signage, variances, etc, standards from the Missoula County Zoning Resolution shall govern. *(at request of OPG)*
7. Curbs shall be installed to separate all landscaped areas and pedestrian walkways from driving/parking surfaces, subject to review and approval by OPG prior to issuance of a building permit. *(at request of OPG)*
8. To minimize the effect on neighboring tracts, public rights-of-way, and the rear of the property designated as the riparian "No Build/Buffer" area, lighting shall be limited to the two wooden pole light fixtures in the parking area at a maximum of 200 watts and any necessary security lighting for the commercial and residential structures. The pole light fixtures in the commercial parking lot shall be shielded to yield a cutoff angle no greater than 60 degrees on the southern lamp fixture and 55 degrees on the northern lamp fixture. *(At request of OPG)*
9. The property owner shall grant a twenty-five (25) foot non-motorized public access easement at a location to be determined. *(at request of Montana Fish, Wildlife and Parks)*
10. The Peters Commercial Center Planned Unit Development, as shown in Attachment C, shall be the applicable zoning district standards for this property, except as modified by the conditions of rezoning approval. *(at request of OPG)*
11. The property owner shall provide a bond to ensure that the existing structure (at 5858 Highway 93 South) will be removed prior to construction of Space B and C and no later than five years after approval of this Planned Unit Development. *(at recommendation of Planning Board)*
12. Complete construction of the PUD shall occur within five years of approval of rezoning and shall be subject to the following construction schedule:
  1. Construction of Space A, Highway 93 right-of-way improvements, including primary travel corridor landscaping, other on-site landscaping not directly tied to Spaces B and C, and appropriate interior curbing;
  2. Removal of existing building (5858 Highway 93 S.);
  3. Completion of parking lot;
  4. Construction of Space B and appropriate landscaping and walkways; and,
  5. Construction of Space C, final landscaping and walkways, and other remaining site development. *(at recommendation of Planning Board)*

Chairman Evans left the meeting at this point.

#### Consideration of Laura's Addition

Nancy Heil of the Office of Planning and Grants gave the staff report.

The applicant proposes to divide Lot 5 of the Lolo Center First Addition Subdivision into 3 lots and place a tri-plex townhouse on the property. Lot 5 is approximately 1/3 acre in size. Each townhome in the tri-plex townhouse would

include its own property. Lot sizes would be 4545 square feet, 3429 square feet, and 4600 square feet. The lot widths would range from 20 feet to approximately 27 feet. The applicant has requested a variance from the subdivision requirement that lots have a minimum width of 60 feet and that no lot have an average depth greater than 3 times its average width. (See Variance Section). The applicant has proposed separate driveways for each lot.

The project is located on Tyler Way in Lolo. The Lolo Center First Addition Subdivision created 12 lots on Tyler Way in 1979. Lot 5 is the only remaining vacant lot from this subdivision. Tri-plexes and four-plexes have been built on the other lots in the subdivision except for Lots 1 and 2 which are commercial.

The property is unzoned. The Lolo Comprehensive Plan recommends multifamily housing for the area. Staff has noted that the project fills a need for home ownership in the Lolo area (Attachment A).

Erica Brown of Professional Consultants, Inc., representing Ron Daley, said this was compatible with land use in the area. The client wants to build three driveways, so there are fewer problems with neighbors regarding maintenance, landscape, etc.

Commissioner Kennedy noted that the front of these properties is a garage, which is not very friendly. What about a common 3-car garage nearer Tyler Way, giving more yard space?

Erica Brown said her client wanted space for people that is private, thus the individual garages. Most other complexes in the area don't have garages.

Commissioner Kennedy asked if there were any setback regulations here.

Horace Brown, County Surveyor, said there just needs to be room to back out into the street.

Commissioner Hart said she could not support three driveways.

Erica Brown asked if a Homeowners Association was necessary if there was a single access. The association could be expensive.

Colleen Dowdall said just a maintenance agreement of some sort would work.

Nancy Heil had a concern about driveway width, which was followed by discussion of placement of a collective garage.

Commissioner Kennedy said a single access could be 36' in width.

Commissioner Kennedy moved to approve the variance request from Section 3-3(1)(E) of the Missoula County Subdivision Regulations that states that lots shall have a minimum width of 60 feet and that no lot shall have an average depth greater than 3 times its average width. Commissioner Hart seconded. Motion carried with a vote of 2-0.

Commissioner Kennedy moved to change condition 1 to read, "The three lots shall be served by one access from Tyler Way with a maximum paved width of 36 feet. The location, design, pavement width, easement width, and parking design shall be approved by OPG, the County Surveyor, and Missoula Rural Fire District. The access shall be shown on the plat. The parking design shall be shown on or attached to the plat. Vehicle access to garages will be from the north. Garages shall be no further than 24 feet from the right-of-way."

Commissioner Hart seconded the motion. Motion carried with a vote of 2-0.

Commissioner Kennedy moved to approve Laura's Addition Subdivision, with the variance and condition, and subject to the findings of fact and conclusions of law. Commissioner Hart seconded. Motion carried with a vote of 2-0.

There being no further business to come before the Board, the Commissioners were in recess at 5:30 pm.

THURSDAY, JANUARY 8, 1998

The Board of County Commissioners met in regular session; all three members were present in the afternoon. In the forenoon, Commissioner Kennedy traveled to Stevensville to meet with Ravalli County Commissioner, Jack Atthowe.

#### ADMINISTRATIVE MEETING

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

Assurance Page and Letter - The Commissioners signed an Assurance page and letter to the Board of Crime Control supporting a grant application for continuation of the MIP Court Screener position. The County will receive \$8,333.20 from the Montana Board of Crime Control. The items were returned to Peggy Seel in OPG for further handling.

Petition for Annexation to City - The Commissioners signed a Petition for Annexation to City for the 2400 block of Mullan Road (Parcels 1 and 2, COS 4702, Missoula County), the new County Detention Center property. The Petition was forwarded to the City Clerk's office.

Professional Services Contract - The Commissioners signed a Professional Services Contract with the City of Missoula Police Department and the Health Department for participation in the Driving Under the Influence (DUI) Enforcement Team. Performance schedule is from November 1, 1997 through June 30, 1998. Compensation shall be up to

\$2,000.00, from drivers license reinstatement fees. The Contract was returned to the Health Department for further signatures and handling.

Agreement - Chairman Evans signed an Agreement with the Montana Department of Environmental Quality for the purpose of inspecting and testing small public water supplies to ensure their safety. Performance must be completed by September 30, 1999. Compensation shall not exceed \$30,000.00. The Agreement was forwarded to DEQ in Helena.

Modification of Task Order - Chairman Evans signed Modification C of Task Order 11, amending the compensation for provision of tuberculosis services. Maximum compensation under the Task Order is \$27,000.00.

Standard Agreement - Chairman Evans signed a Standard Agreement with the Montana Department of Transportation, Traffic Safety Bureau, for continued operation of the Missoula Traffic Safety Program (Missoula Integrated Program). Performance schedule is from October 1, 1997 through September 30, 1998. Payment by the State shall not exceed \$51,000.00. The Agreement was returned to the Health Department for further handling.

Resolution - The Commissioners signed Resolution No. 98-001, a resolution of intent to rezone property located at 5850 and 5858 Highway 93 South from C-11 (light industrial) and C-A3 (residential), to the "Peters' Commercial Center PUD."

Other items included:

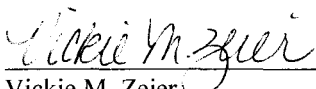
- 1) The Commissioners approved a revision to the approved preliminary plat for the Missoula Development Park - a lot split of Lot 7, Block 9 for Byron Dodd.

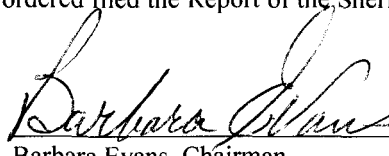
The minutes of the Administrative Meeting are on file in the Commissioners Office.

**FRIDAY, JANUARY 9, 1998**

The Board of County Commissioners met in regular session; a quorum of members was present in the afternoon. Commissioner Kennedy was in Helena attending a MACo Agricultural/Public Lands/PILT Committee meeting held at the MACo office; and Commissioner Evans attended a meeting of the Judicial Standards Commission held at the Missoula County Courthouse all forenoon.

Monthly Report -- Chairman Evans examined, approved, and ordered filed the Report of the Sheriff, showing fees and collections for the month ending December 31, 1997.

  
Vickie M. Zeier  
Clerk & Recorder

  
Barbara Evans, Chairman  
Board of County Commissioners

**MONDAY, JANUARY 12, 1998**

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

**TUESDAY, JANUARY 13, 1998**

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

Application for Issuance of Replacement Warrant -- Chair Evans approved an Application for Issuance of Replacement Warrant naming Kathleen Jager as principal for Warrant #40864, issued 1/2/98 on the Missoula County MCPS Payroll Fund in the amount of \$242.13, not received in the mail.

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 with Big Brothers and Sisters to use funding from the Board of Crime Control to continue its mentoring program as part of the C.S. Porter Project. Duration of the Agreement is from January 1, 1998 through June 30, 1998. Value of the Agreement is \$3,863.00.

Amendment to Lease - The Commissioners signed an Amendment to Lease with Jay and Margaret Rutherford for land in Fort Missoula Park to be used for a batting cage concession. Term of the lease is a period of two years, commencing from April 1, 1998. Rent shall be \$1,000.00 per annum, with monthly payments due the first day of April, May, June, and July of each year.

Agreement - The Commissioners signed an Agreement Between Local Breast and Cervical Health Projects and Qualified Primary Care Provider (other than colposcopy provider) with Pathology Consultants of Western Montana to provide pathology services. Term of the Agreement is from July 1, 1997 through June 30, 1998. \$32,945.00 total screening dollars are available through June 30, 1998.

Quitclaim Deed - The Commissioners signed a Quitclaim Deed to George Otto Lawyer to cancel tax deed recorded in Book 522 of micro records at Page 1439, as address was incorrect. The Quitclaim Deed was returned to the Clerk and Recorder's Office for filing.

Other items included:

- 1) Commissioners Hart and Evans approved a proposed connection fee for El Mar Estates Phase I, Supplement 2, a 7-lot subdivision. The connection fee will be \$2,099.00 per lot for water and sewer. There will be no further connections until the results of an independent engineering study are available. If development does not proceed on schedule, fees could be increased in the future. Commissioner Kennedy opposed.
- 2) Commissioners Hart and Kennedy decided to postpone the Platting, Annexation and Zoning hearing on rezoning of the old County Shops property until March, 1998. Commissioner Evans opposed.
- 3) Commissioners Hart and Evans authorized payment to Harlan Douglass, Inc. for the undisputed costs of rezoning efforts for the old County Shops property, in the amount of \$33,931.40. Commissioner Kennedy opposed.
- 4) The Commissioners discussed a letter from Attorney Colin McMullin, representing the American Legion regarding the Tower Street Park Lands.
- 5) The Commissioners approved a draft resolution recommending to the Board of Environmental Review that the air quality rule-making process being anew and provide for a public process.
- 6) The Commissioners appointed Philip Russ to the Missoula 9-1-1 Advisory Board; Michael Harsell to the Fair Commission; and Joanna Haddon, E.E. "Buck" Smith, and Richard Mangan as ad hoc members of the Fair Commission.

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

**WEDNESDAY, JANUARY 14, 1998**

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

Audit List -- The Commissioners signed the Audit List, dated January 12, 1998, pages 2-28, with a grand total of \$200,869.57. The Audit List was returned to the Accounting Department.

Plat and Improvements Agreement - The Commissioners signed the plat and subdivision improvements agreement for Lincoln Hills Place, a subdivision of Missoula County located in the NW1/4, SW1/4 of Section 12, T13N R19W, PMM, a total area of 1.542 acres, with the owners of record being John O. and Margaret Mudd, and Pat and Carol Williams.

PUBLIC MEETING - JANUARY 14, 1998

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioners Michael Kennedy and Fern Hart; Mike Sehestedt and Colleen Dowdall, Deputy County Attorneys; Vickie Zeier, Clerk and Recorder/Treasurer; and Horace Brown, County Surveyor.

Public Comment

None.

Routine Administrative Items

Commissioner Hart moved to approve the Claims List in the amount of \$200,869.57 Commissioner Kennedy seconded, and the motion carried with a vote of 3-0.

Hearing: Family Transfer - Snook

Information provided by Kathy Smith, Paralegal for the County Attorney's Office, indicated that this is a consideration of a request to create four parcels using the family transfer exemption for Tract 1, COS 4602 located in Section 14, T15N R22W for Stanley R. and Patricia G. Snook.

Stanley and Patricia Snook has submitted a request to create four parcels using the family transfer exemption to the Montana Subdivision and Platting Act. The parcel is 19.80 acres in size and located in the Six Mile area just northwest of the point where Six Mile Road becomes Nine Mile Road. Mr. and Mrs. Snook propose to create four parcels of approximately 5 acres in size for transfer to their minor children, Casey Snook, age 10; Amy Snook, age 16; Angela Snook, age 14; and Darin Snook, age 12. A letter dated January 12, 1998 from John Shields, attorney at law, is attached regarding a trust for the minor children.

The history of the parcel is as follows: COS 4602 was filed in April 1996 pursuant to Court order in Missoula County Cause No. 78861. This was a dispute with the owner of the parent parcel and a Buy/Sell Agreement entered into between the parties in February 1993. The Snooks were transferred title to Tract 1, COS 4602 at the time of the filing of the survey.

According to the records kept by the Missoula County Surveyor, the applicants have not used any exemptions to the Subdivision and Platting Act.

Stanley Snook was present to answer questions. He indicated that he understood the process and the requirements of him if the issue is passed.

The hearing was opened for public comment. No one came forward to speak, and the hearing was closed.



Fern Hart moved and Michael Kennedy seconded the motion to create four parcels using the family transfer exemption for Tract 1, COS 4602 located in Section 14, T15N R22W for Stanley R. and Patricia G. Snook. The motion carried on a vote of 3-0.

Hearing: Family Transfer - Conrad

Information provided by Kathy Smith, Paralegal with the County Attorney's Office, indicated that this is a consideration of a request to create a parcel using the family transfer exemption and to relocate boundaries between four parcels for parcels described in Book 288 Micro, Page 1989 and Book 455 Micro, Page 359 and Parcel A, COS 4527 located in Section 8, T20N R16W for Kenneth A. Conrad. Kenneth A. Conrad has submitted a request to create a parcel using the family transfer exemption and relocate boundaries using the boundary relocation exemption to the Montana Subdivision and Platting Act. The parcels are located Southeast of Condon off Highway 83 and accessed by Rumble Creek Road. There are four current parcels and various other holdings owned by Mr. Conrad and Conrad Ranch, Inc. Mr. Conrad proposes to relocate the boundaries between four of the parcels to create three larger parcels on the southern end of his ownership. He also proposes to create a parcel for transfer to his mother, Dorothy J. Conrad.

The history of the parcel is as follows: Mr. Conrad and Conrad Ranch, Inc. have purchased various parcels as described above in 1988, 1990 and 1995. COS 3603 was filed in September 1988 by Properties America, Inc. creating four parcels greater than 20 acres in size and Conrad Ranches, Inc. filed COS 4527 relocating boundaries between two parcels.

According to the records kept by the Missoula County Surveyor, the applicant has used the exemption to the Subdivision and Platting Act as described above along with another boundary relocation in March 1993 on adjacent holdings in Section 9.

Nick Kaufman, WGM Group, representing the Conrads, was present to answer questions.

The hearing was opened for public comment. No one came forward to speak, and the hearing was closed.

Fern Hart moved and Michael Kennedy seconded to motion to approve the request from Kenneth A. Conrad. Kenneth A. Conrad to create a parcel using the family transfer exemption and to relocate boundaries between four parcels for parcels described in Book 288 Micro, Page 1989 and Book 455 Micro, Page 359 and Parcel A, COS 4527 located in Section 8, T20N R16W. The motion carried on a vote of 3-0.

Consideration of Condon Community Church - 3 lot Summary Subdivision

Information provided by Nancy Heil, Office of Planning and Grants indicated that the applicants are proposing to split an 11.5 acre parcel into 3 lots between 3 and 5 acres in size. The property is located approximately 2 miles south of Condon along Highway 83. The property is owned by Condon Community Church. A mobile home located on proposed Lot 3 serves as the parsonage. A church will be built on proposed Lot 2. Lot 1 would be used for a single family residence. The Office of Planning and Grants recommends **approval** of the **Condon Community Church Subdivision**, based on the findings of fact in the staff report and subject to the conditions in the staff report.

The Office of Planning and Grants recommends **approval** of the variance request from Section 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways from the subdivision, based on the findings of fact set forth in the staff report.

The Office of Planning and Grants recommends **approval** of the variance request from Section 3-2(1)G of the Missoula County Subdivision Regulations that requires all new subdivisions to have paved streets and roads.

Ron Ewart, Eli and Associates, was present to answer questions. He asked that condition #1 be deleted.

Comments from the public were as follows:

Larry Himes spoke in support, saying the church as needed so the parishioners did not have to meet in the Community Hall.

Jim Moore Pastor of the Church, spoke in support and thanked the Commissioners for their assistance.

Bill Shoup spoke in support and discussed the availability of the fire department and their ability to respond in a timely manner.

Wes Newbold spoke in favor of the development

A discussion ensued relative to dwelling units on the church property.

Fern Hart thanked the staff for their good work and for basing their recommendations on the Comprehensive Plan.

Fern Hart moved and Michael Kennedy seconded the motion to approve the variance request from Section 3-2(5) to not provide sidewalks or pedestrian walkways from the subdivision, based on the findings of fact and conclusions of law set forth in the staff report. The motion carried on a vote of 3-0.

Fern Hart moved and Michael Kennedy seconded the motion to approve the variance request from Section 3-2(1)G to not provide paved streets and roads in the subdivision, based on the findings of fact and conclusions of law set forth in the staff report. The motion carried on a vote of 3-0.

Fern Hart moved and Michael Kennedy seconded the motion to approve the Condon Community Church Summary Subdivision, based on the following conditions and the findings of fact and conclusions of law.

**CONDITIONS OF APPROVAL  
CONDON COMMUNITY CHURCH SUMMARY SUBDIVISION  
JANUARY 14, 1998**

1. The development shall be clustered such that the disturbed area of the site for driveways, parking and structures totals no more than 15% of the total 11.5 acreage, in a site plan to be approved by OPG prior to plat filing.
2. The covenants shall be expanded to meet the Swan Valley-Condon Comprehensive Plan Amendment recommendations for commercial development including lighting, signage, height, and color scheme of the church. The covenants shall be approved by OPG prior to plat filing.
3. Engineering plans for the roadway and drainage for the parking lot shall be approved by the County Surveyor prior to plat filing.
4. An approach permit shall be obtained from the Montana Department of Transportation prior to plat filing.
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 the assent of the lot owner to waive 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.."
6. The covenants shall require that the driveways serving the lots within the subdivision meet County standards and that the owners are responsible for dust abatement.
7. The developer shall provide the following information to lot owners and tenants: "Living with Wildlife" available through the Office of Planning and Grants; literature provided by Montana Fish, Wildlife, and Parks regarding mountain lions and grizzly bears; the document "Managing Private Land in Swan Valley Linkage Zones for Grizzly Bears and Other Wildlife" by the Swan Valley Linkage Zone Working Group; and "Fire Protection Guidelines for Wildland Residential Interface Development" published by the Department of State Lands.
8. The covenants shall include language limiting the installation of solid fuel burning devices to low emission units of 4.1 grams per hour and less. They shall also include language requiring burn permits after March 1 of each year for vegetation clean-up purposes.
9. The applicant shall provide written documentation that the Swan Valley Volunteer Fire Company can provide service to the subdivision and that it approves the proposed road and driveway design prior to plat filing.
10. Covenants related to primary travel corridor standards, wildlife, fire standards, air quality, or commercial guidelines shall not be amended or deleted without governing body approval. Sentence 2 in section 14 of the covenants, "In addition, the written permission of the governing body is required before any of these restrictions may be modified," shall be deleted.
11. A deed restriction shall be placed on the property stating that the church lot shall not be used as a dwelling unit.

Hearing: Issuance of Revenue Bonds for Connecticut Valley Sports, Inc. - Proposed Projects

Information provided by Paul Webber, Chief Administrative Officer, indicated that CV Sports was requesting approval of a resolution approving \$7,000,000 of Economic Development Bonds to purchase land in the Development Park and to construct a building approximately 20,000 square foot in size to manufacture and assemble small arms components. There is no financial risk or obligation to Missoula County in respect to the bonds.

Mae Nan Ellingson, Attorney at Law, indicated that approval of this projects would pass along the County's tax exempt status and would be repaid by Connecticut Valley Sports and no County funds would be used.

The hearing was opened for public comment.

Dan Cooper of Connecticut Valley Sports thanked the Board of County Commissioners for considering this proposal, and said that approval would mean jobs for 50-60 people in Missoula

George Schneider, an investment banker for Connecticut Valley Sports said the bonds would be the sole responsibility of Connecticut Valley Sports.

No one else came forward to speak, and the hearing was closed.

Fern Hart moved and Michael Kennedy seconded the resolution to approve and sign a resolution approving \$7,000,000 of Economic Development Bonds for Connecticut Valley Sports to purchase land in the Development Park and to construct a building approximately 20,000 square foot in size to manufacture and assemble small arms components., finding it in the public interest to do so. The motion carried on a vote of 3-0.

Hearing: Annexation to the Missoula Rural Fire District (Linda Vista 4th-9th Supplement, Grantland 1-10, and Misc. Parcels of Land.

Information provided by Shirley Faust, Recording Supervisor for Missoula County, indicated that a petition has been received by the Clerk & Recorder's Office to annex numerous parcels of land, located in Missoula County, into the Missoula Rural 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 areas to be annexed and a majority of tax-paying freeholders within the areas described, thereby meeting the requirements of 7-33-2125 M.C.A. for annexation of adjacent territory.

The areas to be annexed are described as follows:

All lots in Linda Vista 10th Supplement Phase I and several parcels of land (owned by Twite) lying in Sections 12 and 13 in Township 12 North, Range 20 West.

Vickie Zeier, Clerk and Recorder/Treasurer, indicated that this was another petition designed to clear up a problem with no records of previous annexation of this property by the Rural Fire Department. Although the annexation is believed to have occurred, no paperwork is on file with Missoula County to substantiate that

Fern Hart asked if these properties had been receiving fire protection all along from Missoula Rural Fire.

Vickie Zeier said they had.

The hearing was opened for public comment. No one came forward to speak, and the hearing was closed.

Michael Kennedy moved and Fern Hart seconded the motion to annex property described as All lots in Linda Vista 10th Supplement Phase I and several parcels of land (owned by Twite) lying in Sections 12 and 13 in Township 12 North, Range 20 West to the Missoula Rural Fire Department. The motion carried on a vote of 3-0.

Hearing: Annexation to the Missoula Rural Fire District - :Linda Vista 10th Supplement and Twite Property.

Information provided by Shirley Faust, Recording Supervisor for Missoula County, indicated that a petition has been received by the Clerk & Recorder's Office to annex numerous parcels of land, located in Missoula County, into the Missoula Rural 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 areas to be annexed and a majority of tax-paying freeholders within the areas described, thereby meeting the requirements of 7-33-2125 M.C.A. for annexation of adjacent territory.

The areas to be annexed are described as follows:

All lots in Grant Creek Tracts, Grantland #1 - #11, Grantland #11 Amended, Grantland #14, Grantland Rankin, Linda Vista 4th Supplement, Linda Vista 5th Supplement Phases 1-6, Linda Vista 6th Supplement Amending Lot 10 Block 2 of Linda Vista 3rd Supplement, Linda Vista 7th Supplement Phases 1-6, Linda Vista 7th Supplement Phase 2 Amended of Block 2 Lots 5-8, Linda Vista 9th Supplement Phases 1 & 2, Meadow Heights of Grant Creek, The Meadows of Grant Creek, Anderson-Bucklew Acres - Lots 10A & 10B, Dinsmore Orchard Homes #5 - West half of lots 3 & 14 and all of lots 4, 5, 12 & 13, Grantland Tracts - Lots 8-10, Grantland Tracts #2 - Lots 12-16, Jensen Addition #1 - Lots 1-3, Valley Grove - Lots 1-9, and numerous parcels in Section 13 in Township 11 North Range 17 West, Sections 4, 5, 14 & 23 in Township 11 North Range 20 West, Section 2 in Township 11 North Range 21 West, Sections 16, 17, 18 & 21 in Township 12 North Range 17 West, Sections 1, 2 & 12 in Township 12 North Range 18 West, Sections 3 & 10 in Township 12 North Range 19 West, Sections 10, 13, 22, 25, 26, 27 & 33 in Township 12 North Range 20 West, Sections 1, 2, 29, 30, 33, 34 & 35 in Township 12 North Range 21 West, Sections 8, 11 & 17 in Township 13 North Range 17 West, Sections 12, 14, 16, 17, 21, 28, 34 & 35 in Township 13 North Range 18 West, Sections 5, 13, 14, 15, 23, 24 & 27 in Township 13 North Range 19 West, Sections 6, 10, 21, 23, 24 & 27 in Township 13 North Range 20 West, Sections 10, 16, 21, 32 & 33 in Township 14 North Range 19 West, and Section 35 in Township 14 North, Range 20 West.

Vickie Zeier, Clerk and Recorder/Treasurer, indicated that this was another petition designed to clear up a problem with no records of previous annexation of this property by the Rural Fire Department. Although the annexation is believed to have occurred, no paperwork is on file with Missoula County to substantiate that

Fern Hart asked if these properties had been receiving fire protection all along from Missoula Rural Fire.

Vickie Zeier said they had.

The hearing was opened for public comment. No one came forward to speak, and the hearing was closed.

Michael Kennedy moved and Fern Hart seconded the motion to annex property described as All lots in Grant Creek Tracts, Grantland #1 - #11, Grantland #11 Amended, Grantland #14, Grantland Rankin, Linda Vista 4th Supplement, Linda Vista 5th Supplement Phases 1-6, Linda Vista 6th Supplement Amending Lot 10 Block 2 of Linda Vista 3rd Supplement, Linda Vista 7th Supplement Phases 1-6, Linda Vista 7th Supplement Phase 2 Amended of Block 2 Lots 5-8, Linda Vista 9th Supplement Phases 1 & 2, Meadow Heights of Grant Creek, The Meadows of Grant Creek, Anderson-Bucklew Acres - Lots 10A & 10B, Dinsmore Orchard Homes #5 - West half of lots 3 & 14 and all of lots 4, 5, 12 & 13, Grantland Tracts - Lots 8-10, Grantland Tracts #2 - Lots 12-16, Jensen Addition #1 - Lots 1-3, Valley Grove - Lots 1-9, and numerous parcels in Section 13 in Township 11 North Range 17 West, Sections 4, 5, 14 & 23 in Township 11 North Range 20 West, Section 2 in Township 11 North Range 21 West, Sections 16, 17, 18 & 21 in Township 12 North Range 17 West, Sections 1, 2 & 12 in Township 12 North Range 18 West, Sections 3 & 10 in Township 12 North Range 19 West, Sections 10, 13, 22, 25, 26, 27 & 33 in Township 12 North Range 20 West, Sections 1, 2, 29, 30, 33, 34 & 35 in Township 12 North Range 21 West, Sections 8, 11 & 17 in Township 13 North Range 17 West, Sections 12, 14, 16, 17, 21, 28, 34 & 35 in Township 13 North Range 18 West, Sections 5, 13, 14, 15, 23, 24 & 27 in Township 13 North Range 19 West, Sections 6, 10, 21, 23, 24 & 27 in Township 13 North Range 20

West, Sections 10, 16, 21, 32 & 33 in Township 14 North Range 19 West, and Section 35 in Township 14 North, Range 20 West in to the Missoula Rural Fire District. The motion carried on a vote of 3-0.

Hearing: Tower Street Park Plan

Information received from Brian Maiorano, Planner with OPG, indicated that the County Park Board held a public hearing on the draft Tower Street Park Complex Plan on December 16, and further considered the document at a December 18 meeting. The Park Board unanimously recommended that the Board of County Commissioners adopt the plan with several amendments, which are included in the information submitted. He said the plan has been in the works for the past year.

The hearing was opened for public comment.

Those speaking in support of the plan were: Ramona Holt, Kim Ashwell, Bob Chapeski, Ed Mathews, Marge Harper, Dale Dahlgren, and Sue Mathewson.

Those speaking in opposition, or those who had concerns with certain components of the plan were: Larry Swanson, John Barber, Natalie Harrington, Wally Sept, Clay Olson.

The hearing was closed when no other persons came forward. Commissioner Fern Hart commended Brian for his work on the plan and for recognizing the public process and working so well with the public. Commissioner Michael Kennedy also commended the staff and the participants for their spirit of cooperation, and said that the plan was, in his opinion, the best that could be done considering all the different uses of the space.

Fern Hart moved and Michael Kennedy seconded the motion to accept the recommendation of the Park Board to adopt the Tower Street Park Plan, as amended, subject to the terms of the existing leases, and directing County staff to negotiate subsequent leases in compliance with the adopted park plan., and urging the parties to exercise flexibility in the negotiations. Considerations are requested in the areas of: The American Legion property and security, The location of the path with respect to the American Legion lease, and the request that the American Legion maintain the community park be modified. 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 5:30 pm.

Following the Public Meeting, Chairman Evans signed Resolution No. 98-003, a resolution relating to a project on behalf of Connecticut Valley Sports, Inc. and the issuance of economic development revenue bonds to finance the costs thereof; approving the project and authorizing the issuance of bonds therefor, in the maximum aggregate face amount of \$7,000,000.00.

**THURSDAY, JANUARY 15, 1998**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy attended an ICBEMP meeting with Forest Service personnel in the morning, and then traveled to Butte for an ICBEMP meeting there.

Application for Issuance of Replacement Warrant -- Chair Evans approved an Application for Issuance of Replacement Warrant naming Union Pen Company as principal for Warrant #319890, issued 10/22/97 on the Missoula County General Fund in the amount of \$158.01, not received in the mail.

ADMINISTRATIVE MEETING

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

Memorandums of Agreement - The Commissioners signed four Memorandums of Agreement for cultural and aesthetic projects funded by the Montana Arts Council. The duration of each Agreement is from January 1, 1998 through June 30, 1999.

- (1) with Missoula Community Access TV, with a value of \$15,000.00.
- (2) with the International Wildlife Film Festival, with a value of \$8,000.00.
- (3) with the Missoula Symphony Association, with a value of \$5,050.00.
- (4) with the Missoula Children's Theatre, with a value of \$30,000.00.

Contract Modification - Chairman Evans signed the First Modification of a contract for Domestic Violence Services, modifying the budget of the DPHHS grant which funds services at the YWCA Shelter. This will provide an additional \$1,700.00 in travel funds for the program. The Modification was returned to Leslie McClintock in OPG for further handling.

Agreements - Chairman Evans signed a General Project Development and Construction Agreement with the Montana Department of Transportation for construction of the Lolo Walkway in Lolo, MT. Estimated cost totals \$292,820.00. She also signed a Community Transportation Enhancement Program (CTEP) Maintenance Agreement with the Montana Department of Transportation for County maintenance of the Lolo Walkway in Lolo. Both documents were returned to Horace Brown, County Surveyor, for further handling.

Driveway Approach Application and Permit - Chairman Evans signed a Montana Department of Transportation Driveway Approach Application and Permit for the new County well building approach located on the Holt property in Lolo, MT. The form was returned to Chip Johnson at Druyvestein, Johnson and Anderson for further signatures and handling.

Resolution - The Commissioners signed Resolution No. 98-002, a resolution recommending to the Board of Environmental Review that the air quality rule-making process begin anew and provide for public process.

Other items included:

- 1) The Commissioners approved development of a Home Page for Missoula County, accessible through the Internet.
- 2) The Commissioners approved the Missoula County Treasurer billing City of Missoula SIDs and delinquent sewer bills on the County tax bills beginning with 1998 tax bills.
- 3) The Commissioners approved support of a grant proposal to the Board of Crime Control to continue funding to enable the Misdemeanor Supervision Program to hire an additional supervising officer for this fiscal year. Cost to the County will be \$3,804.00.

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

**FRIDAY, JANUARY 16, 1998**

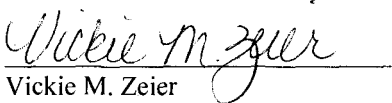
The Board of County Commissioners met in regular session; a quorum of members was present in the morning. Commissioner Kennedy was out of the office all day, and Commissioner Hart attended a Mental Health Board meeting held at Fort Missoula during the day.

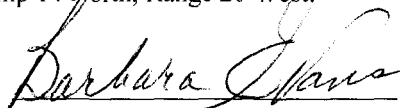
ADMINISTRATIVE MEETING

No administrative meeting was held; however, the following items were signed:

Resolutions - The Commissioners signed two resolutions for Annexation to the Missoula Rural Fire District:

- (1) Resolution No. 98-004, to annex all lots in Linda Vista 10th Supplement Phase I, and several parcels of land (owned by Twite) lying in Sections 12 and 13 in T12N R20W.
- (2) Resolution No. 98-005, to annex all lots in Grant Creek Tracts, Grantland #1 - #11, Grantland #11 Amended, Grantland #14, Grantland Rankin, Linda Vista 4th Supplement, Linda Vista 5th Supplement Phases 1-6, Linda Vista 6th Supplement Amending Lot 10 Block 2 of Linda Vista 3rd Supplement, Linda Vista 7th Supplement Phases 1-6, Linda Vista 7th Supplement Phase 2 Amended of Block 2 Lots 5-8, Linda Vista 9th Supplement Phases 1 & 2, Meadow Heights of Grant Creek, The Meadows of Grant Creek, Anderson-Bucklew Acres - Lots 10A & 10B, Dinsmore Orchard Homes #5 - West half of lots 3 & 14 and all of lots 4, 5, 12 & 13, Grantland Tracts - Lots 8-10, Grantland Tracts #2 - Lots 12-16, Jensen Addition #1 - Lots 1-3, Valley Grove - Lots 1-9, and numerous parcels in Section 13 in Township 11 North Range 17 West, Sections 4, 5, 14 & 23 in Township 11 North Range 20 West, Section 2 in Township 11 North Range 21 West, Sections 16, 17, 18 & 21 in Township 12 North Range 17 West, Sections 1, 2 & 12 in Township 12 North Range 18 West, Sections 3 & 10 in Township 12 North Range 19 West, Sections 10, 13, 22, 25, 26, 27 & 33 in Township 12 North Range 20 West, Sections 1, 2, 29, 30, 33, 34 & 35 in Township 12 North Range 21 West, Sections 8, 11 & 17 in Township 13 North Range 17 West, Sections 12, 14, 16, 17, 21, 28, 34 & 35 in Township 13 North Range 18 West, Sections 5, 13, 14, 15, 23, 24 & 27 in Township 13 North Range 19 West, Sections 6, 10, 21, 23, 24 & 27 in Township 13 North Range 20 West, Sections 10, 16, 21, 32 & 33 in Township 14 North Range 19 West, and Section 35 in Township 14 North, Range 20 West.

  
Vickie M. Zeier  
Clerk & Recorder

  
Barbara Evans, Chairman  
Board of County Commissioners

**MONDAY, JANUARY 19, 1998**

The Courthouse was closed for the Martin Luther King, Jr. Day holiday.

**TUESDAY, JANUARY 20, 1998**

The Board of County Commissioners met in regular session; all three members were present. In the evening, Commissioner Kennedy attended an ICBEMP meeting held at the Granite County Museum in Philipsburg.

ADMINISTRATIVE MEETING

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

Extension - Commissioners Evans and Hart approved a 180-day extension for filing the summary plat for Sorrel Springs Lots 27A and 27B, with a letter to David Gierke. The new filing deadline is July 6, 1998.

Resolution - The Commissioners signed Resolution No. 98-006, a Budget Amendment in the amount of \$41,000.00 for Fiscal Year 1998 for 9-1-1 to purchase radio equipment. This follows approval of the budget adjustment request by the Board of County Commissioners on December 22, 1997.

Other items included:

- 1) The Commissioners reappointed Tom Maclay, and appointed Greg White to the Missoula Planning Board; they reappointed Ron Klaphake to the Missoula Urban Transportation District Board; they appointed Linda Baumann to the Missoula City-County Animal Control Board; and they appointed Kathy Crego as a member, and Ed Redlhammer as an "honorary member" for 1998 of the Missoula County Airport Authority.

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

**WEDNESDAY, JANUARY 21, 1998**

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

Audit List -- Commissioners Evans and Hart signed the Audit List, dated January 21, 1998, pages 2-43, with a grand total of \$185,259.41. The Audit List was returned to the Accounting Department.

No administrative meeting was held; however, the following items were signed:

Payroll Transmittal Sheets - The Commissioners signed two Payroll Transmittal Sheets - one for Pay Period 26, with a total Missoula County payroll of \$602,734.99, and one for Pay Period 1, with a total Missoula County payroll of \$603,957.82. Both were returned to the Auditor's Office.

Certifications of Acceptance for County Maintenance - Chairman Evans signed a Certification of Acceptance for County Maintenance for Brandon Way, Road No. L-0826, in Southpointe Phase II; and for Mike's Way, Road No. L-0832, in Southpointe Phase II. Both were returned to the Surveyor's Office.

Professional Services Contract - The Commissioners signed a Professional Services Contract with Betty's Professional Secretarial Service to provide transcription services for the Office of Planning and Grants. Performance schedule begins January 1, 1998. Compensation shall be \$3.50 per page of properly formatted text, and \$25.00 for attending meetings that are adjourned due to lack of quorum, if the meeting is less than one hour in length, or if OPG fails to give notice of a meeting cancellation.

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

PUBLIC MEETING - JANUARY 21, 1998

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioners Michael Kennedy and Fern Hart; Mike Sehestedt and Colleen Dowdall, Deputy County Attorneys; Vickie Zeier, Clerk and Recorder/Treasurer; and Horace Brown, County Surveyor.

Public Comment

None.

Routine Administrative Items

Commissioner Hart moved to approve the Claims List in the amount of \$185,259.41. Commissioner Kennedy seconded, and the motion carried with a vote of 3-0.

HEARING: FAMILY TRANSFER - JOHNSON

Information provided by Kathy Smith, Paralegal for the County Attorney's Office, indicated that this is a consideration of a request to create Consideration of a request to create a parcel using the family transfer exemption for Tract A-1, COS 3641 located in Section 12, T12N R18W for Henry A. Johnson for transfer to his adult son, Eric Johnson.

The hearing was opened for public comment.

Henry Johnson was present to answer questions. He said that there were already two septic systems on the lots, and he understood all the legal requirements of him if this transfer is approved.

Michael Kennedy moved and Fern Hart seconded the motion to approve a family transfer exemption for Tract A-1, COS 3641 located in Section 12, T12N R18W for Henry A. Johnson for transfer to his adult son, Eric Johnson, finding it in the public interest to do so, and finding no attempt to evade the Montana Subdivision and Platting Act. The motion carried on a vote of 3-0.

CONSIDERATION OF: LONE PINE SUBDIVISION

Information provided by Nancy Heil, Office of Planning and Grants indicated that Bruce and Barry Hunn are proposing to split a 2.3 acre parcel into 2 lots of 1.15 acres each. The property is located on Timber Edge Drive in Turah. The property is unzoned. An existing home is located on proposed Lot 1. The applicant plans to build a second home on proposed Lot 2.

The Office of Planning and Grants recommends **approval** of the **Lone Pine Subdivision**, based on the findings of fact in the staff report and subject to the conditions in the staff report.

The Office of Planning and Grants recommends **approval** of 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.

The Office of Planning and Grants recommends **approval** of the variance request from Section 3-2(10) of the Missoula County Subdivision Regulations for the portion of Timber Edge Drive connecting with Mountain Drive to vary from a 24 foot width to a 20 foot width.

The Office of Planning and Grants recommends **denial** of the variance request from Section 3-2(10) of the Missoula County Subdivision Regulations for the portion of Timber Edge Drive connecting with the Highway 10 frontage road to vary from a 24 foot paved width to a 14 foot graveled width. OPG recommends that the road be improved to a standard to be determined by the County Surveyor and Missoula Rural Fire Department.

Neither the applicants or a representative for the Hunns was present. Barbara Evans asked if there were any comments from anyone in the audience. No one came forward to speak.

A discussion about variance #3 and the OPG's recommendation ensued.

Tim Marek, owner of the Happy Bungalow said the access roads are adequate in the area, and there is plenty of room for emergency vehicles to get into the trailer court on the East side of his business.

Fern Hart moved and Michael Kennedy seconded the motion to approve a variance from Article 3-2 (5) to not provide sidewalks or pedestrian walkways for the Lone Pine Subdivision. The motion carried on a vote of 3-0

Fern Hart moved and Michael Kennedy seconded the motion to approve a variance from Article 3-2 (10) that requires for the portion of Timber Edge Drive connecting with Mountain Drive to vary from a 24 foot width to a 20 foot width. The motion carried on a vote of 3-0

Fern Hart moved and Michael Kennedy seconded the motion to approve a variance from Article 3-2(10) for the portion of Timber Edge Drive connecting with the Highway 10 frontage road to vary from a 24 foot paved width to a 20 foot graveled width. The motion carried on a vote of 3-0

Fern Hart moved and Michael Kennedy seconded the motion to approve Lone Pine Summary Subdivision, subject to the following conditions, findings of fact, and conclusions of law. The motion carried on a vote of 3-0.

#### CONDITIONS OF APPROVAL LONE PINE SUMMARY SUBDIVISION

1. Engineering plans for the roadway and drainage plans shall be approved by the County Surveyor prior to plat filing.
2. The applicant shall improve Timber Edge Drive to the access point for Lot 2 to a design and standards determined to be adequate by the County Surveyor and Missoula Rural Fire Department. Road improvement plans shall be approved by the County Surveyor and Missoula Rural Fire Department prior to plat filing. A road maintenance agreement (which also addresses dust abatement measures) among adjacent property owners who use that portion of the road for access shall be developed and approved by the County Attorney prior to plat filing..
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 the assent of the lot owner to waive the right to protest a future RSID/SID for improvements to Timber Edge Drive, including paving and 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."
4. If the driveway serving proposed Lot 2 is longer than 150 feet it shall meet the applicable requirements of Missoula County Subdivision Regulations and the Missoula Rural Fire Department, with the final design to be approved by the Missoula Rural Fire Department. Such design shall be filed prior to final plat filing..
5. The developer shall contribute \$100.00 per lot to the large diameter hose fund of the Missoula Rural Fire Department prior to plat filing..
6. The final plat shall show the location of utility easements.
7. 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 sewer and water systems, based on benefit, and maybe used in lieu of their signatures on an RSID/SID petition. 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 shall be binding on the transferees, successors, and assigns of the owners of the land depicted herein."
8. Acceptance of a deed for a lot within this subdivision constitutes the assent of the owner to the creation of an RSID for the maintenance of a park or parks in the Clinton/Turah area, defined as the Clinton School District, on an equal basis with other properties in the area.

There being no further business to come before the Board, the Commissioners were in recess at 2:20 pm.

**THURSDAY, JANUARY 22, 1998**

The Board of County Commissioners met in regular session; all three members were present. In the evening, Commissioner Hart attended a meeting of the El Mar Estates Homeowners Association held at Sunset Memorial Funeral Home meeting room.

- 1) The Commissioners approved Change Order #3 for the County Shops project, with the exception of #5 and #13.
- 2) The Commissioners reappointed Glen "Bucky" Walters to the Seeley Lake Cemetery District Board.

**FRIDAY, JANUARY 23, 1998**

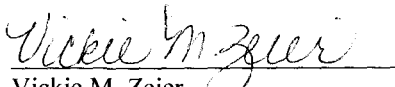
The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was in Helena attending a Pre-Release meeting.


Application for Issuance of Replacement Warrant -- Chair Evans approved an Application for Issuance of Replacement Warrant naming Chemsearch as principal for Warrant #101425, issued 9/19/97 on the Missoula County General Fund in the amount of \$757.00, not received in the mail.

Indemnity Bond -- Chair Evans examined, approved, and ordered filed an Indemnity Bond naming Zelda Haines as principal for Warrant #24000003 issued 1/15/98 on the Missoula County School #34-01 Fund in the amount of \$1,470.90 now unable to be found.

Other items included:

- 1) The Commissioners appointed Scott Seifert, Larry Pugh, Dan Doyle, and Donald Guthrie to the Missoula Aging Services Governing Board; they also reappointed Sharon Hagemo and Gladys Hardin to the Aging Services Board.

  
Vickie M. Zeier  
Clerk & Recorder

  
Barbara Evans, Chairman  
Board of County Commissioners

**MONDAY, JANUARY 26, 1998**

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

No administrative meeting was held; however, the following items were signed:

Plat and Improvements Agreement - Commissioners Hart and Evans signed the plat and subdivision improvements agreement for Linda Vista 8th Supplement Phase I, and Linda Vista 10th Supplement Phase II, an urban residential subdivision located in the S1/2 of Section 12, T12N R20W, PMM, with the owners/developers being the Lloyd A. Twite Family Partnership.

Change Order - The Commissioners signed Change Order No. 13 for the Missoula County Road Department project. Change Order amount is \$16,873.00. Contract time is increased by 5 days by the Change Order. The Change Order was returned to Paul Bishop of Paradigm Architects for further signatures.

**TUESDAY, JANUARY 27, 1998**

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:

Payroll Transmittal Sheet - The Commissioners signed a Payroll Transmittal sheet for Pay Period 2, with a total Missoula County Payroll of \$608,923.52. The sheet was returned to the Auditor's Office.

Resolution - The Commissioners signed Resolution No. 98-007, granting permission to Windemere Estates Subdivision lot owners to revise their covenants.

Contract Amendment - The Commissioners signed an Amendment to Contract for Services between the Missoula Housing Authority and the Missoula City-County Health Department to continue the Lead Poisoning Prevention Program. Grant expiration date shall be March 31, 1998. Compensation shall be \$38,945.00. The Contract was returned to the Health Department for further signatures and handling.

Professional Services Contract - The Commissioners signed a Professional Services Contract with Land and Water Consulting, Inc. to administer the Missoula Local Emergency Planning Committee CY98 Right-to-Know Program for hazardous materials in Missoula County. Performance schedule is from January 1, 1998 through December 31, 1998. Compensation shall not exceed 100% of fees collected. The Contract was returned to the Office of Emergency Management for further handling.

Concurrence on Purchase of Air Compressor - The Commissioners signed their concurrence on purchase of a new air compressor for the County Shops, at a cost of approximately \$1,500.00.

Certificates of Substantial Completion - The Commissioners signed 7 Certificates of Substantial Completion for the County Road Department Project. Certificates were for Buildings 01, 02, 03, 05, 06/07, 08, and for site work. They were returned to Paul Bishop at Paradigm Architects for further signatures and return.

Interlocal Agreement - The Commissioners signed an Interlocal Agreement establishing the cost share to be paid by the County and City for sewer, road, and sidewalk improvements on Mullan Road that will benefit the Jail Project. Cost of the Agreement is \$183,092.00. The Agreement was returned to Mike Sehestedt, Deputy County Attorney, for obtaining City officials' signatures and return.



Other items included:

- 1) The Commissioners appointed Russ Fletcher to the Missoula Planning Board; they reappointed John Hart, Steve Hayes, Bryony Schwan, and Jim Olivarez to the Missoula County Weed Control Board, and appointed Josh Slotnick as an "alternate member" of the Weed Board.

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

**WEDNESDAY, JANUARY 28, 1998**

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

Audit List -- Commissioners Evans and Hart signed the Audit List, dated January 27, 1998, pages 2-36, with a grand total of \$187,268.80. The Audit List was returned to the Accounting Department.

No administrative meeting was held; however, the following items were signed:

Plat - The Commissioners signed the plat for Linda Vista Eighth Supplement, Phase I, an urban residential subdivision located in the SE1/4 of Section 12, T12N R20W, PMM, Missoula County, a total area of 12.11 acres, with the owners/developers of record being Scott A. and Joy E. Twite.

Notice of Hearing - Chairman Evans signed a Notice of Hearing for the Seeley Lake Airport Transfer proposal, scheduled for March 16, 1998 at 7:00 pm in the Seeley-Swan High School Multipurpose Room.

PUBLIC MEETING - JANUARY 28, 1998

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioners Michael Kennedy and Fern Hart; Mike Sehestedt and Colleen Dowdall, Deputy County Attorneys; Vickie Zeier, Clerk and Recorder/Treasurer; and Horace Brown, County Surveyor.

Public Comment

None.

Routine Administrative Actions

Commissioner Kennedy moved to approve the weekly claims list in the amount of \$187,268.80. Commissioner Hart seconded, and the motion carried with a vote of 3-0.

Kathy Smith, Paralegal in the County Attorney's office, requested that the Harrison family transfer be heard next, and the Commissioners agreed to switch it with the Zoning District 12-A hearing.

Hearing - Family Transfer (Certificate of Survey) - Harrison

Kathy Smith gave the staff report.

Consideration of a request to create three parcels using the family transfer exemption for Tract F, COS 4073 located in Section 4, T12N R19W for Samuel R. Harrison, Jr. and Natividad Tapia Harrison.

Samuel and Natty Harrison have submitted a request to create three parcels and a remainder using the family transfer exemption to the Montana Subdivision and Platting Act. The parcel is 20.42 acres in size, located in the Mt. Dean Stone area and accessed by private road off Pattee Canyon Drive. Mr. and Mrs. Harrison propose to split the parcel in four of approximately 5 acres each for transfer to their adult children, Adina Harrison-Roe; Samuel R. Harrison III; and John Harrison. The remainder parcel would be retained by Mr. and Mrs. Harrison.

The history of the parcel is as follows: The parcel was originally created by deed in 1979 as a parcel greater than 20 acres in size along with five other parcels by Fairviews Development Co, Inc. COS 4073 was filed in May 1992 retracing the boundaries of all six parcels. In July 1994, COS 4373 was filed creating an occasional sale parcel and remainder from Tract A, COS 4073. The Harrison purchased Tract F, COS 4073 in April 1997.

According to the records kept by the Missoula County Surveyor, the applicants have not used any exemptions to the Subdivision and Platting Act.

Commissioner Hart explained to the family's representative, Adina Harrison-Roe, that the commissioners will ask a few questions in order to determine that this is not an attempt to evade the Montana Subdivision and Platting Act.

Commissioner Hart asked where the Harrison parents lived.

Adina Harrison-Roe said they lived in Virginia.

Chairman Evans asked the name of the access road to the lots.

Adina Harrison-Roe said that it was Mission Heights Road...a gravel road.

Chairman Evans explained that the County would not do dust abatement on the road.

Chairman Evans opened the hearing to public comment. As there was none, she then closed the hearing.

Commissioner Hart moved to approve the family transfer for Tract F, COS 4073 located in Section 4, T12N R19W for Samuel R. Harrison, Jr. and Natividad Tapia Harrison, for transfer to their adult children, Adina Harrison-Roe; Samuel R. Harrison III; and John Harrison, as it does not appear to evade the Montana Subdivision and Platting Act.

Commissioner Kennedy seconded, and the motion carried with a vote of 3-0.

At this time, the Board of County Commissioners recessed, and reconvened with Horace Brown, County Surveyor, and Vickie Zeier, Clerk and Recorder/Treasurer, as the Planning and Zoning Commission.

Hearing (Planning and Zoning Commission) - Variance to Setback in Zoning District 12-A - Earl Lowry

Bud Hettich of the Office of Planning and Grants gave the staff report.

This is a request by Earl Lowry for a variance to the required front yard setback of 25 feet to 11 feet to finish construction of a carport. The property is legally described as Lot 5 of the Lloyd Addition, and commonly known as 2020 29th Avenue. The property is in Zoning District 12-A. Zoning District 12-A was created July 30, 1974, and requires a front yard setback of 25 feet.

Mr. Lowry was denied zoning compliance when he applied for a building permit approximately two months ago. The reason for denying his permit was that his proposed carport was shown on the site plan 11 feet from the front property line instead of the required 25 feet. He was then advised by OPG staff to either construct the carport with the proper setback, or apply for a variance from the County Planning and Zoning Commission.

OPG has received several calls asking that the variance not be granted.

Bud Hettich said that if the carport was built only 11 feet from the property line, if there was a car parked under it, the car would protrude into the street, creating an additional hazard. He said Horace Brown, County Surveyor, also had concerns about the setback.

Earl Lowry then spoke. He said he put up a carport 8 years ago, but it crashed down. About 5 years ago he put up a new carport. He already has paid \$1800 for the existing carport, has paid to have a roof permit, and claims he did not need one. The trailer is not on a permanent foundation. The problem is that the neighbors park in his area. He didn't think he was in the city zoning area, but apparently he is.

Commissioner Kennedy asked Lowry when he moved into his current residence.

Lowry said 1988-89.

Kennedy asked if he built the original carport, which collapsed, without a permit.

Lowry said yes, he just talked to the Surveyor's office, who said it was OK. He didn't know he had to talk to the City.

Kennedy asked Horace Brown, County Surveyor, if he knew anything about the situation.

Horace Brown said he was not aware of the situation. The street is only a 30 foot right-of-way. He didn't know who Lowry may have spoken with in his department, but the problem is with only 11 feet, you're backing out into the street. It is not really a problem now, but may be in the future.

Commissioner Hart asked if the County became involved because a neighbor called to complain.

Bud Hettich said no, it was because Lowry came in for a building permit. In 1988-89, he got a zoning compliance permit to place a mobile home on the property.

Commissioner Hart asked if it was a requirement to get a building permit to construct a carport.

Hettich said yes, any structure with a footprint of 120 square feet or greater requires a permit.

Commissioner Kennedy asked if the new carport was any closer to the street than the old one, and if it was larger than the old one.

Lowry said no, it is not closer to the street, but it is larger. It is 24x16, and the old one was 12x16. The height difference is about 2 feet higher, and 3 feet at the gable.

Kennedy asked if part of the carport had been constructed when Lowry applied for the permit.

Lowry said yes, and explained that he didn't know about the law. They put a stop order on the carport.

Chairman Evans asked if Lowry could move the carport back if necessary.

Lowry said no, that he would go bankrupt because he could not afford to move it.

Vickie Zeier asked to verify that the length of the carport changed from 16 to 24 feet, and asked if anyone knew the setback of the neighbor's garage.

Hettich said no.

Lowry said the neighbor's garage extends to the side - not out to the street.

Hettich said Mr. Hayden (the neighbor) came to OPG to add on to the existing garage. Followed the same setback. He received a variance from the Planning and Zoning Commission.

Vickie Zeier asked about the location of Lowry's garage addition.

Horace Brown said the only problem he had was that when you back out of the carport, you back out into the street. There is only a 30 foot right-of-way, and the road may be widened in the future.

Lowry explained his personal situation, and the setup of the street. He and Chairman Evans discussed the option of coming into the carport on the side.

Kennedy asked if there were requirements or restrictions for building size.

Hettich said no.

Evans asked how many neighbors complained, and what kind of complaints they had.

Hettich said he received one letter, and 5 or 6 phone calls. People felt that because of the width of the street, the carport would be a hazard.

Evans asked if Bud felt the carport was out of character with the rest of the neighborhood.

Hettich said no, he had to admit it wasn't. There are other homes that appear to encroach. Mr. Hayden's garage appears to be 20-25 feet from the property line.

Evans said she was impressed with the amount of work Lowry put into his yard. Unless we have a good reason to say no, I'm not inclined to say no.

Kennedy said his problem was that people are not aware of the rules and regulations. Mr. Lowry approached someone who said it was permissible, and that may have been the wrong answer. It is outside zoning rules, and should not have been constructed. But he did it in good faith, so I would probably support a variance.

Horace Brown said there is no problem with the carport today, but there may be in the future.

Commissioner Hart said she could not support the variance. She felt the carport could be set back.

Kennedy asked Lowry to show the location of the piers he installed. Lowry pointed them out on a drawing. Kennedy noted that, unless he moved it 12 feet, Lowry could not use the existing piers. Lowry agreed.

Commissioner Hart moved to deny the variance request by Earl Lowry from the required front yard setback of 25 feet to 11 feet to finish construction of a carport, stating that the Commission must solve problems for the future, not just for today.

Vickie Zeier seconded the motion.

Horace Brown stated he wished to abstain from voting, as his office may have contributed to the confusion.

Commissioner Kennedy noted that he decided to vote against the variance.

Commissioner Kennedy, Vickie Zeier, and Commissioner Hart voted to deny the variance request. Commissioner Evans opposed. Motion carried with a vote of 3-1.

The Planning and Zoning Commission then recessed, and the Board of County Commissioners reconvened.

Commissioner Kennedy moved to deny the variance request by Earl Lowry from the required front yard setback of 25 feet to 11 feet to finish construction of a carport. Commissioner Hart seconded. Motion carried with a vote of 2-1 (Commissioner Evans opposed.)

Lowry asked what would happen if he didn't move the carport.

Colleen Dowdall explained that if it was not moved back, the County Attorney's office would probably investigate.

#### Consideration of South Horseback Ridge Summary Plat Subdivision

Pat Keiley of the Office of Planning and Grants gave the staff report.

He explained that this is a request from land owners F.J. Gies, and Douglas and Stephanie Smith for approval of the South Horseback Ridge summary plat subdivision consisting of a two lots on 20.54 acres. The proposed subdivision is located one and one-half miles west of Big Flat Road on Horseback Ridge. Each lot is proposed to have a single family residential dwelling unit. The property is legally described as Tract 3, C.O.S. 4269, Sec. 28, T13N, R20W, Missoula County (Lot 11, Exhibit B, Zoning District Allocation Agreement, Book 347, Page 1979).

#### INTRODUCTION

The proposed South Horseback Ridge summary plat subdivision proposes a split of a 20.54 parcel tract into two parcels of approximately 10.27 acres each. The property is zoned C-A1 (maximum density of 1 dwelling unit per 40 acres). The 1975 Missoula County Comprehensive Plan designates the area as "Open and Resource, maximum density

of 1 dwelling unit per 40 acres." The Maclay Ranch Density Allocation Agreement of 1990 applies to this parcel. This density transfer agreement transfers development rights to areas where low density development was more appropriate in order to preserve prime deer and elk habitat. This tract has been assigned two development rights with one single family dwelling unit per parcel. The adopted covenants allow only single family residences and a minimum 10 acre tract size.

Access to the subdivision is from Upland Trail, a private, graveled/ sparsely graveled road varying between approximately 12-24 feet in surface width. This road connects to Big Flat Road, a County maintained road with a 24 foot paved surface width.

The property is forested and surrounding land uses include open forest to the north and west, and rural single family residences to the south and east on partially forested lots.

Keiley explained the three variance requests, and indicated that staff recommends approval of the variance requests and the subdivision.

Commissioner Kennedy asked about weeds along the roadway. State law requires revegetation within the right-of-way. Who is required to do this?

Colleen Dowdall said to check with the Weed Department for information.

John Kellogg, the developers' representative, showed photographs of the road, and noted that the sign for Upland Trail Road had already been changed to the black and white private road type.

Chairman Evans explained that the area was under an agreement between the County and Mr. Maclay for transfer of development rights.

Kellogg explained that he suggested to the owners that they look at a family transfer, but the owners said it did not fit their needs, so they wanted to abide by the law and subdivide the property. Upland Trail has been an issue. The subdivision regulations do not require "full improvement." The homeowners association made many improvements ahead of schedule, including turnouts, regrading, and placement of a dumpster. We have approval from the Fire Marshal and Horace Brown for the road and improvements.

The owners were surprised by the extent of the conditions, but are OK with them. The last three conditions were added since last Friday. 14 and 15 are OK, but the last one is going to require \$500-\$800 to screen the dumpster. We suggest working with BFI to find suitable alternative screening. My concern is that a fence screen would cause problems for BFI drivers. We want to drop that from the list. We also want to thank the Road Department and staff for their help on this project.

Commissioner Hart asked Kellogg to clarify the portion of road his clients are responsible for improving, and to identify the loop that Bob Henderson of FWP referred to in his letter. Kellogg showed this on the plat map.

Commissioner Kennedy asked Horace Brown if there was still a requirement for pavement of the approach 20 feet back from the road. Horace explained that this was a requirement, so gravel isn't dragged onto the pavement.

Kennedy asked Bill Lindstrom from MRFD about fire access to this property. Are the sites accessible now that the road is improved?

Lindstrom said the sites were now accessible, but their continued accessibility hinges on property owner maintenance.

Colleen Dowdall stated she wanted to delete condition 6, as it has been dealt with.

Commissioner Hart moved to approve the three variance requests:

1. Variance request from Section 3-2 (5) for no pedestrian facilities within this subdivision.
2. Variance request from Section 3-2 (3) to reduce the surface width on Upland Trail Road from 24 to 20 feet.
3. Variance request from Section 3-3 (1) to allow a lot depth to width ratio greater than 3:1.

Commissioner Kennedy seconded the motion. Motion carried with a vote of 3-0.

Commissioner Hart moved to approve the South Horseback Ridge Summary Plat Subdivision, with the following conditions, and based on the findings of fact and conclusions of law. Commissioner Kennedy seconded the motion.

1. The following statement shall appear on the face of the final plat and in all instruments of conveyance: "The purchaser and/or owner of a lot within this subdivision understands and agrees that Upland Trail Road construction, maintenance, and snow removal shall be the obligation of the South Horseback Ridge Homeowners Association and the County of Missoula is in no way obligated to perform such maintenance or upkeep until the road is brought up to County standards and accepted by the County of Missoula for maintenance." Article 5-2(5), *Missoula County Subdivision Regulations, Staff recommendation*
2. The applicant shall improve the portion of Upland Trail Road extending from the end of the existing improved Upland Trail Road to the east property boundary of Lot 3A to an all-weather gravel surface width of 20 feet, with the slope to not exceed 8%. Plans shall be approved by the County Surveyor prior to summary plat record set approval. Article 3-2, *Missoula County Subdivision Regulations, Uniform Fire Code, Article 9, Staff, Missoula Rural Fire District and County Surveyor Recommendation*
3. To preserve the natural features of the land to the maximum extent possible, the lot owners of Lots 3A and 3B shall show driveway plans that show that the driveway alignments to Lots 3A and 3B shall generally follow the contour of the land, reduce cuts and fills to the maximum possible, and preserve the maximum

amount of natural existing vegetation, to be approved by OPG prior to building permit issuance. Article 3-1(C), Missoula County Subdivision Regulations, Staff Recommendation

4. The County Surveyor shall approve the existing Upland Trail Road/Big Flat Road intersection drainage systems prior to summary plat record set approval. Article 3-4, Missoula County *Subdivision Regulations, Staff and County Surveyor Recommendation*
5. The owner of Lot 3A and 3B shall install residential sprinkler systems, per their amended proposal. Plans for these systems shall be supplied at building permit application and approved by the Missoula Rural Fire District. Article 3-7, Missoula County *Subdivision Regulation, Staff Recommendation*
6. The plat shall show areas with slopes greater than 25% as unbuildable and the location of the buildable areas in the northern portions of the lots, to be approved by OPG prior to summary plat record set approval. Article 3-3, Missoula County *Subdivision Regulations, Staff Recommendation*
7. The applicant shall enter into a Development Agreement to include the following items regarding predator intrusion, fire hazards, and air particulates. The Agreement shall be filed with the County Clerk and Recorder prior to summary plat record set approval.
  - A. Pets shall be fed indoors and pet food shall be stored indoors.
  - B. All portable barbecues shall be cleaned regularly and stored indoors when not in use.
  - C. The planting of native vegetation is encouraged.
  - D. All garden fencing shall be at least eight feet high 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.
  - E. Apiaries should be avoided. Prior to their placement on a lot, the Department of Fish, Wildlife and Parks should be contacted to discuss how best to avoid wildlife conflicts.
  - F. Compost piles shall be enclosed.
  - G. Fireplaces shall be restricted. Wood burning stoves shall be restricted to pellet stoves with emissions under 1.0 grams per hour to reduce air particulates.
  - H. The brochure, "Living with Wildlife" shall be distributed to all lot owners.
  - I. The property owner shall create a defensible space for fire protection, according to the Missoula County Subdivision Regulations. 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 as 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
  - J. Only Class A or B fire-rated roofing materials shall be used for any new construction according to the Uniform Fire Code Regulations.
  - K. Each lot owner shall control noxious weeds on their property and on the adjacent Upland Trail Road according to the Missoula County Weed Control Board Regulations.

Article 3-2(6), Article 5-1(5)(H), Missoula County Subdivision Regulations, Staff Recommendation, Missoula City-County Health Department recommendation

8. Driveways serving Lots 3A and 3B shall not have grades in excess of 10 percent and shall have an all weather driving surface at least 12 feet wide designed and engineered to support 80,000 pounds. The driveways to Lot 3A and 3B, if in excess of 150 feet in length, shall have a minimum unobstructed width of 20 feet and vertical clearance of 13 feet 6 inches, and have provisions for turning around a fire apparatus within 150 feet of each building site. These driveways shall be reviewed and approved by the Missoula Rural Fire District prior to issuance of a building permit. Article 3-2(6), Missoula County Subdivision Regulations, Staff Recommendation
9. The following statement shall be placed 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 a future fire fighting water system, based on benefit, which may be used in lieu of signatures 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." Article 3-2(E), Missoula County Subdivision Regulations, Missoula Rural Fire District Recommendation
10. To achieve compliance with Section 2.06. Lot Width (3:1 ratio standard) of the Missoula County Zoning Resolution, the lot owners of Lot 3A and 3B must apply to and receive a variance from the Missoula County Board of Adjustment. Article 3-1(B), Missoula County Subdivision Regulations, Staff Recommendation

11. To reduce the visual impact that the BFI dumpster will have at the intersection of Big Flat Road and Upland Trail Road and on the natural environment, the applicant shall attempt to screen the dumpster in a natural, rural-type manner, to be approved by OPG prior to summary plat record set approval. Article 3-1(C), *Missoula County Subdivision Regulations, Staff Recommendation*

Commissioner Kennedy explained that he felt the subdivision was problematic - clustered housing was used to help the problem. We seem to erode the reasons for keeping scenic appeal by allowing dumpsters, etc. He was worried about access for fire service. The road is 1-1/2 miles long to serve two homes - letting people live under an umbrella of safety that doesn't exist. The Commissioners are having to approve subdivisions that aren't up to scenic/safety standards.

Colleen Dowdall noted that on page 15, condition 7 shows a way for two accesses. She revised the findings of fact to reflect this.

Pat Keiley reminded everyone that the second access was not a functional way out of the subdivision. You may have to go off road onto someone else's property. You can't go through people's fences to get out.

Colleen Dowdall said the Maclays put up gates so the public would not use non-maintained roads. She was just noting that there is another access, although it is not well-maintained.

Vote was 2-1 in favor of approval of South Horseback Ridge Summary Plat Subdivision. Commissioner Kennedy opposed.

There being no further business to come before the Board, the Commissioners were in recess at 3:15 pm.

#### THURSDAY, JANUARY 29, 1998

The Board of County Commissioners met in regular session; all three members were present in the afternoon. In the forenoon, Commissioner Kennedy attended an ICBEMP meeting held at the 4B's Conference Room in Missoula; and at noon, Commissioners Evans and Hart attended the State of Missoula Luncheon sponsored by the Chamber, with Chairman Evans giving the "State of the County" address.

Indemnity Bond -- Chair Evans examined, approved, and ordered filed an Indemnity Bond naming Anna Marie L. Clouse as principal for Warrant #247537 issued 11/21/97 on the Missoula County Payroll Fund in the amount of \$71.33 now unable to be found.

Application for Personal Property Tax Refund - The Commissioners approved and signed an Application for Personal Property Tax Refund for 1997 for Reed Construction, in the amount of \$1,391.39. The Application was returned to the Assessor's Office.

#### ADMINISTRATIVE MEETING

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

- 1) The Commissioners approved a request from the Missoula Housing Corporation for a \$20,000.00 County CDBG Program Income Account grant. Grant funds will be placed in the Missoula Housing Corporation/North Missoula Housing Partnership's Second Mortgage Revolving Fund.
- 2) The Commissioners approved a request from the Montana Community Development Corporation (formerly WEDGo) to convert a \$30,000.00 County CDBG Program Income Account loan into a grant.
- 3) The Commissioners met with BLM representatives, and agreed that, in order to complete the agreement on the Blackfoot Corridor, the County's responsibilities are as follows:
  1. Determine the territorial extent of the property;
  2. Assessment of the existing condition of the project;
  3. Desired outcome of the project;
  4. Work items to be listed in the project;
  5. Priorities for the work items of the project;
  6. Schedule;
  7. Contract documents for the project;
  8. Contract administration.

The County agrees there will be discussions and a site visit planned for March, and the County will prepare a planning document describing the project by the end of April.
- 4) The Commissioners reappointed JoAnne Stewart to the Lolo Mosquito Control Board; they reappointed Gary McLaughlin and Jerry Ford, and appointed Mike Knopik, to the County Zoning Board of Adjustment; and also appointed Ann Wake as the "1st alternate member" of the Board of Adjustment.

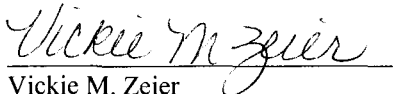
The minutes of the Administrative Meeting are on file in the Commissioners Office.

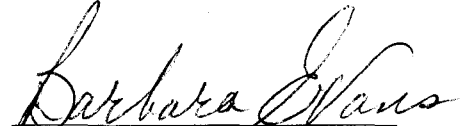
#### FRIDAY, JANUARY 30, 1998

The Board of County Commissioners met in regular session; in the forenoon, the Commissioners and several County staff attended the Annual Montana Economic Outlook Seminar sponsored by the University of Montana Bureau of Business and Economic Research, and held at the Holiday Inn.

No administrative meeting was held; however, the following item was signed:

Contract and Bill of Sale - The Commissioners signed a Contract and Bill of Sale selling the small frame house located next to the County Health Welfare Building to Missoula Nutrition Resources. MNR will remove the house from the site, shut of all utilities, and restore the site.

  
Vickie M. Zeier  
Clerk & Recorder

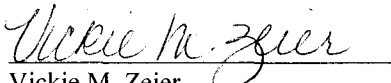
  
Barbara Evans, Chairman  
Board of County Commissioners


## THURSDAY, JANUARY 1, 1998

The Courthouse was closed for the New Year's Day holiday.

## FRIDAY, JANUARY 2, 1998

The Board of County Commissioners did not meet in regular session; all three Commissioners were out of the office all day.

  
Vickie M. Zeier  
Clerk & Recorder

  
Barbara Evans, Chairman  
Board of County Commissioners

## MONDAY, JANUARY 5, 1998

The Board of County Commissioners met in regular session; a quorum of members was present in the forenoon. Commissioner Kennedy was in Philipsburg attending an ICBEMP meeting at the Granite County Courthouse, returning to the office in mid-afternoon.

No administrative meeting was held; however, the following item was signed:

Standard Audit Contract - Commissioner Hart signed a Department of Commerce Standard Audit Contract with Elmore and Associates, PC to conduct a financial statement audit of Missoula County. The audit period covered by this contract is from July 1, 1996 through June 30, 1997. Compensation shall not exceed \$56,500.00. The Contract was returned to Jane Ellis, Chief Financial Officer, for further signatures and handling.

Other items included:

- 1) The Commissioners authorized Jane Ellis, CFO, to negotiate one more year of auditing by Elmore and Associates, PC, contingent on an opinion by Deputy County Attorney Mike Sehestedt.
- 2) At the Office of Planning and Grants meeting, the Commissioners approved Horseshoe Hills Guest Ranch Subdivision for Lease or Rent. A description of the Subdivision follows:

The Horseshoe Hills Guest Ranch is located off of Woodward Road in the Cozy Corners Area between Highways 83 and 200. It is legally described as the NE1/4 NE1/4 of Section 25, Township 16N, Range 14 West (recording reference: Book 305 of Micro Records at page 258). The applicant is proposing to build 5 cabins to serve overnight guests at the Horseshoe Hills Guest Ranch. The Ranch is a training/boarding facility for horses and currently includes a residential dwelling, large barn, and indoor riding arena. The ranch is located on 200 acres, consisting of a 40 acre and 160 acre parcel.

The proposed cabins would be built on the 40 acre parcel and would be clustered in an area south of the existing dwelling and east of the driveway as shown on the site plan.

The ranch is accessed from Woodward Road onto a private driveway that runs along the eastern boundary of the 160 acre parcel. The ranch can also be accessed from the north from Cottonwood Lakes Road via an easement across Plum Creek and State of Montana Lands.

The property is unzoned. The property is within the area covered by the 1989 Seeley Lake Comprehensive Plan. The surrounding land uses are agricultural to the south, east, and west. The land to the north and northeast is forested.

The existing facilities are served by private wells and a septic system. The new cabins will be served by these wells and a new septic system.

**CONDITION OF SUBDIVISION APPROVAL**

1. The developer shall file a document of record with Missoula County waiving the right to protest a future RSID/SID for upgrading of Woodward Road including installation of pedestrian walkways, based on benefit, which may be used in lieu of signatures 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. Such document shall be filed prior to final plan filing. *Subdivision Regulations, County Surveyor and staff recommendation*

## TUESDAY, JANUARY 6, 1998

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

Monthly Reports -- Chairman Evans examined, approved, and ordered filed the Monthly Reconciliation Report for Justices of the Peace, John Odlin and Michael Jaworsky, for the month ending December 31, 1997, as well as the Report of the Clerk of District Court, Kathleen Breuer, showing fees and collections for the month of December, 1997.

**ADMINISTRATIVE MEETING**

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



**MONDAY, FEBRUARY 2, 1998**

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 of the Peace, John Odlin, for the month ending January 31, 1998; and for Justice of the Peace, Michael Jaworsky, for the month ending January 30, 1998.

**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 with the Missoula Parent Co-op, Inc., a renewal to provide affordable child care for citizens of Missoula County. Value of the Agreement is \$15,868.00. Duration of the Agreement is from January 1, 1998 through June 30, 1998.

Plat - The Commissioners signed the plat for Crossroad South Development Park, a subdivision located in the SW1/4 of Section 1, T13N R20W, PMM, Missoula County, a total net area of 24.32 acres, with the owners of record being B. J. Lefler and Roger D. Hall.

Extension Request - The Commissioners approved a 90-day extension for High Country Addition final plat, making the new filing deadline May 3, 1998, with a letter to Ron Ewart of Eli and Associates.

Extension Request - Commissioners Evans and Hart approved a 180-day extension for El Mar Estates Phase I, Supplement 2 preliminary plat, making the new filing deadline July 29, 1998, with a letter to Gilbert Larson of Druyvestein, Johnson and Anderson.

Tax Abatement Memorandum - The Commissioners signed a memorandum to Jim Fairbanks, Assessor, requesting abatement of the 1997 tax bill for the Jehovah's Witness Kingdom Hall at 1115 Reserve Street.

Resolutions - The Commissioners signed two resolutions:

- (1) Resolution No. 98-008, a budget amendment for the Office of Planning and Grants for FY 98. The expenditure is \$21,000 for an ATR equipment purchase, and revenue is from PL Funding - Transportation.
- (2) Resolution No. 98-009, a budget amendment for the Fair for FY 98. The expenditure is \$9,186.00 for capital improvements, and the revenue is from Simulcast.

Budget Transfers - The Commissioners signed six budget transfers:

- (1) Control No. 98-001, \$850.00 from Office Supplies to Capital - Office Equipment, to purchase a fireproof file cabinet for Motor Vehicles.
- (2) Control No. 98-002, \$2,783.00 to purchase a new computer and printer for the Historical Museum.
- (3) Control No. 98-003, \$927.00 to purchase a video camera and equipment for the Historical Museum.
- (4) Control No. 98-004, \$277,561.00 from WIC 97-98 to WIC 98-99, and \$90,317 from WIC 98-99 Expenditures to WIC 97-98 Expenditures, to separate contracts for audit ease.
- (5) Control No. 98-007, \$3,900.00 to purchase a new telephone system for the Historical Museum.
- (6) Control No. 98-009, \$267,047.00 from General Fund Raise Pool to Various - General Fund, and \$83,922.00 from District Court Raise Pool and Contingency to Various - District Court Fund.

Other items included:

- 1) The Commissioners reviewed the policy for development fees for RSID 901 (Lolo Water and Sewer), and considered proposed revision.
- 2) The Commissioners discussed D & E Homesites with OPG staff. Discussion focused on setbacks for lots 3, 4, and 5. A letter will be sent pending confirmation of details about the subdivision.

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

**TUESDAY, FEBRUARY 3, 1998**

The Board of County Commissioners met in regular session; all three members were present. In the evening, Commissioner Kennedy participated in a County Transportation Committee Hearing held in the Frenchtown Elementary School Library, regarding a school bus route.

**WEDNESDAY, FEBRUARY 4, 1998**

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

Audit List -- Commissioners Hart and Kennedy signed the Audit List, dated February 3, 1998, pages 2-40, with a grand total of \$302,965.71. The Audit List was returned to the Accounting Department.

PUBLIC MEETING -- February 4, 1998

The Public Meeting was called to order at 1:30 p.m. by Chair Barbara Evans. Also present were Commissioners Michael Kennedy and Fern Hart, County Surveyor Horace Brown, Clerk and Recorder/Treasurer, Vickie Zeier, and Deputy County Attorneys Colleen Dowdall and Michael Sehestedt.

Public Comment

None.

Routine Administrative Actions

Fern Hart moved and Michael Kennedy seconded the motion to approve the weekly claims list in the amount of \$302,965.71. The motion carried on a vote of 3-0.

Bid Award - Microfilm Reader - Clerk and Recorder

Information provided by Vickie Zeier, Clerk and recorder, indicated that bids were advertised and received on January 26, 1998 for a microfilm reader/printer for the Clerk and Recorder's Office. The following bids were received:

Bell & Howell/Mitchells Office Systems	\$8,189
Less Trade In	488
Maintenance	900
Total Bid:	\$8,601
Stringer Business Systems of Montana	\$7,395
Less Trade In	100
Maintenance	965
Total Bid:	\$8,260
Integra Information Technologies Inc.	\$12,405
Less Trade In	4,630
Maintenance	978
Total Bid:	\$8,753

Her recommendation was to award the bid to Stringer Business Systems as the lowest and best bid. The amount budgeted for this expenditure is \$12,200.

Michael Kennedy moved and Fern Hart seconded the motion to award the bid for a microfilm reader/printer for the Clerk and Recorder's Office to Stringer Business Systems for \$8,260. The motion carried on a vote of 3-0.

Bid Award - 4x4 Sport Utility Vehicle - Surveyor

Information provided by Horace Brown, County Surveyor, indicated that bids were opened January 26, 1998 with the following results:

DeMarois Olds	\$30,267.00
Karl Tyler Chevrolet	\$29,073.00

His recommendation was to award the bid to Karl Tyler Chevrolet in the amount of \$29,073.00 as the best and lowest bid. The Surveyor has \$30,000 budgeted in the Road Fund, Account #2110-504-431500-947 for this expenditure.

Fern Hart moved and Michael Kennedy seconded the motion to award the bid for a 4x4 Sport Utility Vehicle for the Surveyor's Office to Karl Tyler Chevrolet in the amount of \$29,073.00 as the best and lowest bid. The motion carried on a vote of 3-0.

Consideration of Davis Subdivision for Lease/Rent

Information provided by Brian Maiorano, Office of Planning and Grants, indicated that The Davis Subdivision is a request from Terry and Sandra Davis for a subdivision for lease or rent on their 7.38 acres of land, located near Frenchtown on Pulp Mill Road. The property is legally described as Parcel 5-A of COS 1967, located in the northeast 1/4 of Section 19, T14N, R20W. There is currently a home on the property and the applicants are seeking approval to add an additional dwelling unit for lease or rent. The property is unzoned. The 1975 Missoula County Comprehensive Plan designates open and resource land use and recommends a density of 1 dwelling unit per 40 acres. The Office of Planning and Grants recommends approval of the Davis Subdivision for Lease or Rent, based on the findings of fact and subject to the conditions in the staff report.

Wally Congdon, representing the Davis' was present to answer questions.

Michael Kennedy moved and Fern Hart seconded the motion to approve the request from Terry and Sandra Davis for a subdivision for lease or rent subject to the following conditions, findings of fact, and conclusions of law, finding it in the public interest to do so. The motion carried on a vote of 3-0.

1. The developer shall contribute \$100.00 per new dwelling unit to the Frenchtown Fire District. Evidence of contribution shall be presented to the Office of Planning and Grants prior to issuance of a Comprehensive Plan Compliance Permit for the second dwelling unit.
2. The developer shall file a document of record with Missoula County waiving the right to protest future upgrading and improvements of Pulp Mill Road, including installation of pedestrian walkways, based on benefit. Such document shall be filed prior to issuance of a Comprehensive Plan Compliance Permit for the second dwelling unit.
3. The developer shall file a document of record with Missoula County waiving the right to protest a future RSID for community water and/or sewer, based on benefit.

#### Consideration of Marty Subdivision for Lease/Rent

Information provided by Brian Maiorano, Office of Planning and Grants, indicated that The Marty Subdivision is a request from Margaret Marty and her son John Marty for a subdivision for lease or rent on their 10.85 acres of land, located between the Wye and Frenchtown on the Frenchtown Frontage Road. The property is legally described as Tract 8 of COS 220, located in the southeast 1/4 of Section 7, T14N, R20W. There is currently a home on the property and the applicants are seeking approval to add an additional dwelling unit for lease or rent. The property is unzoned. The 1975 Missoula County Comprehensive Plan designates the area as residential and recommends a density of 1 dwelling unit per 10 acres. The Office of Planning and Grants recommends approval of the Marty Subdivision for Lease or Rent, based on the findings of fact and subject to the conditions in the staff report.

Wally Congdon, representing Margaret and John Marty was present to answer questions.

Michael Kennedy moved and Fern Hart seconded the motion to approve the request from Margaret and John Marty or a subdivision for lease or rent subject to the following conditions, findings of fact, and conclusions of law, finding it in the public interest to do so. The motion carried on a vote of 3-0.

1. The developer shall contribute \$100.00 per new dwelling unit to the Frenchtown Fire District. Evidence of contribution shall be presented to the Office of Planning and Grants prior to issuance of a Comprehensive Plan Compliance Permit for the second dwelling unit.
2. The developer shall file a document of record with Missoula County waiving the right to protest future upgrading and improvements of Frenchtown Frontage Road, including installation of pedestrian walkways, based on benefit. Such document shall be filed prior to issuance of a Comprehensive Plan Compliance Permit for the second dwelling unit.
3. The developer shall file a document of record with Missoula County waiving the right to protest a future RSID for community water and/or sewer, based on benefit.

#### Consideration of Emerson/Stinson Subdivision for Lease/Rent

Information provided by Nancy Heil, Office of Planning and Grants, indicated that: the applicants, Dick and Linda Emerson, are proposing to add a mobile home to a 5 acre parcel where one mobile home currently exists. The property is located in Clinton on Hawk Lane. The property is unzoned. The 1975 Comprehensive Plan designates suburban residential land use with a density of up to 2 dwelling units per acre.

The Office of Planning and Grants recommends approval of the Emerson/Stinson Subdivision for Lease or Rent, based on the findings of fact in the staff report and subject to the conditions in the staff report.

The Office of Planning and Grants recommends approval of the variance request from Section 3-2 of the Missoula County Subdivision Regulations for Hawk Lane to vary from the required 24 foot paved width to a 20 foot graveled width, based on the findings of fact set forth in the staff report.

The Office of Planning and Grants recommends approval of 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.

Bob Wheeler, representing the Emersons, was present to answer questions.

Fern Hart moved and Michael Kennedy seconded the motion to approve a variance from Section 3-2 to reduce the surface width of Hawk Lane from 24 to 20 feet for the Emerson/Stinson Subdivision. The motion carried on a vote of 3-0.

Fern Hart moved and Michael Kennedy seconded the motion to approve a variance from Section 3-2(5) for no sidewalks or pedestrian walkways within the Emerson/Stinson subdivision. The motion carried on a vote of 3-0.

Fern Hart moved and Michael Kennedy seconded the motion to approve the Emerson/Stinson Subdivision for Lease or Rent subject to the following conditions and the findings of fact and conclusions of law contained in the staff report. The motion carried on a vote of 3-0. Barbara Evans noted for the record that she was opposed to Condition number 4.

1. A development agreement shall be filed, subject to County Attorney approval, that states that driveways serving the lots shall meet the requirements of Missoula County Subdivision Regulations and the Clinton Rural Fire District, with the final design to be approved by the Clinton Rural Fire District. The development agreement shall be filed prior to or at the time of plan filing.

2. The applicant 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..
3. The developer shall contribute \$100.00 per new dwelling unit to the Clinton Rural Fire Department prior to plan filing..
4. The lot owner shall file a document of record with Missoula County assenting to the creation of an RSID for the maintenance of a park or parks in the Clinton area, defined as the Clinton school district, on an equal basis with other properties in the area. Such document shall be filed prior to final plan filing.

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

**THURSDAY, FEBRUARY 5, 1998**

The Board of County Commissioners met in regular session; all three members were present in the forenoon. In the afternoon, Commissioner Kennedy left for Winter Park, Colorado to attend the Rocky Mountain Program through February 14.

ADMINISTRATIVE MEETING

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

Loan Documents - Chairman Evans signed a Subordinate Deed of Trust and a Deed Restriction Agreement for the Missoula City-County Affordable Homeownership Program for Claudia Lambert, for a loan of HOME funds in the amount of \$5,724.04. The documents were returned to Cindy Wulfekuhle in OPG for further handling.

Agreement - The Commissioners signed a 1998 Missoula TDM Planning Agreement with the Montana Department of Transportation, to fund the Missoula Transportation Demand Management Program. Value of the Agreement is \$48,745.00 from the CMAQ program, and \$7,555.00 from the City of Missoula. Term of the Agreement is through December 31, 1998.

Other items included:

- 1) The Commissioners reconsidered Earl Lowry's request for a variance to the required Zoning District 12-A front yard setback of 25 feet to 11 feet for construction of a carport. Commissioner Kennedy moved to approve the variance, and Commissioner Hart seconded, as it will not adversely affect the public interest, and denial would cause Mr. Lowry unnecessary hardship. Motion carried on a vote of 3-0. A letter was sent to Mr. Lowry.
- 2) The Commissioners denied a request from the YWCA for abatement of taxes on their King Street property, with a letter to the YWCA.

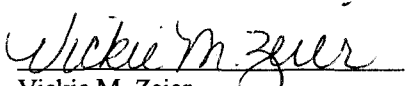
The minutes of the Administrative Meeting are on file in the Commissioners Office.

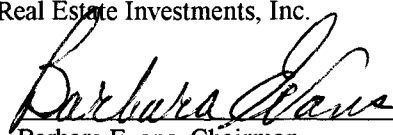
**FRIDAY, FEBRUARY 6, 1998**

The Board of County Commissioners did not meet in regular session; Commissioner Evans was out of the office all day, but was available for signatures as needed.

No administrative meeting was held; however, the following item was signed:

Plat and Improvements Agreement - The Commissioners signed the plat and improvements agreement for Montana Vista, Phase I, a subdivision plat located in the NW1/4, Section 2, T16N, R15W, PMM, Missoula County, a net area of 21.56 acres, with the owners of record being Seeley Lake Real Estate Investments, Inc.

  
Vickie M. Zeier  
Clerk & Recorder

  
Barbara Evans, Chairman  
Board of County Commissioners

**MONDAY, FEBRUARY 9, 1998**

The Board of County Commissioners did not meet in regular session; Commissioner Hart was in Billings attending the MACo Midwinter Meeting February 8-12, and Commissioner Kennedy was in Winter Park, Colorado attending the Rocky Mountain Program.

Monthly Report -- Chairman Evans examined, approved, and ordered filed the Report of the Clerk of District Court, Kathleen Breuer, showing fees and collections for the month of January, 1998.

**TUESDAY, FEBRUARY 10, 1998**

The Board of County Commissioners did not meet in regular session; Commissioner Hart was in Billings attending the MACo Midwinter Meeting February 8-12, and Commissioner Kennedy was in Winter Park, Colorado attending the Rocky Mountain Program.

Monthly Report -- Chairman Evans examined, approved, and ordered filed the Report of the Sheriff, Douglas Chase, showing fees and collections for the month ending January 30, 1998.

**WEDNESDAY, FEBRUARY 11, 1998**

The Board of County Commissioners did not meet in regular session; Commissioner Hart was in Billings attending the MACo Midwinter Meeting February 8-12, and Commissioner Kennedy was in Winter Park, Colorado attending the Rocky Mountain Program.

No administrative meeting was held; however, the following item was signed:

Electric Powerline Easement - Chairman Evans signed an Electric Powerline Easement with The Montana Power Company for an easement 10 feet in width over, under, along and across real property located in Missoula County and described as: T13N R19W, PMM, Section 8, NW1/4; COS 4440, Tract 1. Value of the Agreement is \$1.00. The Agreement was returned to The Montana Power Company for further handling.

The Weekly Public Meeting was canceled, as two Commissioners were out of town.

**THURSDAY, FEBRUARY 12, 1998**

The Board of County Commissioners did not meet in regular session; Commissioner Hart was in Billings attending the MACo Midwinter Meeting February 8-12, and Commissioner Kennedy was in Winter Park, Colorado attending the Rocky Mountain Program.

Audit List -- Commissioners Evans and Hart signed the Audit List, dated February 10, 1998, pages 2-30, with a grand total of \$164,206.02. The Audit List was returned to the Accounting Department.

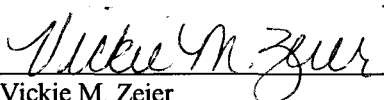
Indemnity Bond -- Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming Donielle Roebuck as principal for Warrant #91840 issued 1/2/98 on the Missoula County Clerk of District Court Fund in the amount of \$300.00 now unable to be found.

No administrative meeting was held; however, the following item was signed:

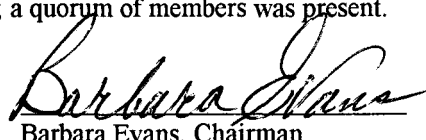
Notice of Sale of Real Property - Chairman Evans signed a Notice of Sale of Real Property for lots 25 through 33, Block S, Carline Addition No. 3, Missoula County, Montana. The minimum bid price is the appraised value of \$132,000.00. Public auction will be at 1:30 pm on March 4, 1998 in Room 201 of the Missoula County Courthouse.

**FRIDAY, FEBRUARY 13, 1998**

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



Vickie M. Zeier  
Clerk & Recorder



Barbara Evans, Chairman  
Board of County Commissioners

**MONDAY, FEBRUARY 16, 1998**

The Courthouse was closed for the Presidents' Day holiday.

**TUESDAY, FEBRUARY 17, 1998**

The Board of County Commissioners met in regular session; all three members were present. Late in the afternoon, Commissioner Evans attended a reception for the Missoula Children's Theatre's new Center for the Performing Arts.

In the afternoon, the Commissioners and several County staff people met with Paul Sepp and representatives of Elmore and Associates for the Audit Exit Interview.

Indemnity Bond -- Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming Pioneer Plumbing and Heating as principal for Warrant #2320 issued 9/29/97 on the Missoula County Claims Fund in the amount of \$133.50 now unable to be found.

**ADMINISTRATIVE MEETING**

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

Resolution - The Commissioners signed Resolution No. 98-010, a resolution to rezone property located at 5850 and 5858 Highway 93 South (and further described in Book 497, Page 1831, in the Missoula County Clerk and

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152

Recorder's office), from C-I1 (light industrial) and C-A3 (residential) to the "Peters' Commercial Center PUD," subject to conditions.

Professional Services Contract - The Commissioners signed a Professional Services Contract with the HIV/AIDS Education and Prevention Council of Ravalli County to continue HIV Prevention Grant-funded activity by Ravalli County. Compensation for services shall not exceed \$2,500.00. Performance schedule is from January 1, 1998 through December 31, 1998. The Contract was returned to the Health Department for further signature and handling.

Memorandum of Agreement - The Commissioners signed a Memorandum of Agreement with Hellgate Writers, Inc. to provide important and innovative programming in the literary arts. Value of the Agreement is \$13,000.00. Term of the Agreement is from January 1, 1998 through June 30, 1999.

Board of Crime Control Grant Applications - Chairman Evans signed submittal letters and a signature page for three crime victims advocate grants from the Board of Crime Control - VOCA, STOP VAWA, and the County Attorney Crime Victims' Advocate grant. The documents were returned to Leslie McClintock in OPG for further handling.

Schedule A and Maintenance Plan - The Commissioners signed Schedule A and a Maintenance Plan between the County Road Department and the Forest Service, updating jurisdiction and maintenance. The documents were returned to Horace Brown, County Surveyor, for further handling.

Community Interface Fire Plan - The Commissioners signed the Missoula County Community Interface Fire Plan, intended by the Missoula County Fire Protection Association to alert the community and to promote "firewise" behavior in wildland/urban interface areas. The Plan was returned to Glenda Wallace of MCFPA for further handling.

Other items included:

- 1) The Commissioners discussed a parking lot lease at the Fairgrounds with Sam Yewusiak; the selling price for lots in the Missoula Development Park; and engineering plans for Goodan Keil ramp connection - approximately \$11,000.00.
- 2) The Commissioners selected street names for the Missoula Development Park - Names approved for Phase 2 are: East Harrier, West Harrier, and Harrier Court (AAA on map); Trumpeter Way (BBB on map); and Harlequin Loop (CCC on map). The names selected for the three streets remaining to be named for future phases are: Sandpiper Drive (X on map); Teal Way (Y on map); and Merganser Court (Z on map). The map is on file in the Commissioners' office and the Projects office.

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

**WEDNESDAY, FEBRUARY 18, 1998**

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

Audit List -- Commissioners Evans and Kennedy signed the Audit List, dated February 18, 1998, pages 2-37, with a grand total of \$202,019.48. The Audit List was returned to the Accounting Department.

**ADMINISTRATIVE MEETING**

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

Plat - The Commissioners signed the plat for Ponda Rosa Acres Lots 1A, 1B and 1C, a minor subdivision located in the NE1/4 of Section 7, T14N R22W, PMM, Missoula County, a net and gross area of 16.16 acres, with the owners of record being Frank and Betty Ann Kibbee.

Other items included:

- 1) The Commissioners discussed transfer of County park land to the City of Missoula with Cindy Klette and Jim Van Fossen. The plan is to transfer jurisdiction of Lincolnwood, Bellevue, and Wapikiya parks to the City.

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

**PUBLIC MEETING - FEBRUARY 18, 1998**

The Public Meeting was called to order at 1:30 pm by Chairman Barbara Evans. Also present were Commissioners Fern Hart and Michael Kennedy, Deputy County Attorneys Mike Sehestedt and Colleen Dowdall, Vickie Zeier, Clerk and Recorder/Treasurer, and Horace Brown, County Surveyor.

**Public Comment**

None.

**Hearing - Family Transfer - Kappes**

Kathy Smith, paralegal in the County Attorney's office, gave the staff report.

Randall J. Kappes has submitted a request to create a parcel and a remainder using the family transfer exemption to the Montana Subdivision and Platting Act. The parcel is 10 acres in size and located South of Lolo, West of Highway 93 off Queen Anne Lane. Mr. Kappes proposes to create 1.45 acre parcel for transfer to his adult son, Scott Louis Kappes. The Exemption Affidavit states Mr. Kappes and his wife intend to build on the remainder.

The history of the parcel is as follows: COS 1218 was filed in August 1987 creating 24 tracts greater than 20 acres in size. COS 2895 was filed in May 1983 relocating the boundaries between several parcels in the area. COS 3839 was filed in September 1990 creating Tract L as a parcel greater than 20 acres in size and Tract K as a remainder. Mr. Kappes purchased Tract L in January 1996 and received approval to create a 10 acre a family transfer parcel in May, 1996. COS 4658 was filed in January 1997 creating Tract L-1 as the family transfer parcel and L-2 as the remainder. Tract L-1 was transferred to Mr. Kappes' son John A. Kappes.

According to the records kept by the Missoula County Surveyor, the applicant has used the exemption to the Subdivision and Platting Act as described above along with a boundary relocation and mortgage exemption on unrelated property.

Commissioner Hart asked if this was going to be a property sale.

Colleen Dowdall explained that the statute says a gift, sale, or transfer is allowable.

Chairman Evans explained to the applicant why he had to come before the Commissioners with his request.

Commissioner Kennedy asked if John Kappes was living on Tract L-1 currently.

Randall Kappes said yes, he was.

Commissioner Hart asked if Randall was planning to build on the remainder property.

Randall Kappes said yes, sometime in the future, he hoped to.

Chairman Evans opened the hearing for public comment. As there was none, she closed the hearing.

Commissioner Hart moved to approve the request by Randall Kappes to create a parcel using the family transfer exemption for Tract L-2, COS 4658, located in Sections 11 and 14, T11N R20 W, for transfer to his adult son, Scott Louis Kappes, as it does not appear to be an attempt to evade the Subdivision and Platting Act.

Commissioner Kennedy seconded. Motion carried with a vote of 3-0.

#### Consideration of Homestead Acres Summary Subdivision

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

The applicants, Joe and Sandy Heuchert, are proposing to divide a 5 acre parcel into 5 one acre lots. The property is located along Mullan Road, 1/2 mile west of the Huson interchange. There is currently one home on the property, which is occupied by the applicants.

The property is currently accessed by a loop driveway with 2 access points from Mullan Road. The applicants propose to install a new road exiting from Mullan Road and to retain one driveway access from Mullan Road. Mullan Road is not paved in the area along the subject property. The applicants are not proposing to pave the new road until Mullan Road is paved to their access point.

The existing house is served by an individual well and septic system. The new lots will also be served by individual wells and septic systems.

A portion of the Frenchtown Irrigation Ditch runs through the northern portion of the property. A strip of cottonwood trees is located in a swale south of the ditch.

On February 12, 1998 the applicant's representative submitted a revised plat (Attachment A) with the following changes, based on agency and staff comments:

- The street name, originally proposed as Homestead Lane, was changed to Leif Lane.
- The hammerhead easement was extended to 35 feet in both the east and west directions to address concerns raised by the Frenchtown Rural Fire District.
- The riparian resource area was extended 10 feet further south.
- A 20 foot irrigation easement and public utility easement was added to the east and west boundaries of the property.

Nancy explained that the railroad crossing at Mullan Road has been determined by the County Surveyor's office to be dangerous.

Ron Ewart, Eli and Associate, the developer's representative, said he had no problems with the conditions, except for condition 2. He showed a graphic - he wants to preserve the rural character of the area while still addressing public health and safety issues. The hammerhead turnaround was extended to 50 feet going east or west. Is lengthening the street really necessary? He would prefer not to have condition 2.

Regarding the railroad crossing, Ewart said there would be a statement in the covenants stating that Stenerson Road is the preferable access. Might also put a light at the crossing to help the safety issue.

Commissioner Kennedy suggested that, to maintain the rural character of the area, it would be possible to eliminate the access at lots 3 and 4, and put the cul-de-sac at lots 1 and 2, and then access lot 5 from the frontage road. It would be easier and less expensive.

Nancy Heil said you would have to cross private property from the north to do that.

Kennedy said it makes sense to keep the cul-de-sac further south.

Commissioner Hart asked if each lot would have a different address.

Scott Waldron, Frenchtown Rural Fire Chief, said yes.

Commissioner Evans asked if there was any public comment.

Joe Heuchert, the applicant, said his mother-in-law owns the property to the north. There are structures there, and it would not be a viable access. The cul-de-sac is OK if necessary. He wants to keep costs down, and do what needs to be done. He is subdividing so the property can be maintained.

There being no further comment, Commissioner Hart moved to approve the two variance requests:

1. 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.

2. from Section 3-2(1)G of the Missoula County Subdivision Regulations that requires all new subdivisions to have paved streets and roads.

Commissioner Kennedy seconded. Motion carried with a vote of 3-0.

Commissioner Hart moved to approve the Homestead Acres Summary Subdivision, based on the findings of fact and subject to the conditions in the staff report, listed below:

1. References to the proposed private road on the plat and in the covenants shall be changed from Homestead Lane to Leif Lane or another name acceptable to the County Surveyor prior to plat filing.
2. The private road shall be redesigned to include a cul-de-sac instead of a hammerhead that shall be located at the northern boundary of Lots 3 and 4. The design shall be approved by the County Surveyor prior to plat filing.
3. The developer shall form a Property Owner's Association, which shall be filed prior to final plat filing. The Association shall be responsible for paving the private road at such time as Mullan Road is paved to its access point. Provision for the funding and timing of the paving shall be included in the covenants, as well as the requirements of Missoula County Subdivision Regulations Article 5-1(5)(I). The covenants shall be approved by the County Attorney prior to plat filing.
4. The road maintenance agreement in the covenants shall be amended to include provision for dust abatement prior to plat filing.
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 the assent of the lot owner to waive the right to protest a future RSID/SID for improvements to Mullan 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 depicted herein."
6. 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 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 shall be binding on the transferees, successors, and assigns of the owners of the land depicted herein."
7. The developer shall contribute \$100.00 per new lot to the Frenchtown Fire District. Evidence of contribution shall be presented to the Office of Planning and Grants at the time of plat filing.
8. The following statement shall appear on the plat and in each instrument of conveyance:  
"Acceptance of a deed for a lot within this subdivision constitutes the assent of the owner to the creation of an RSID/SID for the maintenance of a park or parks in the Frenchtown-Huson area, defined as the Frenchtown school district, on an equal basis with other properties in the area."
9. The riparian resource management plan shall be amended to address the goal of the plan, which is to preserve the riparian vegetation comprised primarily of cottonwood trees. The plan shall state that the trees will not be removed or pruned except as needed for removal of safety hazards. It shall also include a discussion of the cottonwoods in the planned restoration section, the possible presence of irrigation district activities, and grazing use. The riparian resource management plan shall be approved by the Office of Planning and Grants prior to plat filing.



10. Covenants related to wildlife, driveway standards, road maintenance, and the riparian resource management plan shall not be amended or deleted without governing body approval. Such statement shall be included in the covenants prior to plat filing.
11. The developer shall initiate a petition to the County to close Mullan Road in the vicinity of the railroad crossing east of the property. The petition shall be filed prior to plat filing.

Commissioner Kennedy seconded. Motion carried with a vote of 3-0.

Commissioner Hart said we are not concluding that we know what the decision will be, but petitioning to close Mullan Road near the railroad crossing east of the property at least gets the petition before the Commissioners.

Colleen Dowdall said the petition could be picked up in the Clerk and Recorder's office, and the developers probably want to consult with the Surveyor's office.

Chairman Evans noted that any 10 Missoula County freeholders can sign the petition.

Horace Brown said the Momont crossing will be closed when the Development Park is completed.

Nancy Heil said MRL would not automatically add lights to the Mullan crossing, because of its proximity to another lighted crossing, and because of the expense.

Chairman Evans said that the Commissioners try to look at and prepare for hazards, in order to prevent lawsuits in the future.

There being no further business to come before the Board, the Commissioners were in recess at 2:02 pm.

**THURSDAY, FEBRUARY 19, 1998**

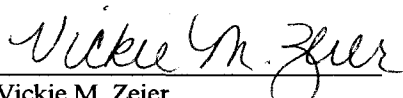
The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Hart was in Helena attending a MACo Subdivision/Land Planning Committee meeting at the State Capitol.

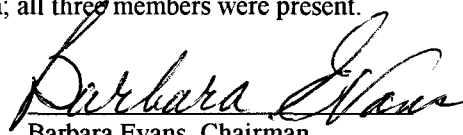
No administrative meeting was held, however, the following item was signed:

Bill of Sale - Commissioners Evans and Kennedy signed a Bill of Sale transferring to the Missoula Museum of the Arts all right, title and interest to the 15 foot untitled Russell Smith metal sculpture now located on County property west of the Health/Welfare Building at 301 W. Alder. The Museum will assume all responsibility for the care, display and disposition of the sculpture, but shall not permanently dispose of the sculpture without consent of Missoula County. The Bill of Sale was returned to Mike Sehestedt, Deputy County Attorney, for further signatures and handling.

**FRIDAY, FEBRUARY 20, 1998**

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

  
Vickie M. Zeier  
Clerk & Recorder

  
Barbara Evans, Chairman  
Board of County Commissioners

**MONDAY, FEBRUARY 23, 1998**

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

Application for Issuance of Replacement Warrant -- Chairman Evans approved an Application for Issuance of Replacement Warrant naming Discover Card as principal for Warrant #322404, issued 12/17/97 on the Missoula County 2110 Fund in the amount of \$251.07, not received in the mail.

No administrative meeting was held; however, the following items were signed:

Plat and Agreement - The Commissioners signed the plat and agreement for College Fund Addition, a two-lot subdivision of Lot 37, Sorrel Springs, located in the SE1/4 of Section 21, T15N, R21W, PMM, Missoula County, a total area of 10 acres, with the owners of record being Gary W. and Maria S. Ardesson.

**TUESDAY, FEBRUARY 24, 1998**

The Board of County Commissioners met in regular session; all three members were present. At noon, the Commissioners attended the MAEDC Annual Membership Luncheon held at the Holiday Inn.

Audit List -- The Commissioners signed the Audit List, dated February 23, 1998, pages 2-29, with a grand total of \$95,785.14. The Audit List was returned to the Accounting Department.

Application for Issuance of Replacement Warrant -- Chairman Evans approved an Application for Issuance of Replacement Warrant naming Gart Sports as principal for Warrant #103566, issued 10/23/97 on the Missoula County General Fund in the amount of \$77.36, not received in the mail.

#### ADMINISTRATIVE MEETING

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

Certification for Licensed Engineer - The Commissioners signed two Certifications for Licensed Engineer stating that Druyvestein, Johnson and Anderson were retained to inspect, certify improvements in and prepare record drawings for the Missoula Development Park - Phase 2 Sewer Improvements. The documents were returned to Orin Olsgaard in the Projects Office for further handling.

Memorandum of Understanding - The Commissioners signed a Memorandum of Understanding with Missoula Aging Services (RSVP Volunteer Clearinghouse) to deal with volunteer issues for Missoula County departments.

Other items included:

- 1) At a departmental meeting with the Office of Planning and Grants, the Commissioners approved a request related to Branco Court (mobile home park) in Lolo to reduce the pavement width from 32 feet to 24 feet in that it does meet the subdivision regulations, with a letter to Ron Ewart of Eli and Associates.
- 2) The Commissioners reappointed Gregory Martinsen to a three-year term as the Missoula County Conservation District's representative on the Missoula Valley Water Quality District Board.

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

#### **WEDNESDAY, FEBRUARY 25, 1998**

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

No administrative meeting was held; however, the following item was signed:

Request for Partial Reconveyance - The Commissioners signed a Request for Partial Reconveyance for Circle H Ranch Phase I Homesites and Equestrian Park, together with an easement for drainfields and sand filters as designated on the plat for each lot. The Request was returned to Insured Titles.

#### PUBLIC MEETING -- FEBRUARY 25, 1998

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans.. Also present were Commissioners Michael Kennedy and Fern Hart, County Surveyor Horace Brown, Clerk and Recorder/Treasurer, Vickie Zeier, and Deputy County Attorneys Mike Sehestedt and Colleen Dowdall

#### Public Comment

None.

#### Routine Administrative Actions

Michael Kennedy moved and Fern Hart seconded the motion to approve the weekly claims in the amount of \$95,785.14. The motion carried on a vote of 3-0.

#### Bid Awards

All bids for ten laptop computers for the Library had been rejected and removed from the agenda

#### Front Deck Rotary Mower for Larchmont Golf Course

Information received from Dan Smith, Superintendent at Larchmont indicated that bids were opened at 10:00 a.m. on February 17, 1998 with the following results:

Turf-Aid Distributing	\$12,600.00
Polfus Golf and Turf	\$10,715.00

His recommendation was to award the bid to Polfus Golf and Turf in the amount of \$10,715.00 as the lowest and most responsive bidder.

Michael Kennedy moved and Fern Hart seconded the motion to award the bid for a front deck rotary mower for Larchmont Golf Course to Polfus Golf and Turf in the amount of \$10,715.00 as the lowest and most responsive bidder. The motion carried on a vote of 3-0.

#### Turf Vehicle for Larchmont Golf Course

Information received from Dan Smith, Superintendent at Larchmont indicated that bids were opened at 10:00 a.m. on February 17, 1998 with the following results:

Turf Aid Distributing	\$12,250.00
Polfus Golf & Turf	No Bid

His recommendation was to award the bid to Turf Aid Distributing in the amount of \$12,250.00 as the lowest and most responsive bidder.

Michael Kennedy moved and Fern Hart seconded the motion to award the bid for a turf vehicle for Larchmont Golf Course to Turf Aid Distributing in the amount of \$12,250.00 as the lowest and most responsive bidder. The motion carried on a vote of 3-0.

Fairway Mower for Larchmont Golf Course

Information received from Dan Smith, Superintendent at Larchmont indicated that bids were opened at 10:00 a.m. on February 17, 1998 with the following results:

Turf Aid Distributing	\$28,100.00 or alternate bid of \$25,635.00
Polfus Golf & Turf	\$24,596.00

His recommendation was to award the bid to Polfus Golf and Turf in the amount of \$24,596.00 as the lowest and most responsive bidder

Michael Kennedy moved and Fern Hart seconded the motion to award the bid for a Fairway Mower for Larchmont Golf Course to Polfus Golf and Turf in the amount of \$24,596.00 as the lowest and most responsive bidder. The motion carried on a vote of 3-0.

Hearing: Request To Vacate A Portion Of County Road (Delaney Subdivision - Tabish Brothers)

Information provided by Debbe O'Neil, Recording Supervisor, indicated that a petition to alter "All those portions of said roads lying within the Delaney Subdivision south of the right of way for U.S. Highway 12 and west of U.S. Highway 93 located in Section 35, Township 12 North, Range 20 West" had been received in her office. The reasons for the request are as follows:

1. The road is no longer used
2. Several buildings occupy the right-of-way
3. Public access to adjacent properties is via U.S. Highway 12 and 93.

The following landowners had been notified: Tabish Brothers Distributors, Stanley Hendrickson, and Woodrow W. And Grace Bentham.

The hearing was opened for public comment.

Jim Weatherly of WGM, representing the petitioner, was present to answer questions.

Chairman Evans noted that state law requires the site to be examined in person by the County Surveyor and a County Commissioner before any decision is rendered. She noted that the inspection had been set for the following Monday, and that the decision will be on the agenda for the next public meeting on March 4.

No one else came forward to speak, and the hearing was closed.

Consideration Of Platinum Court (4-Lot Light Industrial Subdivision In Momont Industrial Park)

Information provided by Nancy Heil, Office of Planning and Grants, indicated that: The applicant is proposing a four lot summary subdivision on the east side of Alloy South in Momont Industrial Park. The total size of the property is 2.91 acres. Each of the proposed lots is 0.73 acres in size. The property is legally described as Lots 1 and 2 and Tract 1 of vacated Alloy South, SW1/4 of Section 36, T14N, R20W. The subdivision is zoned C-I1, Light Industry. City of Missoula sewer and Mountain water lines are located adjacent to the property. The applicant anticipates connection to these existing lines.

The Office of Planning and Grants recommends **approval** of the **Platinum Court Subdivision**, based on the findings of fact in the staff report and subject to the conditions in the staff report.

The Office of Planning and Grants recommends **approval** of the variance request from Section 3-2 (3), of the Missoula County Subdivision Regulations to vary from the required 80 foot easement to a 60 foot easement along Alloy South, based on the findings of fact set forth in the staff report.

The Office of Planning and Grants recommends **approval** of the variance request from Sections 3-2 (1)(I) and 3-2(3)(A) of the Missoula County Subdivision Regulations, which require that the minimum right-of-way of the turn-around radius of a cul-de-sac be 50 feet, based on the findings of fact set forth in the staff report.

Ron Ewart, Eli and Associates, representing the owners, Greg and Kathleen Booher, was present to answer questions. He said he and his clients agreed with all the recommendations and conditions.

Michael Kennedy moved and Fern Hart seconded the motion to approve the variance request from Section 3-2 (3), of the Missoula County Subdivision Regulations to vary from the required 80 foot easement to a 60 foot easement along Alloy South, based on the findings of fact set forth in the staff report. The motion carried on a vote of 3-0.

Michael Kennedy moved and Fern Hart seconded the motion to approve the variance request from Sections 3-2 (1)(I) and 3-2(3)(A) of the Missoula County Subdivision Regulations, which require that the minimum right-of-way of the turn-around radius of a cul-de-sac be 50 feet, based on the findings of fact set forth in the staff report. The motion carried on a vote of 3-0.

Michael Kennedy moved and Fern Hart seconded the motion to approve the Platinum Court Subdivision, based on the findings of fact in the staff report and subject to the conditions as follows: The motion carried on a vote of 3-0.

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 the assent of the lot owner to waive the right to protest a future RSID/SID for future road improvements including installation of pedestrian walkways to Alloy South, 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."
2. A one foot no-access strip shall be added to the eastern boundary of the road easement prior to plat filing.
3. The applicant shall obtain approval of sewer utility plans from the City Engineer prior to plat filing.
4. A fire hydrant shall be installed by the developer along Alloy South in a location to be approved by the Missoula Rural Fire District prior to plat filing.
5. Turn-arounds for emergency vehicle access shall be approved by the Missoula Rural Fire District at the time of building permit issuance for each lot.
6. An avigational easement shall be obtained for this property in compliance with the Airport Influence Area Resolution prior to plat filing.
7. The following statement shall appear on the face of the plat and in each instrument of conveyance: "This property is within the Airport Influence Area and subject to the requirements of the Airport Influence Area Resolution."
8. The applicant shall provide evidence that the plat includes the vacated portion of Alloy South or shall amend the plat to show revised property lines and acreage of Lot 1 prior to plat filing.
9. A property owners' association shall be formed to govern the ownership and maintenance of Greg's Way. The association shall be approved and filed prior to final plat filing.
10. The plat shall indicate that the pedestrian walkway along Alloy South is a public easement

Tony Tweedale said he had come in late and missed the public comment portion of the meeting. He asked if the Commissioners would still take comment. Chairman Barbara Evans agreed to reopen the meeting for public comment. Mr. Tweedale related concerns he had with ongoing health problems suffered by residents in Alberton following the train derailment. He also asked questions about the Commissioner's Administrative Procedure, and the lack of items under the "Routine Administrative Actions" on the weekly public meeting agenda.

There being no further business to come before the Board, the Commissioners were in recess at 2:05 p.m.

#### THURSDAY, FEBRUARY 26, 1998

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was in Polson attending a Regional Juvenile Detention meeting.

Indemnity Bond -- Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming Sharon Marie and Sherill Stevens as principals for Warrant #323778 issued 1/6/98 on the Missoula County 7195 Fund in the amount of \$210.57 now unable to be found.

Applications for Issuance of Replacement Warrant -- Chairman Evans approved five Applications for Issuance of Replacement Warrant:

- (1) naming Bobby Evans as principal for Warrant #321924, issued 12/10/97 on the Missoula County 7050 Fund in the amount of \$30.00, not received in the mail;
- (2) naming Bobby Evans as principal for Warrant #322553, issued 12/17/97 on the Missoula County 7050 Fund in the amount of \$14.37, not received in the mail;
- (3) naming Collection Bureau Services as principal for Warrant #324841, issued 2/4/98 on the Missoula County Payroll Fund in the amount of \$24.00, not received in the mail;
- (4) naming UNUM Life Insurance as principal for Warrant #103316, issued 10/16/97 on the Missoula County Claims (87) Fund in the amount of \$1194.25, not received in the mail;
- (5) naming UNUM Life Insurance as principal for Warrant #102499, issued 10/2/97 on the Missoula County Claims (87) Fund in the amount of \$547.27, not received in the mail.

#### ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following item was signed:

Resolution - The Commissioners signed Resolution No. 98-011, establishing an ADA Oversight Committee to review and update the ADA Transition Plan.

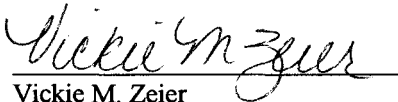
Other items included:

- 1) The Commissioners moved Lorraine Martin from first alternate to "regular" member status on the Larchmont Golf Course Board; reappointed Lois Anderson for a three-year term, and moved Sam Warren from second alternate to first alternate.

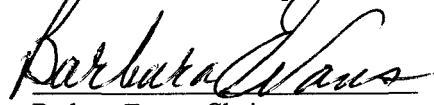
The minutes of the Administrative Meeting are on file in the Commissioners Office.

FRIDAY, FEBRUARY 27, 1998

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



Vickie M. Zeier  
Clerk & Recorder



Barbara Evans, Chairman  
Board of County Commissioners

**MONDAY, MARCH 2, 1998**

The Board of County Commissioners met in regular session; all three members were present. Commissioners Hart and Kennedy attended a Stakeholders Conference on Juvenile Detention held at the University of Montana until mid-afternoon.

In the forenoon, Commissioner Evans accompanied County Surveyor Horace Brown on a site inspection for the request to vacate a portion of a County road located in the Delaney Subdivision in Lolo.

Monthly Report -- Chairman Evans examined, approved, and ordered filed the Monthly Reconciliation Report for Justice of the Peace, Michael Jaworsky, for the month ending February 27, 1998.

**TUESDAY, MARCH 3, 1998**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was in Deer Lodge attending a meeting of the Upper Clark Fork River Basin Steering Committee.

Monthly Report -- Chairman Evans examined, approved, and ordered filed the Monthly Reconciliation Report for Justice of the Peace, John Odlin, for the month ending February 28, 1998.

**ADMINISTRATIVE MEETING**

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

Letter - The Commissioners signed a letter to the Data and Statistics Bureau of the Montana Department of Transportation certifying rural road mileage in Missoula County - a requirement for calculation of the County gas tax. The letter was forwarded to MDT in Helena.

Contract - The Commissioners signed a Contract with Stringer Business Systems of Montana for installation and service of one microfilm reader printer in the Missoula County Clerk and Recorder's Office. Compensation shall be \$8,260.00, and work shall be completed within 30 days of the date of Contract (March 3, 1998). The Contract was returned to Doreen Culver, Bidding Officer, for further handling.

Contract Agreement and Petition for Annexation - The Commissioners signed a Contract Agreement with the City of Missoula and Johnson Brothers Contracting, Inc. for provision of City sewer services to the Missoula Development Park, Phase I. The Commissioners also signed a Petition for Annexation to City for the Missoula Development Park, Phase I. Both documents were returned to Orin Olsgaard in the Projects Office for further signatures and handling.

Other items included:

- 1) At an Office of Planning and Grants meeting, the Commissioners approved Seitz Subdivision for Lease or Rent, legally described as Lot 1, Schatz Addition, Section 19, T13N R19W, subject to conditions, with a letter to Russ Seitz.

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

**WEDNESDAY, MARCH 4, 1998**

The Board of County Commissioners met in regular session; all three members were present. At noon, Commissioner Kennedy attended the 1998 Juvenile Crime Convocation presentation held at First United Methodist Church.

Audit List -- Commissioners Evans and Hart signed the Audit List, dated March 3, 1998, pages 2-39, with a grand total of \$391,007.43. The Audit List was returned to the Accounting Department.

No administrative meeting was held; however, the following items were signed:

Payroll Transmittal Sheets - The Commissioners signed Payroll Transmittal sheets for Pay Period 3, with a total Missoula County payroll of \$612,152.60, and Pay Period 4, with a total Missoula County payroll of \$610,763.43. The sheets were returned to the Auditor's Office.

Agreements - The Commissioners signed two Agreements:

- (1) Agreement to Remit Unused Portion of Tax Increment Urban Renewal Monies to Missoula County Board of Commissioners for Fiscal Year 1997-1998, with the City of Missoula, in the amount of \$32,150.00;
- (2) Agreement to Remit Unused Portion of Tax Increment Urban Renewal Monies to Missoula County Board of Commissioners for Countywide Schools for Fiscal Year 1997-1998, with the City of Missoula, in the amount of \$40,675.00.

One original of each document was returned to the Missoula Redevelopment Agency.

Benefits Plan Amendments - The Commissioners signed twelve Missoula County Benefits Plan Amendments:

- (1) Exhibit 7 a. 26, effective July 1, 1997 - "Actively at Work" and dependent hospital confinement and disability conditions are not to be used as barriers to determine Employee and/or dependent eligibility.  
The following amendments are all effective July 1, 1998:
- (2) Exhibit 7 a. 27 - Oral examinations of the mouth and teeth are to be limited to once each benefit year.

- (3) Exhibit 7 a. 28 - Bitewing x-rays are to be limited to once each benefit year.
- (4) Exhibit 7 a. 29 - Member coinsurance for Type C dental expenses is to be reimbursed at 70% of eligible UCR charges.
- (5) Exhibit 7 a. 30 - Implants will be an eligible Type C dental expense subject to provisions.
- (6) Exhibit 7 a. 31 - Combined chemical dependency and mental health eligible conditions will be limited to 15 days of inpatient hospitalization in any benefit year.
- (7) Exhibit 7 a. 32 - For multiple surgical procedures, the third and subsequent procedures benefits will be 50% of eligible UCR paid at 80%.
- (8) Exhibit 7 a. 33 - Assistant surgeon services will be reimbursed at no more than 25% of the eligible surgical UCR allowance.
- (9) Exhibit 7 a. 34 - Mammoplasty will be covered at 80% of the UCR allowance when treatment is medically necessary and conservative treatment has failed to alleviate the symptoms, and when certain clinical eligibility requirements are met.
- (10) Exhibit 7 a. 35 - Alternative medicine, limited to acupuncture services, biofeedback, and phototherapy light boxes are covered expenses at 80% of UCR allowance to a combined maximum of \$250 each benefit year.
- (11) Exhibit 7 a. 36 - One hearing aid for each ear will be covered at 80%, to a maximum of \$1,200 per ear, once each 60-consecutive-month period. Under no circumstances will two hearing aids be covered for the same ear in any 60-consecutive-month period.
- (12) Exhibit 7 a. 37 - Nutritional counseling benefits will continue to require a physician referral, however, benefits will be available to all eligible participants; not just those diagnosed with diabetes.

#### PUBLIC MEETING -- March 4, 1998

The Public Meeting was called to order at 1:30 p.m. by Chair Barbara Evans. Also present were Commissioners Michael Kennedy and Fern Hart, Clerk and Recorder/Treasurer, Vickie Zeier, and Deputy County Attorneys Colleen Dowdall and Michael Sehestedt.

#### Public Comment

None.

#### Routine Administrative Actions

Commissioner Hart moved, and Commissioner Kennedy seconded the motion to approve the Weekly Claims List, totaling \$391,007.43. Motion carried on a vote of 3-0.

#### Decision on Request to Vacate Road - Delaney Subdivision

This request was heard at the public meeting on February 25, 1998.

Chairman Evans read County Surveyor Horace Brown's memo stating his approval of the vacation request.

Commissioner Kennedy moved to vacate the GLO road and the Delaney Subdivision road within the Delaney Subdivision. Commissioner Hart seconded the motion. Motion carried on a vote of 3-0.

#### Resolution Relating to General Obligation Bonds for the Missoula County Detention Facility

Jane Ellis, Chief Financial Officer, explained that this was a request for the Commissioners to adopt the resolution calling for sale of \$17.1 million in general obligation bonds for the new detention center. The bond issue was approved by the voters in November, 1996. Bids for the project have been received, and are within the project budget.

Commissioner Hart moved for the Board of County Commissioners to adopt the resolution, and to authorize the Chairman to sign the resolution. Commissioner Kennedy seconded the motion. Motion carried on a vote of 3-0.

At the public meeting, Chairman Evans signed Resolution No. 98-012, a resolution relating to \$17,100,000 General Obligation Bonds, Series 1998; authorizing the issuance and calling for the public sale thereof. Vickie Zeier, Clerk and Recorder/Treasurer, certified that Commissioners Evans, Hart and Kennedy voted in favor of the resolution.

#### Bid - Construction of Missoula County Detention Facility

Mike Sehestedt explained the difference between this item and the previous item.

Chairman Evans read the request, which stated that the jail project staff wished to award the contract for construction of the new Detention Facility to Martel Construction in the amount of \$17,237,000.00, plus the cost of the following approved bid alternates:

Alternate 2	Pneumatic Tube System
Alternate 4	Boiler
Alternate 6	Mechanically Attached Roof System
Alternate 7	Pre Cast Form Liner
Alternate 9	McQuay Chiller

The result of the alternates is an overall reduction of \$1,000.00 to the contract.

Captain Mike O'Hara and Sheriff Doug Chase thanked the Commissioners, staff, and the citizens of Missoula County for their help in this effort.

Terry Kramer of Martel Construction said his firm was pleased to have the contract, and will build the best facility in the state.

#### Sale of Real Property

Chairman Evans read the Notice of Sale of Real Property, which stated that the property for sale at public auction was Lots 25 through 33, Block S, Carline Addition No. 3, Missoula, Missoula County, Montana, located along the north side of Ernest Avenue between Paxson and Schilling Streets. Minimum bid price is the appraised value of \$132,000.00.

Chairman Evans asked if there were any bids or bidders. None were present.

Mike Sehestedt explained that the process now is to list the property with a realtor, since it did not sell at auction.

#### Hearing - Plum Creek Timber Company - Agricultural Exemption

Kathy Smith, Paralegal in the County Attorney's office, gave the staff report.

She explained that this was for consideration of a request to create a parcel using the agricultural exemption for COS 4289 located in Section 1, T13N R21W for Plum Creek Timber Company.

Plum Creek Timber Company has submitted a request to create a 7 acre parcel using the agricultural exemption to the Montana Subdivision and Platting Act. The approximately 27 acre parcel is located in the Big Flat area off Big Flat Road. The road would also serve as a boundary between the parcels which would then be transferred to the YMCA for use as a summer day camp. Only portable sanitation facilities would be in use during approximately two months of the year.

The history of the parcel is as follows: The parcel was previously described as Government Lot 7. Plum Creek acquired this along with numerous other parcels from Champion International. COS 4289 was filed as a retracement survey.

According to the records kept by the Missoula County Surveyor, the applicants have used various exemptions to the Subdivision and Platting Act.

Nick Kaufman, the owner's representative, showed a vicinity map, and explained that the land is not suitable for residential construction. Plum Creek wants the agricultural exemption to separate the 7 acre donation from the 27 acre parcel. The subject property is classified as forest/grazing land.

Pat Dodson, YMCA, explained the YMCA outdoor education program, and said this property will be used for various field trips. Also may be used to set up a "chapel" for the camp, which is a worthwhile program.

Commissioner Kennedy asked Nick Kaufman about the road dividing the parcels. Kaufman explained the two previous surveys, and said Plum Creek will use the remainder for forest land or grazing.

David Loomis, OPG, asked about the floodplain location.

Commissioner Hart proposed to grant the exemption, but with two conditions: (1) no permanent structures or improvements be allowed; and (2) in the event it is no longer used as a camp, title will pass to Missoula County.

Nick Kaufman explained that the land is zoned C-A1, for no residences. It seems to be within the law, according to Kathy Smith's memo. He can't see how passing the land to Missoula County could work.

Mike Sehestedt said the Commissioners just wanted to make sure the property does not become a separate piece if the camp moves.

Further discussion of the validity of passing the property to Missoula County ensued, with Commissioners Hart and Kennedy supporting, and Nick Kaufman and Pat Dodson opposing.

Colleen Dowdall said that since the land is wholly in the floodplain, she believed it could not be subdivided because of sanitary restrictions. The agricultural exemption works because you cannot have sanitary facilities on an agricultural parcel.

Chairman Evans commented on Kathy Smith's memo. She said the parcel meets the forest category...is a stretch to call this an agricultural exemption, but the County should not receive the property if it is not used as a camp. It can be protected by not lifting the agricultural exemption. She supports the exemption, based on legal opinion.

Commissioner Hart moved to approve the request to create a parcel using the agricultural exemption for COS 4289 located in Section 1, T13N R21W for Plum Creek Timber Company, with two conditions (1) no permanent structures or improvements be allowed; and (2) in the event it is no longer used as a camp by YMCA or a successor, title will pass to Missoula County.

Commissioner Kennedy seconded the motion. Motion carried with a vote of 2-1. Commissioner Evans opposed.

#### Hearing - Request to Vacate Northerly 50' of Beckwith Street, Block 2 (Frenchtown)

Vickie Zeier explained that this was a petition to vacate "The Northerly 50.0 feet of Beckwith Street adjacent to Lots 20 & 21, Block 2, Townsite of Frenchtown."



The reasons for the request are as follows:

1. The Right of Way due West in front of the Alcan Bar has been abandoned. This property would fall in line with what has been done previously.
2. The building at 16859 Beckwith extends into the County right of way.

The following landowners have been notified: Bertha Lindback, Tom Porter.

George Sherwood, owner of the property, said he wanted to vacate it because a building encroaches onto the County ROW.

Chairman Evans opened the public hearing. As there were no comments, the hearing was closed. She explained that a decision regarding this issue would be made at the March 11, 1998 Public Meeting.

Colleen Dowdall explained the vacation process.

#### Hearing - Baumgardner Lots 7B-1 and 7B-2

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

The applicant is proposing to split Baumgardner Lot 7B, a 5.9 acre parcel, into two lots of 2.95 acres each. This is a second summary subdivision of the parcel, which requires a public hearing by the Planning Board and the Missoula County Commissioners. The property is located on South Canyon Drive in Seeley Lake. Lot 7, an 11.8 acre parcel was created in 1973 by Certificate of Survey 103. Lot 7 was divided into two 5.9 acre parcels through approval of Baumgardner Lots 7A and 7B Subdivision in December 1995. The current proposal is to further divide Lot 7B into Lots 7B-1 and 7B-2 as shown on the proposed plat.

### RECOMMENDATIONS

The Missoula Consolidated City-County Planning Board held a public hearing on February 17, 1998 to make a recommendation on this subdivision request to the governing body. The Planning Board made the following recommendations:

1. The Planning Board voted 7-0 to recommend **approval** of 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.
2. The Planning Board voted 7-0 to recommend **approval** of the variance request from Section 3-2 of the Missoula County Subdivision Regulations for South Canyon Drive to vary from the required 24 foot width to a 22 foot width, based on the findings of fact set forth in the staff report.
3. The Planning Board voted 7-0 to recommend **approval** of the **Baumgardner Lots 7B-1 & 7B-2 Second Summary Subdivision**, based on the findings of fact in the staff report and subject to the conditions in the staff report.

Ron Ewart, the developer's representative, explained the subdivision, the new driveway location, and the home locations. He expressed concern over condition 3, stating that the fee is typically only for the new lot, not for both lots.

Commissioner Hart moved to approve the following variance requests:

1. 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.
2. The variance request from Section 3-2 of the Missoula County Subdivision Regulations for South Canyon Drive to vary from the required 24 foot width to a 22 foot width, based on the findings of fact set forth in the staff report.

Commissioner Kennedy seconded the motion. Motion carried on a vote of 3-0.

Commissioner Hart moved to approve **Baumgardner Lots 7B-1 and 7B-2, Second Summary Subdivision**, based on the findings of fact and conclusions of law set forth in the staff report, and subject to the following conditions:

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 the assent of the lot owner to waive the right to protest a future RSID/SID for improvements to South Canyon Drive, 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, Staff recommendation.*
2. The Fire Standards section of the proposed covenants shall be amended prior to plat filing to include a driveway maintenance plan to be approved by the Seeley Lake Rural Fire District. *Subdivision Regulations Articles 3-2(6) and 3-1(B), Staff recommendation.*
3. The developer shall contribute \$100.00 per NEW lot to the Seeley Lake Rural Fire District prior to plat filing. *Subdivision Regulations Article 3-7, Seeley Lake Rural Fire District recommendation.*
4. 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 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), Staff recommendation.*

5. Covenants related to wildlife, fire standards, or air quality shall not be amended or deleted without governing body approval. *Subdivision Regulations Article 3-1(1), Staff recommendation.*

Commissioner Kennedy seconded the motion. Motion carried on a vote of 3-0.

There being no further business to come before the Board, the Commissioners were in recess at 2:45 p.m.

**THURSDAY, MARCH 5, 1998**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was in Helena attending a Statewide TMDL Advisory Group meeting. In the forenoon, Commissioners Evans and Hart, together with Mayor Kadas, Governor Racicot, and other dignitaries, participated in the groundbreaking ceremony for the Partnership Health Center.

ADMINISTRATIVE MEETING

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

Resolution - The Commissioners signed Resolution No. 98-013, a resolution to abandon two road rights-of-way in the Delaney Subdivision in Lolo.

Amendment - The Commissioners signed Amendment #1 to County Construction Agreement NH 0002(264) for North Reserve Street, wherein the County agrees to commit an additional \$44,383.00 of federal CTEP funds toward the project, and the County will contribute \$6,880.00 in local funds as the necessary match for the CTEP funds. The Amendment was returned to Horace Brown, County Surveyor, for further handling.

Professional Services Contracts - The Commissioners signed three Professional Services Contracts:

- (1) with the Missoula AIDS Council, to perform HIV prevention work that has been defined as high priority by a community planning process, and authorized by the Montana DPHHS. Performance schedule is from January 1, 1998 through December 31, 1998. Compensation shall not exceed \$27,720.00.
- (2) with the YWCA of Missoula, to perform HIV prevention work that has been defined as high priority by a community planning process, and authorized by the Montana DPHHS. Performance schedule is from January 1, 1998 through December 31, 1998. Compensation shall be \$1,799.00.
- (3) with the Blue Mountain Clinic, to perform HIV prevention work that has been defined as high priority by a community planning process, and authorized by the Montana DPHHS. Performance schedule is from January 1, 1998 through December 31, 1998. Compensation shall be up to \$2,380.00.

All three contracts were returned to the Health Department for further handling.

Budget Transfer - The Commissioners adopted a budget transfer for Youth Court; \$5,000 from Court Ops. Contingency transferred to Youth Drug Court - Federal Grant, for the FY 98 budget.

Resolutions - The Commissioners signed three Budget Amendment Resolutions:

- (1) Resolution No. 98-014, a budget amendment for Youth Drug Court - Federal Grant, revenue in the amount of \$138,125.00.
- (2) Resolution No. 98-015, a budget amendment for Youth Drug Court - Board of Crime Control Grant, expenditures and revenue in the amount of \$34,264.37.
- (3) Resolution No. 98-016, a budget amendment for the Sheriff's Department, expenditures and revenue in the amount of \$14,350.00, for a traffic records grant.

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

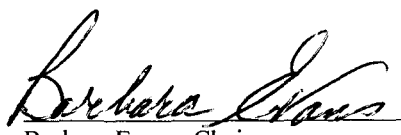
**FRIDAY, MARCH 6, 1998**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was in Pablo attending a Salish-Kootenai Environmental Conference.

In the forenoon, Commissioner Hart accompanied County Surveyor Horace Brown on a site inspection for the request to vacate the northerly 50 feet of Beckwith Street, Block 2 in Frenchtown.

Monthly Report -- Chairman Evans examined, approved, and ordered filed the Report of the Clerk of District Court, Kathleen Breuer, for the month of February, 1998.

  
Vickie M. Zeier  
Clerk & Recorder

  
Barbara Evans, Chairman  
Board of County Commissioners

**MONDAY, MARCH 9, 1998**

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

**TUESDAY, MARCH 10, 1998**

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

Monthly Report -- Chairman Evans examined, approved, and ordered filed the Report of the Sheriff, Douglas Chase, for the month ending February 27, 1998.

ADMINISTRATIVE MEETING

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

Payroll Transmittal Sheet - The Commissioners signed a Payroll Transmittal sheet for Pay Period 5, with a total Missoula County payroll of \$609,709.10. The sheet was returned to the Auditor's Office.

Resolution - The Commissioners signed Resolution No. 98-017, a resolution of intention to create Rural Special Improvement District No. 8037, for maintenance and utility cost of existing street lights in the Eastview Acres subdivision (East Missoula). The resolution was returned to Jesse Sattley, RSID Coordinator, for further handling.

Agreement - The Commissioners signed an interlocal Agreement between agencies involved in the regulation of outdoor burning in Missoula County, to cooperate in outdoor burning permit issuance and enforcement. The Agreement was returned to Shannon Therriault at the Health Department for further signatures and handling.

Listing Contracts - The Commissioners signed three Standard Listing Contracts with Lambros Real Estate:

- (1) for sale of the County Shops land at 3085/3095 Stockyard Road, for \$2,635,000.00.
- (2) for sale of the vacant lot at the Pepsi Warehouse on Ernest Avenue, for \$132,000.00.
- (3) for sale of the Lennox Hotel, 300-306 West Broadway, for \$330,000.00.

One set of originals was returned to Lambros Real Estate, and one set is in Commissioners' files.

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

**WEDNESDAY, MARCH 11, 1998**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was out of the office March 11 and 12 for personal business.

Audit List -- The Commissioners signed the Audit List, dated March 10, 1998, pages 2-43, with a grand total of \$296,213.38. The Audit List was returned to the Accounting Department.

Indemnity Bond -- Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming Best Foundation as principal for Warrant #C020672 issued 11/6/97 on the Missoula County Claims Fund in the amount of \$510.00 now unable to be found.

PUBLIC MEETING -- March 11, 1998

The Public Meeting was called to order at 1:30 p.m. by Chair Barbara Evans. Also present was Commissioner Fern Hart, County Surveyor Horace Brown, Clerk and Recorder/Treasurer, Vickie Zeier, and Deputy County Attorneys Colleen Dowdall and Michael Sehestedt.

Public Comment

None.

Routine Administrative Actions

Commissioner Hart moved, and Commissioner Evans seconded the motion to approve the weekly claims list in the amount of \$296,213.38. Motion carried on a vote of 2-0.

Decision on Vacation Request - Beckwith Street - Frenchtown

This request was heard at the public meeting on March 4, 1998.

Horace Brown explained that the request was in line with the right-of-way vacated in the past. He notified Jim Weaver at the Montana Department of Transportation of the intent, and received no response. He recommends the vacation.

Commissioner Hart said there was a letter in the file from the State about an earlier vacation in this area being OK in 1938.

Commissioner Hart moved to vacate the northerly 50.0 feet of Beckwith Street, adjacent to Lots 20 and 21, Block 2, Townsite of Frenchtown, as this is in line with what has been vacated previously, and the building at 16859 Beckwith extends into the County right-of-way. Commissioner Evans seconded, and the motion carried on a vote of 2-0.

Bid Award - Well #4 and Water Main Extension Project - RSID 901

Commissioner Hart explained that this was a bid award for the Lolo RSID 901 Well #4 and Water Main Extension project. She read into the record the bids received:

Garden City Plumbing and Heating	\$175,793.45
Doug Crockett Excavating	\$182,477.42

AAA Construction	\$193,057.25
Rapid Excavating	\$196,181.41
Keeney Construction	\$198,549.00
4G Plumbing and Heating	\$199,213.50
Green Diamond Contracting	\$200,029.86
Embe Contracting	\$218,718.00
Nelcon, Inc.	\$226,700.50
Fletcher Excavating	\$266,729.24
LS Jensen and Sons	\$267,585.00

The recommendation of Druyvestein, Johnson and Anderson, and the Board of Advisors of RSID 901 is to award the bid to Garden City Plumbing and Heating, as the lowest and most qualified bidder.

Commissioner Hart moved to award the bid for the Lolo Well #4 and Water Main Extension Project to Garden City Plumbing and Heating in the amount of \$175,793.45, as it is the lowest and best bid.

Commissioner Evans seconded, and the motion carried on a vote of 2-0.

#### Family Transfer - Hall

Kathy Smith, Paralegal in the County Attorney's office, gave the staff report.

This is a request to create a parcel using the family transfer exemption for a parcel described in Book 430 Micro, Page 727 located in Section 3, T14N R21W for Roger D. and Paula Hall.

Roger and Paula Hall have submitted a request to create a parcel and a remainder using the family transfer exemption to the Montana Subdivision and Platting Act. The parcel is approximately 160 acres in size and Southwest of Frenchtown and intersected by the Clark Fork River. Mr. and Mrs. Hall propose to create a 123.06 acre parcel for transfer to their adult daughter, Rhonda K. Walker. The Halls currently reside on the proposed remainder parcel.

The history of the parcel is as follows: The parcel consists of Government Lots 3 and 4 and the S½ NW¼ which amounts to approximately 1/4 section. The Halls purchased the parcel in November 1994.

According to the records kept by the Missoula County Surveyor, the applicants have not used any exemptions to the Subdivision and Platting Act as described above.

Chairman Evans opened the public hearing.

Greg Martinsen said the Halls were present, and Commissioner Hart asked to speak with them.

Roger Hall said he has a home on the property, and his younger daughter will be moving to the property.

There being no further comments, Chairman Evans closed the public hearing.

Commissioner Hart moved to approve a family transfer exemption for a parcel described in Book 430 Micro, Page 727 located in Section 3, T14N R21W for Roger D. and Paula Hall, as it does not appear to be an attempt to evade the Montana Subdivision and Platting Act.

Chairman Evans seconded, and the motion carried on a vote of 2-0.

#### Family Transfer - Knight

Kathy Smith, Paralegal in the County Attorney's Office, gave the staff report.

This is a request to create a parcel using the family transfer exemption for Parcel B, COS 3272 located in Section 12, T12N R18W for Arthur C. and Lerita A. Knight.

Arthur and Lerita Knight have submitted a request to create a parcel and a remainder using the family transfer exemption to the Montana Subdivision and Platting Act. The parcel is 13.77 acres in size and located near Turah off Ocean View Drive and Turah Road and South of Highway 93. Mr. and Mrs. Knight propose to create a 1 acre parcel for transfer to their adult daughter, Melissa Marie Henthorn.

The history of the parcel is as follows: COS 1078 was filed in February, 1977 as an occasional sale and remainder parcel. COS 1185 was filed in July, 1977 creating two parcels greater than 20 acres in size and a remainder. COS 3120 was filed in October, 1984 creating an occasional sale and remainder parcel. The Knights purchased Parcel 1, COS 3120 in October, 1984 and filed COS 3272 in December, 1985 relocating the boundaries between Parcel 1 and Tract A, COS 1185.

According to the records kept by the Missoula County Surveyor, the applicants have used the exemption to the Subdivision and Platting Act as described above.

Chairman Evans opened the public hearing.

Rob Henthorn, husband of Melissa Henthorn, said they have a doublewide trailer on the land. They eventually want to build a home there.

Chairman Evans closed the public hearing.

Commissioner Hart moved to approve a family transfer exemption for Parcel B, COS 3272 located in Section 12, T12N R18W for Arthur C. and Lerita A. Knight, as it does not appear to be an attempt to evade the Montana Subdivision and Platting Act.

Commissioner Evans seconded, and the motion carried on a vote of 2-0.

The Board of County Commissioners recessed, and convened as the Planning and Zoning Commission.

Hearing - Citizen-initiated Zoning District in Seeley Lake

Jennie Dixon of the Office of Planning and Grants gave the staff report.

The property owners within Seeley Lake Estates #1, 2 and 3, represented by attorney John Sytsma, have presented Missoula County with a petition signed by at least 60% of the freeholders to create and apply a citizen-initiated zoning district to this area. Title 76, Chapter 2, Part 1 of Montana Code Annotated allows for the creation of citizen-initiated zoning districts on forty (40) acres or more, when deemed by the County Commissioners to protect public health, safety, and general welfare. This statute requires that sixty percent (60%) or more of the freeholders affected must sign a petition in order to create a citizen-initiated zoning district.

Seeley Lake Estates subdivisions #1 and #2 were approved in 1966 and 1968, respectively. Seeley Lake Estates #3, was a re-subdivision of Lot 22, Seeley Lake Estates #2, approved in 1988. There are no recorded covenants or deed restrictions for these subdivisions. Seeley Lake is currently unzoned, and the petitioners have proposed a zoning district which generally allows for residential uses on existing lots and prohibits any type of commercial activity. County staff reviewed the proposed district and suggested some modifications to eliminate legal conflicts and to meet goals and objectives supported by the 1989 Seeley Lake Comprehensive Plan Amendment. The recommended modifications are shown in Attachment C and are discussed in more detail in the Findings of Fact. In general, staff supports the district as proposed by the citizens of Seeley Lake Estates #1, 2 and 3, with the addition standards addressing four areas of concern: Wildland/Residential Interface, Road Standards, Riparian Area Standards and Hillside Standards.

**IV. ZONING FINDINGS OF FACT**

The staff recommendation to support the zoning district was made after consideration of the following findings of fact:

1. Whether the zoning is compatible with the Comprehensive Plan

Findings of Fact: Attachment D shows the 1975 Missoula County Comprehensive Plan land use designations for this area. The majority of the area is designated as Suburban Residential (two dwelling unit acre), with a small area on the southeastern end designated as Rural Medium Density Residential (one dwelling unit per five acres). In addition, the western portion (generally Blocks 1 and 2 of Seeley Lake Estates #1) is within the Seeley Lake Activity Circle. This plan, however, was amended by the 1989 Seeley Lake Comprehensive Plan Amendment. The 1989 Amendment did not provide specific land use recommendations, but instead it provides a set of goals and objectives prepared by the citizens of the Seeley Lake area in conjunction with the Seeley Lake Community Council.

The 1989 Amendment notes that there is an abundance of land for single family residential use adjacent to the town of Seeley Lake. It encourages multifamily residential, retirement centers, nursing homes, etc., that are carefully integrated into the existing neighborhood (p. 10). The proposed district allows only single family residential and community residential facilities and day care homes pursuant to MCA §76-2-401 through 76-2-412. The Plan Amendment states that a careful analysis of the needs of the community should be conducted to minimize the mixing of commercial and residential uses (p. 10). The intent of this district is to prohibit any future commercial uses. There is currently at least one property operating as a commercial business - Stine Electronics on Lot 8, Block 3, Seeley Lake Estates #1; however, according to the County Assessor's Records, this property is taxed as residential. There may also be other commercial activity that is not initially obvious.

The 1989 Amendment specifically identified goals for fire and emergency services (p. 22), since wildfires are a threat to Seeley Lake and the surrounding area. Staff has proposed modifications to the zoning district to include several ways to protect from fire hazards, and these are contained in Section VI "Development Standards". Specifically, Section A. (Wildland/Residential Interface Standards) and Section B. (Road Standards) attempt to provide minimum standards for road and building construction that will protect people and structures in the event of a fire.

Maximum road and driveway grades not only provide better emergency service access, but can alleviate some air quality problems caused by driving on steeper grades. Therefore, staff has suggested that new roads or driveways be constructed at no more than eight percent (8%) grade, where a ten percent (10%) grade may be maintained for lengths not to exceed fifty feet (50').

Staff recommended the inclusion of Standards for Areas of Riparian Resource in this district, consistent with the Missoula County's Subdivision Regulations. The 1989 Amendment recognized the need to enhance and protect existing wildlife habitat, with preservation of existing vegetation as a primary means to enhance wildlife habitat (p. 22). This is a primary function of riparian areas. There are some significant areas of riparian resource in this area that can and should be protected while still allowing for full use of each lot.

In addition, since water quality was identified as the primary concern of residents, property owners and visitors, the Seeley Lake Community Council set goals to protect the watersheds of the Seeley Lake Area (p. 4). Landform grading, which is recommended wherever slopes greater than 10% have been disturbed, can help to prevent erosion which could degrade water quality. This is a contour grading method that creates artificial slopes with curves and varying slope ratios designed to simulate the appearance, and thus the natural slopes, of the surrounding terrain.

Conclusion of Law: The proposed zoning district is in compliance with the recommended land use designations of the 1975 Missoula County Comprehensive Plan. Staff has recommended the addition of development standards addressing four areas of concern: Wildland/Residential Interface, Road Standards, Riparian Area Standards and Hillside Standards (see Section VI. DEVELOPMENT STANDARDS in Attachment C). These modifications bring the district more into compliance with some of the goals and objectives stated in the 1989 Seeley Lake Comprehensive Plan Amendment. The 1989 Plan Amendment sought to protect wildlife areas, water resources, air quality, road infrastructure, and human and structure safety from fire, among other things. These recommended Development Standards are appropriate for this zoning district since nearly 40% of the lots in these subdivisions are still vacant. Future development on these vacant lots can be designed to protect basic human safety and natural resources with the addition of the recommended development standards.

2. Whether the zoning will lessen congestion in the streets

Findings of Fact: No new lots are proposed with this zoning request. This zoning district merely states that each lot may contain a single residence, and no commercial activity is allowed. The addition of a second residence on a lot (for lease or rent) or an actual division of land to accommodate another home would require subdivision review, and thus impacts on streets, roads and traffic circulation would be evaluated at that time. The land uses allowed in this zoning district are in compliance with the land use designations of the 1975 Missoula County Comprehensive Plan.

Conclusion of Law: Zoning the property as proposed should not increase the potential for added traffic in the area, and in fact it may reduce traffic since commercial activity would be prohibited.

3. Whether the zoning will secure safety from fire and other dangers

Findings of Fact: This area is not within the building permit jurisdiction; however, the state must issue plumbing and electrical permits for any construction.

Access requirements for emergency fire apparatus are addressed in the proposed modifications to the zoning district (see Section VI. B. Road Standards in Attachment C and discussion under Finding of Fact #1).

Conclusion of Law: Law enforcement personnel and procedures are available to address potential problems of noise, property damage, or personal injury which may threaten public safety.

4. Whether the zoning promotes the health and general welfare

Findings of Fact: FEMA map #740 does not indicate any floodplain areas within this area proposed for zoning; however, areas of riparian resource are present, particularly along Trail Creek which runs north/south through the subdivision.

5. Whether the zoning provides adequate light and air; AND
6. Whether the zoning will prevent overcrowding of the land; AND
7. Whether the zoning will avoid undue concentration of population

Findings of Fact: Proposals for space and bulk standards were not included in the petition for zoning. Staff pointed this absence out to the representative of the citizen but did not necessarily recommend for the inclusion of such things as setbacks, maximum height, and minimum lot size. Lot sizes within the proposed district range from approximately two to five acres, except Lots 22A and 22B of Seeley Lake Estates #3 which are each 1.2 acres. The lots in this subdivision were approved in the mid-1960's, except for Lots 22A and 22B of Seeley Lake Estates #3 which were created in 1988.

Conclusion of Law: This zoning should not adversely impact the provision of adequate light and air, nor will it result in the overcrowding of the land or undue concentration of population.

8. Whether the zoning facilitates the adequate provision of public services

Findings of Fact: The property will be serviced by Mountain Water and City of Missoula sewer system, and other public services, such as police, fire, ambulance, trash pickup, telephone, TV, gas & electric, are available to the site. Emma Dickinson School is within a half-mile of the site. None of the review agencies consulted have identified any concerns about their ability to provide adequate services to the site that have not been mitigated through recommended conditions of either zoning or subdivision.

Conclusion of Law: The zoning facilitates the adequate provision of public services.

9. Whether the zoning gives reasonable consideration to the character of the district

Conclusion of Law: The character of the design of new structures and overall site development is compatible in scale and form with the surrounding neighborhood. The PUD rezoning will give reasonable consideration to the character of the area.

10. Whether the zoning gives consideration to the peculiar suitability of the district for the particular uses

Findings of Fact: The Seeley Lake Estates subdivisions were approved as residential subdivisions.

Conclusion of Law: Given that the zoning district complies with the land use designation of the 1975 Missoula County Comprehensive Plan, and the suggested modifications to the zoning district bring it more into compliance with the goals and objectives stated in the 1989 Seeley Lake Comprehensive Plan Amendment, the zoning request appears suitable.

11. Whether the zoning was adopted with a view toward conserving the value of the buildings

Findings of Fact: The proposed zoning district prohibits commercial activity in this residential subdivision.

Conclusion of Law: Since commercial activity can be accompanied by increased traffic, noise, and unregulated outdoor storage, this zoning may increase the property values in this district.

12. Whether the zoning will encourage the most appropriate use of land throughout the municipality

Findings of Fact: The zoning proposal, with staff's recommended modifications, complies with the comprehensive plan for this area.

Conclusion of Law: The creation and application of this citizen-initiated zoning district will encourage the most appropriate use of land in Missoula County.

Jennie Dixon explained that a public hearing was originally scheduled for January 7, 1998, but because there was opposition sufficient enough to defeat the zoning, the hearing was canceled. The County Attorney's office later advised that a public hearing is necessary to allow sufficient opportunity for public comment. **OPG recommends to the Planning and Zoning Commission that this zoning not be adopted.**

Chairman Evans opened the public hearing. As there were no comments, she closed the hearing.

Horace Brown asked about the intent of the zoning, and Jennie Dixon explained that it was intended to exclude commercial activity, but the activity would have fallen outside the zoning boundary.

Commissioner Hart moved that the Planning and Zoning Commission deny the petition to create a planning and zoning district for property described as Seeley Lake Estates 1, 2, and 3, for the purpose of allowing single-family residential dwellings and prohibiting commercial activity in this subdivision.

Vickie Zeier seconded, and the motion carried on a vote of 4-0.

The Planning and Zoning Commission recessed, and the Board of County Commissioners reconvened.

Commissioner Hart moved that the Board of County Commissioners deny the petition to create a planning and zoning district for property described as Seeley Lake Estates 1, 2, and 3, for the purpose of allowing single-family residential dwellings and prohibiting commercial activity in this subdivision.

Commissioner Evans seconded, and 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 2:20 p.m.

**THURSDAY, MARCH 12, 1998**

The Board of County Commissioners met in regular session; a quorum of members was present. In the evening, Commissioner Hart attended an Air Pollution Control Board Hearing regarding Stone Container, held at the Missoula City Council Chambers; and Commissioner Evans attended a Yellowstone Pipeline Information Meeting held at the Boone and Crockett Club.

ADMINISTRATIVE MEETING

At the administrative meeting held in the forenoon, the following item was signed:

Proposal and Agreement - Chairman Evans signed a Proposal and Agreement with D.A. Davidson and Co. to provide Financial Advisor services for the Jail bond sale.

Other items included:

- 1) The Commissioners approved a request to continue the grant for District Court Case Manager.

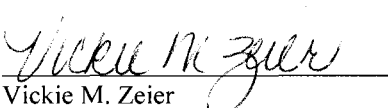
The minutes of the Administrative Meeting are on file in the Commissioners Office.

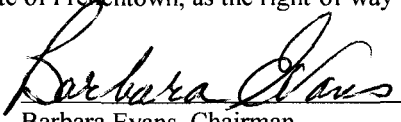
**FRIDAY, MARCH 13, 1998**

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

No administrative meeting was held; however, the following items were signed:

Resolution - The Commissioners signed Resolution No. 98-018, a resolution to vacate the Northeasterly 50 feet of Beckwith Street adjacent to Lots 20 and 21, Block 2, Townsite of Frenchtown, as the right-of-way is not needed.

  
Vickie M. Zeier  
Clerk & Recorder

  
Barbara Evans, Chairman  
Board of County Commissioners

MONDAY, MARCH 16, 1998
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The Board of County Commissioners met in regular session; all three members were present. In the afternoon, the Commissioners participated in the groundbreaking ceremonies for the new detention facility.

PUBLIC HEARING - March 16, 1998

The public hearing was called to order at 7:10 pm by Acting Chair Fern Hart. Also present were Commissioner Michael Kennedy and Deputy County Attorney Mike Sehestedt, as well as the Seeley Lake Community Council.

Commissioner Hart explained the purpose and procedure of the hearing, which is to receive public comment on a possible transfer of the Seeley Lake Airport from Missoula County to the State of Montana Aeronautics Administration.

Those who spoke in favor of the transfer included:

Dick Lewis, Seeley Lake Fly Club

Bob Wasson, Friends of Seeley Lake Airport

Wade Cebulski

Doug Mood, Rep. of District 58

Rick Brighton, Fly Inn

Their comments expressed that the Missoula County Airport Authority did not adequately maintain the Seeley Airport, and did not take advantage of offers of volunteer labor to assist in maintaining the Airport. Also mentioned was the fact that the Airport is valuable during fire season, and for life safety, as well as having economic benefits.

None spoke in opposition of the transfer.

Mike Ferguson, Administrator of the Aeronautics Division of the Montana Department of Transportation, explained the history of the Seeley Airport, and discussed an increase of \$0.01 per gallon of airplane fuel tax to help the Division maintain the airports it handles. His Division would accept taking over the airport, as the initial cost would only be insurance. If Seeley Lake becomes incorporated at some point, the airport could later be turned over to the local government.

Mike Sehestedt asked if the State would definitely be willing to accept the airport.

Mike Ferguson said yes, they would.

Mike Sehestedt asked about using local groups for management or maintenance of the airport, and Mike Ferguson said yes, but would need to go through review of legal counsel.

Commissioner Kennedy was concerned about funding, and guaranteed financial support.

Mike Ferguson said financial support is limited to \$3000-\$4000 per year, but the State would provide grass seed, fertilizer, etc., and some labor. The State would also try to get the airport into a federal program for funding to accomplish paving.

Commissioner Kennedy asked about hours of operation, and whether or not part of the land being in Powell County complicated matters.

Mike Ferguson said this could be a year-round operation, if the State could contract with the Highway Dept., for example, to plow. The Powell County issue does not complicate things.

Commissioner Hart asked if anyone had heard opposing comments, as there had been a few mentioned in the Seeley Lake Community Council minutes.

Anita Richards, President of the Council, said she hadn't personally spoken to anyone who was concerned - most folks were in support of the transfer. A few months ago, there were concerns about additional traffic.

Commissioner Hart asked about a comment in the minutes referring to "touch and go's," and an increase in landings.

Bob Wasson explained that this is not a "touch and go" airport. It is a one-way airport, with takeoffs to the South, and landings to the North. He said opposing views appear to be limited to an increase in noise, which the pilots can handle.

Peter Van Pelt, Missoula County Airport Authority, said the MCAA endorses the transfer for more local control. The logistics make effective operation of the airport difficult from Missoula. The MCAA gave \$9000 in equipment - tractor, mower, and other equipment - to the Seeley Airport.

Mike Sehestedt indicated that the well that is part of the County Shops complex could keep providing water to the airport, with an agreement written up.

Don Martin, who drilled the well, said it is 600 gallons per hour.

Anita Richards asked that the Council be kept informed of meetings if the transfer takes place. The Flying Club should educate the community on how flying works.

Mike Ferguson said that it would be useful to form an airport advisory committee, with a representative from the Council as a member.



Mike Sehestedt explained the procedure at this point. He will work with the State, and get an equipment list from the MCAA...the issue will be put on a County Commissioners' meeting agenda, and action will be taken. The issue will probably be resolved in 4-6 weeks.

Commissioner Hart said the Commissioners will probably move to approve the transfer, and will give public notice of their intent.

There being no further business to come before the Board, the Commissioners were in recess at 8:12 pm.

**TUESDAY, MARCH 17, 1998**

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

Application for Issuance of Replacement Warrant -- Chairman Evans approved an Application for Issuance of Replacement Warrant naming Bitterroot Property Management as principal for Warrant #324229, issued 1/23/98 on the Missoula County 2270 Fund in the amount of \$355.65, not received in the mail.

Application for Issuance of Replacement Warrant -- Chairman Evans approved an Application for Issuance of Replacement Warrant naming Wendy Bermingham as principal for Warrant #43584, issued 2/27/98 on the Missoula County Payroll Fund in the amount of \$21.77, not received in the mail.

**ADMINISTRATIVE MEETING**

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

Letters - The Commissioners signed letters informing residents of public hearing to consider transfer of County parks to the City of Missoula (Lincolnwood and Bellevue areas). The letters were returned to Brian Maiorano in OPG for further handling.

Lighting Agreement - Chairman Evans signed a Lighting Agreement with Montana Power Company for parking lot lighting for the new Missoula County Regional Jail. Term of the Agreement is for seven years from date hereof, and charges for service are 696.04 per month. The Agreement was returned to Mike O'Hara in the Sheriff's Department.

Resolution - The Commissioners signed Resolution No. 98-019, a Budget Amendment for the Historical Museum, for expenditures and revenue in the amount of \$14,838.00 (IMLS Grant), for the FY 98 Budget.

Bond Counsel Engagement Letter - Chairman Evans signed a Bond Counsel Engagement Letter with Dorsey and Whitney, LLP, for bond services related to the jail bonds. Fee is estimated at \$12,000.00, plus up to \$500.00 in expenses. Approximately \$2,500.00 additional fee will be required to prepare an official statement describing the bonds. The original was returned to Jane Ellis, with a copy to Dorsey and Whitney.

Bidding Consent Letter - Chairman Evans signed a letter consenting to D.A. Davidson's participation as a bidder in the competitive sale of the \$17,100,000.00 in jail GO bonds.

Appointment - The Commissioners appointed George Turman to fill the vacancy in Senate District 32 due to the resignation of Senator Fred Van Valkenburg. The appointment form was forwarded to the Secretary of State in Helena.

Other items included:

- 1) The Commissioners approved a 3.3% pay increase for Hal Luttschwager, increasing his hourly rate to \$26.32 and a 3.3% pay increase for Jane Ellis, increasing her hourly rate to \$27.31.
- 2) The Commissioners approved paying election costs for Seeley Lake and Lolo Community Councils for FY 98, as their budgets do not cover said costs.

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

**WEDNESDAY, MARCH 18, 1998**

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

Audit List -- The Commissioners signed the Audit List, dated March 17, 1998, pages 2-37, with a grand total of \$523,350.25. The Audit List was returned to the Accounting Department.

No administrative meeting was held; however, the following item was signed:

Standard Agreement - Chairman Evans signed a Standard Form of Agreement Between Owner and Contractor with Martel Construction for the Missoula County Detention Center and Juvenile Detention Center project. Date of commencement is March 16, 1998, and date of substantial completion is August 31, 1999. Total contract sum is \$17,236,000.00. A letter from Mike Sehestedt, Deputy County Attorney, was also included, stating the Commissioners' concern with payment of prevailing wage.

PUBLIC MEETING - March 18, 1998

The Public Meeting was called to order at 1:30 pm by Chairman Barbara Evans. Also present were Commissioners Fern Hart and Michael Kennedy, Deputy County Attorneys Mike Sehestedt and Colleen Dowdall, Vickie Zeier, Clerk and Recorder/Treasurer, Horace Brown, County Surveyor, and Hal Luttschwager, Risk Manager.

Public Comment

None.

Routine Administrative Actions

Commissioner Kennedy moved, and Commissioner Hart seconded the motion to approve the weekly claims list in the amount of \$523,350.25. Motion carried on a vote of 3-0.

Consideration of Resolution to Adopt, Revise, or Reject the 1997 Update of the Missoula Urban Comprehensive Plan

Philip Maechling of the Office of Planning and Grants gave a staff report explaining the Growth Management Task Force process. He explained that state law requires a resolution, and that hearings will be held in April by both the City and the County.

Commissioner Hart read the resolution into the record.

Commissioner Hart moved to adopt the Resolution to Adopt, Revise, or Reject the 1997 Update of the Missoula Urban Comprehensive Plan. Commissioner Kennedy seconded, and the motion carried on a vote of 3-0.

Family Transfer - Clifford

Kathy Smith, Paralegal in the County Attorney's Office, gave the staff report.

This is a request to create a parcel using the family transfer exemption for a parcel described in Book 293 Micro, Page 1678 located in Section 11, T14N R22W for Paul Anthony Clifford Jr. and Patricia F. Clifford.

Paul Clifford has submitted a request to create a parcel and a remainder using the family transfer exemption to the Montana Subdivision and Platting Act. The parcel is approximately 40 acres in size and Northwest of Huson in the Six Mile area. Mr. Clifford proposes to create a 10 acre parcel for transfer to his adult son and daughter-in-law, Patrick S. and Lori N. Clifford. The Cliffords currently reside on the proposed remainder parcel.

The history of the parcel is as follows: The parcel is an entire ¼ section less the West 30 feet. The Cliffords purchased the parcel in September 1976.

According to the records kept by the Missoula County Surveyor, the applicants have not used any exemptions to the Subdivision and Platting Act.

Commissioner Hart explained the family transfer process, which is to determine that this is not an attempt to evade the subdivision process.

Paul Clifford, Jr. said his kids plan to live on the property.

Chairman Evans opened the public hearing. As there was no comment, she then closed the hearing.

Commissioner Hart moved to approve a family transfer exemption for a parcel described in Book 293 Micro, Page 1678 located in Section 11, T14N R22W for Paul Anthony Clifford Jr. and Patricia F. Clifford as it does not appear to be an attempt to evade the Montana Subdivision and Platting Act. Commissioner Kennedy seconded, and the motion carried on a vote of 3-0.

Family Transfer - Umphrey

Kathy Smith, Paralegal in the County Attorney's Office, gave the staff report.

This is a request to create a parcel using the family transfer exemption for Tract 10-A, COS 2978 located in Section 33, T14N R20W for David A. and Edwina K. Umphrey.

David and Edwina Umphrey have submitted a request to create a parcel and a remainder using the family transfer exemption to the Montana Subdivision and Platting Act. The parcel is 10 acres in size and located at the intersection of Deschamps Lane and Roller Coaster Road. Mr. and Mrs. Umphrey propose to create a 1 acre parcel for transfer to Mr. Umphrey's parents, Franklin and Frances Umphrey.

The history of the parcel is as follows: Charles Deschamps filed COS 2586 in April 1981 creating 10 parcels greater than 20 acres in size and COS 2978 in December 1983 creating an occasional sale parcel and remainder. Mr. and Mrs. Umphrey purchased Tract 10-A in July 1996.

According to the records kept by the Missoula County Surveyor, the applicants have not used any exemptions to the Subdivision and Platting Act.

Edwina Umphrey said her in-laws will live on the property.

Chairman Evans opened the public hearing. As there was no comment, she then closed the hearing.

Commissioner Hart moved to approve a family transfer exemption for Tract 10-A, COS 2978 located in Section 33, T14N R20W for David A. and Edwina K. Umphrey, as it does not appear to be an attempt to evade the Montana Subdivision and Platting Act. Commissioner Kennedy seconded, and the motion carried on a vote of 3-0.

#### Discussion of Maloney Ranch Phases 3 & 4 Settlement

Mike Sehestedt, Deputy County Attorney, explained that this was discussion of a proposal for the Commissioners to sign a release for settlement on the Maloney Ranch issue. It is a recommendation to adopt the resolution and settlement terms. Sehestedt read the settlement "General Release" into the record.

Chairman Evans opened the hearing for public comment.

Ross Best objected to the process; he thought it should start over with public input. He was denied access to the settlement hearing.

Ron Erickson was concerned with the General Release. He cited a health concern because of the one large cul-de-sac, as well as increased air pollution in the Missoula Valley.

Sue Spanke said the process was not a good one. There will be increased traffic and taxes. The elk herd in the area will be threatened, as will the Bitterroot River.

Melissa Bangs spoke also for her mother, Jeannette Williams. They are concerned about the lack of public process, and also have public health concerns.

Linda Smith said there needs to be a growth management process in place. The settlement doesn't address health issues brought up earlier.

Gerhard Knudsen, a Miller Creek resident, said the health and safety issues, as well as a poor growth pattern, were problems for him.

Judy Smith asked what has changed so that we are now settling, when the subdivision was previously denied. A better public process is needed.

Lee Henson, an area resident, said there are problems in the area with septic and water. A public process needs to happen.

Jim Parker said the process is flawed, and should be started over.

There being no further public comment, Chairman Evans closed the hearing.

Commissioner Kennedy asked Mike Sehestedt if the decision should be delayed based on Ross Best's comments.

Sehestedt said the Supreme Court has yet to decide if a government entity can close a meeting for litigation purposes. We need to focus on the merits of what has been said. Litigation is likely, based on either the process or the settlement.

Commissioner Kennedy said he signed the agreement, regrettably. The subdivision was rejected twice, once in 1996, and then at a rehearing in 1997. The change is that we are now threatened with a high-dollar lawsuit. The original rejections were for sound reasons. Most of the testimony received was negative. The settlement ignores the testimony and the 1990 comp. plan. Property rights are a major issue. He is inclined not to support the settlement.

Commissioner Hart said her position changed because she relies on the County attorneys and staff advice. Also, at a MACo meeting, a MACo attorney reviewed recent cases in Sanders and Ravalli Counties. The attorney said to expect lawsuits, and damages awarded. The Comp. Plan amendment had not been adopted, and she felt the County would lose, with large damages. There are no regulations on electromagnetic fields (EMF) or vehicle miles traveled (VMT). Staff does not have enough information to go to court and win. The County will not be perfect, mistakes will be made.

Chairman Evans said the difference is the reasons for denial were not based on State law or Federal regulations. We need to keep our word this time.

Commissioner Kennedy said that at the second hearing, the Commissioners rejected the subdivision because of VMT and EMF. He explained that the Clinton administration changed the rules for particulates, adding PM2.5 to PM10, which restricts our overall transportation plan. Regarding EMF, the developer says it is not a problem, but Kennedy disagrees with their tests. He read an item from a letter to Pat Keiley, OPG, from WGM Group. We were railroaded into making a bad decision regarding settlement. Frank Gray said to expect lawsuits, which is not frightening to Kennedy. The Planning Board and staff recommended approval of the subdivision, but we should change that - we shouldn't allow technical people to make recommendations to us. The testimony today supports the denial of the subdivision. Attorney Rich Weddle says if the subdivision doesn't meet certain standards, then you are obligated not to approve it.

Commissioner Hart moved that the Board of County Commissioners sign the "General Release" for settlement of the Maloney Ranch issue. Commissioner Evans seconded.

Commissioner Kennedy said the owners/developers of Maloney Ranch will win a legal victory, but at a cost to the community - more pollution, traffic, pressure to build schools, higher taxes. It is a slap to the community who opposes it. There will be problems for wildlife and water deterioration. It is only good for the developer - not the community.

The motion carried on a vote of 2-1 (Commissioner Kennedy opposed).

There being no further business to come before the Board, the Commissioners were in recess at 3:00 pm.

**THURSDAY, MARCH 19, 1998**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was in Portland, Oregon attending an ICBEMP meeting through Friday, March 20.

ADMINISTRATIVE MEETING

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

Lease Agreement - The Commissioners signed a Lease Agreement with Mount Jumbo West Little League for use of the old County Shops site softball fields. Term of the Agreement is from March 1, 1998 through July 31, 1998. Rent for the property is \$1.00.

Resolutions - The Commissioners signed two resolutions:

- (1) Resolution No. 98-020, a Budget Amendment for the Auditor's Department, adding \$31,538.00 to the Life Skills Grant budget.
- (2) Resolution No. 98-021, a Budget Amendment for the Buildings and Grounds Department, including an expenditure of \$4,300.00 to be paid to Facilities Improvement Corp. for an air handling survey at the Health Department. Funds come from the MT Dept. of Environmental Quality.

Professional Services Contract - The Commissioners signed a Professional Services Contract with GMT Consultants, Inc. to provide quality control testing and special inspections for the Missoula County Detention Center. Performance schedule is from March 17, 1998 until completion. Projected cost is \$46,364.00.

Budget Line Item Change - The Commissioners concurred with a request by Horace Brown, County Surveyor, to make changes in the Capital Vehicle Fund to fund the cost of two dump trucks, which will cost more than originally projected because of electronic systems in the trucks. Total available funds would be \$90,000.00 in the Bridge Fund, and \$34,500.00 in the Road Fund.

Resolution - The Commissioners signed Resolution No. 98-022, a resolution of intent to adopt, revise or reject the 1997 update of the Missoula Urban Comprehensive Plan.

Encroachment Permit - The Commissioners signed a Missoula County Encroachment Permit allowing Scott Cooney of Rocky Rail Services to encroach along Expressway (limited to existing concrete pad and approaches for weigh scale).

Plat and Development Agreement - The Commissioners signed the plat and development agreement for Jordan Ranch Tracts, Lots 64B-1 and 64B-2, a minor subdivision plat located in the E1/2 of Section 29 and the W1/2 of Section 28, T13N R15W, PMM, Missoula County, a net and gross area of 21.20 acres, with the owners of record being Geoffrey R. and Melodie K. Oriet.

Policy Addendum - The Commissioners signed an Addendum to Policy 88-A, the Missoula County Travel Policy, increasing in-state per diem rates to:

Breakfast	\$5.00
Lunch	\$6.00
Dinner	\$12.00

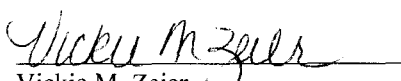
Other items included:

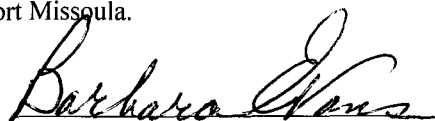
- 1) The Commissioners approved transferring \$20,000.00 from the contingency fund to Building Maintenance because of costly air conditioner replacements in Information Services and the Annex basement.

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

**FRIDAY, MARCH 20, 1998**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Hart attended a Mental Health Board meeting at Fort Missoula during the day, and later in the afternoon, she attended the open house and dedication of CDC's new office addition at Fort Missoula.

  
Vickie M. Zeier  
Clerk & Recorder

  
Barbara Evans, Chairman  
Board of County Commissioners

**MONDAY, MARCH 23, 1998**

The Board of County Commissioners did not meet in regular session; Commissioners Hart and Kennedy were in Helena, where they attended a MACo Budget and Finance/DOR Liaison Committee meeting held at the MACo office in the forenoon, and a Juvenile Detention meeting in the afternoon. Commissioner Evans was out of the office March 23 and 24.

**TUESDAY, MARCH 24, 1998**

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 item was signed:

Letter of Agreement - Chairman Evans signed a 1998 Letter of Agreement with the Missoula County Board of Trustees for Museums and the United Peoples Foundation for the purpose of conducting a Powwow on the Historical Museum grounds. Dates of use are August 5-11, 1998. Value of the Agreement is \$500.00.

Other items included:

- 1) The Commissioners discussed a proposal for engineering services for the Goodan-Keil ramp plans and specifications. Action was postponed until April 2, 1998.

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

**WEDNESDAY, MARCH 25, 1998**

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

Audit List -- Commissioners Hart and Kennedy signed the Audit List, dated March 23, 1998, pages 2-28, with a grand total of \$187,326.77. The Audit List was returned to the Accounting Department.

Indemnity Bond -- Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming Pyramid Printing as principal for Warrant #321381 issued 11/19/97 on the Missoula County Health (2271) Fund in the amount of \$24.50 now unable to be found.

Extension Letter - The Commissioners approved a 180-day extension for filing the preliminary plat for Evan's Ridge, making the new filing deadline October 24, 1998, with a letter to John Kellogg of Professional Consultants, Inc.

PUBLIC MEETING - - March 25, 1998

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Fern Hart, Commissioner Michael Kennedy, County Surveyor Horace Brown, and Deputy County Attorneys Colleen Dowdall and Michael Sehestedt.

PUBLIC COMMENT

Don Stinger spoke on SD2. Chairman Evans suggested that if anyone called her, she would refer them to Mr. Stinger.

ROUTINE ADMINISTRATIVE ACTIONS

Commissioner Kennedy moved, and Commissioner Hart seconded the motion to approve the weekly claims list in the amount of \$187,326.77. Motion carried on a vote of 3-0.

BID AWARD - TRAFFIC LINE PAINT (Road Department)

Chairman Evans explained that this was a bid award for purchase of traffic paint. Bids were opened on March 16, 1998 at 10:00 a.m. in Room 201 with the following results:

Morton International	\$ 25,023.00
Columbia Paint	31,235.00

It was recommended that the bid be awarded to Morton International, as the lowest and best bid.

Commissioner Kennedy moved to award the bid for traffic paint (No 9803-1) to Morton International in the amount of \$25,023.00. Commissioner Hart seconded and the motion carried on a vote of 3-0.

BID AWARD - 2 DUMP TRUCKS (Road Department)

Chairman Evans explained awarding a contract for the single axle dump trucks, Bid #9801-05. She read into the record the bids received:

Northwest Peterbilt	\$135,110.00
Missoula Truck Sales	123,707.36
DeMarois Olds	123,792.00

Commissioner Kennedy questioned reexamining our bid documents. Commissioner Kennedy moved to award the bid for 2 dump trucks to Missoula Truck Sales in the amount of \$123,707.36, as it is the lowest and best bid. Commissioner Hart seconded, and the motion carried on a vote of 3-0.

HEARING - VACATION OF A PORTION OF DUCHARME STREET IN FRENCHTOWN.

Deputy County Attorney Michael Sehestedt explained that this is a petition to alter the portion of Ducharme Street located in Frenchtown, Montana, north of that alley which is parallel to and north of Beckwith Street, to the section line.. The reasons for the request are that the portion to be abandoned is entirely landlocked; the road has not been

maintained by the County for many years, and the portion the petitioners request be abandoned should have been abandoned with previous petitions.

The following landowners have been notified:

Grace Cline

Steve Bidlake

Thomas Porter

BC Enterprises

Bertha Lindback

Chairman Evans postponed action on this until April 1, 1998.

#### HEARING - FAMILY TRANSFER - WILCOX.

Kathy Smith, Paralegal in the County Attorney's office, gave the staff report.

This is a request to create a parcel using the family transfer exemption for COS 1091, located in Section 22, T12N R17W for George E. and Ann J. Wilcox.

George and Ann Wilcox have submitted a request to create a parcel and a remainder using the family transfer exemption to the Montana Subdivision and Platting Act. The parcel is approximately 20.03 acres in size and located off Clown Lane and South of Highway 90 in Clinton. Mr. and Mrs. Wilcox propose to create an approximately 4 acre parcel for transfer to their adult daughter, Diana Mae Wise.

The history of the parcel is as follows: COS 1091 was filed in February 1977, creating a parcel greater than 20 acres in size. The previous owners and the Wilcoxes entered into an agreement to purchase the property in July 1976. The survey and deed were filed together. According to the records kept by the Missoula County Surveyor, the applicants have not used any exemptions to the Subdivision and Platting Act as described above.

Chairman Evans opened the public hearing. Mr. Wilcox said he is giving two acres to a granddaughter and grandson. Chairman Evans closed the public hearing.

Commissioner Kennedy moved to approve a family transfer exemption for COS 1091, located in Section 22, T12N R17W for George E. and Ann J. Wilcox, as it does not appear to be an attempt to evade the Montana Subdivision and Platting Act.

Commissioner Hart seconded, and the motion carried on a vote of 3-0.

#### HEARING - FAMILY TRANSFER - PECKENPAUGH

Kathy Smith gave the staff report.

This is a request to create a parcel using the family transfer exemption and a boundary relocation exemption for Tract 1, COS 4287 located in Sections 36 and 25, T16N R14W for Kiel O. and June Peckenpaugh.

Kiel and June Peckenpaugh have submitted a request to create a parcel and a remainder using the family transfer exemption to the Montana Subdivision and Platting Act. The parcel is 19.93 acres Southeast of Seeley Lake in the area known as Cozy Corners. Mr. and Mrs. Peckenpaugh propose to create a 10 acre parcel for transfer to Mrs. Peckenpaugh's son and daughter-in-law, Robert J. and Edith Baker. Further, they propose to relocate the boundaries between COS 4287 and 360 acres located in section 36, also owned by the Peckenpaughs, making the approximate one acre located south of Woodworth Road a part of the 360 acres. The Peckenpaughs reside and operate a bed and breakfast in the northerly corner of COS 4287 and the Bakers, who own the Cozy Corners Steak House located adjacent to the subject property, wish to relocate the business to the property owned by them, instead of continuing to lease state land.

The history of the parcel is as follows: COS 4287, a retracement survey, shows the 360 acres in Section 36 and various other parcels in Section 25 were all created in December 1978 by deed as parcels greater than 20 acres in size. The Peckenpaughs purchased COS 4287 in January 1994 and the property located in section 36 in October 1993.

Chairman Evans opened the public hearing. Mr. Peckenpaugh said he knew why he was present and just "please". Chairman Evans closed the public hearing.

Commissioner Kennedy moved to approve a family transfer exemption and boundary relocation for a parcel described as Tract 1, COS 4287 located in Sections 36 and 25, T16W R14W for Kiel and June Peckenpaugh, as it does not appear to be an attempt to evade the Montana Subdivision and Platting Act.

Commissioner Hart seconded and the motion carried 3-0.

#### HEARING - MIMOSA PLACE

Chairman Evans asked Commissioner Hart to take over as Chair.

Pat Keiley, of Office of Planning and Grants, gave the staff report.

Gene Mostad is planning a sixteen unit residential preliminary planned subdivision for lease or rent on 10.06 acres. The project is located on the southwest corner of S Third W and Howard Streets. The Missoula County Board of Adjustments approved a special exception use permit allowed for eight duplexes on this property two months ago. The special exception use permit allowed the use of duplexes on this property and the applicant is proposing sixteen

units consisting of eight duplexes. This was the same plan as was approved as by the Missoula County Board of Adjustments two months ago. The existing zoning is CRR2 and the 1990 Missoula County Comprehensive Plan update recommend residential as the land use. The Missoula County Planning Board held a hearing on this request on March 3 and their recommendation to the Board of County Commissioners was to approve the proposed Mimosa Place based on findings of fact they made at that public hearing and subject to conditions of approval. The applicant is requesting to change that project to the existing proposal that was previously seen.

The staff recommends approval of the Mimosa Place subdivision with conditions of approval.

Chairman Evans asked if there was anyone to represent the applicant that would like to speak. Ron Ewart of Eli and Associates spoke of the developer's plans. They can conform to all the conditions except 19 and 22. Gene Mostad spoke of the street concerns regarding the loop situation. Chairman Evans asked Mr. Mostad to show on the maps what it is that he doesn't want to do and why he changed to his new proposal. She also asked if these would be for sale or rent and if they would be affordable. They would not be specified as minimal units. They will range from 1200 to 1400 square feet.

Chairman Evans opened the public hearing.

Jackie Christofferson referred to the 12 findings of fact of the Executive Summary that was submitted to the Board of Adjustments of 1/28/98.

Don Stinger, representative of Target Range and Orchard Homes Homeowners Association, explained that the Orchard Homes people felt the Target Range people want more multi-family housing. They are concerned that the septic would be approved for the eight duplexes as they were for the eight single family dwellings.

Stephen Gerrard questioned density. Pat Keiley explained how the density was calculated and how the zoning was affected. Mr. Gerrard questioned the septic system allowed. Colleen Dowdall explained that the septic would have to meet health department specs regardless of the Commissioner's decision.

Sue Mathewson spoke in opposition of building more rental units.

Wally Sept spoke of the By-laws of the Target Range Homeowners allowing one house per half acre. He felt the high density is going to cause a water problem. Multi unit housing will enhance more development in this area.

Don Stinger thanked OPG for the packets he receives regarding Target Range and Orchard Homes development.

Ron Ewart spoke of finding a balance between urban and rural.

Jackie Christofferson spoke again on the violation of the nature of the land.

Wally Sept spoke of saturation and bringing the sewer and annexation to the area. He stated you cannot maintain an area in a semi rural condition when you urbanize it.

Chairman Evans closed the public hearing

Commissioner Kennedy asked Horace Brown what his position was in regards to one access road. Horace Brown said he had no problem with the access but would prefer to keep it a private road. He explained they are trying to keep accesses on Third to a minimum. Commissioner Kennedy also asked if a 60 foot right of way was adequate. Horace Brown explained that it would not work to have 80 feet in just that area and not the rest of Third. Colleen Dowdall said she would be reluctant to do that.

Commissioner Hart stated that Peter Neilsen said the Water Quality District recommended that one well be used and that the system be registered as a public water supply. Ron Ewart stated that the Health Department would follow up on that. Colleen Dowdall said that this was addressed on page 15.

Commissioner Kennedy asked Ron Ewart about the hardship of the land. Commissioner Kennedy wanted the definition of the hardship. Gene Mostad stated that the ditch on the east side of the property that is regulated by the ditch company and coming back out on the street, that the traffic problem would be a hardship.

Chairman Evans explained to the audience that there are certain laws the BCC has to deal with in looking at subdivisions. If they are met, the BCC does not have the arbitrary luxury to say no. In regards to water and sewer, the Health Department does.

Commissioner Kennedy explained that on the ten acre parcel, the developer is allowed to build 20 homes. He further explained that the Target Range/Orchard Homes' homeowners needed to do something about the zoning to keep it the way they mean it to be.

Commissioner Kennedy explained why he could not approve the plan at this time and that the street network needed additional work.

Commissioner Hart moved to approve the variance request. Commissioner Kennedy seconded, and the motion carried on a vote of 3-0.

1. A variance request from Article 3-2(9) for the subdivision to access off of the primary street, South 3rd Street West, as opposed to the secondary street, Howard Street.

Commissioner Hart moved to approve the Mimosa Place Preliminary Plan for lease or rent based on the findings of fact and subject to the conditions in the staff report listed below: Chairman Evans seconded, and the motion carried with a vote of 2-1. (Commissioner Kennedy opposed.)

1. The following statement shall appear on the face of the final plan and in all instruments of conveyance:

"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 any improvements to Mimosa Place, South 3rd Street West and Howard Street, including but not limited to drainage, paving, dust abatement, curb, gutter, sidewalk, and road surface and easement widening, based on benefit, and may be used in lieu of their signatures 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" Articles 3-2 and 3-4, *Missoula County Subdivision Regulations*.
2. The applicant shall place a 1-foot no access strip along South 3rd Street West, except for the location for the intersections with Mimosa Place, to be placed on the final plan and approved by the County Surveyor prior to final plan approval. Article 3-2, *Missoula County Subdivision Regulations*
3. The County Surveyor shall approve the name of the road now called Mimosa Place prior to final plan approval. Article 3-2, *Missoula County Subdivision Regulations*
4. If the previous subdivision, Starview Addition, has been filed, the applicant shall vacate such plat, to be approved by the County Commissioners and the County Surveyor prior to final plan approval. Article 6-2, *Missoula County Subdivision Regulations*
5. Access shall be approved by the County Surveyor prior to final plan approval. The applicant shall pave Mimosa Place to a paved surface width of 24 feet, within a designated 60 foot wide private road easement. The applicant shall enter into a development agreement to agree to provide a 60 foot wide public road easement to the west property boundary in anticipation of future planned growth. If the property is developed without a request, the agreement is null and void. Plans shall be approved by the County Surveyor and OPG prior to final plan approval. Article 3-2, Article 3-1(C), *Missoula County Subdivision Regulations*
6. The following statement shall appear on the face of the final plan and in all instruments of conveyance:

"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, and may be used in lieu of their signatures on an RSID/SID petition. 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. " Articles 3-7(2), *Missoula County Subdivision Regulations*.
7. The applicant shall pay a \$100.00 fee per lot or dwelling unit for the purpose of providing a water supply to the subdivision, to be approved by the Missoula Rural Fire District prior to final plan approval. Article 3-7, *Missoula County Subdivision Regulations, Missoula Rural Fire District Recommendation*.
8. The applicant shall develop a dust abatement plan and provide dust abatement to all roads adjacent to and within the Mimosa Place Subdivision during and through construction of the roads. The dust abatement plan shall be approved by the Health Department prior to final plan approval. Article 3-2, Article 3-1(C) *Missoula County Subdivision Regulations, Staff recommendation*.
9. The applicant shall waive the right to protest petition annexation into the Missoula Urban Transportation District (MUTD), to be approved by MUTD prior to final plan approval. Article 3-2, *Missoula County Subdivision Regulations, Staff Recommendation*
10. The applicant shall designate on the face of the final plan an additional 16,866 square feet of recreation area for a total of 32,866 square feet of recreation area for the residents of the subdivision and designate this area "Recreation Area." The applicant shall designate as recreation area a centrally located recreation area, to be approved by OPG prior to final plan approval. Article 3-5, *Missoula County Subdivision Regulations, Staff Recommendation*
11. The applicant shall record a maintenance agreement document with the County Clerk and Recorder outlining that such recreation area (as required by Condition 10) is to remain as recreation area for the Mimosa Place Preliminary Plan Subdivision residents, and shall be maintained by the owner of the property or his/her successor, and shall not be removed or replaced with another use without the consent of the governing body, to be approved by OPG prior to final plan approval. Article 3-8, *Missoula County Subdivision Regulations, Staff Recommendation*
12. The applicant shall show a 20 foot wide pedestrian public access easement on the face of the final plan and record the easement document with the County Clerk and Recorder outlining this easement, with such easement to be centered along the proposed walkway, extending from the northwest corner of the property to the northeast corner of the property, to the southeast corner of the property. Such easement shall be approved by OPG prior to final plan approval. Article 3-6, Article 3-1(C), *Missoula County Subdivision Regulations, Staff recommendation*
13. The applicant shall install a 5 foot wide asphalt pedestrian Pathway, boulevard style, within the above required 20 foot wide pedestrian public access easement, including the construction of two foot bridges, one at the north end and one at the south end, to provide pedestrian access over the Howard Street irrigation ditch.



The applicant shall install a 5 foot wide asphalt pedestrian Pathway, boulevard style, along the interior side of Mimosa Place connecting to the Pathway along South 3rd Street West and the Pathway along Howard Street. Plans shall be approved by OPG and the County Surveyor prior to final plan approval. *Article 3-2(5), Article 3-1(C), Missoula County Subdivision Regulations, Staff recommendation*

14. The applicant or his/her successor shall maintain the pedestrian pathway system included within the Mimosa Place Subdivision. The applicant shall file a pathway maintenance agreement with the County Clerk and Recorder outlining the pathway maintenance agreement, to be approved by the OPG prior to final plan approval. *Article 3-5), Missoula County Subdivision Regulations, Staff Recommendation*
15. The applicant or his/her successor shall utilize the existing trees or significant other landscaping and install deciduous trees spaced approximately every 30 feet on center, with a minimum 2" caliper diameter at breast height, between the pedestrian pathway and South 3rd Street West and between the pedestrian pathway and Howard Street or a combination of existing , but not in either the South 3rd Street West or Howard Street ditches. The applicant shall file a "boulevard" tree and landscaping installation and maintenance agreement with the County Clerk and Recorder outlining the "boulevard" tree installation/existing landscaping and maintenance responsibilities, to be approved by the OPG prior to final plan approval. *Article 3-1(C), Missoula County Subdivision Regulations, Staff Recommendation*
16. The applicant or his/her successor shall install deciduous "boulevard" trees spaced approximately every 30 feet on center, with a minimum 2" caliper diameter at breast height, within a 7 foot wide designated grass "boulevard" located between the Mimosa Place Street and the pedestrian pathway on both sides of Mimosa Place. The applicant shall file a "boulevard" tree and "boulevard" landscaping installation and maintenance agreement with the County Clerk and Recorder outlining the "boulevard" tree and "boulevard" installation/existing landscaping and maintenance responsibilities, to be approved by the OPG prior to final plan approval. *Article 3-1(C), Missoula County Subdivision Regulations, Staff Recommendation*
17. The owner and/or his successor shall develop a noxious weed control plan, including an initial revegetation plan, and provide ongoing noxious weed control on the Mimosa Place Subdivision property and on adjacent boulevard areas. The plan shall be approved by the Missoula County Weed Control Board prior to final plan approval. *Article 3-1(C), Missoula County Subdivision Regulations, The County Noxious Weed Management Act, 7-22-2152, M.C.A., Staff recommendation.*
18. The Missoula Irrigation District shall approve the plans for the pedestrian and vehicle crossings of the irrigation ditch along Howard Street and South 3rd Street West prior to final plan approval. *Article 3-1(F), Article 3-4, Missoula County Subdivision Regulations, Staff recommendation*
19. The applicant shall enter into a development agreement with the County to extend Mimosa Place to the west property boundary. We will work on the language as to when that would happen and when it would become null and void.

#### HEARING - RIVER WATCH

Pat Keiley, Office of Planning and Grants, gave the staff report. The applicants, Dick and Cindy Lewis and Frank and Geri Netherton, are requesting approval for River Watch, a 15 lot preliminary plat subdivision on 50.6 acres. The property is vacant. The proposed subdivision is located on property between Montana Highway 83 and the Clearwater River and Black Lake. The proposed subdivision property is unzoned. The 1975 Missoula County Comprehensive Plan recommends "Open and Resource, maximum density of 1 dwelling unit per 40 acres. The lots range in size from 1-1/2 to 3 acres but within those lots, there are designated building envelopes. Fish, Wildlife and Parks are comfortable with the corridors provided in the plan, addressing the wildlife issues.

There is still an issue for potential of water to come up onto the property. It is not within the floodplain. The developer and staff have been working on a plan to set back the buildings from the high water mark to decrease the potential of flooding but also preserve this important corridor.

Dick Ainsworth worked with Darin Kaufman of MDT, to determine access points for the roads. There is a certain amount of grading that will have to be done. The applicant is proposing 18 foot roadways with an area of 14 feet, where there would be excessive cuts and fill to make it 24 feet in width. OPG is comfortable with the proposed 18 foot sloping to the narrowed 14 foot roadway. They are comfortable with this because of discussions with the County Surveyor and the Fire District in that area who are both okay with it.

Staff recommends that the road be paved and the planning board agreed.

Dick Ainsworth, Professional Consultants Inc, representing the developers, said that a gravel road with dust abatement would fit the nature of the development more than a paved road.

Chairman Evans asked if this were the same kind of application that they are using elsewhere in Seeley so the Health Department has experience with it.

Ainsworth said yes -Double Arrow Ranch has been using it for years. The other unresolved issue was 15(F). The County Health Department suggested that the property owners be encouraged to install pellet stoves or Class I EPA approved wood stoves.

Chairman Evans opened the hearing for public comment. There was none.

Pat Keiley referenced the paving of the roads again.

Chairman Evans closed the public comments.

Commissioner Hart questioned docks. Colleen Dowdall said the shoreline regs. would apply.

Commissioner Hart asked if this would be a county maintained road. Horace Brown stated it would be a private road.

Commissioner Kennedy asked Colleen Dowdall about the condition regarding the setback distance being 20 feet from the floodplain or 50 feet back from the high water mark, whichever is greater. He asked the question of potential liability on verticals.

Colleen Dowdall had problems with the conditions of the basements and the floodplain setback. There are regulations in place that identify areas of riparian resource and require management plans. In that adoption, it was decided not deal with the jurisdictional area but would deal with the functional area. There are regulations that we do not develop in the floodplain and there is no setback from the floodplain. We do not have any factual basis on which to base our concerns and there could be flooding in the basement. The applicant agreed they would build up to 1 foot above the floodplain elevation and that would resolve the vertical issue. The condition about the set back remains.

Pat Keiley said they were concerned about both issues but that there was not a condition concerning either of them. Rather it deals with accepting the applicant's building envelope.

Commissioner Kennedy questioned the 1-40 land designation and how they used the comprehensive findings to get past the 1 to 40.

Pat Keiley said they needed to look at the actual goals and objectives of the comp plan. They made recommendations that dealt with achieving substantial compliance with these goals and objectives.

Colleen Dowdall said that the plan does clearly state there could be a variety of reasons for the 1 to 40 designation and one is the lack of information or the fact that in 1975 it was not appropriate for development. She has always encouraged staff to look beyond the density recommendation to see how development can be achieved or if compliance could be achieved through particular conditions of approval that support land use designation rather than restrict it to 1 to 40.

David Loomis said that only by use of those specific goals that Pat Keiley outlined was that density question threshold crossed and that the other objectives were achieved by this particular design and this particular instance. This density by itself, without the other objectives, may not have met that test.

Commissioner Kennedy asked that if wildlife corridors were the driver, then why are they seeking a conservation buyer. Pat Keiley said that FWP is comfortable with the corridors as designated. OPG believes that from the comprehensive plan standpoint that the corridors adhere to what the comprehensive plan is trying to achieve in regard to the natural environment and providing for these animals.

In regards to the public access, Pat Keiley asked Colleen Dowdall to explain why is not appropriate for the staff to recommend as a condition that the applicant provide public access along this area. Colleen Dowdall said she recommended no public access, the main question being who would maintain the access and who would protect it as habitat.

Chairman Evans said that one of the major things we care about in this land is the wildlife. It has been her perception that it is less intimidating to the wildlife if they have a gravel or hard packed road with dust abatement than a paved road. If the purpose is dust abatement and dust abatement will be provided, she will have no problems with a graveled road with dust abatement.

There being no further comment, Commissioner Hart moved that the Board of County Commissioners approve the staff and planning board recommendations on all variances and approve a variance request from Article 3(2), Missoula County Subdivision Regulations, to require chip seal. Commissioner Kennedy seconded. Motion carried with a vote of 3-0.

1. Approval of a variance request from Article 3-2, Missoula County Subdivision Regulations, to reduce the River Watch Trail Road required road surface width from 24 feet to an area with a width of 14 feet and an area with a width of 18 feet, based on findings of fact in the variance section.
2. Approval of a variance request from Article 3-2, Missoula County Subdivision Regulations, to reduce the River Watch Trail Private Road Easement Width from 60 to 40 feet, based on findings of fact in the variance section.
3. Approval of a variance request from Article 3-2, Missoula County Subdivision Regulations, to chip seal River Watch Trail Road, based on findings of fact in the variance section.
4. Approval of a variance request from Article 3-3(1)(D)(2), Missoula County Subdivision Regulations, to allow River Watch Trail Road to bisect Lots 1,7,8,9, and 12, based on findings of fact in the variance section.
5. Approval of a variance request from Article 3-2(5), Missoula County Subdivision Regulations, to not provide sidewalk or pedestrian walkways within the subdivision, based on findings of fact in the variance section.
6. Approval of a variance request from Article 3-2(6)(E), Missoula County Subdivision Regulations, to reduce the unobstructed width for the "T" driveway to Lots 4,5 and the "T" driveway to Lots 14,15 from 20 to 12 feet, based on findings of fact in the variance section.
7. Approval of River Watch Preliminary Plat Subdivision, based on the findings of fact in the staff report and subject to conditions.

Commissioner Hart moved that the Board of County Commissioners approve the River Watch Preliminary Plat Subdivision based on the findings of fact and conclusions of law with the recommendations recommended by Staff. Chairman Evans seconded. Motion carried with a vote of 2-1 (Commissioner Kennedy opposed.)

1. The applicant shall place a 1-foot no access strip along Highway No. 83, except for the location for the access points, to be placed on the final plat and approved by the Montana State Highway Department prior to final plat record set sign off. *Article 3-1(1)(E), Missoula County Subdivision Regulations*
2. The Montana Highway Department shall approve approach permits for access onto Highway 83, plans for paved aprons onto Highway 83, removal of existing access locations, and vegetation removal to provide adequate site visibility prior to final plat record set approval. *Article 3-2, Missoula County Subdivision Regulations, MDT Recommendation*
3. River Watch Trail shall be chipsealed to a surface width of 18 feet, except for the portion extending from the southern portion of Lot 12 to a point approximately 700 feet to the south where the road shall be chipsealed to a surface width of 14 feet. The driveway to Lots 4 and 5 and 14 and 15 that end in a "T" shall be chipsealed to a surface width of 12 feet, provided these driveways do not serve more than two dwelling units (If the driveway serves more than 2 dwelling units it shall be chipsealed). All individual driveways to Lots 1,2,3,4,5,6,7,8,9,10,11,12, 13,14, and 15 shall be chipsealed to a surface width of 12 feet. Road and driveway plans including surfacing design, traffic level anticipated, and underlying soils shall be provided and approved by the County Surveyor, Seeley Lake Rural Fire District and OPG prior to final plat record set approval. *Article 3-1(2), 3-2, Health Department Recommendation*
4. A driveway accessing Lots 11 and 13 shall conform to the placement of the driveway as proposed by the applicant as part of the River Watch Preliminary Plat presented at the March 3, 1998 Planning Board Public Hearing. Should future improvements to Montana State Highway 83 alter the alignment/grade of said highway in such a manner that an additional approach onto said highway in the vicinity of Lots 11/13 would meet Montana Department of Transportation (MDOT) requirements, and should MDOT be willing to issue such an additional approach permit, an additional approach from the subject property to Montana State Highway 83 would be permitted to cross said 1-foot no-vehicular access strip to provide driveway access to Lots 11 and 13. If this alternate access is approved by MDOT, the driveway to Lots 11 and 13 shall be abandoned and revegetated. *Article 3-1(1)(E), 3-1(2), 3-1(C), Staff Recommendation*
5. 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 assent of the lot owner to waive the right to protest a future RSID/SID for public water and sewer systems based on benefit, and may be used in lieu of their signatures on an RSID/SID petition. 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." *Articles 3-7(2), Missoula County Subdivision Regulations.*
6. The Seeley Lake Rural Fire District shall approve the subdivision's water supply for fire protection purposes. The District shall approve the plans prior to final plat record set sign off. *Article 3-7, Missoula County Subdivision Regulations, Policy Recommendation*
7. The applicant shall petition for annexation into the Seeley Lake Rural Fire District. *Article 3-2, Missoula County Subdivision Regulations, Staff Recommendation*
8. The applicant or his/her successor shall provide a vegetation management retention plan that outlines how the maximum amount of natural vegetation can be preserved for the entire subdivision. Plans shall be approved by the OPG prior to final plat record set approval. *Article 3-1(2), 3-1(C) Missoula County Subdivision Regulations, Staff Recommendation*
9. The applicant shall develop a noxious weed control plan, to be approved by the Health Department and incorporated into the covenants prior to final plat record set approval. *Missoula County Weed Control Board, Article 3-1(C), 4-1(12), Missoula County Subdivision Regulations, Staff Recommendation*
10. The applicant shall develop a drainage plan, using a culvert crossing system with drainage easements and energy dissipaters to accommodate road drainage and hillside drainage. Engineering plans and specifications for the roadway drainage, alignment, cut and fill slopes should be developed. A cut slope maximum of 1H:1V shall be discouraged and only allowed where a less steep cut slope would cause excessive cutting and accompanied with engineered plans. Otherwise, a cut slope of 2H:1V is encouraged. A fill slope maximum of 1 1/2H:1V shall be allowed only where a less steep slope would cause excessive filling. Otherwise, a fill slope of 2H:1V or greater is encouraged. Plans shall be approved by the County Surveyor and OPG prior to final plat record set approval. *Article 3-1(2), 3-4, 4-1(12), Missoula County Subdivision Regulations, Staff Recommendation*
11. The applicant shall develop a revegetation plan for all disturbed slopes and revegetate all disturbed slopes according to the recommendation of the Missoula County Weed Control Board. Plans shall be approved by the Missoula Weed Control Board prior to final plat record set approval. *Article 3-1(2), 3-4, 4-1(12), Missoula County Subdivision Regulations, Staff Recommendation*
12. The applicant shall develop an erosion control plan, using best management practices, for all areas that may experience erosion due to all cuts, fills, and road, driveway, and utility improvements and implement the erosion control plan. The plan shall address erosion and drainage control during and after road construction, with emphasis placed on not allowing siltation and debris from entering the river. Plans shall be approved by OPG prior to final plat record set approval. *Article 3-1(2), 3-4, 4-1(12), Missoula County Subdivision Regulations, Staff Recommendation*
13. All buildings shall be included within a building envelope. Building envelopes shall be substantially as shown on the Preliminary Plat, be designated on the final plat, and approved by OPG prior to final plat record set approval. *Article 3-1(2), 3-4, 4-1(12), Missoula County Subdivision Regulations, Staff Recommendation*

14. The plat shall clearly designate areas with slopes greater than 25% as unbuildable, to be approved by OPG prior to final plat record set approval. Article 3-1(2), 3-3, Missoula County *Subdivision Regulations, Staff Recommendation*
15. The applicant shall amend the subdivision covenants to include the following items regarding predator intrusion, fire hazards, and air particulates. The covenant shall be filed with the County Clerk and Recorder and approved by OPG prior to final plat record set approval.
  - A. Pets shall be fed indoors and pet food shall be stored indoors.
  - B. All portable barbecues shall be cleaned regularly and stored indoors when not in use.
  - C. All fencing shall be limited to the building envelopes. All garden fencing shall be at least eight feet high 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.
  - D. Apiaries should be avoided. Prior to their placement on a lot, the Department of Fish, Wildlife and Parks should be contacted to discuss how best to avoid wildlife conflicts.
  - E. Flowers, ornamental shrubs and fruit trees may be susceptible to damage from wildlife, therefore planting of native vegetation is encouraged.
  - F. To reduce potential particulate pollution, property owners are encouraged to install pellet stoves or Class I EPA approved wood stoves (which burn hotter, cleaner and safer than other types of wood stoves).
  - G. The brochure, "Living with Wildlife" shall be distributed to all lot owners.
  - H. The property owner shall create a defensible space for fire protection, according to the Missoula County Subdivision Regulations. 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 as 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
  - I. Driveway grades shall not exceed 10% grade. Driveways in excess of 150 feet in length, shall have a minimum unobstructed width of 20 feet and vertical clearance of 13 feet 6 inches, and have provisions for turning around a fire apparatus within 150 feet of each building site. These driveways shall be reviewed and approved by the Missoula Rural Fire District prior to issuance of a building permit or construction of a home.
  - J. Only Class A or B fire-rated roofing materials shall be used for any new construction according to the Uniform Fire Code Regulations.
  - K. Each lot owner shall control noxious weeds on their property and on the adjacent River Watch Trail according to the weed control plan approved by the Missoula County Weed Control Board.
  - L. The required subdivision requirements for the common area(s).  
Article 3-1(C), 3-1(2), 3-2(6), Article 5-1(5)(H), 5-1(5)(I), Missoula County *Subdivision Regulations, Staff Recommendation* Missoula City-County Health Department Recommendation A.
16. OPG shall approve the River Watch Preliminary Plat Subdivision Riparian Area Resource Management Plan prior to final plat record set approval. Article 3-13, Missoula County *Subdivision Regulations*
17. OPG shall approve the River Watch Preliminary Plat Subdivision Primary Travel Corridor Plan prior to final plat record set approval. Article 3-14, Missoula County *Subdivision Regulations*
18. The applicant shall amend the subdivision covenants to add appropriate portions of a U.S. Fish and Wildlife Service document titled, 'Adaptive Management Strategy', designed to inform residents of possible detrimental activities to eagles' peace of mind, language to be approved by the U.S. Fish and Wildlife Service prior to final plat record set approval. Article 3-1(C), Missoula County *Subdivision Regulations*
19. The applicant shall amend the subdivision covenants to state that there shall be a prohibition of timber harvest for thinning in the common areas and on all lots outside of the building envelopes. Also, there shall be no human use of the large common area from Lots 12/13 to the south from December 1 through March 31, annually. The covenants shall be approved by OPG prior to final plat record set approval. Article 3-1(C), Missoula County *Subdivision Regulations*
20. All the above conditions that concern amending the subdivision covenants, as well as the existing covenants that concern the siting of buildings shall include a statement that says that these covenants shall not be amended or deleted without approval by the governing body. The statement shall be approved by OPG prior to final plat record set approval. Article 3-1(C), Missoula County *Subdivision Regulations*
21. The applicant may develop the River Watch preliminary plat subdivision according to the following phasing schedule:
  - Phase 1: Lots 1-8; to be filed within 1 year of preliminary plat approval.
  - Phase 2: Lots 9-15; to be filed within 4 years of preliminary plat approval.
 Article 4-1(14)(A), Missoula County *Subdivision Regulations*

There being no further business to come before the Board, the Commissioners were in recess at 5:05 p.m.

**THURSDAY, MARCH 26, 1998**

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

Application for Issuance of Replacement Warrant -- Chairman Evans approved an Application for Issuance of Replacement Warrant naming Mosaic Publications as principal for Warrant #311471, issued 4/25/97 on the Missoula County 2220 Fund in the amount of \$36.95, not received in the mail.

ADMINISTRATIVE MEETING

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

Contract - The Commissioners signed the Contract and related documents with Garden City Plumbing and Heating, Inc. for construction of the Lolo Well #4 and Water Main Extension Project for the Lolo RSID 901 Water and Sewer District. Work shall be completed by September 1, 1998. Compensation shall be \$175,794.00. The Contract was returned to Doreen Culver, Bidding Officer, for further handling.

Professional Services Contract - The Commissioners signed a Professional Services Contract with the City of Missoula - Traffic Services Division, for traffic counts on weekdays at 110 different locations in the City and urban County. Work shall be completed by June 11, 1998. Compensation shall not exceed \$2,000.00. The Contract was returned to the Health Department for further signatures and handling.

Resolution - The Commissioners signed Resolution No. 98-023, a resolution of acceptance of the Sunset West Water System Improvements Engineering Report completed in 1995 and updated in 1996.

Submittal Motion - Chairman Evans signed a motion to approve submittal of the Missoula County Rural Domestic Violence and Child Victimization Enforcement Grant Program proposal to the Office of Justice Programs. The motion form was returned to Leslie McClintock in OPG for further handling.

Memorandum of Agreement - Chairman Evans signed a Memorandum of Agreement between the Missoula County Park Board and the Lakeside/Rosignol Homeowners' Association for irrigation, seeding and weeding of O'Connell, Tyler and Willow Parks. Park Board will provide up to \$5,000.00. The Agreement was returned to Tammy Holshue in OPG for further signature and handling.

Other items included:

- 1) The Commissioners approved a request from Paul Webber, CAO, to attend the regional conference of the Great Open Spaces City/County Management Association in Vermillion, South Dakota. Cost of the conference is \$861.00 from the Personnel Training Budget.

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

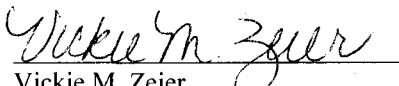
**FRIDAY, MARCH 27, 1998**


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

Application for Issuance of Replacement Warrant -- Chairman Evans approved an Application for Issuance of Replacement Warrant naming Apple Computer as principal for Warrant #42398, issued 5/6/97 on the Missoula County General Fund in the amount of \$848.00, not received in the mail.

No administrative meeting was held; however, the following item was signed:

Agreement - The Commissioners signed a Standard Form of Agreement Between Owner and Contractor with Todd Construction for construction of the new Partnership Health Center building. Cost of the Agreement is \$1,126,270.00. Date of substantial completion is December 11, 1998. The Agreement was returned to Diane Sands of PHC for further signatures and handling.

  
Vickie M. Zeier  
Clerk & Recorder

  
Barbara Evans, Chairman  
Board of County Commissioners

**MONDAY, MARCH 30, 1998**

The Board of County Commissioners met in regular session; all three members were present. In the forenoon, Commissioner Evans participated in the "US Bank Day" name change event held at their facility on Brooks Street.

**TUESDAY, MARCH 31, 1998**

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 of the Peace, John Odlin, for the month ending March 31, 1998.

ADMINISTRATIVE MEETING

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

Payroll Transmittal Sheet - The Commissioners signed a Payroll Transmittal sheet for Pay Period 6, with a total Missoula County payroll of \$601,067.29. The sheet was returned to the Auditor's Office.

Plat - The Commissioners signed the plat for Drew Addition, Tract C Amended, showing relocated common boundary lines, located in the NW1/4 of Section 33, T16N R14W, PMM, Missoula County, with the owners of record being, for Portion A, Kerry G. Drew; and for Tract C, Missoula County.

Other items included:

- 1) The Commissioners appointed Chuck Seeley to a three-year term as the second alternate member of the Larchmont Golf Course Board of Directors.
- 2) The Commissioners discussed the request from Barbara and Colbert Howell for a change in condition 1 for approval of Magnolia Estates Subdivision for Lease or Rent, regarding the building of the convenience store at the beginning of Phase II of the development.

Commissioner Hart moved that the Commissioners approve the request...changing it to state that "after 30 mobile homes are located in the subdivision" the store is to be constructed. Commissioner Kennedy said, "by way of inquiry and for the record, I would like to know where the number 30 came from." Commissioner Hart responded, "I will say I just picked it out of the air." Commissioner Evans seconded the motion, and it carried on a 2-1 vote (Commissioner Kennedy opposed). A letter was sent to the Howells informing them of the decision.

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

WEDNESDAY, APRIL 1, 1998
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The Board of County Commissioners met in regular session; all three members were present.

Audit List -- The Commissioners signed the Audit List, dated March 31, 1998, pages 2-40, with a grand total of \$540,178.60. The Audit List was returned to the Accounting Department.

Indemnity Bond -- Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming Christopher Casquilho as principal for Warrant #43033 issued 2/20/98 on the Missoula County Payroll Fund in the amount of \$245.78 now unable to be found.

Indemnity Bond -- Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming Carol Flint as principal for Warrant #27235 and #27498 issued 1/15/98 and 2/19/98 on the Missoula County Fund in the amount of \$590.00 each, now unable to be found.

Monthly Report -- Chairman Evans examined, approved, and ordered filed the Monthly Reconciliation Report for Justice of the Peace, Michael Jaworsky, for the month ending March 31, 1998.

Other items included:

- 1) The Commissioners approved a request to authorize a payment offer of \$42,738.55 to Harlan D. Douglass, Inc. in exchange for release of all claims related to the purchase agreement for the County Shops property.

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

PUBLIC MEETING - April 1, 1998

The Public Meeting was called to order at 1:30 p.m. by Chair Barbara Evans. Also present were Commissioner Fern Hart, Commissioner Michael Kennedy, County Surveyor Horace Brown, and Deputy County Attorney Michael Sehestedt.

Public Comment

None.

Routine Administrative Actions

Commissioner Kennedy moved, and Commissioner Hart seconded the motion to confirm and approve the routine weekly administrative actions and weekly claims list in the amount of \$540,178.60. Motion carried on a vote of 3-0.

Decision on Vacation Request - Ducharme Street - Frenchtown

Horace Brown explained that the request is a portion of right-of-way that is an island, and that all right-of-ways to the south had been vacated previously and there was not access to this by the public. He recommended the vacation.

Commissioner Kennedy said that he had reviewed the site with Horace Brown and concurred with his recommendation.

Commissioner Kennedy moved to vacate the portion of Ducharme Street, located in Frenchtown, Montana, north of that alley which is parallel to and north of Beckwith Street, to the section line. Commissioner Hart seconded, and the motion carried on a vote of 3-0.

Hearing on the Resolution of Intent to Create RSID 8037

Deputy County Attorney Sehestedt explained this was a petition to create a maintenance and utility cost RSID for existing street lights in Eastview Acres Subdivision, in the East Missoula area. He said that the street lights had been maintained and paid for by the Eastview Homeowners Association. He continued that this RSID would take over such maintenance and utility, and the annual cost of the utility, including RSID costs, would be \$660.24 per residential unit.

Commissioner Kennedy moved to create RSID #8037 for street lighting and maintenance in Eastview Acres, East Missoula. Commissioner Hart seconded, and the motion carried on a vote of 3-0.

Resolution Relating to \$17,100,000 General Obligation Bonds, Series 1998, Awarding the Sale Thereof and Approving Official Statement Relating Thereto

Commissioner Evans read the Total Interest Cost of the bids that were received:

Merrill Lynch	4.9580%
Harris Trust & Savings	4.9416%
Dain Rauscher Corp.	4.9651%
Solomon, Smith, Barney	4.93014%
Morgan & Keegan & Co.	5.0015%
D.A. Davidson & Co.	4.94079%
First Security Capital	4.941360%

Jane Ellis explained that this Bond Issue was approved by the voters in November of 1996, and the construction contract was awarded in March of 1998. The bids for the Bonds were opened on 4/1/98 and Solomon, Smith, Barney was the low bidder at 4.93014%. She said that Aaron Rudio from D.A. Davidson, who had been advising the County on the Bond matter, would explain the bid process.

Aaron Rudio of D.A. Davidson explained that the bid prices were close indicating a good market and a good credit quality for the County. He said that another indication of this was the bond insurance bond received by the County for the bond insurance, and the fact that the bond underwriters were paying for the coverage and was not a cost to the County, and the low bidder was FGIC Insurance for \$50,000 premium amount. He further explained that D.A. Davidson had been allowed by the County to bid and that all bids had been submitted the morning of April 1, 1998.

Jane Ellis commented on the fiscal impact of \$17.1 million dollars, and the annual debt service of \$1.38 million or 9.32 mills, and that the annual impact to a \$100,000 house would be \$36. She recommended that the Commissioners adopt the resolution.

Commissioner Hart moved that the County Commissioners adopt the Resolution Relating to \$17,100,000 General Obligation Bonds, Series 1998, awarding the sale thereof to Solomon, Smith, Barney, as the successful bidder, and approving the official statement relating thereto. I further move that the Chair be authorized to sign all necessary documents related to this resolution. 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 1:55 p.m.

Following the Public Meeting, Chairman Evans signed Resolution No. 98-024, a resolution relating to \$17,100,000 general obligation bonds, and awarding the sale thereof to Solomon, Smith, Barney.

#### THURSDAY, APRIL 2, 1998

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:

Letter of Application and Certification Page - The Commissioners signed a letter of application and subgrant certification page for application to the Montana Board of Crime Control for continuation of the CS Porter Project, providing on-site social services at CS Porter Middle School. \$30,000.00 will come from the Board of Crime Control, with match provided by Turning Point. The documents were returned to Peggy Seel in OPG for further handling.

Resolution - The Commissioners signed Resolution No. 98-025, creating Rural Special Improvement District No. 8037, for the purpose of maintenance and utility cost of existing street lights in the Eastview Acres subdivision in East Missoula, Section 13, T13N R19W, of Missoula County.

Agreement - Commissioners Evans and Hart signed an Agreement for Professional Engineering Services with Druyvestein, Johnson and Anderson, Inc. for engineering services for Goodan-Keil ramp plans and specifications. Payment for services shall be \$12,774.20.

Missoula County Operating and Financial Plan - Chairman Evans signed a 1998 Missoula County Operating and Financial Plan for Reimbursable Services Requested by the USDA-Forest Service with the Lolo National Forest. Plan is for the Missoula County Sheriff's Department to provide additional holiday protection over the summer. Term of the agreement is April 1, 1998 through September 30, 1998. The Forest Service shall reimburse the Missoula County Sheriff, not to exceed \$29,793.84. The Plan was returned to Dave Ball in the Sheriff's Department for further signature and handling.

Resolution - The Commissioners signed Resolution No. 98-026, a resolution to vacate a portion of Ducharme Street in Frenchtown, Montana.

Other items included:

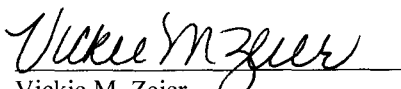
- 1) The Commissioners approved staff roles in monitoring the construction phase of the Jail Project, and limits on authority to approve changes.
- 2) The Commissioners approved the retention of an architect to analyze space requirements for the Courthouse, Annex, and Health Department. They also approved the Health Dept.'s plan to occupy vacated space in the Health Building, subject to review of cost and sources of revenue.

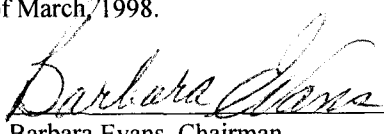
The minutes of the Administrative Meeting are on file in the Commissioners Office.

#### FRIDAY, APRIL 3, 1998

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Evans attended a meeting of the Judicial Standards Commission in the forenoon. During the day, Commissioners Evans and Kennedy met with three classes from Big Sky High School who were touring the Courthouse and learning about County government.

Monthly Report -- Chairman Evans examined, approved, and ordered filed the Report of the Clerk of District Court, Kathleen Breuer, showing fees and collections for the month of March, 1998.

  
Vickie M. Zeier  
Clerk & Recorder

  
Barbara Evans, Chairman  
Board of County Commissioners



**MONDAY, APRIL 6, 1998**

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

Extension Letter - Commissioners Evans and Hart approved a one-year extension for filing the preliminary plat for Edwards Addition, making the new filing deadline April 23, 1999, with a letter to Gilbert Larson of Druyvestein, Johnson and Anderson.

**TUESDAY, APRIL 7, 1998**

The Board of County Commissioners met in regular session; all three members were present. In the evening, Commissioner Hart attended a public information meeting regarding the Lolo Facilities Plan, held at the Lolo Community Center.

ADMINISTRATIVE MEETING

At the Administrative Meeting held in the forenoon, the following items were signed:

Permanent Irrigation Ditch Easement - The Commissioners signed a Permanent Irrigation Ditch Easement with the Hellgate Valley Irrigation Company, for a portion of Parcel 2 of COS 4702, located in the S1/2 of Section 17, T13N R19W, Missoula County. One original was returned to the City of Missoula, and one was recorded.

Benefits Plan Amendment - The Commissioners signed Exhibit 7 a.38, Missoula County Benefits Plan Document, Amending the Plan to include Missoula Aging Services in the Plan and Missoula County Workers' Compensation Group Insurance Authority.

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

**WEDNESDAY, APRIL 8, 1998**

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

Audit List -- Commissioners Hart and Kennedy signed the Audit List, dated April 7, 1998, pages 2-32, with a grand total of \$124,774.11. The Audit List was returned to the Accounting Department.

ADMINISTRATIVE MEETING

At the Administrative Meeting held in the forenoon, the following items were signed:

Lease Agreement - The Commissioners signed a Lease Agreement with Missoula Nutrition Resources for the Garden City Harvest Project, to lease approximately 5 acres of land at the Tower Street Park Complex, west of the Montana Power Substation. Term of the lease is April 1, 1998 through March 31, 2003. Rent for the real property is \$1.00.

Quitclaim Deed - The Commissioners signed a Quitclaim Deed unto Lloyd A. Twite Family Partnership for Portion A of COS 4733 (gravel pit). The Deed was forwarded to Lloyd Twite.

Proclamation - The Commissioners signed a joint City-County Proclamation for "Library Week," at the Missoula Public Library, the week of April 19-25, 1998.

Rehbein Gravel Agreement - The Commissioners signed a Gravel Agreement with Dennis and Martha Rehbein, for pit-run gravel for Missoula County. Term of the Agreement is up to three years, or as long as the material remains, and as long as permitted access is available from the Montana Department of Transportation. Compensation shall be \$1.50 per cubic yard for 1-1/2 inch screened pit-run gravel, and \$.0.50 per cubic yard for pit-run gravel.

Standard Listing Contract - The Commissioners signed a Standard Listing Contract and related documents with Lambros Real Estate to market excess jail site land on Mullan Road. Listing price is \$1,570,000.00. Broker's commission is 6% of sale price. Length of listing is from March 10, 1998 through March 9, 1999.

Other items included:

- 1) The Commissioners discussed the Lakeside Drive RSID with Horace Brown, and determined that millings will be used on the road. Horace will meet with the Lolo Community Council regarding this issue.
- 2) The Commissioners approved the Budget Team's recommendation on FY 99 budget parameters for Missoula County employees salary increases - 2.5% across-the-board, with an additional 0.5% award option.
- 3) The Commissioners discussed a request from the Lolo Community Council for assistance with Lolo's continuing surface water problem. Horace Brown indicated he will have the Road Department auger out the sumps as soon as possible.

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

PUBLIC MEETING - April 8, 1998

The Public Meeting was called to order at 1:30 p.m. by Chair Barbara Evans. Also present were Commissioner Fern Hart, County Surveyor Horace Brown, and Deputy County Attorney Michael Sehestedt.

Public Comment

Dan Poe Newman stated that as a candidate for Justice of the Peace, he wanted to be up front and report on his health, and stated that he would have to undergo a triple bypass surgery.

Commissioner Hart read the proclamation declaring April 19 to April 25, 1998, as National Library Week, and the resolution that the Board of County Commissioners of Missoula County, and Mike Kadas, Mayor of the City of Missoula, proclaim April 19 through April 25, 1998, as Library Week at the Missoula County Library and urge all citizens to visit and support the Missoula Public Library to see how kids connect at the library.

Commissioner Hart moved and Commissioner Evans seconded the motion to proclaim the resolution. Motion carried on a vote of 2-0.

Routine Administrative Actions

Commissioner Hart moved, and Commissioner Evans seconded the motion approve the routine administration items adopted this week and approve the weekly claims list in the amount of \$124,774.11. Motion carried on a vote of 2-0.

Bid Award for Title Searches for Clerk and Recorder Office

Commissioner Hart stated that the title searches is a contract that the Clerk and Recorder makes each year based on bid with a title company for title searches on tax delinquent properties. She stated that the bids were opened on April 6, 1998 and there was only one bid from First Montana Title, for \$64.00 for chain of title report, per parcel without chain of title report \$54.00, tax inquiries would be answered and the hourly rate for complex title \$20.00 per hour.

Commissioner Hart moved and Commissioner Evans seconded the motion that the contract for title searches be awarded to First Montana Title. Motion carried on a vote of 2-0.

Adoption of Resolution Relating to \$17.1 million in General Obligation Bonds for the new jail.

Jane Ellis explained that the resolution fixes the form and details, makes the covenants required in order to sell bonds, and authorizes the execution of the bonds. She stated it further asserted the Board of County Commissioners would levy taxes necessary to make the bond payments. She continued that the bid was awarded to Solomon, Smith, Barney at an interest rate of 4.93% and recommended adoption of the resolution.

Fern Hart moved that the Board of County Commissioners adopt the Resolution relating to \$17.1 million General Obligation Bonds, Series 1998, fixing the form and details, making covenants with respect thereto, authorizing the execution and delivery and levying taxes for the payment thereof. Commissioner Hart further moved that the Chair be authorized to sign all necessary documents related to this Resolution. Commissioner Evans seconded the motion. The motion carried on a vote of 2-0.

Family Transfer for Rausch

Kathleen Smith, Paralegal in the County Attorney's office, gave the staff report.

This is a request to create a parcel using the family transfer exemption for a parcel described in Book 229, page 1984, less COS 2731 located in Section 12, T14N, R23W for Lawrence and Arlene Rausch.

Lawrence and Arlene Rausch have submitted a request to create a parcel and remainder using the family transfer exemption to the Montana Subdivision and Platting Act. The parcel is approximately 130 acres in size and located west of Missoula and south of the Clark Fork River in the Petty Creek area and accessed off Runyon Drive. The Rausches wish to create a parcel of unknown size for transfer to their adult son and daughter-in-law, Marty Rausch and Kerry Maier.

The history of the parcel is as follows: The parcel was purchased by the Rausches in March 1974. COS 2732 was filed by the Rausches in April 1982 creating an occasional sale parcel.

According to the records kept by the Missoula County Surveyor, the applicants have used the exemption to the Subdivision and Platting Act as described above.

Ken Jenkins with Professional Consultants explained the size of the parcel the Rausches wanted to create was approximately two acres, and that he wasn't sure why the occasional sale was used in 1982, and perhaps it should have been a family transfer as requested now. He stated that the Rausches and their children live in that area and all work on a small, family-owned business, and that the children do intend to live on the property.

Commissioner Hart asked if the Rausches were present.

Ken Jenkins replied they were not.

Commissioner Hart explained that the questions would be asked to determine that it was a real family transfer and not an attempt to evade the Subdivision Act. Commissioner Hart told Mr. Jenkins that the Rausches would receive a letter indicating approval or disapproval of the family transfer, and requested he inform the Rausches that if approved, there would be no guarantee they would receive septic or other County services. She asked how many children the Rausches had.

Ken Jenkins replied there were four children and that one of them was residing on the occasional sale piece, and the second child would reside on the family transfer piece, and that at the time of the exemption application the Rausches had no intentions of creating additional family transfer parcels.

Chairman Evans opened the public hearing.

There being no comment, Chairman Evans closed the public hearing.

Commissioner Hart moved to approve a family transfer exemption for the parcel described in Book 229, Page 1984, less COS 2732 located in Section 12, T14N, R23W, for Lawrence H. and Arlene O. Rausch, in that it does not appear to be an attempt to evade the Montana Subdivision and Platting Act.

Chairman Evans seconded, and the motion carried on a vote of 2-0.

Family Transfer - Bardole

Kathleen Smith gave the staff report.

This is a consideration of a request to create a parcel using the family transfer exemption for Tract 2, COS 4423 located in Section 18, T15N, R21W for Teri G. Bardole.

Teri Bardole has submitted a request to create a parcel and remainder using the family transfer exemption to the Montana Subdivision and Platting Act. The parcel is 25 acres in size and located northwest of Frenchtown off Houle Creek Road. Ms. Bardole proposes to split the parcel in half for transfer to her mother, Irene Hasting.

The history of the parcel is as follows: COS 4423 was filed in December 1994, creating four parcels pursuant to Court order in Missoula County Cause No. A-16738, The Estate of Margaret A. Rose. A deed of distribution was filed in February 1995 transferring Tract 2, COS 4423 to Shane Brady Lucier. Ms. Bardole purchased the parcel from Mr. Lucier in January 1998.

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

Commissioner Hart asked if Ms. Bardole were present or if there was a representative of Ms. Bardole present.

Ms. Bardole nor a representative was present.

Commissioner Hart moved and Chairman Evans seconded the motion, that the request for Commissioner action for the family transfer of Teri Bardole be continued. Motion carried 2-0.

Transfer of County Parks to City of Missoula (Lincolnwood and Wapikiya)

Brian Maiorano gave the staff report.

As you know in the early 1990's when the City of Missoula annexed neighborhoods in the Wapikiya, Bellevue, and Lincolnwood areas, a number of County parks were not transferred to the City at that time. There are a couple of different situations. The ones in Lincolnwood have formerly been maintained by a neighborhood RSID of about \$100 per year per household. When the City annexed that neighborhood the City offered to maintain those parks as part of the annexation, and the Lincolnwood residents decided to decrease the RSID to \$1 per year per household, with the condition that they would like to see the type of maintenance that the City Parks Department would do on those and retain the option of possibly reinstating the full RSID and doing their own maintenance. Since then the City has been maintaining them for the past eight years, and the residents seem generally happy with the services they are receiving. In those Lincolnwood parks, the City would now like to install backflow preventers on sprinkler systems which could prevent possible contamination of the Mountain Water system, but are not able to do that unless they own the parks, simply because the monies come from the City's Capital Improvement Fund. The proposal is to transfer the parks to the City. This was heard by the County Park Board and the County Park Board recommended to do the transfer. The Commissioners sent out a letter in mid March to the residents of Lincolnwood asking for comments. To date I have received a few comments, with nobody opposing it and mostly questions and looking at options.

The other areas within the general Wapikiya/Bellevue area, again are areas well within the City limits and are areas that the City has been maintaining. The City would like to do improvements in those parks, including putting in a well, and we sent out letters to residents around those parks to see if anyone had concerns about transferring them to the City. I think in that area I received one phone call and it was a simple inquiry.

Contingent on hearing public comment today, our recommendation is to transfer all of the parks mentioned, and also to cease collecting for the RSID in the Lincolnwood parks. In that RSID is currently \$5300 approximately left when it was a full in-stated RSID and encourage those residents to work with the City Parks Department on how they would like to spend that money to improve Lincolnwood parks.

Chairman Evans opened the public hearing.

Ed Coffman said he was an original park board member at the time of the annexation, and since taxes were going up to either eliminate or reduce the RSID to the \$1.00 amount. They had at the beginning talked about letting the RSID stay active for about three years to see how it would work and now it was eight years. He didn't see any problem with transferring the funds over, but wanted to have discussion about the disposition of the funds.

Pete Kolokotronis said that the Bellevue Park was in his neighborhood and that he didn't know who owned it. He said that they cultivated trees in the park for the last 25 years and that last spring the City came out and dug out all the trees, and that the City was going to replace the trees. He said that someone should pay some attention to the park, replace the trees and do something about the water flooding in the park.

Debbie Hall said that she has a concern about what course would be taken with the neighborhood to decide what would happen with the \$5300. She also wondered if there was any way that there could be a guarantee the parks would remain as they are and that no further jungle gyms or park equipment would be added and as a member of the Lincolnwood neighborhood, she felt it would be a good idea to limit the amount of play equipment placed in the park. She also supported the transfer of the park.

Mrs. Kolokotronis said that the City had been good about cutting the grass and that the Kolokotronis had been watering with their water and she inquired if the City would take over the watering and cutting of the grass and the park taken care of. She said that the City had been maintaining other parks in a lovely condition but that their park was poorly maintained. She said her husband had offered to go around and solicit neighbors to pay for a sprinkling system, and it was proposed that the City would do the work and that private people would pay for the sprinkling system. She said that the City Parks said they would draw out a plan and return and they had received no response from City Parks.

Chairman Evans asked to whom they had written.

Mrs. Kolokotronis replied that a letter had not been sent but that they talked to Doug Waters, and that Mr. Waters said they would figure out the cost and get back to them. She said that at the end of the park could become dangerous when it was dry and the weeds growing and there could be a problem with fire.

Chairman Evans closed the public hearing.

Commissioner Hart said that there was cooperation between the City and County Parks Departments, and that the transfer was supported by the Commissioners.

Jim Van Fossen, Parks and Recreation Director, City of Missoula, said that in response to questions about the \$5300, he asked if there was an active homeowners association and who would be the contact. He explained they were in the process of doing \$60,000 worth of improvements for backflow preventers and manholes, and \$45,000 of the \$60,000 was being let to a contractor to do City parks. He said there was about \$25,000 worth of work to do in Lincolnwood to install manholes and backflow preventers, and that only \$15,000 was available to do so. He said that the \$5300 held for Lincolnwood could be used to help purchase the materials and the Park Department would do the work. He explained that the manholes and backflow preventers were necessary because if there was a back flow problem it would back into the Mountain Water main line and contaminate the water and would present a serious problem.

Ed Coffman stated that he and the representatives from Lincolnwood at the meeting would meet with Mr. Van Fossen at the conclusion of the meeting.

Jim Van Fossen stated regarding the Bellevue Park, that Doug Waters was the Park Planner, and he was sure he was sincere in the representations he had made, but due to funding problems, it was not done. He continued that there was no water source to water Bellevue Park, and that a well would have to be drilled, or a manhole and backflow connector installed and then hook up could be made to Mountain Water. He explained that perhaps in order to fund the maintenance and installation of a watering system, a RSID could be instituted. He told Mr. and Mrs. Kolokotronis he would have a representative from the Park Department contact them within the next week concerning replanting of the trees and other maintenance.

Commissioner Hart stated that Mr. Van Fossen had heard the concerns of those present and that they would be well served with the transfer of the properties.

Chairman Evans gave audience members who arrived after the public hearing had been closed an opportunity to speak.

George Lackman stated that he was concerned about Bellevue Park and that in the last two years there had been a heavy, tall growth of weeds that had not been mowed and he was concerned about the fire danger. He requested that the weeds be mowed. He was concerned with the fire danger as his home was only 25 feet away from that area and requested that mowing be done.

Fern Hart said that she would pass all of the letters received by the Commissioners to Jim Van Fossen and she believed the City would work with the residents to upgrade and maintain the parks.

Chairman Evans stated that a letter had been received concerning the mail box stands in Lincolnwood and requested that a part of the RSID account be used to paint and fix the mail box stands.

Jim Van Fossen said that time was of the essence on the backflow preventers, and they have worked with the contractor by beginning to do the City-owned parks now, and requested that if the Commissioners made the park transfers, a letter of intent so the City Council would allow expenditures of City funds.

Michael Sehestedt, Deputy County Attorney, stated that the transfer would happen today if approved by the Commissioners.

Fern Hart moved that the Board of Commissioners transfer ownership of the County parks in the following subdivisions to the City of Missoula: Wapikiya Addition No. 1, Wapikiya East, Country Club Addition, Spring Hills Addition, Retter Homesite, Larkspur Addition No. 1, and Bellevue Addition; and the Board of County Commissioners transfer ownership of the County parks in the Lincolnwood Addition 1 through 7 to the City of Missoula, that the Board of County Commissioners cease collection of the RSID which funded the maintenance of Lincolnwood Park, and encourage the residents of Lincolnwood to work with the City Parks Department to determine how best to utilize the remaining \$5300 in that RSID.

Chairman Evans seconded the motion.

Chairman Evans added that the concerns expressed at the hearing today not be lost, that the trees would be replaced in Bellevue and that a sprinkling system be researched for the park.

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 2:10 p.m.

Following the Public Meeting, Chairman Evans signed Resolution No. 98-027, a resolution relating to \$17,100,000.00 in general obligation bonds for the purpose of acquiring land for, designing, constructing, installing and equipping permanent adult and juvenile detention facilities, and levying taxes for the payment thereof.

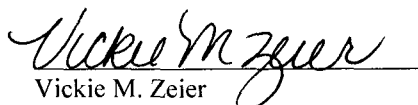
**THURSDAY, APRIL 9, 1998**

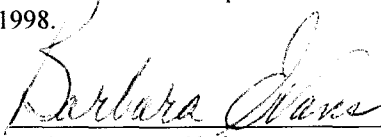
The Board of County Commissioners met in regular session; all three members were present. In the forenoon, Commissioner Hart spoke to a Rural Sociology class at the University of Montana, and Commissioners Evans and Kennedy served on a panel for Leadership Missoula, which was held at the Florence Hotel.

**FRIDAY, APRIL 10, 1998**

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. In the morning, the Commissioners canvassed the School Election, which was held April 7, 1998.

Monthly Report -- Chairman Evans examined, approved, and ordered filed the Report of the Sheriff, Douglas Chase, showing fees and collections for the month ending March 31, 1998.

  
Vickie M. Zeier  
Clerk & Recorder

  
Barbara Evans, Chairman  
Board of County Commissioners

**MONDAY, APRIL 13, 1998**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Evans was out of the office from April 13-15, 1998. In the evening, Commissioners Hart and Kennedy attended a Joint Hearing with the City Council on the 1997 Urban Comprehensive Plan Update, held at the City Council Chambers.

Other items included:

- 1) At the Departmental Meeting with the Office of Planning and Grants, the Commissioners voted to allow the relocation of the northerly building envelope 20 feet further south in the Pilgrims Parcels subdivision. They also voted to grant the variance request from a park dedication, subject to a waiver of protest for formation of a park district for the area. David Loomis of OPG will draft letters for Commissioner signature.

**TUESDAY, APRIL 14, 1998**

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:

Payroll Transmittal - The Commissioners signed a Payroll Transmittal Sheet for Pay Period 7, with a total Missoula County payroll of \$614,100.05. The sheet was returned to the Auditor's Office.

Memorandum of Agreement - The Commissioners signed a Memorandum of Agreement with Child Care Resources and the Missoula City-County Health Department for a child care health program. Value of the Agreement is \$15,500.00. Duration of the Agreement is through June 30, 1998. The Agreement was returned to the Health Department for further signatures and handling.

Memorandum of Agreement - The Commissioners signed a Memorandum of Agreement with the Human Resource Council for the Summer Youth Employment Program. Duration of the Agreement is from June 1, 1998 through September 30, 1998. The Agreement was returned to Marie Pruitt in the Personnel Office for further signatures and handling.

Work Experience Program Agreement - The Commissioners signed an Industrial Work Experience Program Agreement with Trapper Creek Job Corps and the Missoula County Personnel Office, to provide "on the job" training at Partnership Health Center.

Extension Letters - The Commissioners approved two extensions:

- 1) a 90-day extension for filing the final plat for High Country Addition, making the new filing deadline August 3, 1998, with a letter to Ron Ewart of Eli & Associates.
- 2) a 90-day extension for filing the final plat for Guest Ranch Road Tracts, making the new filing deadline July 16, 1998, with a letter to Ron Ewart of Eli & Associates.

Resolutions - The Commissioners signed three Budget Amendment Resolutions:

- 1) Resolution No. 98-028, a Budget Amendment for the Health Department SoBear Project, in the amount of \$4,685.00 for the FY 98 Budget.
- 2) Resolution No. 98-029, a Budget Amendment for the Historical Museum IMLS Grant, in the amount of \$14,838.00 for the FY 98 Budget.
- 3) Resolution No. 98-030, a Budget Amendment for the Auditor's Office Life Skills Grant, in the amount of \$31,538.00 for the FY 98 Budget.

Budget Transfers - The Commissioners signed four Budget Transfers:

- 1) separating the combined Traffic Safety Grant, in the amount of \$26,670 into FY 97 and FY 98 for audit purposes.
- 2) transferring money for salaries from the Youth Drug Court Grant, in the amount of \$8,936.00.
- 3) from Court Operations Contingency fund, in the amount of \$500.00, for District Court 3 jury expenses.
- 4) from Court Operations Contingency fund, in the amount of \$1,500.00, for District Court 3 general training.

Other items included:

- 1) Bill Silverman, OEM Coordinator, briefed the Commissioners on changes to the Emergency Operations Center Plan.

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

**WEDNESDAY, APRIL 15, 1998**

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

Audit List -- Commissioners Hart and Kennedy signed the Audit List, dated April 14, 1998, pages 2-37, with a grand total of \$152,126.25. The Audit List was returned to the Accounting Department.

Extension Letter - The Commissioners approved a 90-day extension for Huson Heights Subdivision final plat, making the filing deadline July 21, 1998, with a letter to Ron Ewart of Eli & Associates.

PUBLIC MEETING - April 15, 1998

The Public Meeting was called to order at 1:30 p.m. by Acting Chair Michael Kennedy. Also present were Commissioner Fern Hart, and Deputy County Attorneys Michael Sehestedt and Colleen Dowdall.

Public Comment

None.

Routine Administrative Actions

Commissioner Hart moved, and Commissioner Kennedy seconded the motion to confirm and approve the routine weekly administrative actions and weekly claims list in the amount of \$152,126.25. Motion carried on a vote of 2-0.

Bid Award - Lawn Maintenance for Historical Museum

Fern Hart commented that the contract for the lawn maintenance for the Historical Museum was put out for bid and a response was received from Greg Potter for \$6,030.00 a year, and from Ron Kelley for \$15,000.00 a year.

Commissioner Hart moved, and Commissioner Kennedy seconded the motion that the bid for lawn maintenance at the Historical Museum be awarded to Greg Potter as the lowest and best bid. The motion carried on a vote of 2-0.

Family Transfer - Bardole

Kathy Smith asked whether Teri Bardole or Irene Hasting were present and commented that she had sent them two letters indicating the date of the hearing and suggested the request be tabled until she heard from Teri Bardole.

Commissioner Hart moved and Commissioner Kennedy seconded the motion that the hearing on the Teri Bardole Family Transfer be tabled. Motion passed on a vote of 2-0.

Joint City/County Hearing on 1997 Urban Comprehensive Plan Update

Commissioner Kennedy commented that this was the second of two hearings, the first being before the City Council and County Commission in joint session. He asked Planner Philip Maechling to make his presentation.

Philip Maechling, Office of Planning and Grants, made a presentation of the various community planning activities that have occurred over the past several years and the concern that has been shown by Missoulians for our community and neighborhoods. He continued that the Growth Management Task Force was formed to develop a planning method of growth to protect our community, air quality, and water quality, and that out of this Task Force were Themes that would set general policy and would call for action in managing growth. He continued by setting out the tools and recommendation steps that were set out in the Themes, and continued that the guiding principles behind the tools are planning and development of infrastructure for well managed growth, respect for private property rights, the values of the citizens served, protect the characteristics of our community, and to achieve community goals. He continued that the Comprehensive Plan Update process had continued for the last year and a half and the Update was a two part effort, the first to take information and structure of the 1990 Plan and update it with current data, and that it was not a new Plan but an amendment and update of the 1990 Plan.

Commissioner Kennedy explained the reason for the public hearing was not only a legal one, but that all through the Comprehensive Plan Update process, public input was of the utmost importance and effective in adjusting, managing, and massaging the document the subject of the public hearing. He then opened the hearing with the ground rule that there be respect for the person speaking and not be repetitive and limit the speaking time to three minutes. He continued by asking those present that spoke at the hearing Monday night not speak until those present who had not spoken complete their presentation.

Scott Waldron, Fire Chief of Frenchtown Fire District and Chairman of the Missoula County Fire Protection Association, expressed his concerns of the Plan and that none of the Fire people in the County and in the City were contacted for their input in the Plan. He continued that the statement "urban level of service" used throughout the Plan should be defined, as well as encouragement of urban level of development.

Richard Eggert, Flathead Resource Organization, presented a written statement. He continued that it was a concern to the residents living outside the City and County, was the impact of traffic on them and that this impact would be considered in this Plan.

Charles Deschamps, 8150 Mullan Road, stated he was in favor of the Update, and commented on his concerns and that the Transportation Plan, Airport Plan, sewer plan, and school and staffing plans should go hand in hand with the Update, and commented on the growth of the outlying areas and extension of sewer was vital and that private sewer systems should be included in the Plan. He continued by stating that the public should be allowed to vote on the Comp Plan.

Janet Scott, 745 South 4th Street West, presented a written statement, and then read the statement and voiced her support of the Plan.

Ren Essene, voiced her support for the Comprehensive Plan and the Update.

Collin Bangs, local Realtor, stated he had been involved in the Technical Review Committee, and voiced his support for the Comprehensive Plan. He commented on the great benefit of Chapter 2 on housing, and supported the changes made to Chapter 6, and voiced his opposition to the DUSA and support for the urban growth area upon completion of the necessary studies.

Dick Rossignol stated his opposition to controlled planning and the Comprehensive Plan.

Martha Powell voiced her opposition to the Comprehensive Plan.

Chris Mostad, 2604 Garland, stated he was afraid of the Plan, and voiced his opinion that the Plan should be put on the ballot and voted on by the residents of the City and County.

John Zimorino, stated he was generally in favor of the Comprehensive Plan, but stated the Plan was difficult to read, and not readily understandable by the ordinary person.

W. Evan Stahl, commented on the agricultural value of the valley, and voiced his opposition to the open space provision in the Plan.

Arlene Harris, 2045 So. 7th, stated she found the Plan wordy and repetitious and voiced her opposition to the Plan.

Mike Flynn, Mullan Road, voiced his opposition to the Plan and that he felt the Plan should be voted on by the residents of the City and County.

Roger Bergmeier, 616 Simons Drive, stated his support for the Comprehensive Plan and the urban growth area.

Dick Ainsworth, Professional Consultants, 1221 Pattee Canyon Road, stated his support of the Comprehensive Plan.

Wally Sept, 2103 33rd Avenue, voiced his opposition to the Comprehensive Plan, and stated his position that the Plan should be put on the ballot for vote by the public.

Diane Beck, 8190 Haven Heights Road, voiced her support for the Comprehensive Plan.

Jay Sage, 2135 Sussex, voiced his opposition to the Plan, and it should be put on the ballot.

Arlyss Bolich, 2046 South 10th, voiced her opposition to the Plan, and complained that there were two different Plans. She continued that it should be put on the ballot for vote by the people.

Commissioner Kennedy explained that there were two books of the Plan out, one called a "clean plan" and the other showing the language that has been stricken, changed or added.

John Rice, P.O. Box 5700, stated his opposition to the Plan and that the matter should go on the ballot for vote by the people.

Matt Indreland, 104 Small Lane, stated his opinion the Plan should be placed on the ballot for vote by the people.

Commissioner Kennedy asked if there was anyone else who wished to speak and asked for a discussion between the Board and the City Council.

Councilwoman Chris Gingerelli, President of the City Council, and explained that surveys had been done regarding growth management and the majority of the surveys indicate people want growth managed. She continued that one of the surveys showed that 84% of the public wanted growth management.

Commissioner Kennedy commented on the public participation during the process of the Comprehensive Plan. He continued that the public hearing was still open and anyone wishing to make additional comment were welcome to do so.

Councilwoman Jamie Carpenter stated that she was opposed to the portion of the Plan that stated "Establish minimum density standards to provide for development or redevelopment at 80% of maximum number of dwelling units allowed by zoning or recommended on the Land Use Maps of this Plan." She expressed her opinion that this was far to regulatory and taking away the rights of people.

Councilwoman Herbig stated she felt the Plan should be simplified and commented on putting the plan on the ballot.

Wally Sept returned to the podium and stated that increasing density increases traffic miles, and continued that public confidence in the City and County is failing, and the Plan should be simplified in its writing and be placed on the ballot for a vote by the people.

John Zimorino questioned the number of surveys that were sent out.

Councilwoman Gingerelli asked Cindy or Philip to cite the surveys that were sent out.

Cindy Klette replied that a survey done by the Stakerholders distributed approximately 10,000 surveys, and 868 were received back, and a second survey was distributed at the Fair and an additional 220 were returned.

John Zimorino commented that was just a little over 1% of the Missoula County population response.

Chris Mostad commented on the surveys and voiced his concern about the designated urban boundary.

Councilwoman Gingerelli stated the concern of several elected officials on too much density and the use of infrastructure and her personal concern for too high a density. She continued on to explain the cost of placing an item on the ballot.

Chris Mostad asked if the Plan would allow development if a developer were to pay for the cost of the infrastructure.

Commissioner Kennedy stated that rather than addressing questions specifically to receive commentary and that at the end of the meeting he could address his questions directly to Staff.

Mayor Kadas requested Staff meet with Mr. Waldron and other fire officials on matters brought up by Mr. Waldron. He continued that the Comprehensive Plan was an advisory document and the regulations would be the Subdivision and Zoning Regulations that would follow.

Arlyss Bolich asked about City/County unification.

Martha Powell stated the same plan was emanating from every town everywhere.

Jack Doty, 315 Keith Avenue, stated his opinion that the Plan should be rewritten and queried who would be rewriting the Plan.

Susan Campbell-Reneau expressed her concern with the complexity of the Plan and her frustration with the process.

John Rice stated his agreement that the Plan should be rewritten and again requested it be put on the ballot.

(Letters offered for record during the public hearing from Rose Marie Fithem, Perry Ashby, Butch Turk.)

Commissioner Kennedy, after asking whether there was any further testimony, closed the public hearing.

#### Family Transfer for Teri G. Bardole

(Kathy Smith had read the Staff Report at the preceding meeting)

Commissioner Kennedy reopened the family transfer exemption request by Teri Bardole. He explained to Ms. Bardole the reason for the questions by the Commissioners.

Commissioner Hart asked Ms. Bardole if her mother, Irene Hasting, planned on residing on the property.

Teri Bardole replied that her mother was retired and would live on the property and her mother would be there to help her and there would be only the two homes.

Commissioner Kennedy opened the public hearing and asked if anyone was present who wished to speak on the Bardole Family Transfer. There were none, so Commissioner Kennedy closed the public hearing.

Fern Hart moved the Board of County Commissioners approve the request to create a parcel using the family transfer exemption for Tract 2, COS 4423, located in Section 18, T15N, R21W, for Teri G. Bardole, in that it does not appear to be an invasion of the Subdivision and Platting Act. Seconded by Michael Kennedy. Motion carried on a vote of 2-0.

#### Family Transfer Exemption - Mary Jane Dougherty

Kathleen A. Smith: This is a consideration of a request to create a parcel using the family transfer exemption for Tract A, COS 2465, located in Section 1, T13N, R20W, for Mary Jane Dougherty.

Mary Jane Dougherty has submitted a request to create a parcel and remainder using the family transfer exemption to the Montana Subdivision and Platting Act. The parcel is 20.17 acres in size and located southeast of the Missoula



International Airport off Highway 10. Ms. Dougherty wishes to create a 3.01 acre parcel for transfer to her adult son, James Dougherty.

The history of the parcel is as follows: Ms. Dougherty received the subject property along with various other parcels from her father, Charles L. Anderson, in January 1938. She has used various exemptions over the years, including three family transfer exemptions to her daughters, Dani Guse, Kayanette Biggers and Deanna D. Phelps. Tract A, COS 2465 was filed in October 1980 as a parcel greater than 20 acres in size.

According to the records kept by the Missoula County Surveyor, the applicant has used the exemptions to the Subdivision and Platting Act as described above along with three boundary relocations and two additional parcels greater than 20 acres in size on unrelated property.

Commissioner Kennedy asked the representative for this family transfer to speak.

James Dougherty explained that the transfer was not going to him but to his brother Jack.

Kathy Smith explained that was not what was represented in the Request for Commission Action and the matter should be continued to the following week, and that a new document would have to be submitted showing the correct name.

Commissioner Hart moved and Commissioner Kennedy seconded the motion that the family transfer request for Mary Jane Dougherty be continued. Motion carried on a vote of 2-0.

There being no further business to come before the Board, the Commissioners were in recess at 3:40 p.m.

**THURSDAY, APRIL 16, 1998**

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

ADMINISTRATIVE MEETING

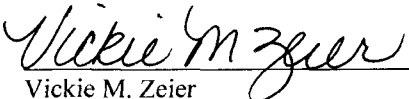
At the Administrative Meeting held in the forenoon, the following item was signed:

Resolution - Chairman Evans signed Resolution No. 98-031, amending Resolution No. 98-027 relating to \$17,100,000.00 general obligation bonds for the new jail.

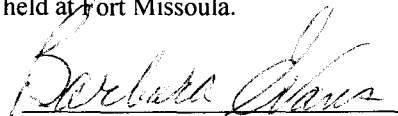
The minutes of the Administrative Meeting are on file in the Commissioners Office.

**FRIDAY, APRIL 17, 1998**

The Board of County Commissioners met in regular session; all three members were present. In the morning, Commissioner Evans attended the "We Like Missoula" kick-off held at the Chamber, and during the day, Commissioner Hart attended a Mental Health Board meeting held at Fort Missoula.



Vickie M. Zeier  
Clerk & Recorder



Barbara Evans, Chairman  
Board of County Commissioners

**MONDAY, APRIL 20, 1998**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Evans was on vacation the week of April 20-24, 1998. In her absence, the Commissioners voted to appoint Michael Kennedy as Acting Chair through May 15, 1998.

**TUESDAY, APRIL 21, 1998**

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:

Contract - Acting Chair Kennedy signed a Contract with the Montana Department of Public Health and Human Services for provision of a statewide tobacco use prevention and control program. Term of the Contract is from December 1, 1997 through November 30, 1998. Value of the Contract is \$13,000.00.

Encroachment Permit - The Commissioners signed a Missoula County Encroachment Permit allowing Tracy Scott, 217 Ridgeway, Lolo, MT to encroach upon a portion of County right-of-way along the east boundary of St. Johns in Lolo, and limited to the existing wood fence.

Other items included:

- 1) The Commissioners approved a counter-offer to Harlan Douglass of \$42,738.55, declining the \$50,000.00 counter-offer.

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

**WEDNESDAY, APRIL 22, 1998**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Evans was in briefly late in the afternoon for signature items. In the forenoon, Commissioner Kennedy participated in a teleconference and panel for the Earth Day Town Meeting held at the University Center.

Audit List -- Commissioners Hart and Kennedy signed the Audit List, dated April 21, 1998, pages 2-39, with a grand total of \$327,579.70. The Audit List was returned to the Accounting Department.

Application for Issuance of Replacement Warrant -- Acting Chair Kennedy approved an Application for Issuance of Replacement Warrant naming Steve Hayes as principal for Warrant #325943, issued 3/4/98 on the Missoula County 2140 Fund in the amount of \$77.64, not received in the mail.

PUBLIC MEETING - April 22, 1998

The Public Meeting was called to order at 1:30 p.m. by Acting Chair Michael Kennedy. Also present were Commissioner Fern Hart, Deputy County Attorney Colleen Dowdall, and County Surveyor Horace Brown.

Public Comment

None.

Routine Administrative Actions

Commissioner Hart moved, and Commissioner Kennedy seconded the motion to confirm and approve the routine weekly administrative actions and weekly claims list in the amount of \$327,579.70. Motion carried on a vote of 2-0.

Family Transfer Exemption for Mary Jane Dougherty

Kathleen A. Smith: This was continued from last week and I would like to read the report again into the record.

This is a consideration of a request to create a parcel using the family transfer exemption for Tract A, COS 2465, located in Section 1, T13N, R20W, for Mary Jane Dougherty.

Mary Jane Dougherty has submitted a request to create a parcel and remainder using the family transfer exemption to the Montana Subdivision and Platting Act. The parcel is 20.17 acres in size and located southeast of the Missoula International Airport off Highway 10. Ms. Dougherty wishes to create a 1.5 acre parcel for transfer to her adult son, Jack Patrick Dougherty.

The history of the parcel is as follows: Ms. Dougherty received the subject property along with various other parcels from her father, Charles L. Anderson, in January 1938. She has used various exemptions over the years, including three family transfer exemptions to her daughters, Dani Guse, Kayanette Biggers and Deanna D. Phelps. Tract A, COS 2465 was filed in October 1980 as a parcel greater than 20 acres in size.

According to the records kept by the Missoula County Surveyor, the applicant has used the exemptions to the Subdivision and Platting Act as described above along with three boundary relocations and two additional parcels greater than 20 acres in size on unrelated property.

Commissioner Kennedy asked the representative for this family transfer to speak.

Gilbert Larson with Druyvestein, Johnson and Anderson, stated that he was there, along with Jim Dougherty, to represent the family, and stated that the Dougherty family has owned in the Missoula Valley for a very long time and possessed many tracts of land. There are eight children and she has used the exemption three times in the past and this would be the fourth child to receive land. Mr. Larson stated for the record that Mrs. Dougherty is finding the system more complex than she thought it was going to be based on the past. There have been a number of changes, some of them happening even just in the last couple of days to bring what you have before you. I think she feels she should be allowed to divide up any piece of ground, however she wants, and sell it without even involving the Commission and it has been a little bit of a difficult procedure. For that I apologize. I know there has been a lot of changes and confusion, but at the same time I believe it is very understandable. It's difficult to have owned a piece of ground for that long and to understand why you have to come forward to give a piece to a son.

Commissioner Kennedy asked Jim Dougherty to come to the microphone, and explained the procedure of the family transfer and discuss this transfer, and continued stating the confusion in the size and the name of the recipient at the prior meeting and asked clarification.

James Dougherty explained the confusion was between him and Gilbert Larson as to what his mother wished to take place, and explained that the property was on Highway 10 West and his mother elected to retain the acreage for herself, and that the miscommunication between Gilbert and Mr. Dougherty was not only did they have the wrong 1.5 acres that was before the Commissioners now.

Commissioner Kennedy asked if it was correct that the 1.5 acres presented now was southwest of the 3.01 acre parcel that his mother is going to retain?

James Dougherty responded in the affirmative.

Commissioner Hart asked if the recipient planned to live there.

James Dougherty responded that it was zoned industrial.

Fern Hart then asked about the transfer to others.

James Dougherty responded that there were but they dated back.

Fern Hart asked if those transfers were near the present one.

James Dougherty responded they were in separate areas.

Commissioner Kennedy then inquired whether they were selling the property and why the family didn't go through regular subdivision.

James Dougherty responded that because of the requirements for subdividing the property, and that the family had always been in the land business and not development.

Commissioner Kennedy then explained that County-wide and more particularly in the urban area, there are unplanned developments that create enormous infrastructure problems, and he felt that the Dougherty property could benefit by going through the subdivision process. He asked Mr. Dougherty if he would consider withdrawing the family transfer request and consider going through subdivision on the real property involved and other parts of the property.

James Dougherty responded that it was 20 plus acres and there would be considerable capital gains for his mother to pay, and the expenses of meeting the subdivision requirements.

Commissioner Kennedy opened the public hearing regarding the Dougherty Family Transfer. As there were no speakers, he then closed the public hearing.

Commissioner Hart moved and Commissioner Kennedy seconded the motion, that the Board of County Commissioners approve the request to create a parcel using the family transfer exemption for Tract A, COS 2465, located in Section 1, T13N, R20W, for Mary Jane Dougherty, to be given as a gift to Jack Patrick Dougherty, in that it does not appear to be an invasion of the Subdivision Act. Motion carried 2-0.

#### Revocation of Agricultural Exemption for Nelson

Kathy Smith: This is a consideration of a request to revoke an existing agricultural covenant on Tract A, COS 3144, located in Section 23, T13N, R20W for Wayne E. Nelson and Bonny E. Resner.

Wayne Nelson has submitted a request to revoke an existing agricultural covenant on Tract A, COS 3144. The parcel is 6.44 acres in size and located at the west end of South 7th Street West off Walker Drive. Mr. Nelson states he and Ms. Resner wish to place a single family dwelling on the parcel.

The history of the parcel is as follows: COS 3144 was filed in December 1984 by Garden City Broadcasting Inc. creating Tract A using the agricultural exemption to the Montana Subdivision and Platting Act and Tract B as the remainder. Mr. Nelson and Ms. Resner purchased the parcel in June 1994.

According to the records kept by the Missoula County Surveyor, the applicants have not used any exemptions to the Subdivision and Platting Act.

Commissioner Kennedy asked for a representative of the applicants to speak.

Wayne Nelson responded that he was present.

Commissioner Kennedy explained that if the Commissioners granted the exemption it would not give Mr. Nelson and Ms. Resner authority to pursue development and there were major issues involved with the development of the property.

Wayne Nelson responded that he was aware of the issues, however, the building site was not located in the floodplain.

Commissioner Hart inquired of Colleen Dowdall whether any additional consideration needed to be made in reference to removal of the agricultural covenant.

Colleen Dowdall responded that it was not to avoid subdivision review.

Commissioner Kennedy opened the public hearing and asked for comment. As there was none, the public hearing was closed.

Fern Hart moved that the Board of County Commissioners approve the request to revoke an existing agricultural covenant on Tract A, COS 3144 located in Section 23, T13N, R20W, for Wayne E. Nelson and Bonny E. Resner, in that it does not appear to be an attempt to evade the Subdivision and Platting Act. Commissioner Kennedy seconded the motion. The motion carried on a vote of 2-0.

#### Hearing - CDBG Grant Application

Cindy Wulfekuhle, Office of Planning and Grants: Nutritional Laboratories is a fairly new business located in the Lolo Shopping Center. They began their operations in the spring of 1997. They provide testing, processing and packaging of raw materials for national and international businesses that sell dietary food items and other health food supplements. As of March 21 they had 27 employees on board and they operate on 3 8-hour shifts. With the proposal before you, they intend to hire an additional 50 employees, 42 of which would meet the low to moderate income limits, which is a CDBG requirement. At least 51% of the employees to be hired are considered low to moderate income at the time of hire.

If awarded the funds, they will use the money to expand their operations with the purchase of additional equipment, inventory and working capital. \$10,000 of CDBG funds will be set aside for County grants staff administration.

Ned Becker, Vice President of Sales and Marketing Development for Nutritional Laboratories, provided a brief history of the Company, and detailed the operations of manufacturing.

Commissioner Kennedy inquired about the employees that would be employed and the time expectation for employment.

Terry Metichuk, President of Nutritional Laboratories: Responded that they were experiencing rapid growth and projections for employee growth was in the next two years to add another 50 employees, and 42 of those would be production employees.

Commissioner Kennedy asked if they would be permanent employees.

Terry Metichuk yes, they would be.

Commissioner Kennedy asked that they describe the types of benefits.

Terry Metichuk explained the vacation, sick leave, paid holidays, and medical insurance for employees.

Commissioner Kennedy then asked about salaries.

Terry Metichuk replied that they started production people at \$6.50 an hour and after 90 days it would be raised to \$7.00, and after two years would be \$9.00 maximum, with cost of living increases.

Commissioner Kennedy then confirmed the pay schedule as recited.

Terry Metichuk stated that he should have clarified that the pay increases, after the 90 day probation period, would increase \$.50 an hour every six months after that, so after two years they would reach the \$9.00.

Commissioner Kennedy then asked when the health insurance began for the employee.

Terry Metichuk explained that it would begin after the 90 day probationary period. All other benefits begin on the date of hiring.

Commissioner Kennedy asked about the 401K.

Terry Metichuk stated it would probably begin after the 90 day probationary period.

Commissioner Kennedy asked about day care benefits.

Terry Metichuk replied not at this point but they were talked about.

Commissioner Kennedy explained his reasons for asking the questions and that local economists state a sustaining wage is \$8.00 to \$8.50 an hour and it raised concern when the government asks taxpayers to support businesses who do not pay sustainable wage. He then asked what the reasons for discharge would be after the probationary period was completed.

Terry Metichuk replied that termination is difficult after the 90 days, but some reasons would be habitual lateness, not showing up for work.

Commissioner Kennedy asked about the business plan that anticipated the pressures of competition that allowed them to continue to stay in business.

Terry Metichuk replied that they were a high quality manufacturer and they are servicing some of the largest distributors in the industry and they would continue to maintain a quality level of product.

Commissioner Kennedy commented that he hoped the personnel they would be hiring would be centered near the business. He continued that attracting people in the area who lived closer would save much in the way of transportation costs for the employee.

Terry Metichuk responded that they had discussed that and, in fact, have a several employees from the immediate area and are interested in hiring more people from the local area.

Commissioner Kennedy asked Cindy Wulfekuhle if there was a way to assure that local hiring and was there a way of requiring the local hiring.

Cindy Wulfekuhle replied none that she was aware of.

Commissioner Kennedy asked if the productivity in the future increased if the overall base salary scale increased as well.

Terry Metichuk replied that there had been discussion in such case, and there would be other benefits. That nothing was firm, but recognized that as a manufacturer they relied on their employees.

Commissioner Kennedy that asked if in a year and asked they reconsider and raise the overall range of salaries, they would have in the meantime examined their productivity and would then have a good response.

Terry Metichuk replied he believed that would be so.

Commissioner Kennedy then asked about the other eight employees, their position and how they were compensated.

Terry Metichek responded they were salaried positions or a higher hourly rate, administration, supervisors and laboratory technicians, positions that required higher training.

Commissioner Kennedy inquired if they were considering any other incentive or consideration from government other than the current request.

Terry Metichek responded in the negative.

Commissioner Hart asked if after their expansion would they run fewer shifts or more shifts.

Terry Metichek responded they would like to drop to two shifts and they would always then run two full shifts.

Commissioner Hart commented that she was delighted for Lolo.

Commissioner Kennedy commented also that it was an important thing and could change the overall transportation mix.

Commissioner Kennedy opened the public hearing regarding the grant.

Ron Klaphake, Missoula Area Economic Development Corporation, stated the MAEDC had been working with the Nutritional Laboratories and have participated in loaning to the company twice, and commented MAEDC has been managing it, monitoring it, and the rapid growth of the company and recommended approval of the grant to enable Nutritional Laboratories to expand.

Ron Ewart, 5201 Skyview, stated his support for Nutritional Laboratories receiving the grant.

Cindy Wulfekuhle read a letter from Lolo Community Council into the record: "Dear Commissioners, Nutritional laboratories International is a manufacturing plant for encapsulated powdered herbals. The company went into production in June of 1997 in an 11,550 square foot space which was purchased in the Lolo Shopping Center. The company currently employs 35 people. Wages for entry level production employees are above minimum wage with increases at 90 days and again over a two year time period. A 401K plan is to be implemented later on this year. There is also a health insurance plan in place with Nutritional Laboratories paying 80% of the premium, even for the family plan.

This clearly demonstrates that Nutritional Laboratories is a serious provider both to their employees, and to the economic viability of the community in the form of a tax base.

A tour of the manufacturing plan facilities of Nutritional Laboratories gives ample evidence of their need for expansion. The inventory is stacked to the rafters, the quarantine area (for products that have arrived contaminated) is merely a holding pen, and the encapsulation and bottling areas are very close-quartered.

The demand for quality-assured herbals is expanding, hence the need for NLI to expand. The strained-to-capacity status of the three semi-automatic encapsulation machines, which only handle 360 capsules per loading, will be both relieved and augmented by the addition of two fully-automatic machines in the near future. A third is planned for when funding is available.

There is an additional 6,000 square ft space available adjacent to the existing plant. By expanding into the neighboring area, Nutritional Laboratories will be able to increase its output of the final product from the current level of 12,000 bottles per day to 40,000 within a years time. This increase in productivity will have an additional benefit of necessitating the hiring of 15-20 more employees.

Nutritional Laboratories is a stellar example of the type of business a county and town looks for when inviting development. They are a clean, non-polluting contribution to our community. We welcome them and strongly encourage any assistance available for their future growth and economic stability. Thank you. Lolo Community Council, Diana J. Mitchell, Chair."

Commissioner Kennedy closed the public hearing.

Fern Hart moved and Michael Kennedy seconded that the Board of County Commissioners approve submitting the CDBG application on behalf of Nutritional Laboratories, and that the Commissioners sign the resolution. Motion carried 2-0.

Commissioners Hart and Kennedy signed Resolution No. 98-032, a resolution of the Missoula County Commissioners authorizing the submittal of a Community Development Block Grant application to the Montana Department of Commerce on behalf of Nutritional Laboratories International, Inc.

Consideration of Phillips Industrial Lots (3-lot light industrial subdivision).

Nancy Heil, Office of Planning and Grants: The consideration before you is Phillips Industrial Lots Summary Subdivision. The applicant is proposing a 3-lot light industrial summary subdivision southwest of the Wye. The total size of the subject property is 5.18 acres. Two lots will be 1.5 acres in size and the third will be 2.18 acres. The property is legally described as Portion A and Tract B-1, COS 3411, Section 28, T14N, R20W. The subdivision is zoned C-11, light industry. The Race Track Industrial Park Subdivision located west and southwest of the property was approved in 1997, and the Haffner subdivisions are located south of Racetrack Industrial Park. The property is accessed via Highway 10 to Derby Drive, to Alita Drive. There is an 18 foot unpaved road in a 60 foot right-of-way that runs along the western boundary of the property and connects to Highway 10 north of the property. Applicant proposes to improve this road as an extension of Alita Drive. OPG recommends approval of the subdivision based on the Findings of Fact in the Staff Report and subject to the conditions in the Staff Report. OPG recommends approval of the variance requests to not provide sidewalks or pedestrian walkways in the subdivision based on the Findings of Fact set forth in the Staff Report. OPG also recommends approval of the variance request to vary from the required 80 foot easement to a 70 foot easement along Alita Drive, based on the Findings of Fact set forth in the Staff Report. OPG also recommends approval of the

variance request to vary from the required 32 foot road width to a 24 foot road width along Alita Drive based on the Findings of Fact in the Staff Report. There are six conditions that were originally included in the Staff Report. Based on some later discussion that we had, and I believe you should have a memo that Colleen distributed that shows revisions to conditions 2 and 6, and two additional conditions, number 7 and 8.

Commissioner Kennedy asked Mr. Ron Ewart for a presentation on behalf of the developer.

Ron Ewart with Eli and Associate: We have no problem with the conditions and we believe they are well thought out. We have tried to take into consideration this area is going to grow, but right now it would be difficult for the people just getting set up out there and developing a small property for them to have to put in the wide streets and sidewalks, and that can all be done later on. Right now we are proposing to pave Alita Drive to 24 feet up to the north boundary of Lot 1 of this subdivision. What this allows for is when the property to the north becomes subdivided or developed, the property owner then would pick up from his south boundary line so there will not be a gap and someone else isn't paving another person's property. We are working on a property owners association for the area, but this is something that might take a little time. We're working on that so the maintenance of the roads will be done in a cooperative manner. Right now we are proposing a road maintenance agreement for this portion of Alita Drive, so that would be in place.

There are a couple of things addressed in the conditions which I think are good. One has to do with the fire statement about firefighting equipment. I met with Bill Lindstrom and Scott Waldron and we talked about fire protection in that area. We met with Mountain Water about putting a water line out there. They said they would be glad to do it, but you have to have the money, and in order to have the money you have to have the development. Although you would like to have fire protection out there before the development occurs, so it's kind of hard to work out. The final analysis was that in the interim until water does get out there, they could have large underground tanks, located in areas that would serve a certain radius of property, using large diameter hoses. So they would set up a RSID for that and as these lots become created, all of them waive the right to protest. That gives the Fire Department good control for when they want to start implementing that. On the transportation system, we've tried to make some sense out of that and tried to plan future connections. I think it could be done in such a way that would be logical and connect up Deschamps Lane with this area. I don't believe the traffic coming through the subdivision would be traffic other than oriented to the businesses here in this subdivision. Most of the traffic going from Point A to Point B is going to be on Highway 10 West or possibly Deschamps Lane. I think in this area it will be mainly the traffic going to the businesses here.

The types of businesses that will be locating here are a little more to say more blue-collar type than the ones that would be locating such as in the Missoula Development Park, where you have a lot more requirements as far as landscaping and setbacks and things like that are concerned. We need areas for these kinds of businesses. The two latest businesses to open out there are Ace Auto Salvage and Hawkeye Wood Shavings. We do need to have an area for these kinds of businesses and that is basically what the developer is trying to do. The owner of the property is Jim Phillips, he's a local person who owns the land and he wants to build the road. We're in agreement with all of the conditions. Sam Martin is also working with Jim Phillips.

Sam Martin, Country Places Real Estate: We have quite a need for small start-up businesses, like locations for fiberglass shops, new pump service man, and I had a call the other day, a woman looking for a warehouse with a small office, as they start their businesses. This particular project will lend itself to that. By the time you build some buildings you should be in the \$100,000 to \$150,000 price range if we don't get carried away, and there's a definite need for the start-up businesses for a location like this and for light manufacturing.

Commissioner Hart commented that it was good they took in the fire issues out there. She then asked about the water wells and sufficiency of water.

Ron Ewart stated that from the well logs they looked at and from what they learned, there is adequate ground water.

Nancy Heil commented there were well logs in the application packet.

Ron Ewart commented that from the well logs he had the wells were 93 to 135 feet deep.

Fern Hart commented that in the area of the subdivision it was important to keep the water in mind.

Commissioner Kennedy stated that while Staff agreed with the variance for a 70 foot right-of-way he did not agree.

Horace Brown, County Surveyor, responded that he had asked for a transportation plan in this area, and commented they moved to the adjacent lot and that the alignment of Alita Drive was not such to be used as a main corridor. He further commented he wanted to see a design of the infrastructure for the lots in that area that was proposed to split off, and that at this time there were roads with bad curves and not well aligned. He further stated there was a possibility 80 feet might be needed for Alita, but could not say what would happen in the future.

Nancy Heil also commented that the variance request deals with Alita from its intersection at Derby Drive north along the subject property. Alita Drive south of that location was reviewed under Racetrack Industrial Park and there was a variance requested at that time for that road to be within a 60 foot easement. The subject property variance is from Derby Drive north.

Commissioner Kennedy commented Derby Drive's right-of-way was 100 feet and Subdivision Regulations called for an allowance of 80 feet. He further stated from the plans that it would appear the 80 feet would be necessary for future development.

Horace Brown stated that he had been provided a plan of how future roads would be developed in the future and it showed Alita as going all the way to Highway 10. He continued that he wasn't sure it would be a main highway but it may be the one to the west that was not yet constructed.

Nancy Heil commented that the area was zoned light industrial and that the property west of Alita, across from the subject property is currently in agricultural use, but is Lot 9 of Racetrack Industrial Park. Some of the rationale on the easement

was that though there was a 60 foot easement, the present applicant was providing another 10 feet of that easement towards the goal of having 80 feet easement, with the presumption that when Lot 9 was divided, Lot 9 would provide 10 feet to have the end goal of having an 80 foot easement.

Commissioner Hart moved and Commissioner Kennedy seconded the motion, that the Board of County Commissioners approve the variance request from Section 3-2(5) of the Subdivision Regulations to not provide sidewalks or pedestrian walkways in the subdivision, based on the Findings of Fact set forth in the Staff Report; approve the variance request from Section 3-2(3) of the Subdivision Regulations to vary from the required 80 foot easement to a 70 foot easement along Alita Drive, based on the Findings of Fact set forth in the Staff Report; and approve the variance request from Section 3-2(3) of the Subdivision Regulations to vary from the required 32 foot road width to a 24 foot road width along Alita Drive, based on the Findings of Fact set forth in the Staff Report. The motion carried on a vote of 2-0.

Commissioner Hart moved and Commissioner Kennedy seconded the motion, that the Board of County Commissioners approve the three lot light industrial summary subdivision southwest of Wye, known as Phillips Industrial Lots Subdivision, subject to the following conditions:

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 the assent of the lot owner to waive the right to protest a future RSID/SID for future road improvements, including the installation of pedestrian walkways, to Derby, Summit, and Inspiration Drive, 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 therein."
2. 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 sewer and potable and firefighting 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 therein."
3. The developer shall contribute \$100.00 per new lot to the Missoula Rural Fire District prior to plat filing.
4. An avigational easement shall be obtained for this property in compliance with the Airport Influence Area Resolution prior to plat filing.
5. The following statement shall appear on the face of the plat and each instrument of conveyance:  
"This property is within the Airport Influence Area and subject to the requirements of the Airport Influence Area Resolution."
6. The applicant shall develop a revegetation plan and weed management plan for all disturbed areas according to the recommendations of the Missoula County Weed Control Board. Plans shall be approved by the Missoula Weed Control Board prior to final plat filing. All disturbed areas shall be revegetated in accordance with these plans and the requirements of the Missoula Weed Control Board.
7. The plat should refer to Alita Drive and Enterprise Way as private roads.
8. 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 future inclusion in a Weed Control District. 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."

The motion carried on a vote of 2-0.

As there was no other business to come before the Board, the Commissioners were in recess at 2:45 pm.

#### THURSDAY, APRIL 23, 1998

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. In the afternoon, Commissioner Evans attended a presentation by Montana Rail Link for the Local Emergency Planning Committee.

#### ADMINISTRATIVE MEETING

At the Administrative Meeting held in the forenoon, the following items were signed:

Notice of Sale of Real Property - Acting Chair Kennedy signed a Notice of Sale of Real Property for the Lennox Hotel, 300-306 West Broadway, Missoula, MT. Minimum acceptable bid for the property is the appraised value of \$370,000.00. Public auction will take place at 1:30 pm on May 13, 1998 in Room 201 of the Missoula County Courthouse.

Resolution - Chairman Evans signed a Resolution listing authorized agents and their signatures for access to federal surplus property from the State of Montana, Property and Supply Bureau. The resolution was forwarded to the Property Supply Bureau in Helena.

Resolution - The Commissioners signed Resolution No. 98-035, granting revocation of agricultural use covenant for Wayne Nelson and Bonny Resner, for Tract A, COS 3144, located in Section 23, T13N R20W.

Resolutions - The Commissioners approved, and Chairman Evans signed, two resolutions and related documents:

- 1) Resolution No. 98-034, approving a loan agreement for \$200,000.00 InterCap Loan for purchase of the self-insurance building.
- 2) Resolution No. 98-033, approving a loan agreement for \$90,000.00 InterCap Loan for the addition to the exhibition building at the fairgrounds.

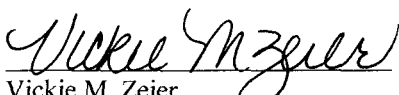
Extension Letter - The Commissioners approved a 90-day extension for filing the final plat for Richter Lots, making the new filing deadline July 29, 1998, with a letter to Ron Ewart, Eli & Associates.

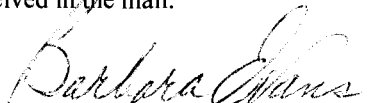
The minutes of the Administrative Meeting are on file in the Commissioners Office.

**FRIDAY, APRIL 24, 1998**

The Board of County Commissioners did not meet in regular session; Commissioner Hart was in Helena attending a Department of Health and Human Services Advisory Committee meeting at the State Capitol.

Application for Issuance of Replacement Warrant -- Acting Chair Kennedy approved an Application for Issuance of Replacement Warrant naming Stephen Clayton as principal for Warrant # 011522, issued 1/7/98 on the Missoula County SD #1 General Fund in the amount of \$22.00, not received in the mail.

  
Vickie M. Zeier  
Clerk & Recorder

  
Barbara Evans, Chairman  
Board of County Commissioners

**MONDAY, APRIL 27, 1998**

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

Contract - The Commissioners signed a Contract with First Montana Title and Escrow and the Missoula County Clerk and Recorder for ownership and tax deed title searches. Compensation shall be per rates listed on bid documents, and work shall be completed by July 10, 1998. The Contract was returned to Debbe O'Neil in Recording for further handling.

**TUESDAY, APRIL 28, 1998**

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

Indemnity Bond -- Acting Chair Kennedy examined, approved, and ordered filed an Indemnity Bond naming Western Montana College as principal for Warrant #010865 issued 12/11/97 on the Missoula County General Fund in the amount of \$30.00 now unable to be found.

ADMINISTRATIVE MEETING

At the Administrative Meeting held in the forenoon, the following items were signed:

Memorandum of Agreement - Acting Chair Kennedy signed a Memorandum of Agreement among the United States Army, Montana State Historic Preservation Officer, and Advisory Council on Historic Preservation for the Closure and Disposal of Fort Missoula, Montana. The Agreement was returned to Allan Mathews at OPG for further signatures and handling.

Memorandum of Agreement - Acting Chair Kennedy signed a Memorandum of Agreement with the Lolo Lions Club and Missoula County Park Board for \$1,550.00 in matching funds for improvements of a soccer goal, paint machine, basketball uprights, backboards, and baskets and three concrete picnic tables for Lolo Community Park. The Agreement was returned to Tammy Holshue at OPG for further handling.

Agreement for Maintenance - The Commissioners signed an Agreement for Maintenance of Fort Missoula Park Complex Grounds by the City Parks and Recreation Department. Duration of the Agreement is from July 1, 1997 through June 30, 1998. Compensation shall be \$43,355.00.

Agreement - The Commissioners signed an Agreement between the Missoula City-County Health Department and the Frenchtown School District for provision of a school nurse for FY 99. Term of the Agreement is August, 1998 through June, 1999. Compensation shall not exceed \$33,005.00.

PHC Documents - The Commissioners signed four documents for Partnership Health Center:

- 1) Addendum to Lease effective July 31, 1997, correcting the description of the premises subject to the Lease to read: Lots 4, 5, 6, and 7 of Block 8 of CP Higgins Addition to the City of Missoula, Missoula County, Montana.
- 2) Corrected Notice of Federal Reversionary Interest for real estate described as: Lots 4, 5, 6, and 7 of Block 8 of CP Higgins Addition to the City of Missoula, Missoula County, Montana.
- 3) Development Agreement with the City of Missoula Redevelopment Agency. MRA will pledge tax increment monies up to \$75,286.00 to assist with site preparation.
- 4) Amended Financing Agreement with Missoula County, which supersedes the Financing Agreement dated July 31, 1997. County funds for construction shall not exceed \$500,000.00.

Plat - The Commissioners signed (as owners and Commissioners) the plat for Missoula Development Park, Phase 2, the platting of Missoula Development Park - Phase 2 and the amended plat of Lot 2-A, Missoula Development Park - Phase 7, a subdivision located in the S1/2 of Section 36, T14N R20W, PMM, and the N1/2 of Section 1, T13N R20W,



PMM, Missoula County, a total of 75.03 acres, with the owners/developers being the Missoula County Airport Industrial District.

Modification of Agreement - Commissioner Hart signed a Modification of Agreement with the Montana Department of Environmental Quality for advance funding for the Lolo Wastewater Facility Plan. Draft plan shall be submitted to DEQ by April 30, 1998, and final plan shall be submitted by July 31, 1998. The Agreement was forwarded to DEQ in Helena.

Resolution - The Commissioners signed Resolution No. 98-036, a Budget Amendment for the Health Department, Hope/New Directions, in the amount of \$45,621.00 for FY 98.

Other items included:

- 1) The Commissioners approved the hiring of three additional detention officers so that the three existing officers can be reassigned to the jail transition team.
- 2) The Commissioners approved recommended prices for specified lots for sale in the Missoula Development Park.

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

### WEDNESDAY, APRIL 29, 1998

The Board of County Commissioners met in regular session; a quorum of members was present in the afternoon. Commissioner Hart was in Polson attending a MACo District 10 and 11 Counties meeting.

Audit List -- Commissioners Evans and Kennedy signed the Audit List, dated April 29, 1998, pages 2-41, with a grand total of \$193,126.79. The Audit List was returned to the Accounting Department.

Proclamation - The Commissioners signed a Proclamation recognizing May 3-9, 1998 as Correctional Detention Officers Week.

#### PUBLIC MEETING - April 29, 1998

The Public Meeting was called to order at 1:30 p.m. by Chair Barbara Evans. Also present were Commissioner Michael Kennedy, Clerk and Recorder/Treasurer Vickie Zeier, Deputy County Attorney Colleen Dowdall, and Deputy County Attorney Michael Sehestedt.

#### Public Comment

None.

#### Routine Administrative Actions

Commissioner Kennedy moved, and Commissioner Evans seconded the motion to approve the routine administrative items adopted this week and approve the weekly claims list in the amount of \$193,126.79. The motion carried on a vote of 2-0.

#### Leasing of 215 Acres at Missoula Development Park (Projects Office)

Michael Sehestedt explained the purpose of the lease is to control weeds in an acceptable and cost-effective manner. The term of the lease runs from the award date through October 31, 1998. Solicitation for bids was published in the MISSOULIAN on April 19 and 26, 1998. Bids were due and opened at 2:00 p.m. on April 27, 1998. The only bid received was by Loris A. Staber for \$5.00 per acre X 215 acres = \$1,075.00. Lessee's use of the land will be to plant and harvest grain in the 1998 growing season.

Chairman Evans asked if awarding the bid was contingent on proof of insurance.

Michael Sehestedt stated that the Commissioners were authorizing the standard end of the contract and the bidder would have to meet all of the requirements.

Commissioner Kennedy moved and Chairman Evans seconded the motion that Loris A. Staber be awarded the lease of 215 acres at the Missoula Development Park. Motion carried on a vote of 2-0.

#### Reconsideration of previous Family Transfer (Sardot)

Kathleen A. Smith explained that Aldo Sardot has again submitted a request to create a parcel and remainder using the family transfer exemption to the Montana Subdivision and Platting Act. The parcel is 21.46 acres in size and located in the Upper Miller Creek area off Trail's End Road. Mr. Sardot proposes to split the parcel in half for transfer to his wife, Nikki Sardot. Mr. Sardot has previously requested use of this exemption on two occasions, once in August 1995 and the other in October 1995. Both requests were tabled so that Mr. Sardot could consult with the Office of Planning and Grants regarding minor subdivision review. In addition, as the Miller Creek plan was in the process of being amended, Mr. Sardot was also requested to wait to see if his parcel would receive a new designation as it then had an open and resource designation (one dwelling unit per 40 acres).

In 1997 when the new Miller Creek plan was developed, the subject parcel received a dual designation of one dwelling per 5 acres, the upper portion of the parcel remaining at open and resource. Since the hearing on October 11, 1995, Mr. Sardot has applied for and received an access permit. At the time, an address was also assigned to the property. In a

report dated September 25, 1997, Tim Hall of the Office of Planning and Grants and Steve Inabnit of Eli & Associate traversed the property on September 23, 1997 and found that Mr. Sardot had cleared two building sites. Mr. Hall expressed concern regarding the steep slope of the driveway, access by emergency services and maintenance in the winter. Further, Mr. Hall determined that there was a higher risk of wildfire on the upper portion of the property as it is very near timberland from the south and east. He concluded that it would be very difficult to provide services to this parcel. Based on the redesignation and the recommendations of the Board of County Commissioners at the meeting in October 1995, Mr. Sardot is again requesting reconsideration of his request.

The history of the parcel is as follows: In January 1990, COS 3743 was filed by the McCullough Brothers creating three parcels greater than 20 acres in size. Mr. Sardot purchased Tract A of COS 3743 in June 1995.

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

Aldo Sardot was present in the audience and Chairman Evans asked if he wished to say anything.

Chairman Evans stated that this was not a public hearing but would like to take public comment if there was anyone who would like to speak.

There being no comment, Chairman Evans closed the public hearing.

Commissioner Kennedy asked Aldo Sardot if his original request was to transfer property to one of his children.

Aldo Sardot replied that the transfer was to his wife to be kept for his grandchildren.

Kathleen Smith stated that was correct, his original transfer was to his wife for the benefit of his grandchildren.

Commissioner Kennedy asked Aldo Sardot why he did pursue going through subdivision review.

Aldo Sardot replied that he thought he did not need to do that, he believes he has a right to give the property to his wife and the cost of subdivision was too expensive.

Commissioner Kennedy stated that there were negative consequences to this method of subdivision. The area in question is difficult to develop and there are no services available. If Mr. Sardot went through subdivision review, there would be discussion of those difficulties. If it succeeded with subdivision review, it would come with qualifications that would mitigate those problems. Without that review, it is simply not possible.

Chairman Evans asked Colleen Dowdall that under the certificate of survey process we do not have the right to add conditions or anything, we are to determine whether or not there is an attempt being made to evade the subdivision act. If we do not find that determination, they have the right to split that land and give it to a family member once in each county in their lifetime.

Colleen Dowdall stated that was correct as long as there was not an attempt to evade subdivision review. The nature of questions may be as to his intent of what he will do with the property.

Chairman Evans asked Colleen Dowdall to define "evade" versus "avoid."

Colleen Dowdall explained what constitutes an attempt to evade. She explained that if Mr. Sardot is going to divide this property and give part to his wife and she is going to keep it for the grandchildren, or even if she builds a house on it and sells it, that is okay as long as Mr. Sardot does not benefit from the use of those funds. If the funds were used in a joint account or to pay off joint debts, that would be evidence of an attempt to evade subdivision review. If the land was to be used to benefit either herself or her children, that would be a legitimate use of the family transfer exemption.

Commissioner Kennedy asked Kathy Smith to refresh his memory as to the reason for transfer in 1995 and why the transfer was not granted.

Kathy Smith replied that it was for the 2-year-old grandchild, and the request was withdrawn because of the problems with the open and resource designation. It was stated that the second parcel would most likely not be a buildable parcel and that since the Miller Creek plan was being amended that perhaps he should wait to see what new designation he might receive through that process. That is what Mr. Sardot has done. He has also looked into the minor subdivision process and was told he would not be able to do that because of the open and resource designation.

Chairman Evans asked Mr. Sardot how many acres he had.

Aldo Sardot replied that there are approximately 21 acres.

Chairman Evans stated that there were a couple of different issues present. One was whether or not Mr. Sardot has the legal right to have the land transferred to his wife. Chairman Evans believes Mr. Sardot has that right. The second issue was whether or not the driveway is too steep or services are available. That is outside the Commissioners' purview on this type of process.

Colleen Dowdall asked Mr. Sardot if he intended to develop the property.

Aldo Sardot said he was planning to build a home on the top lot and the lot below will be kept the same.

Colleen Dowdall stated that in Tim Hall's memo, Mr. Sardot has cleared 2 building sites.

Aldo Sardot said that this was due to requirements at the bank for a loan.

Chairman Evans stated that if Mr. Sardot has cleared 2 building sites, it looks like he is planning to build 2 units now.

Aldo Sardot said that he did have 2 sites but was planning to build now on only one.

Colleen Dowdall explained that if what Mr. Sardot told us is not the case, the county would have a remedy of going to court and asking for the split to be dissolved, so that he could not have 2 parcels, even up to the point where he would be asked to take down one of the houses.

Commissioner Kennedy asked Mr. Sardot why he visited with Tim Hall.

Aldo Sardot stated that he wanted Tim Hall to write a letter to say that the Commissioners could talk to him about splitting his property.

Colleen Dowdall stated that Tim Hall only has a say in the matter when the property comes in for subdivision review. There is a memo to file from Tim Hall about his conversation with Mr. Sardot.

Commissioner Kennedy stated that based on the evidence of 2 building sites and the conversation in this hearing and in 1995, he cannot support the split. He believes there are other options open to Mr. Sardot that he needs to take advantage of, and based on the discussion this is an attempt to evade subdivision regulations and cannot support the transfer.

Chairman Evans told Mr. Sardot that she would have supported a motion to grant the transfer. She suggested that Mr. Sardot go to the planning department and begin a 2-lot split of his property or a mortgage split option. His request for a family transfer was denied.

#### Woody Mountain Subdivision Hearing

Dave Loomis, Office of Planning and Grants, presented the report on Woody Mountain.

Woody Mountain is a proposed project by Bob Greil for a 25 unit mobile home park for lease or rent on a 12.97 acre tract of land. The applicant will maintain ownership of the land, renting units or spaces to tenants. This area is unzoned, the 1990 Urban Comprehensive Plan designates this area as suburban residential, with a maximum density of two dwelling units per acre. The property is located on Pine Grove Lane, a private road, adjacent to Highway 10 west of West Riverside. The property is legally described as portion B of COS 3300, SW1/4 Section 17, T13N, R18W.

Dave Loomis also presented some of the key issues and conditions for the property. 1) The roads and right of way need to be expanded, paved driveways, and a new intersection with Highway 10. 2) Pedestrian access along the road. 3) Landscape plan is required in Mobile Home Park Standards, especially on southeast edge where there are existing private single family homes, and also on Mr. Greil's other property to the southeast which is used for heavy equipment storage. 4) Travel corridor standard also required. 5) On-site recreation.

Gilbert Larson, Druyvestein Johnson & Anderson, developers representative, and Bob Greil, owner, were present to answer any questions.

Gilbert Larson expressed his thanks to staff, in particular Dave Loomis, for their help. The Greils will rent the 25 spaces to homeowners, and there will be an opportunity to own the home but not the ground.

Commissioner Kennedy asked if there would be both renters and homeowners present.

Gilbert Larson stated that would be the case, but no homes would be allowed to be brought into the park, the home will be set up on site by the Greils. He mentioned that the Greils also live adjacent to the site. A key element that adds to the community is the trail system, which provides a good linkage along Highway 10 and a good community benefit.

Gilbert Larson explained that there was one item that they did not agree with the Planning Board on, which was the sidewalks. However, Bob Greil is willing to accept all the conditions as they come from the Planning Board.

Commissioner Kennedy asked Bob Greil where he lived

Bob Greil pointed out the area adjacent to the subdivision where he and other members of his family live.

Commissioner Kennedy also asked about access to other properties and the granting of easements and whether improvements such as shrubbery and trees would be removed.

Gilbert Larson replied that none would be removed.

Commissioner Kennedy asked for clarification on the walkways, that they would not be attached to the roadway but separated by 8 feet from the edge of the pavement.

Gilbert Larson stated that was correct and all parties had agreed to this conditions.

Chairman Evans opened the public hearing.

Charlene Phlypo, lives in the house that would be closest to the property line, separated by only 10 feet, which is where she currently parks her vehicles. Some of her concerns were security and lighting. She also stated that the playground would be in front of her home. She was concerned that the name of her road would change. She felt that 25 houses in that area was too much.

Sandy Louke, is not opposed to development but concerned that the area reserved for the 25 homes is approximately 6 acres, which is inconsistent with the character of the area, which have at least 1/2 acre or more. She also expressed concern about the vegetation screening between the existing homes and the subdivision. It looked to her like there would be some area that would not be filled.

Dave Loomis explained the screening vegetation, that it did indeed run the entire length of the subdivision. There were different types of screening in different areas of the park.

Sandy Louke also expressed concern about the old Pine Grove Lane coming to a dead end at the jog of the new property line, near unit 10, and a turnaround at that dead end.

Dave Loomis explained that this is actually considered a driveway, so no turnaround was required.

Sandy Louke also expressed concern about fire protection in the area. She stated that Missoula Rural Fire has a sign posted a mile before this area that states and end to their protection. She spoke with Missoula Rural Fire to ask about coverage for the area but has had no reply from them. What will happen if Missoula Rural Fire is called and they stop at the end of protection sign.

Dave Loomis explained that fire trucks would actually be coming from the Bonner side, not from East Missoula.

Dan Yochim has an interest in the property together with his father, John Yochim, west of Tamarack Drive. His concern is converting open space into a high density development which changes the character of the existing properties. He realized that change is coming. He also expressed concerned with the vegetation screening for the heavy equipment that Mr. Greil also has, could the equipment also be screened when the equipment is moved. He also expressed concern about the wildlife being displaced.

Charlene Phlypo spoke again with a concern over the septic drain field.

Chairman Evans said the Health Department will make that determination. The County Commissioners do not have the power to address septic questions.

Gilbert Larson addressed the concerns stated by the public speakers. On the concern of the elimination of open space, the Greil's have tried to mitigate these impacts. Access to the property is currently with prescribed use, but no easements have been filed or formalized. The Greil's will formalize these easements and have been very generous. He stated that where the property is 10 feet from the Phlypo's garage, there will be another 30 feet of easement adjacent to that, with legal access and space for parking. The street name will remain the same, the existing roads will be driveways off Pine Grove Lane. The post office has final say, but it is the intent of the Greil's not to have any addresses change. The density factor was done with screening in a very thoughtful manner, with sound planning. The wildlife issues has been discussed with Fish, Wildlife and Parks, who want the wildlife displaced. The wildlife currently cross Highway 10 which is not suitable. Fish, Wildlife and Parks actually encourages this type of development, putting the wildlife where they belong.

Commissioner Kennedy asked Gilbert Larson to address the security and lighting issues, especially in the vicinity of the adjacent property.

Gilbert Larson stated that no formal street lighting was proposed, there would be outside lighting on individual homes.

Commissioner Kennedy stated that the access to the property closest to the development was rather small. Could that access be mitigated somehow to provide additional space in front of the property.

Gilbert Larson said that they are proposing an additional 30 feet of easement, giving them 40 feet from the easement line to the front of their garage. There would be 16 feet from front of garage to end of pavement.

Commissioner Kennedy asked Charlene Phlypo is she knew there would be approximately 16 feet to the end of pavement.

Charlene Phlypo had a drawing from the county surveyor showing the distance would be 10 feet.

Commissioner Kennedy explained that from the edge of the garage it would be 10 feet to the edge of the right of way, then an additional 6 feet to the edge of pavement.

Charlene Phlypo felt better about the 16 feet in front of her garage, instead of the 10 feet.

Commissioner Kennedy asked Gilbert Larson to guarantee that there will be 16 feet to edge of pavement in front of the Phlypo's garage.

Commissioner Kennedy asked about screening for the heavy equipment that the Greils would be moving. Screening is not required but would seem like a neighborly thing to do.

Commissioner Kennedy asked about the "Dead End" at the jog in the property line.

Gilbert Larson stated that they can only control the road that are within their ownership. This road will not dead end, but cannot be controlled by the Greil's when it is outside the boundaries of the property.

Sandy Louke said that they prefer that the road not be a through road, that it be a dead end.

Colleen Dowdall said that she could put up a gate to restrict access.

Sandy Louke then asked about a turnaround once the dead end was reached.

Chairman Evans suggested a "No Exit" or "Dead End" sign to notify an unwary motorist that there was no way out of there. She asked Gilbert Larson to arrange for such a sign.

Bob Greil addressed the Commissioners and the public. He, like the others, is a long time resident of the area. Regarding the road access and not changing any addresses, he wanted to maintain access and was willing to change the name of the road in the subdivision if necessary. He stated that he was trying to maintain what was existing out there and was surprised by some of the negative reaction and the closure of the old road. He also provided pictures of the type of homes that would be brought in for the record. He also stated that he wants to develop the area so that he can control the type of neighborhood that will arise. If the property were sold, it would be out of his control.

Chairman Evans closed the public hearing.

Commissioner Kennedy moved that the Commissioners support the Planning Board recommendation to approve Woody Mountain Mobile Home Park for Lease or Rent based on the findings of fact contained in the staff report and subject to the recommended conditions, with the addition of one dimension to condition number 3, that the access road pavement will be a minimum of 16 feet north of the existing garage on the Phlypo property.

Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

#### CONDITIONS OF APPROVAL

##### ROADS:

1. The following statement shall appear on the face of the final plan and in all instruments of conveyance:
 

"The owner or successor in interest shall waive the right to protest a future RSID/SID for any improvements to Pine Grove Lane, based on benefit and may be used in lieu of their signature on an RSID/SID petition if and when the governing body accepts the road for maintenance purposes." *Subdivision Regulations 5-2(5)(C), 3-2*
2. The right of way for Pine Grove Lane shall be expanded to 60 feet. *Subdivision Regulations 3-2(1)*
3. The developer shall pave the new private road located between units 6 and 7 to the property line and 120 feet to the southeast to the driveway access for the first off site house. Paving, right of way and construction shall meet standards in Subdivision Regulations, Section 3-10 (5). Access road pavement will be 16' minimum north of the existing garage on the Phlypo property. *Subdivision Regulations 3-2(1)*
4. The developer shall enter into an agreement with the State Department of Highways for intersection improvements to Pine Grove Lane and Highway 10. Evidence of that agreement shall be filed with OPG prior to submitting the final plan. *Subdivision Regulations 3-14, MDOT recommendations.*
5. Dust abatement shall be provided during construction of the roads and site. A plan for dust abatement shall be presented to and approved by the Health Department prior to grading. *Subdivision Regulations and Health Department recommendation.*

##### PEDESTRIAN ACCESS:

6. The applicant shall provide for a five (5) foot wide paved pedestrian path parallel to Pine Grove Lane approximately eight (8) feet from the edge of pavement for the length of Pine Grove Lane from Highway 10 to Tamarack Road. The path shall be located on the south and west side of the road and shall provide for safe marked pedestrian crossings at the two road/driveways that access land to the southwest. *Subdivision Regulations 3-2(5)(A), and (4)(B).*
7. The recreational trail proposed by the applicant shall be revised to more closely parallel Highway 10 from approximately 40 feet east of Pine Grove Lane, crossing Pine Grove and running adjacent to the property line to the northwest property corner. *Subdivision Regulations 3-2(5)(A), and 3-10(12).*
8. The applicant or successor in interest shall agree to the maintenance of the trail system in a safe and usable condition. This agreement shall be with the County in a form and content agreed to by the governing body. The development agreement shall be accepted by the governing body prior to the start of development. *Subdivision Regulations 3-10(12)*

##### MOBILE HOME PARK STANDARDS:

9. The developer shall submit a Landscape Plan that:
  - a. Retains where feasible and supplements the existing Ponderosa Pine trees on site located not less than 15 feet from structures, or greater if required by the Fire District.
  - b. Provide for a vegetative screening buffer between the mobile homes and the existing heavy equipment parking along the property line the southwest of units 4,5, and 6. The buffer shall consist of a 10 to 15 foot wide irrigated landscaping with ground cover, bushes, and trees (deciduous or evergreen) planted apx. 30 feet on-center. All trees shall be 2 inch caliper minimum
  - c. Provide a vegetative screening buffer along the new road/driveway from the new road southeasterly about 300 feet to unit 10. The buffer shall consist of a 5 foot wide irrigated strip consisting of bushes and shrubs providing effective screening for at least 75 % of the total length.
  - d. Provides for a vegetative screening buffer of at least 10 feet in width of irrigated landscaping consisting of ground cover, shrubs and trees planted apx 30 feet on-center. The landscaping will be for apx. 400 linear feet up to Tamarack Road.

The developer or successor in interest shall be responsible for maintenance of the landscaping and irrigation system. *Subdivision Regulations 3-10(12)*

10. The Plan shall identify any potential for future on-site storage areas for residents of the park. *Subdivision Regulations 3-10(6)(D)*

#### RECREATION:

11. The Plan shall provide for and designate a small child play area (tot lot) in a centralized location of about 5000 square feet. The location should provide ready access to the pedestrian path required by condition 5. The proposed location is between units 7 and 8 if the units are re-oriented perpendicular to the road. The recreation shall be irrigated turf installed and maintained by the owner. *Subdivision Regulation Regulations 3-10(12), Staff recommendation.*
12. Designate on the Plan a future active recreation site to the northwest of and on the lower bench from Pine Grove Lane entrance from Highway 10. *Subdivision Regulations 3-10(12).*

#### TRAVEL CORRIDOR STANDARDS:

13. The developer shall provide to OPG prior to final Plan submittal a written agreement with the State Department of Transportation for the maintenance of the travel corridor along Highway 10 between the property line and the edge of pavement in a weed and litter free condition. Tree plantings along the corridor are needed only for 150 feet east of the Pine Grove Lane entrance, and for 200 feet to the west along Highway 10. The landscape design shall designate the retention of all trees consistent with State DOT standards. *Subdivision Regulations 3-14 (2), (3)(A)&(3)(A)(1), (3)(A)(5)&(6).*
14. Units 1 and 25 shall be moved back to 50 feet from the property line, the setback shall be shown on the Plan. *Subdivision Regulations 3-14(3)(B), and 3-10(8)(A).*

#### FIRE SAFETY:

15. The Firefighting water system shall be approved by the Missoula Rural Fire District prior to filing of the Plan. *Subdivision Regulations 3-7(1)*
16. The applicant shall provide to the Missoula Rural Fire District a hose fee of \$100 per unit. *Missoula Rural Fire District recommendation.*

#### OTHER RECOMMENDATIONS:

17. All new utilities shall be placed underground. Utility easements are required, subject to the requirements of each provider. The applicant may need to relocate existing overhead power lines. Evidence of such agreements and approval from all utilities shall be provided prior to submitting the final Plan. In addition, the following statement shall appear of the final Plan:

"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 or equivalent for the construction, maintenance, repair, and removal of their lines in, over, under, and across each are designated on the plan to have and hold forever". *Subdivision Regulations 3-5 and 3-6.*

18. The following statement shall be shown on the Plan:

"The owner understands and agrees that private road construction, maintenance, and snow removal shall be the obligation of the owner and that the County of Missoula is in no way obligated to perform such maintenance or upkeep until the roads are accepted by the County in the future for maintenance" *Subdivision Regulations 5-2(5)(C).*

19. The following statement shall be shown on the Plan:

"The owner or successors in interests waive the right to protest a future SID/RSID for the purposes of extending and connecting to public sewer or water, based on benefit, and may be used in lieu of their signatures on an SID/RSID petition." *Subdivision Regulations 3-2, Missoula Rural Fire District.*

20. The applicant shall place a statement on the final Plan stating they will initiate a petition to annex to the Missoula Urban Transportation District. *Staff recommendation.*

#### Anderson Addition Summary Subdivision

Jennie Dixon, Office of Planning and Grants, gave the staff report.

The applicants, Clark and Nancy Anderson, are proposing to split Tract 5A, Certificate of Survey Number 4420, a 16.24 acre parcel, into two lots of 12.16 acres (Lot 1) and 4.08 acres (Lot 2). Lot 1 fronts onto Pattee Canyon Drive, near the mouth of the canyon. Pattee Creek traverses Lot 1, and there are areas of riparian resource on this lot, thus a riparian management plan is proposed. There is a pre-existing private driveway on this lot that accesses several outbuildings; however, the County Surveyor has indicated that an approach permit will be required for any access onto Pattee Canyon Drive from this lot. The developer plans to demolish the outbuilding, construct a new residence, and extend the driveway on Lot 1. The new house on this lot will be served by a new well and septic system, for which a drainfield has already

been approved. Lot 2 is the site of the existing residence at 720 Ben Hogan Drive (the Andersons). No change in the private driveway access is proposed for this lot, and it is served by an existing well and septic system.

Nick Kaufman, WGM group, developers representative, was present as well as Nancy Anderson. The existing home on Lot 2 is the Anderson's home and they intend to stay there and live there. The want to sell off one lot. Dave Wicks was also present. His parents are wanting to purchase the lot that fronts along Pattee Canyon Drive.

Commissioner Kennedy asked about the request for a septic tank, when sewer is nearby.

Nick Kaufman explained the distance to the existing sewer water main and the expense involved would be \$15,000 to \$20,000 with engineering. It was more feasible and cost effective to use a septic system.

Chairman Evans opened the public hearing.

There being no comment, Chairman Evans closed the public hearing.

Commissioner Kennedy moved to grant a variance from Section 3-2(5)(A) requiring sidewalks or pedestrian walkways in the subdivision; a variance from Section 3-2(3) requiring a thirty-two foot (32') paved width on Pattee Canyon; a variance request from Section 3-2(10) requiring off-site road right-of-way width of sixty (60') feet and road surface width of twenty-four (24') feet; and a variance from Section 3-2(6)(B) requiring a driveway no steeper than 10% on Lot 2. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Commissioner Kennedy moved to approve the 2-lot summary subdivision Anderson Addition subject to conditions 1 through 8 as listed in the staff report. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

1. The County Surveyor, the City Engineer, the Health Department and the Missoula Rural Fire District shall approve the driveways for Lots 1 and 2, including slope, surfacing, width, turnout areas outside the riparian and no build areas, Pattee Creek crossing, and vehicle clearance, prior to plat filing. Unpaved portions of the driveways shall consist of a suitable base material and a minimum of four inches of  $\frac{3}{4}$ " minus gravel surfacing.
2. The driveway accessing Lot 2 shall be realigned to eliminate the existing conflict with Tract A, Certificate of Survey #954, subject to review and approval by the City Engineer, prior to plat filing.
3. The City Engineer and the County Surveyor shall review and approve the capacity of the culvert that bridges Pattee Creek on Lot 1 for a size sufficient to convey flow from a 100-year return frequency storm in the Pattee Creek Drainage, prior to plat filing.
4. 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 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."
5. The County Surveyor shall review and approve the drainage plan for this subdivision prior to plat filing.
6. The developer shall obtain legal access to serve Lot 2, subject to review and approval by the County Attorney, prior to plat filing.
7. The developer shall record a deed restriction on Lot 1, Anderson Addition, that all horses or livestock on Lot 1 shall be fenced at least thirty (30) feet away from the Pattee Creek riparian area.
8. In addition to the no-build designations shown on the plat for areas of riparian resource and the 10' setback, the developer shall designate on the plat all slopes greater than 25% as "no-build areas".

#### Hay Addition Summary Subdivision

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

The applicants are proposing to divide a one acre lot off of a 170+ acre parcel. The property is located about 2 miles east of Bonner and is accessed off of U.S. Highway 10. The property is currently undeveloped. The proposal is for one homesite on the one acre lot.

Chairman Evans asked why they didn't use the Certificate of Survey process to give the property to a family member.

Denise Alexander answered that you can only give to one generation removed and this is a granddaughter.

Tim Wolfe, Territorial Engineering & Surveying Inc., developers representative, was present as well as Saxon Holbrook and Jamie Hay Holbrook. Tim Wolfe stated that there were no problems with the staff report amending Condition 2 and adding Conditions 6 and 7. He was unaware of these changes until yesterday afternoon. He was reluctant to agree to the changes to Condition 2. He asked that the changes to Condition 2 be eliminated.

Commissioner Kennedy explained park RSID waiver of right to protest.

Chairman Evans stated for the record that she does not support the policy because it was never taken through the public process. It was a policy decided by the other two County Commissioners and from her perspective changes to the subdivision rules should go through a public process, and then they should be part of the rules, not something imposed when applicants get here. "I don't support doing it, but I'm only one."

Chairman Evans opening the public hearing.

There being no comment, Chairman Evans closed the public hearing.

Commissioner Kennedy moved to support the variance request from Section 3-2(5) of the Missoula County Subdivision Regulations to not provide sidewalks or pedestrian walkways in the subdivision. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Commissioner Kennedy moved to support the approval of the summary subdivision Hay Addition, subject to the addition of Condition 6, Condition 7 and the change to Condition 2, as provided by staff. Chairman Evans seconded the motion and explained that she did not agree with the park stuff, but she thought it is better for the Hays if they get an approval here rather than get a hung jury. She would like to point out that in Condition 7, "based on benefit," those three words are critical words. While she may not agree with all of these, rather than have a hung jury and not have approval, she will support the motion. The motion carried on a vote of 2-0.

1. 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 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."
2. A development agreement shall be filed, subject to County Attorney approval, that states that the access to Lot 1 shall meet the driveway requirements of the Missoula County Subdivision Regulations, that any grading disturbance on the lot or driveway easement shall be re-vegetated, and that future construction shall comply with Wildland/Residential Interface standards with final design to be approved by the Missoula Rural Fire District and County Surveyor prior to plat filing.
3. Prior to plat filing, a driveway maintenance agreement shall be filed, subject to County Attorney approval, which includes provision for dust abatement.
4. The developer shall contribute \$100.00 per lot to the large diameter hose fund of the Missoula Rural Fire Department prior to plat filing.
5. Prior to plat filing, an encroachment permit shall be obtained from the Montana Department of Transportation for the proposed paved approach onto U.S. Highway 10.
6. The lot owner shall file a document of record with Missoula County assenting to the creation of an RSID for the maintenance of a park or parks in the Bonner area, defined as the Bonner school district, on an equal basis with other properties in the area. Such document shall be filed prior to final plat filing.
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 assent of the lot owner to waive the right to protest a future RSID/SID for installation of walkways and bikeways along U.S. Highway 10, based on benefit, and may be used in lieu of signatures 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."

There being no further business to come before the Board, the Commissioners were in recess at 3:20 p.m.

#### THURSDAY, APRIL 30, 1998

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Evans was on vacation. In the forenoon, Commissioner Hart gave the welcome at the Library Association Convention being held at the Holiday Inn.

#### ADMINISTRATIVE MEETING

At the Administrative Meeting held in the forenoon, the following items were signed:

Memorandums of Agreement - The Commissioners signed four Memorandums of Agreement between the Missoula County Park Board and:

- 1) East Missoula Lions Club, up to \$1,040.00 in matching funds for purchasing and installing picnic tables in Mt. Jumbo Park.
- 2) Friends of Bonner and Bonner School, up to \$2,500.00 in matching funds for installation of an underground irrigation system for Kelly Pines Park.
- 3) Swan Ecosystem Center, up to \$5,000.00 in capital improvement funds for building of an interpretive trail system.
- 4) Bonner Development Group, up to \$1,010.00 in matching funds for Phase IV of the landscape project at the Two Rivers Memorial Park.

All four Agreements were returned to Tammy Holshue in OPG for further handling.

Contract Documents - The Commissioners signed four contract documents for the Nurture Option Parcel in the Missoula Development Park:

- 1) Affidavit of Taxes Paid by the Missoula County Airport Industrial District.
- 2) Notice of Contract to Purchase Property, with Montana Board of Science and Technology Development listed as Buyer.



3) Contract for Deed with the Montana Board of Science and Technology Development for two parcels in the Missoula Development Park (Lots 4, 5, 6, 7, 8, and 9 in Block 4, and a portion of Kestrel Drive situated in Tract B of COS 4673). Purchase price is \$125,000.00.

4) Warranty Deed to the Montana Board of Science and Technology Development.

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

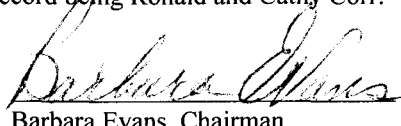
## FRIDAY, MAY 1, 1998

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Evans was on vacation, but came in briefly for signature items.

Monthly Report -- Acting Chair Kennedy examined, approved, and ordered filed the Monthly Reconciliation Report for Justice of the Peace, John Odlin, for the month ending April 30, 1998, and the Report of the Clerk of the District Court, Kathleen Breuer, showing fees and collections for the month of April, 1998.

Plat and Improvements Guarantee - Commissioners Evans and Hart signed the plat and improvements guarantee for Southpointe Phase III, a subdivision of Missoula County located in portions of the SE1/4 SE1/4 of Section 12, T12N R20W, PMM, a total area of 9.608 acres, with the owners of record being Ronald and Cathy Corr.

  
Vickie M. Zeier  
Clerk & Recorder

  
Barbara Evans, Chairman  
Board of County Commissioners

## MONDAY, MAY 4, 1998

The Board of County Commissioners did not meet in regular session; Commissioner Kennedy was in Portland, Oregon for an ICBEMP meeting, and Commissioner Evans was on vacation the week of May 4-8. In the evening, Commissioners Evans and Hart attended a public information meeting regarding alternatives for Miller Creek Road, held at the Linda Vista Golf Course Club House.

## TUESDAY, MAY 5, 1998

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

Monthly Report -- Acting Chair Kennedy examined, approved, and ordered filed the Monthly Reconciliation Report for Justice of the Peace, Michael Jaworsky, for the month ending April 30, 1998.

ADMINISTRATIVE MEETING

At the Administrative Meeting held in the forenoon, the following items were signed:

Memorandum of Agreement - Acting Chair Kennedy signed a Memorandum of Agreement between the Missoula County Park Board and Frenchtown School District #40, for building an outdoor covered shelter and walking trail at the Frenchtown Elementary School. Park Board will provide up to \$2,500.00 in matching funds, which must be spent by April 9, 2000. The Agreement was returned to Tammy Holshue in OPG for further handling.

Agreement - The Commissioners signed an Agreement with Roscoe Steel and Culvert Company for exchange of property at Momont Industrial Park and the Missoula Development Park. Missoula County will net over \$42,000.00 from the exchange.

Professional Services Contract - The Commissioners signed a Professional Services Contract with Gregg Potter for grounds maintenance at the Historical Museum at Fort Missoula. Performance schedule is from April 15, 1998 through October 15, 1998. Compensation shall not exceed \$6,030.00.

EOC Standard Operating Guidelines - The Commissioners signed Emergency Operations Center Standard Operating Guidelines, updating a plan made in the 1980s. The Guidelines were returned to Bill Silverman in OEM for further signatures and handling.

OEM Statement of Work - The Commissioners signed the annual Statement of Work for the Office of Emergency Management. Missoula County receives \$20,000.00 from FEMA if OEM complies with the Statement. It was returned to Bill Silverman in OEM for further handling.

Resolution - The Commissioners signed Resolution No. 98-037, a Budget Amendment for the Sheriff-Jail in the amount of \$20,613.00.

Budget Transfer - The Commissioners signed a Budget Transfer for Records Management, transferring \$8,500.00 from Film Purchasing and Development to Capitol - Reader/Printer.

Plat - The Commissioners signed (as directors of the Missoula County Airport Industrial District, and as Commissioners) the plat for Missoula Development Park, Phase 7, the platting of Lot 4, Block 8, Missoula Development Park - Phase 7, and the amended plat of Lot 2, Momont Industrial Park - Phase 2, a subdivision located in the SW1/4 of Section 36, T14N R20W, PMM, and the NW1/4 of Section 1, T13N R20W, PMM, Missoula County, a total area of 8.20 acres, with the owners of record being the Missoula County Airport Industrial District.

Other items included:

- 1) The Commissioners discussed a proposed motor vehicle wrecking facility on Derby Drive in Missoula.

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

WEDNESDAY, MAY 6, 1998
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The Board of County Commissioners met in regular session; a quorum of members was present.

Audit List -- Commissioners Kennedy and Hart signed the Audit List, dated May 5, 1998, pages 2-35, with a grand total of \$300,754.74. The Audit List was returned to the Accounting Department.

PUBLIC MEETING - May 6, 1998

The Public Meeting was called to order at 1:30 p.m. by Acting Chair Michael Kennedy. Also present were Commissioner Fern Hart, Deputy County Attorney Michael Sehestedt, Deputy County Attorney Colleen Dowdall, and County Surveyor Horace Brown.

Public Comment

None.

Routine Administrative Actions

Commissioner Hart moved, and Acting Chair Kennedy seconded the motion to approve the routine administrative items adopted this week and approve the weekly claims list in the amount of \$300,754.74. Motion carried on a vote of 2-0.

Bid Awards

The 4-Post Vehicle Lift (Road Dept.) bids were opened April 27, 1998 at 10:00 a.m., with the following results: *A&I Distributors* in the amount of \$11,295.00.

The 7th Street Walkway - CTEP Project (Surveyor) bids were opened on March 31, 1998 with the following results: *Keeney Construction* in the amount of \$279,151.00; *Nelson Contracting* in the amount of \$231,961.82; *Jensen Paving* in the amount of \$226,411.92; *Green Diamond Contracting* in the amount of \$227,282.15; and *JTL Group* in the amount of \$292,860.00.

Acting Chair Kennedy noted that the bids for both projects were in excess of the budgeted amounts.

Commissioner Hart moved that the Board of County Commissioners reject all bids for both projects in that they were over the budgeted amount, and ask for second bids. Acting Chair Kennedy seconded the motion and asked for any discussion.

Horace Brown stated that the 4-Post Lift would be put out to bid again. The 7th Street Walkway would have to be redesigned in order to cut back the project to meet the amount of money available and may not be bid again this year. It depended on if there was time to redesign the project.

Acting Chair Kennedy asked if it was Horace Brown's intention to re-bid the project at some time in the future.

Horace Brown stated that it was his intention to re-bid the project again in the future.

Acting Chair Kennedy made a modification to the motion to state that the 7th Street Walkway would be re-bid sometime in the future.

Commissioner Hart asked if there was a deadline of November on the 7th Street Walkway.

Horace Brown stated that he could get a one year extension because of the problems experienced.

Commissioner Hart stated that she accepted Acting Chair Kennedy's modification. There being no further discussion, the motion carried on a vote of 2-0.

Gary's Acres Subdivision for Lease or Rent

Dave Loomis, Office of Planning and Grants, presented the staff report.

The applicant, Gary Lizotte, is proposing to add a home to a 1 acre parcel where one home currently exists. The property is located in Piltzville on Anderson Street. The property is unzoned. The 1990 Comprehensive Plan designates suburban residential land use with a density of up to 2 dwelling units per acre.

The subject parcel was created through a family transfer and boundary relocation. The parent parcel is a 33.5 acre tract. The owner, Ken Lizotte, filed a family transfer in 1987 (Certificate of Survey 3496), creating a 0.85 acre parcel for his son Gary. An additional 0.15 acres was added to the parcel through a boundary relocation, filed as Certificate of Survey 4714 in 1997. There are currently 2 homes on the parent parcel and one home on the subject parcel.

The property is accessed via Highway 10 to Anderson Street. Anderson Street is County maintained from Highway 10 to the parent parcel. From Highway 10 to Piltz Street, a distance of approximately 700 feet, Anderson Street consists of a 20 foot wide gravel surface within a 40 foot right of way. From Piltz Street to the western boundary of the parent parcel, a distance of approximately 350 feet, the road is 16 feet wide within a 30 foot right-of-way. The applicant is proposing to access the subject parcel via a 30 foot wide easement through the parent parcel.

The Missoula Rural Fire District raised concerns about the turning radius into the proposed driveway. The applicant revised the proposal to provide a "swing out" to accommodate emergency vehicles. The Missoula Rural Fire District has not yet approved this redesign.

Ken Lizotte, the father of the applicant Gary Lizotte, stated that he gave the property to Gary Lizotte and Gary built one house on it. Gary Lizotte was out of town working and could not attend the meeting.

Ken Lizotte had a problem with the 30 foot easement that he would need to grant, he had lived in the area for 45 years with a 16 foot easement and had gotten along fine.

Ron Ewart, Eli & Associates, developers representative, stated that he had talked with both Ken Lizotte and Gary Lizotte on several occasions and explained the regulations for subdivisions for lease or rent. No matter how large or small the subdivision, there are still requirements that must be met.

Ron Ewart explained that he spoke with Nancy Heil, Office of Planning and Grants, and came to some compromises on easement width, road width and access. The reason for the easement is that access to the new home will be at the Northwest corner of the property, and access would be through Ken Lizotte's property. Ken Lizotte was not happy with the 30 foot easement but that was the narrowest easement amount allowed by OPG.

Ken Lizotte explained that the 30 foot easement would leave him with nothing of value in that particular area of his property. He felt that he should not have to grant the easement since it did not pertain to his son's request.

Acting Chair Kennedy explained to Ken Lizotte that his son Gary is the proposer and whatever condition the Board may impose is a condition upon Gary and no one else. The Board cannot and would not impose a condition on Ken Lizotte. Gary Lizotte had to find a way to mitigate that condition.

Colleen Dowdall explained that the road would not be built to 30 feet, it would remain at 16 feet. The condition did restrict how Ken Lizotte can use the portion under easement, it could not be used to build a permanent structure. It could be used for agriculture as long as it did not interfere in a permanent way with the use of the easement.

Commissioner Hart asked Ken Lizotte if he was suggesting that the Board not approve this subdivision.

Ken Lizotte stated that he did want the subdivision approved by did not like the easement condition imposed on him.

Commissioner Hart asked if Gary Lizotte could reach his property any other way.

Ken Lizotte pointed out that there was a way to get to the proposed new home by going through Gary Lizotte's property and not using the road and easement in question.

Colleen Dowdall suggested moving the easement edge closer to the applicant's property.

Ron Ewart suggested a compromise of taking the easement just to Gary Lizotte's property, just along the south line instead of going along the 16 foot side road. He felt that would give legal access to the property.

Ken Lizotte said that would be acceptable to access the subdivision through Gary Lizotte's property and eliminate the easement on his property.

Commissioner Hart asked Horace Brown how far Anderson Street is county maintained.

Horace Brown pointed out the end of county maintenance on the plat, which is before the turn in the road.

Commissioner Hart asked how many homes were already in the area.

Horace Brown stated that there were three existing homes and one proposed home.

Commissioner Hart asked if this proposal allowed for fire protection to get into the area.

Ken Lizotte stated that he was a volunteer firefighter and fire trucks have been able to access the area with no problem.

Acting Chair Kennedy stated that it was not the Board's job to redesign the subdivision. The Board could go ahead and approve this with the conditions but it would not go any where. It seemed it would be better to withdraw this submission and figure out some other way to provide access.

Ron Ewart stated that with or without the 30 foot easement in question, the fire access would remain the same. He proposed adding another condition that there should be a 30 foot easement across the parent parcel along the southern boundary abutting Gary Lizotte's parcel.

Colleen Dowdall stated that there needed to be a driveway to the proposed house and there did not appear to be any legal or physical constraints to doing that. She felt that if the Board wanted to approve the subdivision contingent on the access to the additional house, the Board could do that as long as there was the 30 foot easement up to Gary Lizotte's property.

Commissioner Hart moved that the Board of County Commissioners approve the variances as amended to Gary's Acre Subdivision for Lease or Rent.

1. A variance from Article 3-2(3) of the Missoula County Subdivision Regulations for Anderson Street to vary from the required 54 foot easement width to the existing condition on the County section of the road and to a 30 foot easement width where it crosses the parent parcel to the Northwest boundary of the proposed subdivision, based on the findings of fact set forth in the staff report.

2. A variance from Section 3-2(3) of the Missoula County Subdivision Regulations for Anderson Street to vary from the required 24 foot surface width to the existing condition on the County section of the road and to a 16 foot surface width where it crosses the parent parcel, based on the findings of fact set forth in the staff report.
3. A variance 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.

Acting Chair Kennedy seconded the motion. The motion carried on a vote of 2-0.

Commissioner Hart moved that the Board of County Commissioners approve Gary's Acre Subdivision for Lease or Rent subject to the following conditions, and based on the findings of fact and conclusions of law in the staff report.

1. A development agreement shall be filed, subject to County Attorney approval, that states that the access to the subject property shall meet the requirements of Missoula County Subdivision Regulations and the Missoula Rural Fire District, with the final design to be approved by the Missoula Rural Fire District prior to plan filing. The power line connecting to the existing dwelling unit shall be raised to a minimum of 13' 6" prior to plan filing. *Subdivision Regulation Articles 3-1(1)(B), 3-2(6), Staff and Fire Department recommendation.*
2. The developer shall file a document of record with Missoula County waiving the right to protest future upgrading of Anderson Street including installation of pedestrian walkways, based on benefit, which may be used in lieu of signatures 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. Such document shall be filed prior to final plan filing. *Subdivision Regulations 3-2, County Surveyor and staff recommendation.*
3. The applicant 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.*
4. The developer shall contribute \$100.00 per new dwelling unit to the Missoula Rural Fire Department prior to plan filing. *Subdivision Regulations Article, 3-7(2) Missoula Rural Fire Department recommendation.*
5. The road maintenance agreement shall be amended to include provision for dust abatement and shall be approved by the County Attorney prior to plat filing. *Subdivision Regulations Articles 3-1(1)(D), 4-1(12), Health Department and staff recommendation.*
6. The following information shall be made available to lot owners and tenants: "Living with Wildlife" available through the Office of Planning and Grants. *Subdivision Regulations Article 4-1(12), Staff recommendation.*
7. The lot owner shall file a document of record with Missoula County assenting to the creation of an RSID for the maintenance of a park or parks in the Bonner area, defined as the Bonner school district, on an equal basis with other properties in the area. Such document shall be filed prior to final plan filing. *Subdivision Regulations Article 4-1(12), Staff recommendation.*
8. A legal access agreement across the parent parcel to the subject property shall be filed prior to final plan filing.
9. Physical access to the additional physical dwelling shall be approved by the appropriate fire jurisdiction.

Acting Chair Kennedy seconded the motion. The motion passed on a vote of 2-0.

There being no further business to come before the Board, the Commissioners were in recess at 2:15 p.m.

**THURSDAY, MAY 7, 1998**

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

Monthly Report -- Acting Chair Kennedy examined, approved, and ordered filed the Report of the Sheriff, Douglas Chase, showing fees and collections for the month ending April 30, 1998.

#### ADMINISTRATIVE MEETING

At the Administrative Meeting held in the forenoon, the following items were signed:

Change Order - The Commissioners approved Change Order #14 for the Missoula County Road Department Project, for a \$12,000.00 bonus payment to Quality Construction for early completion of contract work (48 days at \$250.00 per day). The Change Order was returned to Paul Bishop at Paradigm Architects for further signatures and handling.

Professional Services Contract - The Commissioners signed a Professional Services Contract with Child Care Resources for the Healthy Child Care Montana Program. Performance schedule is from May 1, 1998 through June 30, 1998. Compensation shall be \$3,000.00.

Professional Services Contract - The Commissioners signed a Professional Services Contract with Maxine Ferguson to write the grant proposal for the Fetal, Infant and Child Mortality Review. Performance schedule is from May 7, 1998 through May 15, 1998. Compensation shall be \$3,000.00. The Contract was returned to the Health Department for further signatures and handling.

Professional Services Contract - The Commissioners signed a Professional Services Contract with Kris Hosick to design a database to track TB clients. Performance schedule is from April 28, 1998 through August 1, 1998. Compensation shall be \$4,500.00.

Resolution - The Commissioners signed Resolution No. 98-038, supporting a Motor Vehicle Wrecking Facility license for a facility located on Derby Drive in Missoula County for NAK Trade International (Nikolay Kashirets).

Professional Services Contract - The Commissioners signed a Professional Services Contract with Rebecca Deschamps to serve as a resource for pharmacy and medication issues for Partnership Health Center. Performance schedule is from April 1, 1998 through June 30, 1998. Compensation shall not exceed \$1,000.00.

Professional Services Contract - The Commissioners signed a Professional Services Contract with Linda Tracy (Tracy-Williams) to write the grant proposal for the Fetal, Infant and Child Mortality Review to look into the birth defect cluster. Performance schedule is from April 6, 1998 through May 15, 1998. Compensation shall be \$3,000.00. The Contract was returned to the Health Department for further signatures and handling.

Other items included:

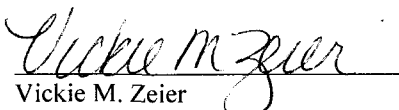
- 1) The Commissioners approved an RFP for architectural services for space renovation plans and specifications. The RFP was returned to Paul Webber, CAO, for further handling.
- 2) The Commissioners appointed Brian Ness to the Greenough-Potomac Rural Fire District Board.

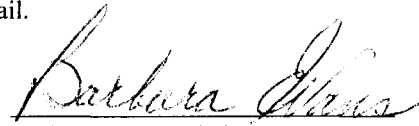
The minutes of the Administrative Meeting are on file in the Commissioners Office.

**FRIDAY, MAY 8, 1998**

The Board of County Commissioners met in regular session; a quorum of members was present. At noon, Commissioner Hart spoke at the Missoula Society of Architects meeting which was held at the Shack.

Application for Issuance of Replacement Warrant -- Acting Chair Kennedy approved an Application for Issuance of Replacement Warrant naming TLC Car Wash, Inc. as principal for Warrant #323910, issued on the Missoula County General Fund in the amount of \$254.00, not received in the mail.

  
Vickie M. Zeier  
Clerk & Recorder

  
Barbara Evans, Chairman  
Board of County Commissioners

**MONDAY, MAY 11, 1998**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Evans was on vacation the week of May 11-15. In the evening, Commissioners Hart and Kennedy attended a Leadership Panel held at Salish-Kootenai College in Pablo.

Indemnity Bond -- Acting Chair Kennedy examined, approved, and ordered filed an Indemnity Bond naming Congressional Quarterly as principal for Warrant #101085 issued 9/11/97 on the Missoula County General Fund in the amount of \$352.14 now unable to be found.

Indemnity Bond -- Acting Chair Kennedy examined, approved, and ordered filed an Indemnity Bond naming Solutek Corp. as principal for Warrant #327483 issued 4/1/98 on the Missoula County General Fund in the amount of \$253.46 now unable to be found.

**TUESDAY, MAY 12, 1998**

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:

CTEP Proposal - The Commissioners signed a CTEP Project Proposal to provide the funds necessary to build fencing and construct walkways on Training Drive near the County Shops. County match is \$7,045.00. The Proposal was returned to Horace Brown, County Surveyor, for further handling.

Submittal Letter and Grant Documents - The Commissioners signed the submittal letter and grant documents for the Drug-Free Communities Support Program proposal to the Office of Juvenile Justice and Delinquency Prevention. The grant is a youth substance abuse prevention grant for Hellgate High School and Rattlesnake Middle School. Value of the Agreement is \$100,000.00. The documents were returned to Peggy Seel in OPG for further handling.

Other items included:

- 1) The Commissioners approved retention of \$50,000.00 received from ARCO for extension of the Kim Williams Trail east toward the Bonner/Milltown community along the Old Milwaukee ROW.

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

**WEDNESDAY, MAY 13, 1998**

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

Audit List -- Commissioners Hart and Kennedy signed the Audit List, dated May 13, 1998, pages 2-39, with a grand total of \$982,435.21. The Audit List was returned to the Accounting Department.

Plat - The Commissioners signed the plat for Homestead Acres, a subdivision located in the NW1/4 of Section 25, T15N R22W, PMM, Missoula County, a net and gross area of 5.0 acres, with the owners of record being Joseph and Sandra Heuchert.

Radiology Provider Contract - The Commissioners signed a Radiology Provider Contract with Missoula Radiology to provide breast and cervical cancer screening services for the Montana Breast and Cervical Health Program in Missoula County. Term of Contract is from July 1, 1997 through June 30, 1998. \$32,945.00 is the total screening dollars available through June 30, 1998.

PUBLIC MEETING - May 13, 1998

The Public Meeting was called to order at 1:30 p.m. by Acting Chair Michael Kennedy. Also present were Commissioner Fern Hart, Deputy County Attorney Michael Sehestedt, Deputy County Attorney Colleen Dowdall, County Surveyor Horace Brown, and Chief Financial Officer Jane Ellis.

Public Comment

None.

Routine Administrative Actions

Commissioner Hart moved, and Acting Chair Kennedy seconded the motion to approve the routine administration items adopted this week and approve the weekly claims list in the amount of \$982,435.21. Motion carried on a vote of 2-0.

Partnership Health Center Bond Resolution

Karyn Collins, Director, Partnership Health Center, explained that the budget has not changed, and the bid for construction of the new building came in considerably lower than anticipated. The most responsible action to take was to scale down the bid to assure viability. Due to the lower bid, items have been added back into the budget, including Upgrades, Owner-Provided Equipment & Furnishings, Owner-Provided Building Items Never Included in Bid, Dental Suite and Building Reserve. Had the bid not come in lower than expected, PHC was ready to go to the public to receive additional funding. PHC has received donated equipment for the Dental Suite.

Janet Schafer, Financial Manager, PHC, explained funding for the new building. CBDG money is used first, followed by County money, public funding coming in over 5 year increments, Federal CIP money coming in over 4 year increments, and a line of credit with the City through InterCap, which will fill the gaps on increment financing.

Commissioner Hart stated how important this project was to the city. She asked what the city support is.

Janet Schafer explained the \$500,000 credit line through the InterCap program. This allows PHC to fill in the gaps of incoming incremental \$500,000 public donations and the incremental \$429,000 Federal CIP money by drawing on the City line of credit. She invited everyone to come look at the progress that is being made on the building.

Acting Chair Kennedy commented that he appreciated the accuracy of the work done in estimating. The low bid allowed PHC to use the savings to the benefit of the facility. He applauded the professional efforts by the PHC board and all volunteers. The project was well planned, has community support and the Board supports it vigorously.

Acting Chair Kennedy stated that on a major level the full faith and credit of the taxpayers of Missoula County stand behind this project, and the Board has taken this risk on their behalf. The Board believes that the project is in the best interest of the community and done with professionalism. He thanked PHC for their efforts.

Michael Sehestedt explained that the bond commits to the issuance of \$480,000 in promissory notes and pledges the County to repay them. There is an agreement with PHC, backed by the Health Board, to make sure that this debt is paid by the users and not by the general taxpayers. It is a 20 year issue, within the limits of debt of this sort without the election process.

Commission Hart moved that the Board of County Commissioners adopt the resolution relating to \$480,000 in Promissory Notes (PHC), series 1998; authorizing the issuance and negotiated sale thereof. She further moved that the Chair be authorized to sign all related documents. Acting Chair Kennedy seconded the motion. The motion carried on a vote of 2-0.

Sale of Real Property (Lennox Hotel)

Michael Sehestedt asked if any sealed bids had been received, and it was stated that no sealed bid had been received. He then opened the oral auction, with a minimum bid of not less than the Fair Market Value of \$370,000. No oral bids were received and the oral auction was closed. He recommended that the County proceed with listing and marketing of the property subject to the Commissioners' discretion.

Commissioner Hart moved to allow the property to remain with Lambros Realty on the market until the property is sold or until that contract is expired. Acting Chair Kennedy seconded the motion. The motion carried on a vote of 2-0.

Boyd Acres

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

The applicants, Randy and Jamie Boyd, are proposing to split an 11.1 acre lot into two lots of 6.1 and 5 acres in size. The property is located at the corner of Big Flat Road and Windemere Lane, about 1/2 mile south of Kona Ranch Road. The applicants live in an existing home on proposed Lot 6B2.

The property is accessed from Big Flat Road to Windemere Lane. Big Flat Road is a 24 foot County maintained road within a 60 foot County right-of-way. A waiver of the right to protest an RSID/SID for improvements to Big Flat Road is included on the proposed plat. Windemere Lane is privately owned and maintained within a 60 foot right-of-way. The application states that the road is paved to a 20 foot width. However, field measurements indicate that it is paved to approximately 18-19 feet wide with 2 foot gravel shoulders on each side. No widening is proposed. Property owners maintain the road, although there is no road maintenance agreement for Windemere Lane. A Plat Book 1 road runs north to south through the property; however, there is no field evidence that a road exists in this location.

The property is legally described as Tract 6B of Certificate of Survey 3021, which was created as a remainder during a boundary relocation. It is zoned C-A3, with a maximum residential density of one dwelling unit per 5 acres.

The applicants, Randy and Jamie Boyd, live in an existing home on proposed Lot 6B2, which is accessed from Windemere Lane. The proposed access to the new lot is also from Windemere Lane.

The property is fairly level to rolling and is currently used as horse pasture. A portion of the property is located within the 500 year floodplain; however, the application states that the proposed homesite is not in this area. Individual wells and septic systems will serve both lots.

Confederated Salish and Kootenai Tribes stated that there is a probability that a cultural site could be present on or near the property. Staff recommends that the applicant file a development agreement stating that if cultural artifacts are found on the property that the Tribal Historic Preservation Office of the Confederated Salish and Kootenai Tribes shall be notified.

Ron Ewart, Eli & Associates, developer's representative, was present, as was the applicant, Jamie Boyd. He agreed with the conditions presented by the staff. Water testing is also being conducted in the area. There would not be any development near the 500 year floodplain.

Acting Chair Kennedy asked Nancy Heil about a previous subdivision and the approval of the roadway width.

Nancy Heil answered that the subdivision, Windemere Estates, which was approved previously, had the road in place at the time of approval. The road as described for Windemere Estates stated that it was a 20 foot wide existing road and a variance was granted for the road to remain at that width.

Commissioner Hart moved that the Board of County Commissioners approve the variances to Boyd Acres Summary Subdivision based on the findings of fact and conclusions of law in the staff report.

1. A variance from Article 3-2(5) to not provide sidewalks or pedestrian walkways in the subdivision.
2. A variance from Section 3-2(5) to vary from a 24 foot road width to an 18 foot road width for Windemere Lane.

Acting Chair Kennedy seconded the motion. The motion carried on a vote of 2-0.

Commissioner Hart moved that the Board of County Commissioners approve Boyd Acres Summary Subdivision subject to the following conditions, and based on the findings of fact and conclusions of law in the staff report.

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 the assent of the lot owner to waive the right to protest a future RSID/SID for improvements to Big Flat 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 depicted herein."
2. A road maintenance agreement for Windemere Lane along the frontage of the subdivision shall be developed, subject to County Attorney approval, prior to plat filing. The agreement shall include provision for plowing, dust abatement, grading, and future improvements.
3. A no access strip along Big Flat Road shall be added to the plat prior to final plat filing.
4. 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 sewer and potable and firefighting 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."
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 plat filing.



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

"Acceptance of a deed for a lot within this subdivision constitutes the assent of the owner to the creation of an RSID/SID for the maintenance of a park or parks in the Target Range area, defined as the Target Range school district, on an equal basis with other properties in the area."

7. The following information shall be made available to lot owners and tenants: "Living with Wildlife" available through the Office of Planning and Grants.
8. The applicant shall file a development agreement stating that if cultural artifacts are found on the property that the Tribal Historic Preservation Office of the Confederated Salish and Kootenai Tribes shall be notified.

Acting Chair Kennedy 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 1:55 p.m.

Following the Public Meeting, Acting Chair Kennedy signed Resolution No. 98-039, a resolution relating to \$480,000 promissory notes (Partnership Health Center Project), authorizing the issuance and negotiated sale thereof.

#### THURSDAY, MAY 14, 1998

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:

Amended Professional Services Contract - The Commissioners signed an Amended Professional Services Contract with James Ouellette, DDS to provide dental care to patients of Partnership Health Center. The amendment increases dollars appropriated for Dr. Ouellette to a maximum of \$15,000.00. Performance schedule is from July 1, 1997 through June 30, 1998.

CDBG Application - Commissioner Hart signed a Montana Community Development Block Grant Program Economic Development Application for Nutritional Laboratories International, Inc. of Lolo, MT. The application was returned to Cindy Wulfekuhle in OPG for further handling.

Interlocal Agreement - The Commissioners signed an Interlocal Agreement with the State of Montana, Department of Corrections, for jail construction funding in the amount of \$4,650,000.00. A contract for \$435,000.00 has already been signed for funding for design costs. The Agreement was forwarded to Rick Day at the Department of Corrections for further signatures.

Other items included:

- 1) The Commissioners approved a proposal for a sewer main and three service connections for the Lennox, Youth Court, and Public Defender buildings. AAA Construction will do the work for \$35,850.00, plus \$1,434 for a performance bond, as they were low quote. Completion date is anticipated to be May 29, 1998.

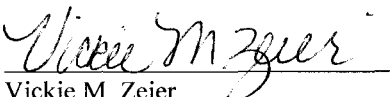
The minutes of the Administrative Meeting are on file in the Commissioners Office.

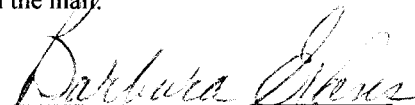
#### FRIDAY, MAY 15, 1998

The Board of County Commissioners did not meet in regular session; Commissioner Hart was out of the office all day. In the afternoon, Commissioner Evans gave the welcome speech at the Water Wise Garden Celebration.

Indemnity Bond -- Acting Chair Kennedy examined, approved, and ordered filed an Indemnity Bond naming Dennis Morgan as principal for Warrant #46833 issued 5/1/98 on the Missoula County Payroll Fund in the amount of \$69.19 now unable to be found.

Application for Issuance of Replacement Warrant -- Acting Chair Kennedy approved an Application for Issuance of Replacement Warrant naming Patricia McAfee as principal for Warrant #045721, issued 4/8/98 on the Missoula County Payroll Fund in the amount of \$238.87, not received in the mail.

  
Vickie M. Zeier  
Clerk & Recorder

  
Barbara Evans, Chairman  
Board of County Commissioners

#### MONDAY, MAY 18, 1998

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

Notice of Hearing - Chairman Evans signed a Notice of Hearing, scheduling a public hearing to continue the 0.5% Local Option Motor Vehicle Fee in FY 99 for 1:30 pm on Wednesday, June 3, 1998.

Agreement - The Commissioners signed an Agreement with AAA Construction to construct the Woody Street Sewer Main Extension and Service Lines. Total contract price is \$37,334.00. Work will be completed within 10 days after the date when contract time commences to run.

**TUESDAY, MAY 19, 1998**

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:

CTEP Project Proposal - The Commissioners signed a CTEP Project Proposal for walkways along Clements Road and North Avenue. The proposal was returned to Mark Landkammer in OPG for further handling.

Other items included:

- 1) The Commissioners interviewed the three candidates for the vacancy in House District 69 - Bill Ballard, Stella Jean Hanson, and Peter Talbot.

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

**WEDNESDAY, MAY 20, 1998**

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

Audit List -- The Commissioners signed the Audit List, dated May 19, 1998, pages 3-43, with a grand total of \$273,697.57. The Audit List was returned to the Accounting Department.

Sanitary Sewer Grant Agreement - Chairman Evans signed a Sanitary Sewer Grant Program Agreement (Assumption of Agreement originally dated August 7, 1995) with Sherri Fortner, Owner, of 3120 Eldora Lane, to ensure connection of the real property to the City of Missoula municipal sanitary sewer service. Level of assistance is \$50.00 sewer connection fee, \$678.00 for on-site/connection costs, and \$9,618.00 for RSID construction cost. The Agreement was returned to Cindy Wulfekuhle in OPG for further handling.

PUBLIC MEETING - May 20, 1998

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Fern Hart, Commissioner Michael Kennedy, Deputy County Attorney Michael Sehestedt, County Surveyor Horace Brown, and Clerk and Recorder/Treasurer Vickie Zeier.

Public Comment

None.

Routine Administrative Actions

Commissioner Kennedy moved, and Commissioner Hart seconded the motion to approve the routine administration items adopted this week and approve the weekly claims list in the amount of \$273,697.57. Motion carried on a vote of 3-0.

Selection of Candidate to Fill House District 69 Vacancy

On April 29, 1998, Bob Ream announced his resignation from the Montana House of Representatives, House District 69, effective May 20, 1998. Mike Cooney, Secretary of State, informed the Board of County Commissioners of the proper procedure to follow in filling legislative vacancies.

The members of the Democratic central committee nominated three candidates at their May 12th meeting to fill the vacancy. Those three candidates were: Bill Ballard; Stella Jean Hanson; and Peter Talbot.

The three candidates were interviewed by the Board of County Commissioners on Tuesday, May 19, 1998 at a public meeting.

Commissioner Kennedy commented that it was not often that the Board was in a position to make a choice without permission of the people. The burden was on the Democratic central committee to submit nominees and on the Board of County Commissioners to make a choice. After the interview process, it was clear that all the candidates were good ones.

Commissioner Kennedy recommended and offered a motion to support Bill Ballard. Mr. Ballard is a citizen of long standing in Missoula who has incredible citizen's credentials, and has worked very hard on a number of issue over his long term here. The issue of importance that may call him into service is deregulation which he has studied very carefully as a citizen. He seems to know the depth of that from a citizen's perspective. Mr. Ballard also lives in the district he will represent and that was an important factor in the decision process for Commissioner Kennedy.

Commissioner Kennedy offered a motion to name Bill Ballard to fulfill the unexpired term of Bob Ream in House District 69.

Commissioner Hart seconded the motion. She stated that Mr. Ballard, as a citizen, has participated as a citizen should. Mr. Ballard, in his volunteer work at the Library, had actually filed Bill Number 390 on deregulation and had read the bill. Mr. Ballard felt that he had kept up with the issues.

Commissioner Hart added that each of the candidates were a real honor to Missoula County. Any one of them would do a good job. All three candidates said they would be available to serve, all three said that they would support the call to a special legislative session. Commissioner Hart felt this was an opportunity to thank Mr. Ballard for all his work and to know that as a citizen he would serve Missoula well.

Chairman Evans stated that she would not support the motion, not because she does not like Bill Ballard, but she felt Stella Jean Hanson had a broader experience and had the connections in Helena to help get things done. Those connections are not easily won or quickly gained.

Bill Ballard was chosen to fulfill the unexpired term of Bob Ream in House District 69 by a vote of 2-1. Chairman Evans opposed.

Commissioner Hart stated that the candidates were a diverse group and were complimentary of one another. During his interview, Peter Talbot indicated that it was an honor that the party nominated him. Mr. Talbot also said he would serve but felt Mr. Ballard deserved the Board's nomination. Bob Ream also indicated that he would support Mr. Ballard.

#### Bid Award

The bid opening for a Microfilm Processor was opened on May 11, 1998, at 10:00 am. Two bids were received, one from Integra Information Technologies in the amount of \$7,000 and one from Microfilm Services of Montana in the amount of \$15,335. The recommendation is that the bid be awarded to Integra Information Technologies in the amount of \$7,000 as it was the lowest and best bid.

Commissioner Hart asked Vickie Zeier, Clerk & Recorded/Treasurer if she supported the bid.

Vickie Zeier stated that she did support the bid.

Commissioner Kennedy moved to support the bid award for a Microfilm Processor to Integra Information Technologies for \$7,000. Commissioner Hart seconded the motion. The motion carried by a vote of 3-0.

There being no further business to come before the Board, the Commissioners were in recess at 1:38 p.m.

#### **THURSDAY, MAY 21, 1998**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy traveled to Kalispell and Polson for juvenile detention meetings.

#### ADMINISTRATIVE MEETING

At the Administrative Meeting held in the forenoon, the following items were signed:

Agreement - The Commissioners signed an Agreement Creating the Missoula County Workers' Compensation Group Insurance Authority.

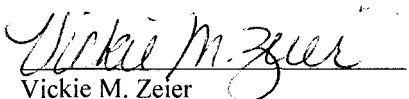
Payroll Transmittal Sheets - The Commissioners signed Payroll Transmittal sheets for Pay Period 8, with a total Missoula County payroll of \$611,6657.21, and Pay Period 9, with a total Missoula County payroll of \$625,867.26. The sheets were returned to the Auditor's Office.


Appointment of Deputy Coroner - The Commissioners signed an Appointment of Deputy Coroner form, appointing Sgt. Brad Giffin of the Missoula County Sheriff's Department to the position of Deputy Coroner. The minutes of the Administrative Meeting are on file in the Commissioners Office.

#### **FRIDAY, MAY 22, 1998**

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

Election Costs Memo - The Commissioners signed a memo to Jane Ellis, Chief Financial Officer, regarding billing the Seeley Lake Community Council for Elections Office costs. The memo was forwarded to Jane Ellis.

  
Vickie M. Zeier  
Clerk & Recorder

  
Barbara Evans, Chairman  
Board of County Commissioners

#### **MONDAY, MAY 25, 1998**

The Courthouse was closed for the Memorial Day Observed Holiday.

#### **TUESDAY, MAY 26, 1998**

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:

Deferred Compensation Plan - The Commissioners signed the Missoula County Deferred Compensation Plan, revising the plan to incorporate legislative changes and legal interpretations.

Resolution - The Commissioners signed Resolution No. 98-040, a resolution creating Rural Special Improvement District No. 8924, for the purpose of application of dust abatement material on a portion of Zaugg Drive, from Division Street to 9th Street in Missoula County.

Lease Agreement - The Commissioners signed a Lease Agreement with Loris Staber for lease of 215 acres in the Missoula Development Park for use as farm land. Cost of lease is \$1,075.00. Term of the Agreement is May 15, 1998 through October 31, 1998.

Reader Board Approval - The Commissioners approved an electronic reader board sign to be placed in the northwest corner of the Missoula County Fairgrounds. Sponsor contracts will state a time limit of one hour per day for "thank you" advertising. The approval letter was returned to Sam Yewusiak, Fair Manager, for further handling.

Resolution - The Commissioners signed Resolution No. 98-041, a resolution of intention to create Rural Special Improvement District No. 8458, for construction of a domestic water supply and its distribution system for the Sunset West area, a portion of Section 8, T14N R20W, Missoula County.

Memorandum of Agreement - The Commissioners signed a Memorandum of Agreement with Montana CASA to provide court appointed volunteers to provide advocacy services for children age 18 and under who are neglected, abused, and abandoned. Value of the Agreement is \$5,000.00. Duration of the Agreement is from July 1, 1997 through June 30, 1998.

Covenant Revisions - Commissioners Hart and Kennedy (Commissioner Evans opposed) approved covenant revisions for the Missoula Development Park.

Other items included:

- 1) The Commissioners approved a recommended settlement of final billing for Paradigm Architects services on the County Shop project, in the amount of \$8,324.13.
- 2) At a departmental meeting of the Office of Planning and Grants, the Commissioners approved Teague Subdivision for Lease or Rent, per the staff recommendation.

The applicants, William and Bessie Teague, are proposing to add a mobile home to a 13.12 acre parcel where one home currently exists. The property is located in Clinton on East Mullan Road. The property is unzoned. The 1975 Comprehensive Plan designates suburban residential land use with a density of up to 2 dwelling units per acre.

CONDITIONS OF SUBDIVISION APPROVAL

1. The lot owner shall file a document of record with Missoula County waiving the right to protest future upgrading of Mullan Road including installation of pedestrian walkways, based on benefit, which may be used in lieu of signatures 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. Such document shall be filed prior to final plan filing. *Subdivision Regulations Article 3-2, County Surveyor 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. The lot owner shall file a document of record with Missoula County assenting to the creation of an RSID for the maintenance of a park or parks in the Clinton area, defined as the Clinton school district, on an equal basis with other properties in the area. Such document shall be filed prior to final plan filing. *Subdivision Regulations Article 4-1(12) and staff recommendation.*
4. A development agreement shall be filed, subject to County Attorney approval, that states that the new driveway shall meet the requirements of Missoula County Subdivision Regulations and the Clinton Rural Fire District. The development agreement shall be filed prior to plan filing. *Subdivision Regulations Article 3-1(1)B, 3-1(1)(E), 3-1(2), 3-2, and staff recommendation.*
5. The lot owner shall contribute \$100.00 per new dwelling unit to the Clinton Rural Fire Department prior to plan filing. *Subdivision Regulations Article 3-7(2) and Clinton Rural Fire Department recommendation.*
6. A riparian management plan shall be developed and approved by OPG prior to plan filing. *Subdivision Regulations Article 3-13 and staff recommendation..*

The applicant is requesting approval to add a mobile home to a 13.12 acre parcel where one home currently exists. The property is located in Clinton on East Mullan Road. The property is unzoned. The 1975 Comprehensive Plan designates suburban residential land use with a density of up to 2 dwelling units per acre.

Both dwelling units are located in the northern portion of the property with access via driveways exiting from E. Mullan Road. The existing house is served by a well and septic system. The new dwelling unit would be served by a new well and septic system. A mobile home was in place on the property at the time of the staff site visit.

A Montana Power Company gas line runs along the northern boundary of the property. A Yellowstone Pipeline easement runs from the southeast portion of the property to the northwest corner of the property. An irrigation ditch is located offsite, just west of the property boundary. A Bonneville Power Administration transmission line runs through the southern portion of the property. A portion of the 100 year floodplain of the Clark Fork River is also located in the southern portion of the property. The existing and proposed homes are located over 600 feet from this area.

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

**PUBLIC HEARING ON MILLER CREEK ROAD IMPROVEMENTS**  
**LINDA VISTA GOLF COURSE CLUB HOUSE**

The meeting was called to order at 7:00 pm by Chairman Barbara Evans. Also in attendance were Commissioner Michael Kennedy and County Surveyor Horace Brown. Representing the developer were Chip Johnson and Gilbert Larson of Druyvestein Johnson & Anderson, Inc. (DJA).

Chairman Evans announced that there will be a continuation of the Public Hearing on Wednesday, June 3, 1998, 1:30 pm, at the regularly scheduled Public Meeting of the Board of County Commissioners.

Chairman Evans stated that the purpose of the hearing was to find out which options the public preferred, and to have the public give concerns about the different options. The decision on which option to approve will very likely be made at the June 3rd meeting.

Chairman Evans invited the public to come forward with comments.

Carl Thompson - He felt the proposed improvements were very important and a good thing that the developer has taken responsibility. He voiced a concern that Missoula has always been behind in infrastructure improvements. We need to take advantage of the situation to improve the infrastructure. The plans are good to solve the problems, however they won't serve this part of the community for very long. We need to be prepared for growth that will ultimately come. Improvements need to be tied to other access into the valley, single access causes problems such as in the Rattlesnake, Grant Creek, Pattee Canyon and Miller Creek. It is important to get other access, the bridge, installed. It is important that improvements continue all the way down to Brooks Street, improvements to Briggs will only lead to another bottleneck, we have enough of those already. The increase in traffic to 16,000 cars is for this new addition only, the total growth may be closer to 20,000 cars. The infrastructure needs to accommodate the growth. Two lanes minimally North bound to Brooks are needed, including sidewalks and bike lanes. Accommodation of pedestrians at the Wye need to be made safer. The free flowing concept of the underpass is a good idea, but it is high maintenance and eliminates turning options. It would also have a high impact on traffic during construction. His personal preference would be Option 4, signalized intersection. This option could serve the traffic and provide necessary gaps for people to get in and out. The merge would need a long taper to control the high speed traffic coming down the hill merging with low speeds at the signal. This is another reason to extend the Northbound lanes. He hoped it would not stop here but to continue the improvements that will be needed. He would like the community to be out in front of the need, rather than react to it once it develops.

Charlie Brown - At the last hearing it was the feeling of most of the people that he spoke with that Option 3 was the favored one, the underpass. Free flowing traffic is an advantage. Safety issue is a major concern, and the underpass will eliminate the problem from Linda Vista Blvd. to Lower Miller Creek Road. There may be some inconvenience during construction, but would much rather see this project done correctly and travel an alternate route. The underpass is more costly and has higher impact fees, however it would be safer for the traffic and the children.

Michelle Hand - During the first presentation, Option 3 turns Miller Creek Roads into an arterial, changing Linda Vista into a collector instead of a residential neighborhood. By eliminating the turns, it will cause a lot more traffic into the neighborhood, especially if a school is planned within the next 20 years. There is no break in traffic, she suggested a light at Briggs to help stop the traffic occasionally. She felt Option 2 was not a bad option for the future, it will not move the problem up the hill with more development coming in. Her objection to Option 3 is that it made the road look more like an interstate interchange. She did not want to make it harder for residents to get around within their community. The concrete islands would make it difficult for large trucks to maneuver and would cause plowing problems.

An unidentified speaker was upset about the mud and water coming down the hill due to the thundershowers that evening. Chairman Evans suggested that Horace Brown go with her to look at the situation.

John Schindler - He felt the meeting was timely because of the storm, to show that not all improvements have worked successfully. He felt the ability to right and left turn on the roads should not be eliminated. He was concerned about the amount of traffic to the 93 strip and a better access. None of the options are correct, he favored a combination of Options 1 and 2. Option 1 would be better with the islands pulled out, they make it more difficult to drive around. A light in the future should be considered which Option 2 does not provide for. Another problem is the grade of the road, which needs to be address because of visibility and slick roads.

Tom Kosena - He did not have a strong opinion on any option, but wanted to know what the improvements to the North and South are for the future.

Chairman Evans stated that Chip Johnson would address questions such as his after the public comment.

Deb Cole - Not clear to her what happens to the North of the Wye, would like to know what happens all the way to Briggs, not sure from the drawings. She felt there were no good options yet, a lot more planning was needed. She is

concerned about getting her horses across the road, she and her husband own property on both sides of the road. Another concern was kids crossing the road. She would like to see something done only if it is done correctly. She felt more discussion was necessary.

Irene Boysher - Has lived here since 1964. The first change at the intersection was when an island was put in, that was to solve all our problems. The next time, they took that one out and put in a split island, that was to solve all our problems. She doesn't feel another island would be good ideas no matter what option is chosen. Let the area be open for the traffic. She has always stopped for traffic coming down Upper Miller Creek, and Option 4 would include a light there. She doesn't feel stoplights at the Wye were necessary, but further down the road at Briggs. None of the options are going to solve the problem, however with the growth that is coming, Option 3 is the best option. It will provide freedom to leave the area.

Ken Rolf - He lives right at the Wye. He also felt that none of the options were workable. He had a real concern with Option 2 at it would move his driveway and force him to turn his garage around.

Chairman Evans asked Ken Rolf to show her on the map where his house was located. He did so.

Ken Rolf - The signal and the southbound speed presented a problem for him. On all the options it is a straight shot down Lower Miller Creek with no restrictions.

Chairman Evans announced again that the hearing will continue on Wednesday, June 3rd, at the 1:30 Public Meeting of the Board of County Commissioners at the courthouse.

George Reynolds - His question was "Are these the only plans that will be presented?"

Chairman Evans answered that these are the four that have been suggested, and it may not be all there are. Some may be modified and there could be other options presented as well. Chip Johnson, the engineer, agreed with Chairman Evans statement.

George Reynolds - From his point, Option 3 would not satisfy everybody but it would be the best plan for now. He also had a problem with the hill.

Chairman Evans stated that the change in the grade of the road would be addressed by Chip Johnson after the public comment.

Ed Mosher - Has lived in Linda Vista since 1964 and was one of the first houses that the Twite brothers built. He felt everyone liked the freedom of movement, the more confined the more angry we become. He felt that an option which allowed a good flow of movement is most acceptable. As far as the bridge is concerned, it is not adamant at this time, because the buildup has not occurred yet. He felt that Option 3 would provide the freedom of movement that is acceptable. The left and right turns on Lower Miller Creek access could be done from Linda Vista Blvd.

John Zimorino - He is torn between Options 2 and 3. Option 2 would be a great plan, however, when the time comes to put in a stoplight, the entire intersection would have to be moved north. He leans toward Option 3, as do his neighbors. The problem with that is how to control the speeds coming down Upper Miller Creek Road. None of the options will solve the problem forever, until there is another access into the area, which means a bridge across the river. That is going to have to come, I don't know how soon. He cast his vote for Option 3 for now. The problems with Options 1 and 4, would be a nightmare for maintenance in the winter.

Norm Balko - He lives at 4845 Lower Miller Creek Road which is affected dramatically with the changes. On Option 3, it would bite into property that is a building site owned by his son-in-law, Ken Rolf. If whatever changes made affect that property, they would be concerned. Options 3 and 4 have good safety features, but cannot agree with Option 3 because of the affect on the property mentioned. Traffic-wise it is a good plan. Drainage needs to be addressed as evidenced by the evening's rain storm. The water is going to come anyway and what is done with the road is important. He would like to know if there is a possibility of relieving the water into the Bitterroot River, instead of flooding the land. His property is very visible to traffic and vice versa, and safety is important.

Commissioners Evans asked Norm Balko to show on the map where he lived. He did so.

Norm Balko - He felt the road was dangerous, there had been three accidents since 1981. The accidents were driver fault but visibility could be improved.

Mark Comfort - His main concern is the long range plans, having only one way in and one way out. He thinks there should be another option. The bridge option seems to be definitely one of those things that, as population increases, would enhance the free flow of traffic out of here. The bridge would alleviate some of the pressure on Miller Creek Road. Concerning the four options, he did not have a preference. Islands would be a real hazard during the winter. The underpass doesn't address free flow movement of traffic up the hill and would increase traffic in the residential areas.

Deanna Richard - She felt there should be another option. It seemed obvious that none of these options would work, none would not be satisfactory. She felt the residents should not have to settle for something that is not working.

Kay Dorris - Her husband is associated with Maloney Ranch and delivered a letter from him to the Commissioners.

Barb Rolf - Her home sits in the hottest spot right at the Wye. It is being greatly affected. She does not see any of the options working. There is no way for her to access Brooks unless they go down Lower Miller Creek Road and then back up. These seem like temporary fixes. Some options would cut into their property building site. She has a therapeutic horse riding program for handicap children and has a fair amount of traffic in and out of her property. She does not like any option as it puts her customers in jeopardy. She would like to see other options.

Mary Jane Gilman - She represented the South Hills neighborhood. Her understanding of the reason for the project was the Twite 900 unit subdivision and Maloney Ranch west of Linda Vista.

Commissioner Evans stated that was not true. The project is about the increased traffic that has occurred and will continue to occur in the future, but not laid at any specific doorstep.

Mary Jane Gilman - People from the Linda Vista and Miller Creek Road areas need to get safely and quickly through the intersection at the Wye. Traffic is on the increase and it would be irresponsible not to deal with the problem. She offered her perspective as a Cold Springs neighborhood resident and did not endorse any of these options. None of them are the best yet, and need more effort. Her neighborhood is somewhat of a forgotten area where people play ball and ride horses. Her area is composed of forgotten people who have been overlooked. This road project will affect a lot of people in the surrounding area, as well as people adjacent to it. Her request was for buffering from the road for the neighborhoods in the South Hills and adjacent properties.

Tara Comfort - Options 1, 3 and 4 have two lanes of traffic heading toward Briggs. It is not clear if that continues all the way to Brooks. Two lanes being reduced to one lane near Wal-Mart would not work and cause a bottleneck. Concrete dividers could cause more problems than they solve. An option should not be chosen which would impact property owners.

Deb Cole - She agrees with a light at Briggs. Safety does not seem to be a huge concern, she has not seen a lot of accidents. The biggest thing is the quickness and ease of getting through the intersection. There is a danger to pedestrians.

George Swartz - His personal opinion is Option 3 is the best. There may be a problem with the hill, there is a possibility of a right turn being built in. He had a concern with the road narrowing at Briggs. He feels there should be the farsightedness to have four lanes all the way to Brooks.

No other public comment was forthcoming so Chairman Evans invited Chip Johnson from DJA to address some of the questions that were raised.

Chip Johnson - If there are questions that he missed or others that need to be asked, he would be available to answer them.

Regarding the question of what was to be done between Briggs and Brooks with regard to Miller Creek Road, it was not looked at it. Part of his instructions from the Commissioners was to improve the Miller Creek Road from Briggs through the Wye up to Mockingbird Road. DJA has looked at the width question and talked to various people about how wide the road should be to the South of Briggs, between Briggs and the Wye. He has received some mixed reaction on that. DJA's initial plan is to have a two lane road through that area. Once you left the intersection northbound, the lanes would merge into one lane prior to Briggs. There has been further discussion in the past few weeks to make the road from the Wye north to Briggs could be two lanes for north bound traffic and one lane for southbound traffic. If the road narrows at Briggs to one lane it would cause a problem, it should be two lanes all the way to Brooks. This would cause major reconstruction between Brooks and Briggs, compounding with the railroad crossing and signalization, it would be expensive. The width of the road from the Wye to Briggs has not been determined at this point. Nothing has been decided at this point, we are still in the process of receiving public input. The solution is a tough one because of the Wye configuration. To change it much affects property adjacent to it. There is no way to get all the wishes incorporated to make everyone happy. He is not saying that it can't be done better, there may be a totally new option which this process will hopefully lead to.

In response to Deb Cole regarding the width and what the roadway would look like, he responded that it would be a two lane road with bicycle lanes on both sides and sidewalks on one or both sides, or possibly three lanes of traffic, two northbound and one southbound. With regard to the movement of horses and the property on both sides of Miller Creek Road, the only thing that could be done would be a provision for a crossing somewhere along the route between the Wye and Briggs. He shares the concern about those crossing, not only for horses but pedestrians and small children. He would like to see the crossing not even going on Briggs, that would mean an easement across some private properties. That issue still needs work and he would welcome public input.

These four options are the only options to date but do not represent what is going to happen. The choice is not limited to one of the four. There is potential for combinations or new ideas, but we had to start somewhere. DJA has tried to be sensitive to adjacent landowners. He encouraged the public to relate their ideas to DJA, the Commissioners or Horace Brown's office to make this plan better.

Any of the four options suggested will make the grade much flatter in the area, eliminating the visibility and winter problems.

He then asked for further questions.

Deb Cole - Does the road stay the same above Mockingbird? This seems scary and shortsighted.

Chairman Evans answered that for now the plan ends at Mockingbird, on this particular project. This does not mean that this is the last improvement.

Chip Johnson stated that the long term plan includes improvements on Upper Miller Creek Road from the Wye to Mockingbird as part of this project.

Deb Cole - She believes this is scary, just looking at a small section. She believes that the people that govern this community need to look at the whole picture.

Chip Johnson stated that in his mind that is being done in this case. He thinks that the Commissioners are demanding that this be done. As Chairman Evans mentioned, this project, while it will take improvements up through Mockingbird, other improvements will be coming for extension of Miller Creek Road up to the main entrance of Miller Creek View Addition. You will see the road extended again with curb and gutter and sidewalks. Once we get to that area there is more flexibility with right of way than in this area.

Deb Cole - She does not believe it should be kept a secret. She thinks the people should know what is going on. She would like to see the full plan. When will it happen.

Chairman Evans - "It isn't a secret, Deb, it's that part of the road improvements from my perspective will be required if Miller Creek View Addition is approved. But each time a developer does something and we require something, until we've heard it and approved it, we can't say that it's going to happen because they don't have approval and we haven't said yes. While in my mind, if that subdivision is approved, that is an improvement that will be required, we aren't there yet."

Deb Cole - She thought that speculation into the future of what may happen could be done.

Chairman Evans - "The problem is people don't remember we said 'if,' they just remember that we said we would do it, and then if it doesn't happen, then they say you lied."

Deb Cole - The biggest thing is who would pay for it, she would like to see a whole plan and would remember that the Commissioners said "if."

Chip Johnson felt there had not been secrecy about it. The information comes out in different ways, there has been a lot of work with the Comprehensive Plan rewriting and the Commissioners have a number of hearings with regard to that. The Planning Board has gone through a number of things in recent weeks regarding Miller Creek View and the improvements associated with that. What it takes to find out what's going on; people have to attend the meetings about things that are going on in their areas. If you are not in tune with that, you may not find out what is happening in a timely manner.

Chairman Evans asked for additional questions for Chip Johnson and reminded everyone again about the continuation of the hearing on Wednesday, June 3rd, at 1:30 pm at the courthouse.

Chairman Evans made the following statements: "At the last meeting I said that I strongly support a bridge. That is the absolute truth. When the Maloney Ranch came in and gave us their preview of what they were going to want, they offered that they would give, and I think the figure was \$1,800 a lot toward the bridge, Doc McCarthy I believed offered \$250,000 as a start out fund that they would gain credits for every lot that got approved. That was not accepted. Part of the reason is that our attorneys said that the state law does not give us the power to do a 'bridge district.' I'm not sure if that's the case, but if it is then we need to have the legislature do whatever is necessary to allow us to have a 'bridge district,' so that every time a house gets built that would likely use that bridge or contribute to the traffic problem requiring the bridge, that there would be a figure paid to help mitigate that problem. I strongly support that. I can't promise you that's ever going to happen, but you folks have made it very clear you support a bridge, at the last meeting it was even more overwhelming supported, and I want you to know I support it. If the opportunity comes to help you to get a bridge, I'll do everything within my power to help you get one. In regards to these options, this ain't easy, because I hear what all of you are saying and they're all legitimate concerns. One of the concerns that I have is you need these roads and you need them soon. The more delay we have in deciding what to do, the more delay there is in getting you an improved situation. And there's very few days during the winter that I don't get calls at my office saying, 'We need sanding at the Wye, we can't, we're scared,' whatever. I would like you have those roads as soon as possible for the safety factor, for the irritation factor and so if we pick something that isn't going to make you all happy, that may be one of the reasons. As Chip said there is no way to pick an option that is going to make everybody happy. I don't know what we're going to do, I would hope there is some way for Chip to wave a magic wand and take all of the concerns that you have and the basic work that they have done and come up with something that will suit most all of you, and still give you the safety that you need and the ease of getting in and out of here. That's my perspective, for what it's worth, I hope we can all work together to come up with something that's satisfactory, that provides for your needs, for the horses, for the kids, for the bike riders. And now I'll ask Commissioner Kennedy if he has anything he would like to say."

Commissioner Kennedy stated that he did not attend the last meeting because he was occupied at other County business. He listened pretty carefully to what people had to say and he thinks that based on the testimony given there needs to be a couple of things cleared up about what this project is and is not. One thing about it is it is not a project initiated by the County, the project became a condition of approval of developments in this area. Those developments will increase the traffic, so it became a requirement that the developer sponsor 100% of the cost of improving the intersection. He felt the inference from the public was that this was a permanent solution. He explained that the road department estimates that the intersection is about at capacity, measured at about 10,000 ADT. This project will increase the capacity only to about 12,000, carrying an additional 20% of traffic over what it is carrying now. Any option selected will be a remarkable improvement over what is there, but it is not going to be a permanent solution and won't take care of added subdivision activity. When the new Twite subdivision comes there is going to have to be a serious discussion about what improvements are going to be needed to service that subdivision, because it won't be serviced by this intersection improvement, it simply can't. These are not the only options but it had to be started somewhere. Whatever happens on the improvements will involve additional property acquisition. It is a responsibility of the developers to acquire the right of way, it is not a County responsibility.

Commissioner Kennedy continued that Barbara stated that you need the road and you need it soon. He stated that his opinion was that you need the road if there is additional development. What drives the need is additional traffic and what drives the additional traffic is additional development. Those costs are borne by the development interests. This is not a long term solution, it is only a temporary solution to take care of a permanent but small increase in traffic. He would like the public to come back again with other suggestions on alternatives at the June 3rd meeting.



Chairman Evans asked Horace Brown, County Surveyor, to come and address any issues necessary because County roads are his responsibility.

Horace Brown stated that he has said for the last 5 or 6 years that once we met the 10,000 cars per day, a bridge was needed. This is one way to push that further into the future. The level of service will carry 12,000 cars, the road will probably carry up to 16,000 cars but the level of service goes down as it increases. Once the 12,000 car limit is met it doesn't mean that we have to do something at that time. It means that we need to look forward to something to take care of the new population. If the bridge is built, a lot of the new population may take that route, it depends on where it is built. The bridge might not be built until after 20 years and if that happens by then we'll be at a worse point than we are today. There will be two more surveys done, one in August and one in September, to monitor the average daily traffic. This road does not end all the requirements but it is a good start.

Chairman Evans asked Horace Brown to address Briggs back to the highway.

Horace Brown felt that until the traffic reaches over 12,000 cars it won't be a problem. The merge should be before you reach Briggs, so that you don't merge in the intersection. That will carry the road for a number of years. Eventually, someone will have to widen that road in order to carry the traffic safely.

Chairman Evans asked if the County had the right of way to do that, or the money to do it.

Horace Brown replied that we don't have the money, he did not know about the right of way. Not sure of the right of way when Wal-Mart did their project.

Chairman Evans asked that Horace Brown check on the right of way and have the answer for the June 3rd meeting.

Horace Brown also commented on the flooding that was happening due to the evening's heavy rains. Most of the flooding is on private property due to new construction. The water is coming down the road like it is supposed to and going into the swales where it belongs. The only real problem is on Eldora Lane which was built a long time ago and cannot carry the water that comes off the hill, there is flooding there every spring. There was nothing beyond what would be expected. The gravel and mud coming down with the water is due to new house construction up above.

George Reynolds - What would it take to get a bridge? Could there be a petition or something, we do need a bridge. We can't wait 20 years.

Chairman Evans made the following comment: "I'll give you my perspective and it's just mine. In order to do a 'bridge district,' where every new house would put money into a fund, we have to have the Commissioners agree that a fund can be set up and then every new house that would be approved would have to pay X-amount of dollars, \$1,800 is what you're paying now. And, some perceive that process as setting the stage for further approvals of development that they're not willing to give that message. As I say again, I don't know whether we have the legal authority to set up a 'bridge district.' We have the authority to do RSIDs and this might be able to be called an RSID. But in order to use that process you have to carefully draw the district and you have to be able to prove in court that the people you include in an SID will gain a benefit from it. I don't know how we would do that and be really able to say, 'Well, George Reynolds will use that bridge so we will include him in the SID.' Be fairly clear to say that anyone that would be close to whatever location we chose, and my personal preference is across to Blue Mountain because we have right of way, I understand, on both sides of the river. That would be my preference for where to put it because it would line up with an intersection on the highway providing access both south and north unless someone shows me a better route.

George Reynolds - His question was could the public help.

Chairman Evans stated: "I'll have to talk to Colleen and think about it some more, it helps to know that you folks want a bridge. I don't know that a petition and all the work that entails would be worth your effort.

George Reynolds - He did not expect Twite or Doc or any of them to just up and pay for it. They have a right to build a house just as much as he does. His point was that we do have to have a bridge. If there is any way possible, he would like to see one, if it takes a petition.

Chairman Evans stated: "I don't know that a petition would have enough effect to be worth the effort it takes to do one, but I'll certainly discuss it with the Commissioners. Fern was here last meeting, she heard the support for a bridge. Commissioner Kennedy has heard it this evening. We need to discuss it with our attorney and I'm going to tell you folks to keep picking at us. You keep telling us because sometimes it's easy to forget."

Commissioner Kennedy addressed the issue by saying there is a big difference between the improvement at the Wye and a bridge. The difference is the cost. This improvement at the Wye may cost about \$1 million, a bridge may cost several millions of dollars. The developers may be able to front the cost for the Wye, at \$1 million, it is not likely they will make that decision as easily to front the cost for a multi-million dollar bridge. That becomes a serious problem on how you fund it. An interesting suggestion that the public should participate in that, are you speaking for the general public or are you alone in that feeling. The general feeling that I get is that the overall cost of development should be borne by development and not by the general taxpayer. That is a serious problem. When we start talking about a several million dollar bridge that becomes a burden for the taxpayer, then I think the discussion changes from "we need a bridge" to "whose going to pay for it." That is the major discussion for an alternative route out of Miller Creek. It will affect how development occurs here because once capacity is reached on the 12,000 ADT that discussion has to be engaged. How are we going to adjust the infrastructure to allow continued development. That is question the developers are going to face.

Blaine Belcher - He wanted to ask about the legality and technicality of the bridge fund. It was touted some time ago but now is waning. There are some problems with the legalities of it. Is that correct?

Chairman Evans said that putting in a bridge would be legal but the question of how to do it.

Blaine Belcher: "How would you generate this trust or whatever to pool the money."

Chairman Evans: "We're not sure whether we have the legal authority to do a 'bridge district' or whether we can use an RSID process, or how to do it. We've not suggested using any process that we're not sure is legal."

Blaine Belcher: "I'll pose the question to the developers, is there a reason why."

Chairman Evans: "No, you will address your questions to me."

Blaine Belcher: "Okay, we'll see if you can answer them. Is there any reason why the developers couldn't develop some sort of trust fund that they themselves could not do legally, there always seems to be a mechanism to get the job done if they really want to get it done."

Chairman Evans: "They offered to do that when they came in with the proposed Maloney Ranch subdivision and the Commissioners said no."

Blaine Belcher: "May I ask you why they said no?"

Chairman Evans: "Commissioner Kennedy might want to answer it."

Commissioner Kennedy: "I want to clear something up. I think Barbara suggested that there may be some mechanisms available to fund a bridge, but just because there are mechanisms that may be available, doesn't mean there is the politically where with all to accept County responsibility to fund any part of a bridge or any kind of an access that is for the sole support of the development. I think that is a major issue that this community's got to confront. You can see some division just among the two Commissioners who are here on this issue. So that's an issue that is going to be joined in conversation with the development interests and our legal staff and ourselves over the next several months and perhaps years with respect to development at Miller Creek. Just if there is infrastructure needed, who is responsible for paying for it. And regardless of whether or not there is a mechanism to it. Everyone, we got a road department which is virtually bankrupt because we simply don't have enough money in that road department to take care of the facilities that we have and it is just beyond me to think that we have a capacity of where we don't have enough money to take care of what we have now, that we have the capacity to fund additional infrastructure that really isn't for general community benefit. I think we've got that issue as well, so it's really a tough problem, but it really isn't our problem, it's a development problem."

Blaine Belcher: "For us it's a community problem because we live here."

Commissioner Kennedy: "It's a community problem if the development is allowed to continue such that the traffic impacts you and what we've done by this action, by adding this cost and this condition to the development, is we've said okay, from now on the development has to pay for these kinds of infrastructure improvement. So when we get up to 12,000 ADT, look, it's not going to increase beyond that point until there is some other way to convey traffic that is at a good level of service and that doesn't inconvenience the people in Miller Creek in order for that development to occur. That's just how it's going to happen."

Blaine Belcher: "Once it get approved and stuff, you say that 12,000, that number, but once the developments get to rolling or whatever, and they exceed 12,001."

Commissioner Kennedy: "The way the conditions of approval are written on this particular phase of the project, we can't exceed the number that was approved there without developing a structural solution to the traffic problem. It just can't be done. For example, there is a proposal out there for 900 or so units by a developer out here, well a major issue is going to be how will that developer mitigate that traffic problem, because he is not going to get approval without it."

Blaine Belcher: "I guess I just have all these questions and not getting real clear answers. I've been there, done that, and we've done this piece meal development, we build the creek wrong, we fix it. If we haven't got the brains or money enough to do it right the first time, how are we going to have the money or the brains to do it right the second time. It seems to be more expensive each time we delay this sort of stuff. Like building the road, the sewer, just about everything you can think about here. I get a little frustrated and confused. It just doesn't seem to make very good sense, what is going on out here, in regard to everything. With no clear answers, no good answers anyway, what I think is good. I'm just getting a little too picky in my old age."

Bob Cole: "I think that the road, at a million bucks, is pretty expensive. I think that it could be fixed to handle up to 12,000 cars very easily without going a million bucks and the rest of that money put toward the bridge. I would like to hear you guys (the Commissioners) come up with some answers for the next meeting on the bridge fund, like you've been talking about, all those things that you say you don't know about, I would like you to look at. I would like you to tell us what you can do, for the next meeting. I know it takes a bunch of time and effort, but we've put in two or three years of time and effort out here with this development. Now its come down to crunch time and we need the answer. Every meeting I go to we rehash the same thing over and over again. Virtually, exactly the same as the first meeting we had, there is very little thing to come out of the public that is any different, they have not brought up any new things. We've right from the very beginning said we need a bridge, we need an infrastructure put in before the houses are built. We need everything done before all this is done, I know the funding is a problem. Didn't you guys get sued or taken to court to have more houses built up here. Well, you don't have money to do that either, so I'd rather see that money put into useful funds instead of you guys having to use your money that way. I feel that the developers will definitely get what they want, they have an agenda, they are there to make money like everybody else and they should be able to make it, but they should be able to do it with approval of all the people. This is a community thing. It's a problem all over Missoula, there is an awful lot of traffic that goes into Missoula, including the Bitterroot here and one intersection down here instead of two is going to make it much more difficult for the Bitterroot people to come in, it's going to make it much more difficult for an awful lot of people. We need a different access, a different entrance and

exit to this place. So that's why I think we need the bridge. And we really need to get down to the nuts and bolts on that and find out about it. You brought it up the last time, Barbara, that you didn't know whether or not you could do this type of thing and you didn't know if you could get a bridge fund, and everything else, so I'm asking you today to find out for us.

Chairman Evans: "I'm going to tell you something else, okay, and I hesitate to say these things publicly, but you've asked and I think I owe you the answer. It isn't just a matter of whether we can legally do a bridge fund, it's a matter of philosophical difference. Mr. Kennedy does not want a bridge. This is my perception, I have a right to it. His feeling is that you folks out here would be adding costs, or whoever lives out here, that the rest of the community would have to pay for. I feel the rest of the community paid for Higgins bridge, it paid for an Orange Street bridge, I see no reason why we can't support a bridge out here as easily or as philosophically okay. As long as we have the difference in our office, with one who says no, one who says yes and one who gets to make the decisions, I don't expect anything to get done. Now I'm sorry folks, that's just about as honest as I can be. So..."

Bob Cole: To Commissioner Kennedy, "Can you give us a better explanation of why you can't approve the bridge, other than the cost."

Deb Cole: "His problem is who pays for it, I agree with that."

Bob Cole: "We should be able to take some of the money from this project and put it aside now, we should start building a fund for this bridge right now no matter whether we build it now or not, because 20 years down the way, if the bridge comes in then, we are still going to have the same problem, money."

Commissioner Kennedy: "Let me ask a question that I think really is a perplexing one with respect to setting up a bridge fund. First of all I think you need to understand when Commissioner Evans made a statement about what I think, that's his just her opinion, that's not necessarily what I think."

Chairman Evans: "That's what I said, it's my perception."

Commissioner Kennedy: "In any case, when you have a fund, it's kind of like an SID in a way, you set up a cost, you buy a house, you pay the cost and then you disappear. What happens if the fund turns up short. Who makes up the difference. You can't go back unless you set up some special mechanism to re-tax those same people, now you're buying a house up there and we set up that mechanism saying we're going to charge you \$2,500, but we may come back and double that at a time, how happy are you going to be. You're not likely to say well I'm not going to buy into that, I don't know, I'm going to buy a pig in a poke, I don't know what it's going to cost me so maybe I won't do this. That's a problem for us because every dollar that isn't collected that is enough to build that infrastructure, is a dollar that has to be funded in some other way. That means spread over the balance of the taxpayers. Well, you can see how different people in the County might react to that, if they're being asked to pay some tax that doesn't accrue to some benefit they may enjoy. This is the midst of the big problem that we have, what is the fair way to distribute cost on infrastructure that is used basically or produced basically for the benefit of a development but in fact will be used by a major portion of the community. It is a big question and it isn't easily answered."

Deanna Richard: "I guess I just want to ask Mr. Kennedy right straight out, forget the money, do you want a bridge? Just yes or no."

Commissioner Kennedy: "That is not a question that can be answered yes or no. I will tell you this, that as in the Rattlesnake, and as up Grant Creek, when development increases to a point where egress becomes a safety issue, then one of two things have to happen. Either development has to stop so as not to reduce the safety for the people, or there has to be an alternative method of providing access. As far as I'm concerned, if we're going to develop this area, we have to have an alternative access. Is a bridge the obvious only answer to me. Well, it's not, I don't know what the answer is, all I know is that if development is going to occur, then these people living in this community deserve an alternative access, regardless of what it is. And it could be a bridge, it could be something else."

Deanna Richard: "My other question is have you ever turned down a developer out here?"

Chairman Evans: "Yes, and that's why we ended up in court."

Deanna Richard: "And he got it."

Commissioner Kennedy: "Well, yes."

Deanna Richard: "So we are going to develop, it is going to become a problem, we're spending a million dollars on an intersection that we have been RSID'd twice for and now, Mr. Twite is spending for that intersection and we can't decide on what we want to do. It's obvious what the answer is, but we just seem to turn our head and go the other way. All of us that have jobs or have businesses, or even have families and households that we have to keep together, seem to be able to do a better job. And whether you get along or don't get along, doesn't really matter, I think you need to just look at the solution. And the solution is obvious to everybody but you guys."

Commissioner Kennedy: "The only response that I would give to you is that again, the solution may be obvious except paying for it is not so obvious. And one consistent message we've heard from the people in Miller Creek, which is really consistent, no more taxes, no more SIDs."

Deanna Richard: "And no more development, but that doesn't seem to fall on anybody's ears."

Chairman Evans: "We don't have the legal right to do that."

Commissioner Kennedy: "There are restrictions on development on how it might occur as it affects you as a local taxpayer."

Deanna Richard: "It seems like we are spending a lot time on this intersection that's only going to make it 2,000 more cars, right, than what it is now?"

Commissioner Kennedy: "Yes."

Deanna Richard: "That's not very much, if you put in 800 homes up there, that's 2,000 plus cars."

Commissioner Kennedy: "They won't, that will drive another improvement yet."

Deanna Richard: "So how many homes are affected by him improving that road?"

Commissioner Kennedy: "Mostly all of the approved developments to date will take up all of the capacity of that scheduled improvement."

Deanna Richard: "How many homes?"

Commissioner Kennedy: "I don't know."

Deanna Richard: "So they're home that are already built."

Commissioner Kennedy: "I think there is only an added capacity of about 60 or 70 homes, that's all that can be built in addition to those that are already approved, without an additional improvement."

Deanna Richard: "Without an additional?"

Commissioner Kennedy: "Yes."

Chairman Evans: "And that's what I meant when I said that from Mockingbird further on that in the Miller Creek View Subdivision, there will likely be more requirements for more road."

Deanna Richard: "So, will that change the Miller Creek intersection again?"

Commissioner Kennedy: "It might, if that's the alternative they select."

Deanna Richard: "So why do we keep doing this?"

Commissioner Kennedy: "Ask the developer that question, it doesn't come to us."

Chairman Evans: "No, that's not fair. I'm going to close the public hearing. Thank you all for coming. Remind you again that we will have a continuation of this hearing June 3rd at 1:30 at the courthouse. If you have further questions or comments, please come down then. And thanks for coming out on such a nasty night."

Chairman Evans closed the hearing at 8:50 pm.

### WEDNESDAY, MAY 27, 1998

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

Application for Issuance of Replacement Warrant -- Chairman Evans approved an Application for Issuance of Replacement Warrant naming Law Enforcement Assoc. Inc. as principal for Warrant #322424, issued 12/17/97 on the Missoula County 2345 Fund in the amount of \$1,350.00, not received in the mail.

#### PUBLIC MEETING - May 27, 1998

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Fern Hart, Commissioner Michael Kennedy, Deputy County Attorney Michael Sehestedt, County Surveyor Horace Brown, and Clerk and Recorder/Treasurer Vickie Zeier.

#### Public Comment

None.

#### Routine Administrative Actions

Commissioner Kennedy moved and Commissioner Hart seconded the motion to approve the routine administration items adopted this week and approve the weekly claims list in the amount of \$281,008.17. Motion carried on a vote of 3-0.

#### Request for variance to build dock on Lindbergh Lake (Muskett)

Brian Maiorano, Office of Planning and Grants, presented the staff report.

Don Larson of Reddi-Dock, representing Alan Muskett, is requesting a shoreline permit for a dock on Lindbergh Lake. The property is legally described as Lot 69 of Diamond L Bar Tracts III, Section 23, Township 19 North, Range 17 West, and commonly known as 8108 Lindbergh Lake Road.

The applicant, Alan Muskett, proposes to build a 570 square foot dock as described in the application and drawings. The proposed crib dock is prohibited except by variance, at Lindbergh Lake, the lake bottom is too rocky to drive pilings. The proposal for the shore platform has been dropped. Conditions noted in the staff report would bring the proposal into full compliance with the Shoreline Regulations, Resolution 97-104.

Don Larson, Reddi-Dock, builder's representative, was present; Alan Muskett, was not present. He stated that this was the first dock variance to come before the Board of County Commissioners since the new regulations were proposed. He acquainted the Board with the variables of the many lakes in the area and how different they were. He also requested consideration of forgiving the fees on this first variance due to the fact that, with the new regulations, virtually every application will require a variance.

There being no other comments, Chairman Evans closed the public hearing.

Commissioner Hart asked if it is always the case for the crib level to be higher than the platform and that the crib portion is built to the height of the 50 year flood.

Don Larson stated that the crib is built at approximately the 50 year high water mark. If the water is allowed to go over the top of the crib, it will float and come off the crib, which could be a hazard in the lake. After the permanent crib is installed, a hinged ramp access rests on and follows the floater. At high water the floater will be approximately level with the crib.

Brian Maiorano stated that in the drawing the crib shown was higher than the 50 year high water mark. It was a condition of acceptance for it to be lowered to the 50 year level so it does not present a visual impact.

Commissioner Hart asked if the top portion of the dock was ever removed.

Don Larson stated that it was not. The rock crib is resting on the lake bottom and the ice freezing around it does not affect it. The ramp is removed and the floater is untethered and allowed to float free, tied off to a tree near the crib dock.

Commissioner Kennedy stated that the reason for not allowing cribs was because of circulation issues. If that is the only reason, it seems an appropriate response is to change the regulations to allow cribs as long as the circulation issue is addressed properly.

Brian Maiorano did not see a problem with that as long as the amount of area left open for water transfer was specified.

Commissioner Hart did not see a problem with doing an amendment to the regulations. She felt that different lakes may react differently to crib docks.

Brian Maiorano suggested that the application had a place for design modification approved with administrative review which would eliminate the variance request and allow the modifications to be looked at on a case by case basis.

Commissioner Kennedy had a problem with that suggestion as cribs are specifically mentioned as being disallowed. If the regulations need amending it should be done correctly.

Michael Sehestedt suggested amending the regulations to include language such as, "When bottom conditions make use of pilings impractical, cribs not to exceed 4' x 4' with a minimum spacing of 10 feet," or whatever is appropriate, should be included.

Commissioner Hart asked Commissioner Kennedy if Brian could draft an amendment, make notice of it, have a hearing and pass it within 30 days.

Michael Sehestedt was not sure of the time frame to amend regulations.

Brian Maiorano stated that the regulations may be amended after notice and a public hearing and should give 15 days notice prior to the date of the hearing, following the public hearing the amendments may be adopted. Even if it was noticed it on Sunday, May 31st, it would still put the decision out at least 3 weeks.

Michael Sehestedt asked if a draft amendment could be prepared to publish on Sunday, so the people could come in Monday to see what the Commissioners were considering.

Brian Maiorano stated the he could prepare a draft in that amount of time.

Chairman Evans asked if waiting for this amendment process would put Mr. Muskett in a time bind. If so the Board could act today on the variance request and waiving of associated fees.

Don Larson stated that the construction season is short in the area. Delaying the decision would create a time burden for Mr. Muskett and Don Larson. He also agreed with Commissioner Hart that some lakes should not allow cribs, due to wind and lake bottom conditions.

Commissioner Hart moved that the Board of County Commissioners approve the request for a shoreline permit for a dock on Lindbergh Lake for Alan Muskett, located as legally described, based on the application and submittal. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

1. The 8' x 16' shore platform is not permitted; the crib dock shall be reached by trail or by steps.

2. Stairs within the shoreline protection zone shall be less than four feet wide and shall be mounted flush or less than six inches from the adjacent or underlying land.
3. The crib dock shall be constructed at the 50 year high water elevation. It may be anchored to the shore with a small cement slab at that same elevation.
4. Rock fill for cribs shall be washed clean before placement in the lake.
5. All wood will remain untreated.

Commissioner Hart moved that the Board of County Commissioners waive the variance fee in that the Board is proposing to consider an amendment to crib dock specifications. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Chairman Evans asked Don Larson to work with Brian Maiorano to draft the amendment.

Michael Sehestedt suggested the language should include, "Where it is demonstrated that due to lake bottom conditions, piling is impossible or impractical, cribs will be permitted subject to these limitations, such as a minimum of 4' x 4', with a minimum spacing of 10' or 12'.

#### Annexation to Seeley Lake Rural Fire District (Sunlight LLC)

Chairman Evans stated that Jim White from the Seeley Lake Rural Fire District called and said he couldn't attend today's meeting, but he supported the annexation. If anyone has questions, he can be reached at the Fire Hall. She then gave the briefing on the request.

A petition has been received by the Clerk & Recorder's Office to annex numerous parcels of land, located in Missoula County, into the Missoula Rural 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 areas to be annexed and a majority of tax-paying freeholders within the areas described, thereby meeting the requirements of 7-33-2125 M.C.A. for annexation of adjacent territory.

The areas to be annexed are described as follows:

Tract B-1 and C-1 of Certificate of Survey 4697 and Tract 1 and 2 of Certificate of Survey 4720 located in Section 8 and 17 in Township 15 North, Range 14 West.

Vickie Zeier, Clerk & Recorder/Treasurer, stated that she noticed an error in the Request for Commission Action. In the first paragraph, where it said Missoula Rural Fire District, it should have said Seeley Lake Rural Fire District. The change was noted on the Request for Commission Action.

There being no public comment, the public hearing was closed.

Commissioner Kennedy had questions regarding the boundaries and response time. As there was no one present to answer questions, he was not inclined to approve the annexation.

Commissioner Hart moved that the Board of County Commissioners postpone the annexation request for action until Wednesday, June 3, 1998, and that Commissioner Kennedy call Jim White. Commissioner Kennedy seconded the motion. The motion carried on a vote of 2-1, Chairman Evans opposed.

#### Scenic Drive Addition (2-lot summary subdivision) - South of Condon

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

The applicant, Ann Reinhard, is proposing to split a 36.24 acre parcel into 2 lots of 17.43 and 18.81 acres in size. The proposed subdivision is located along Scenic Drive, 3 miles south of Condon along the west side of Highway 83. A Certificate of Survey for a boundary relocation is being filed, which moves the eastern boundary of Lot 2 to the centerline of the Swan River. The property across the Swan River from Lot 2, which is also affected by the boundary relocation, is currently being reviewed as the Buck Creek Homesites North subdivision.

Scenic Drive divides the property and forms the common boundary for the proposed lots. Two single family residences currently are located on the subject property, one on each of the two proposed lots. Individual well and septic systems serve each lot.

The eastern portion of Lot 2 is within the floodplain of the Swan River, as well as within a riparian resource area. The existing home is located over 500 feet away from the boundary of the riparian resource area.

There is a condition of subdivision approval which requires a riparian resource plan. The applicant, Ann Reinhard, included in the proposed plan that there might be some need for vehicles for ground maintenance in the area. Staff has recommended that the plan provide more detail that could be reviewed of what those activities might be so a site visit could be scheduled if necessary when the final plan was reviewed and approved with the plat approval.

Ron Ewart, Eli & Associates, developer's representative was present; the applicant, Ann Reinhard, was not present. He presented to the Commissioners pictures of the property for the file. He stated that as many precautions as possible were taken to conserve the natural resources of the area. The need for vehicles for

maintenance in the riparian area would be limited, including removal of debris from high water or downed trees, on a short-term basis.

Commissioner Kennedy stated that it was inappropriate for vehicle access in accordance with the riparian resource area.

Ron Ewart stated that it should not be a problem to not allow vehicular access, and debris could be carried out by hand if necessary.

Michael Sehestedt stated that vehicular access could be granted under the 310 Permit Process which is more limited than the riparian zone regulations.

Chairman Evans pointed out that under certain circumstances roads are allowed under the riparian zone regulations.

Commissioner Hart moved that the Board of County Commissioners approve the variances to Scenic Drive Addition Subdivision based on the recommendations of staff, the findings of fact and conclusions of law.

1. A variance from Section 3-2(5) to not provide sidewalks or pedestrian walkways from the subdivision.
2. A variance from Section 3-2 to vary from the required 24 foot width to a 22 foot width.

Commissioner Kennedy seconded the motion. The motion carried by a vote of 3-0.

Commissioner Hart moved that the Board of County Commissioners approve Scenic Drive Addition Subdivision subject to the following conditions, and based on the findings of fact and conclusions of law in the staff report.

1. The boundary relocation with the adjacent property shall be filed prior to plat filing. The final plat shall include the new Certificate of Survey number..
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 the assent of the lot owner to waive the right to protest a future RSID/SID for improvements to Scenic Drive, including installation of pedestrian walkways or bikeways, 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.”

3. The plat shall show the floodplain boundaries of the Swan River.
4. The area of riparian resource shall be shown on the plat and indicated as a no-build zone. The Riparian Resource Management Plan shall be amended to address grazing, dumping of materials, what specific types of ground maintenance activities requiring vehicles would be allowed in the riparian area, and that no structures or vehicle access would be allowed except for 310 related problems in the riparian area. The final Plan shall be approved by OPG. The final Plan shall be recorded in the covenants and shall not be changed without approval of the governing body..
5. The applicant shall provide written documentation that the Swan Valley Volunteer Fire Company approves access to the lots and a fire protection water supply prior to plat filing.

Commissioner Kennedy amended the motion to change Condition 4 as noted above to include “ or vehicle access except for 310 related problems.”

Commissioner Hart accepted the amendment to the motion.

Chairman Evans asked to make certain that the language in Condition 4 did not call on the Board of County Commissioners to be involved in approving changes to the covenants.

Michael Sehestedt stated that the Board of County Commissioners were not involved with such changes.

The motion carried by a vote of 3-0.

Buck Creek Homesites North Subdivision (3-lot summary subdivision) - South of Condon

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

This property is adjacent to Scenic Drive Addition Subdivision, the property just approved. The applicants, John and Marcia Tapp and Ross and Judy Wilcox, are proposing to split a 40.95 acre parcel into 3 lots. Lots 1 and 2 would be 10 acres in size and Lot 3 would be 20.95 acres. The proposed subdivision is located 3 miles south of Condon along the west side of Highway 83.

A Certificate of Survey for a boundary relocation is being filed, which moves the western boundary of proposed Lot 1 to the centerline of the Swan River. The property across the Swan River from Lot 1, which is also affected by the boundary relocation, is being reviewed concurrently as the Scenic Drive Addition subdivision. Buck Creek Homesites, a 3 lot subdivision adjacent to and south of this property, was approved in November 1997.

There is one existing home and one guest house on Lot 3. Individual septic systems are proposed for each lot. Lots 1 and 2 would share a well.

All lots would access from Highway 83. An existing access serves the dwellings on Lot 3. A shared access for Lots 1 and 2 is proposed.

The Swan River will form the western boundary of Lot 1. Buck Creek runs along the southeast boundary of the property. An unnamed creek runs through Lot 3 into Buck Creek. A proposed Riparian Resource Management Plan is included in the covenants. Building envelopes are shown on Lots 1 and 2.

Ron Ewart, Eli & Associates, developer's representative, was present, the applicants, John and Marcia Tapp and Ross and Judy Wilcox, were not present.

Ron Ewart stated that the property is owned by two sisters, they have a caretaker who lives in the existing home at the south end of the property. There is also a guest home where the sisters stay when they visit. They decided to put two houses on the northern end of the property, nice log cabin-type homes. Steps have been taken to protect the environment.

Commissioner Hart asked for a refresher on the Buck Creek Homesites Subdivision.

Ron Ewart stated that Buck Creek Homesites Subdivision is south of this development, across Buck Creek, which is the shared boundary. Buck Creek Homesites was approved in November, 1997.

Commissioner Hart asked what is the total number of lots in both the Buck Creek Subdivisions.

Ron Ewart stated that there were six homesites, each 10 acres or more.

Commissioner Hart asked if this density fit the Condon Comprehensive Plan.

Nancy Heil stated that it did satisfy the Condon Comprehensive Plan in terms of land use density of one home per 10 acres. There are also some specific goals in the Plan to address natural resource protection and habitat.

Commissioner Hart moved that the Board of County Commissioners approve the variances to Buck Creek Homesites North Subdivision based on the recommendations of staff, the findings of fact and conclusions of law.

1. A variance from Section 3-2(5) to not provide sidewalks or pedestrian walkways within the subdivision.
2. A variance from the landscaping requirements of Section 3-14 which address Primary Travel Corridor standards.

Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Commissioner Hart moved that the Board of County Commissioners approve Buck Creek Homesites North Subdivision subject to the following conditions, and based on the findings of fact and conclusions of law in the staff report.

1. The boundary relocation with the adjacent property shall be filed prior to plat filing. The plat shall include the new Certificate of Survey number.
2. An approach permit shall be obtained from the Montana Department of Transportation prior to plat filing.
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 the assent of the lot owner to waive 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."
4. The plat shall show the floodplain boundaries of the Swan River.
5. The final plat shall show the building envelopes for Lots 1 and 2 as well as the area of riparian resource on all lots. A note may accompany the plat which states that the riparian resource boundaries are approximate. The Riparian Resource Management Plan shall be amended to address grazing, dumping of materials, what specific types of ground maintenance activities might require vehicles in the riparian area, and that no structures would be allowed in the riparian area. The final Plan shall be approved by OPG and shall not be changed without approval of the governing body.
6. The driveway maintenance agreement shall be amended to include provision for dust abatement.
7. The applicant shall provide written documentation that the Swan Valley Volunteer Fire Company approves the proposed driveway design and fire protection water supply prior to plat filing.

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 2:30 p.m.



**THURSDAY, MAY 28, 1998**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was in Spokane, WA for a Senate Committee Field Hearing regarding ICBEMP.

Audit List -- Commissioners Evans and Hart signed the Audit List, dated May 28, 1998, pages 2-39, with a grand total of \$281,826.24. The Audit 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 Agreement with the Montana Department of Transportation for repair of the Vine Street Bridge over Rattlesnake Creek. All costs and construction shall be handled by State and Federal funds. The Agreement was returned to Jim Weaver at MDT for further signature.

Printing Account - The Commissioners approved a printing account for the Missoula Area Education Cooperative for FY 99, with a memo to Central Services stating that the rate shall be the same as for the Superintendent of Schools.

HUD Emergency Shelter Grant - The Commissioners concurred with allocations made by the Human Resource Council from the Emergency Shelter Grants Program for FY 99, with a letter to Jim Morton of the HRC.

Change Order - The Commissioners approved a Change Order for water line replacement and other miscellaneous work on the Woody Street sewer project. Cost is \$5,800.00. The Change Order was returned to Art Garner, Buildings and Grounds Supervisor, for further handling.

Counter Offer - Chairman Evans signed a Counter Offer for purchase of the vacant lots near the Pepsi Warehouse, Lots 25 through 33, Block S of Carline Addition #3, Missoula County. Amount of the Counter Offer is \$132,000.00. The Counter Offer was returned to Paul Webber, CAO.

Main Extension Contract - Chairman Evans signed a Main Extension Contract with Mountain Water Company for a water main to the new Missoula County Detention Center. Effective date of Contract #490 shall be April 6, 1998. It was noted that the estimated cost for 1800 feet of 12" water main for the site averages \$51/foot. This included some engineering costs. This estimate was close to the \$50/foot cost of a 12" main on West Harrier Street in the Development Park. The Contract was returned to Mike Sehestedt, Deputy County Attorney, for further handling.

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

**FRIDAY, MAY 29, 1998**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was out of the office all day. At noon, Commissioners Evans and Hart attended the Small Business Awards Luncheon at the Holiday Inn.

  
Vickie M. Zeier  
Clerk & Recorder

  
Barbara Evans, Chairman  
Board of County Commissioners

**MONDAY, JUNE 1, 1998**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was out of the office from June 1-5 due to illness. In the evening, the Commissioners and the City Council held a joint hearing on the 1997 Update to the Urban Comprehensive Plan, in conjunction with the regular City Council meeting held at City Hall.

Monthly Report -- Chairman Evans examined, approved, and ordered filed the Report of the Clerk of District Court, Kathleen Breuer, showing fees and collections for the month of May, 1998.

Plat and Improvements Guarantee - The Commissioners signed the plat and improvements guarantee for Scattered Pines, a rural residential subdivision located in the SE1/4 of Section 27, T12N R20W, PMM, Missoula County, a total area of 6.30 acres, with the owner of record being Kenneth J. Ault.

**TUESDAY, JUNE 2, 1998**

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

Monthly Report -- Chairman Evans examined, approved, and ordered filed the Monthly Reconciliation Report for Justice of the Peace, John Odlin, for the month ending May 31, 1998.

**ADMINISTRATIVE MEETING**

At the Administrative Meeting held in the forenoon, the following items were signed:

Contract for Nutrition Services - The Commissioners signed a Contract for Nutrition Services between Child Start, Inc. and the Missoula City-County Health Department to provide nutrition services to the Head Start program. Performance schedule is approximately 5 hours per month from September 1, 1998 through May 31, 1999. Compensation shall be \$675.00. The Contract was returned to the Health Department for further signatures and handling.

Satellite Agreement - The Commissioners signed a Satellite Agreement between the Mineral County Health Department and the Missoula County Health Department for continuation of WIC program services to Mineral County. Term of the Agreement is from July 1, 1998 through June 30, 1999. The Agreement was returned to the Health Department for further signatures and handling.

Contract for Nutrition Services - The Commissioners signed a Contract for Nutrition Services between the Western Montana Comprehensive Development Center and the Missoula County Health Department for contracted nutritionist services. Term of the Contract is from July 1, 1998 through June 30, 1999. Payment shall not exceed \$403.00. The Contract was returned to the Health Department for further signatures and handling.

Transfer Agreement - The Commissioners signed a Transfer Agreement with the State of Montana, Department of Transportation, Aeronautics Division, returning the Seeley Lake Airport to State ownership.

Roadway Easement - Chairman Evans signed a Roadway Easement agreement with Interstate Companies, Inc., AKA the Julian P. Foss Estate, to construct and maintain portions of a roadway along and across real property described as: the roadway easement is located in a portion of Lot 3B, Momont Industrial Park - Phase 2, Lot 3, located in the NW1/4 of Section 1, T13N R20W, PMM, Missoula County, Montana. This is in order to create Curlew Loop in the Missoula Development Park.

Easement Agreement - The Commissioners signed an Easement Agreement with Elvin J. and Norma W. O'Laughlin to provide additional right-of-way for a CTEP paving project for Siesta Drive. The easement area is described as Lot 1, Block 4, Siesta Acres No. 2 (SE1/4 of Section 35, T14N R19W, PMM).

Water Main Easement - The Commissioners signed two Water Main Easements between the Missoula County Airport Industrial District and Mountain Water Company for water lines in the Missoula Development Park. The Easement documents were returned to Orin Olsgaard in the Projects Office for further signatures and handling.

Agreement for Engineering Services - Chairman Evans signed two Agreements for Engineering Services with HDR Engineering, Inc.:

- (1) for the Missoula County Golden West Wastewater Facilities Study. Compensation shall not exceed \$18,600.00.
  - (2) for the Missoula County El Mar Estates Wastewater Facilities Study. Compensation shall not exceed \$20,600.00.
- Both Agreements were returned to HDR Engineering for signature.

Other items included:

- 1) The Commissioners approved and signed a counter offer to their counter offer for the sale of the Pepsi vacant lot for a day care center.
- 2) The Commissioners reappointed Ed Heilman and Sue Brown to 3-year terms on the Park Board; moved Sue Mathewson to a regular member of the Park Board with a 3-year term; and appointed Tate Jones as first alternate and Dan Morgan as second alternate, with one-year terms.

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

**WEDNESDAY, JUNE 3, 1998**

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

Indemnity Bond -- Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming Tracy A. Battisti as principal for Warrant #47365 issued 5/15/98 on the Missoula County Payroll 78-42 Fund in the amount of \$207.05 now unable to be found.

**PUBLIC MEETING - June 3, 1998**

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Fern Hart, Deputy County Attorney Michael Sehestedt, Deputy County Attorney Colleen Dowdall, Deputy County Attorney Marnie McClain, County Surveyor Horace Brown, and Clerk and Recorder/Treasurer Vickie Zeier.

Chairman Evans stated that Commissioner Michael Kennedy has been ill for several days and would not be attending the meeting.

**Public Comment**

Lucas Zuckerman, representing Missoula Parks and Recreation, began to read a statement regarding the proposed Miller Creek Road Improvements.

Chairman Evans asked if he would wait to give his comments until that subject was before the Board.

There being no further comment, Chairman Evans closed the Public Comment.

**Routine Administrative Actions**

Commissioner Hart moved and Chairman Evans seconded the motion to approve the routine administrative items adopted this week and approve the weekly claims list in the amount of \$150,504.12. Motion carried on a vote of 2-0.

**Sale of Partnership Health Center Bonds**

Jane Ellis, Chief Financial Officer, gave the staff report. She stated that what was before the Board was the second resolution in the process of actually selling bonds. The sale of the bonds was authorized in May and this action awards that sale. This was a negotiated sale, conducted with D.A. Davidson, because of the nature of the securities. The negotiated interest rate is 5.37%. That compares to the jail bonds sold for 4.9%, which were a larger issue and slightly more credit worthy. This issue is for \$480,000 and the resolution today awards the sale and authorizes the execution and does provide for using tax money if the clinic does not generate revenue enough to pay the bonds.

Chairman Evans asked for public comment. There being none, Chairman Evans closed the Public Hearing.

Commissioner Hart moved that the Board of County Commissioners adopt the resolution relating to \$480,000 in Limited Obligation Notes (PCH), series 1998; authorizing the issuance, awarding sale, determining the form and details, authorizing the execution and delivery, and levying taxes as needed therefore. Commissioner Hart further moved that the Chair be authorized to sign the necessary related documents. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

**Continuation of 0.5% Local Option Motor Vehicle Fee in FY '99**

Vickie Zeier, Clerk & Recorder/Treasurer, gave the staff report.

The action before the Board of County Commissioners is to sign a resolution to continue to assess the additional 0.5% local option motor vehicle tax. Montana Code Annotated 61-3-537 allows counties to continue to impose the extra 0.5% local option motor vehicle tax in addition to the 2% tax imposed under MCA 61-3-504 (2) and Senate Bill 57. The Missoula County Commissioners have exercised that option every year since FY '88, and propose to continue using that option in FY '99. Passage of the proposed resolution would maintain the motor vehicle tax at 2.5% of the average trade-in or wholesale value or as stated in Senate Bill 57, effective July 1, 1998.

Chairman Evans asked for public comment.

Commissioner Hart noted that the fiscal impact in FY '97 to the County was \$1,802,955, of which approximately \$1,135,862 was distributed to the District Court Fund.

There being no further comment, Chairman Evans closed the public hearing.

Commissioner Hart moved that the Board of County Commissioners continue to levy the 0.5% local option motor vehicle tax. Chairman Hart seconded the motion. The motion carried on a vote of 2-0. Commissioners Evans and Hart then signed Resolution No. 98-042.

**Family Transfer - Morin**

Kathy Smith, paralegal from the County Attorney's Office, gave the staff report.

This is a consideration of a request to create a parcel using the family transfer exemption for a parcel described in Book 413 Micro, Page 1803 located in Section 31, T16N, R20W, for Steven Morin.

Steven Morin has submitted a request for a family transfer exemption to the Montana Subdivision and Platting Act for a 49 acre parcel located South of Arlee off Highway 93 North. The property is located on the Flathead Indian Reservation. Mr. Morin proposes to split the parcel into an approximately 40 acre parcel and a 9 acre parcel for transfer to his minor children as joint tenants. The names of the children and their ages are as follows: Kee Yazie Morin, age 14; Carole Morin, age 13; Alan Morin, age 11; and Jade Morin, age 10. The matter of the trust for the children is being handled by John A. Mercer, French, Mercer, Grainey and O'Neill of Polson.

The history of the parcel is as follows: The parcel was created by deed prior to 1974 and held by Mr. Morin's parents until it was transferred to him in May 1994.

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

Chairman Evans asked for public comment.

Steve Morin, the applicant, came forward to answer any questions by the Board.

Commissioner Hart stated that it was the duty of the Board of County Commissioners to ask the applicant questions to determine if this is an attempt to evade the subdivision act. The applicants children are underage and the land will be held in trust. She also noted that the Confederated Salish and Kootenai Tribes have sent approval of the transfer via a letter dated May 11, 1998.

Chairman Evans stated that the Confederated Salish and Kootenai Tribes have also sent a request to remind the applicant that building setbacks should be maintained, with vegetation along the creek kept intact, to avoid water quality and fisheries habitat degradation. If the application discovers any cultural or historical items when developing the parcel, the tribes asked that they be notified immediately.

Steve Morin stated that he wants to insure that at least part of this property will go to his children.

There being no further comment, Chairman Evans closed the public hearing.

Commissioner Hart moved that the Board of County Commissioners approve the request to create a parcel using the family transfer exemption for Steven Morin to his four children under the age of 14, for a parcel described in Book 413 Micro, Page 1803, located in Section 31, T16N, R20W, in that it did not seem to be an attempt to evade the subdivision law. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

#### Oman Lots Summary Subdivision (2 lots) - Wye area

Pat Keiley, Office of Planning and Grants, gave the staff report and presented photos of the site to the Board.

Mark Gibson and Richard Fischer are requesting approval for Oman Lots, a 2-lot summary plat subdivision on 20.7 acres. There is an existing single-family residential structure on the property.

The proposed subdivision is located on property northwest of Missoula on O'Keefe Creek Boulevard, approximately 2 miles northwest of the Wye intersection of Highway 93 North and Interstate 90. The property is on a hillside and is surrounded by vacant land and single-family residential structures.

The subject property is legally described as Tract 36 of COS 1925, located in the SW 1/4 of Section 9, and the NW 1/4 of Section 16, T14N, R20W, Principal Meridian, Missoula County, Montana.

Legal notification is not required. Staff posted a notice of hearing poster adjacent to the subject property proposed for subdivision.

The proposed subdivision property is unzoned. The proposed subdivision is located within the boundaries of the 1990 Missoula Urban Area Comprehensive Plan Update and the 1979 Wye-O'Keefe Area Comprehensive Plan. The 1990 Missoula Urban Area Comprehensive Plan Update recommends "Open and Resource, maximum density of 1 dwelling unit per 40 acres" as the land use and density recommendations. The 1979 Wye-O'Keefe Area Comprehensive Plan recommends "Residential, maximum density of 1 dwelling unit per 5 acres" as the land use and density recommendations.

Immediate adjacent land uses on all sides is vacant land. Nearby uses on all sides include single-family residential structures.

The proposed subdivision calls for external access from O'Keefe Creek Boulevard. O'Keefe Creek Boulevard is an existing private road that measures approximately between 10 and 24 feet in gravel surface width within a 60 foot private access and public utility easement.

Water and sewer will be provided by individual private wells and individual private septic/drainfield systems.

The proposal calls for no pedestrian facilities within or adjacent to the subdivision. A variance has been requested.

A letter protesting this subdivision because of the water supply problems in the area was not recognized as testimony as the letter was anonymous.

Chairman Evans asked for public comment.

Ron Ewart, Eli & Associates, developer's representative, was present, as were the applicants, Mark Gibson and Richard Fischer. Ron stated that he had met with Scott Waldron, Fire Chief, Frenchtown Rural Fire District, who found the plan acceptable. He stated that the placement of the home and driveway were designed as responsibly as possible. O'Keefe Creek Boulevard, which runs in front of the property, is rarely used and is currently only 10 feet wide, however, the road bed is 60 feet wide allowing the road to be widened easily.

Ron Ewart addressed Condition #1 which could imply that the lot owners were responsible for maintaining the entire road. He asked if the wording could be changed to stipulate that they would maintain the road in front of their property only.

Colleen Dowdall stated she wanted to address amending the covenants. She felt the County would not want to be involved with amending the covenants.

Ron Ewart stated that the covenants would be placed on this subdivision only and would be in addition to the covenants that already covered the property.

Chairman Evans wanted to make certain that the wording would make sure that if the covenants were to be changed they would not be asking the Board of County Commissioners to make those changes.

Colleen Dowdall felt that other conditions were not required in subdivision regulations at this point. She had concerns that they may create County liability. She would be more comfortable to not include Condition #8. These items are not listed in the subdivision regulations.

Pat Keiley stated that he felt some of the issues were important and questioned the value of putting in these conditions if they can be changed.

Chairman Evans suggested that Pat Keiley meet with Colleen Dowdall to put in staff reports only those conditions dealing with covenants that she specifically recommends.

Chairman Evans asked the applicants their opinion on Condition #10.

Ron Ewart answered for Mark Gibson and Richard Fischer that the establishment of an RSID for a County park was a good idea, although there is no authority to require one.

Colleen Dowdall stated that the RSID waiver was similar to the one done in Clinton and could only be done for the maintenance of the park, however the language in this condition was not specific enough. She would favor removal of the condition.

Commissioner Hart agreed with Colleen Dowdall that an RSID could not be used in this manner.

Chairman Evans took the prerogative of the chair and asked Pat Keiley to work with Colleen Dowdall to propose a policy on this issue, and did not want to impose conditions on subdivisions that were not part of the subdivision regulations.

Mark Gibson stated that the property was situated in such a way as to lend itself to a daylight building design and a flat driveway. He also agreed to road improvements in front of the home to improve fire department access.

There being no further comment, Chairman Evans closed the public hearing.

Commissioner Hart moved that the Board of County Commissioners approve the variances for Oman Lots Summary Plat Subdivision based on the recommendations of staff, the findings of fact and conclusions of law.

1. A variance from Article 3-2 to decrease the required O'Keefe Creek Boulevard gravel surface width from 24 to 20 feet, extending from the Lot 36B driveway to the Tract 39, COS 1925 Driveway.
2. A variance from Article 3-2 to decrease the required O'Keefe Creek Boulevard gravel surface width from 24 feet to 10-20 feet, extending from the Lot 36B driveway to Tookie Trek Road.
3. A variance from Article 3-2 to decrease the required Tookie Trek Road gravel surface width from 24 feet to 20 feet.
4. A variance from Article 3-2(5) to not provide sidewalks or pedestrian walkways in the subdivision.

Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Commissioner Hart moved that the Board of County Commissioners approve Oman Lots Summary Plat Subdivision subject to the following conditions, and based on the findings of fact and conclusions of law in the staff report.

Roads:

1. A road maintenance agreement between the lot owners within the Oman Lots Subdivision shall provide dust abatement and road maintenance to the portion of O'Keefe Creek Boulevard extending from the driveway to Lot 36B to the driveway to Tract 39 COS 1925, a distance of 2,000 feet. The applicant shall place a statement on the face of the final plat that these are private roads that are not maintained by the County of Missoula.

2. As proposed by the applicant, the applicant shall improve O'Keefe Creek Boulevard, extending from the driveway to Lot 36B to the driveway to Tract 39, COS 1925, a distance of 2000 feet, from the existing 10 foot wide gravel surface width to a 20 foot wide gravel surface width, with width and any required turnouts to be approved by the Frenchtown Rural Fire District.

Utilities (Water, Sewer):

3. 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 assent of the lot owner to waive the right to protest a future RSID/SID for public water and sewer systems based on benefit, and may be used in lieu of their signatures on an RSID/SID petition. 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."

Utilities (Fire):

4. The Frenchtown Rural Fire District shall approve the subdivision's water supply for fire protection purposes. The District shall approve the plans prior to final plat record set signoff.
5. The applicant shall pay a \$100.00 per new lot fee to the Frenchtown Rural Fire District for the purpose of providing service to the subdivision, to be approved by the Frenchtown Rural Fire District prior to final plat record set signoff.
6. The applicant shall include the following items regarding predator intrusion, fire hazards, and air particulates in the subdivision covenants. The covenants shall be filed with the County Clerk and Recorder and approved by OPG prior to final plat record set approval.
  - A. Pets shall be fed indoors and pet food shall be stored indoors.
  - B. All portable barbecues shall be cleaned regularly and stored indoors when not in use.
  - C. All garden fencing shall be at least eight feet high 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.
  - D. Apiaries should be avoided. Prior to their placement on a lot, the Department of Fish, Wildlife and Parks should be contacted to discuss how best to avoid wildlife conflicts.
  - E. Flowers, ornamental shrubs and fruit trees may be susceptible to damage from wildlife, therefore planting of native vegetation is encouraged.
  - F. Fireplaces shall be restricted. Wood burning stoves shall be restricted to pellet stoves with emissions under 1.0 grams per hour to reduce air particulates. Pellet stoves require an installation permit (\$10.00) from the Health Department.
  - G. The brochure "Living with Wildlife" shall be distributed to all lot owners.
  - H. The property owner shall create a defensible space for fire protection, according to the Missoula County Subdivision Regulations. 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 as 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.

Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Chairman Evans recessed the meeting for a short break at 2:35 pm.

Chairman Evans reconvened the meeting at 2:45 pm. She stated that the next item on the agenda was a floodplain permit application appeal, but she changed the order of the meeting for the convenience of two people who wanted to speak on the Miller Creek Road Improvements.

#### Public Hearing on Miller Creek Road Improvements

Bob Cole stated that safety needs to be addressed, but not at the expense of the contract or County. He felt the project went too far, and did not want to see the road the only exit from the Miller Creek area. There is a need for a bridge and a fund should be started. He felt scaling down the improvements and putting money aside for a bridge was necessary. He presented a drawing of his thoughts for the road, which he felt could be done faster and with less delays for traffic. He felt a light on the north bound lane coming down the hill was needed, and eliminate the extra north bound lane, which helps control the speed of traffic coming down the hill. This plan requires less easement and leaves room for separated sidewalks and improves snow removal. He suggested a paved pathway instead of cement. He would like to see the sidewalk on the west side instead of the east side. A retaining wall would also make sense. He would like to see the grade on Upper Miller Creek reduced as much as possible. His suggestions would require cutting some pine trees down at the triangle, but it would need to be done. He also suggested moving the intersection south somewhat to allow for larger vehicles. He would like his ideas considered and try to keep costs down as much as possible. Make the road simple and force the bridge issue. He suggested re-using the Orange Street bridge when it is replaced.

Chairman Evans asked Horace Brown to answer some of the questions Bob Cole raised at the previous meeting regarding right of way from Briggs to Brooks.

Horace Brown stated that currently the only right of way that is there is where the old road was. A representative from Wal-Mart is working on it per Horace Brown's request. A COS was filed and the right of way will go to that line, in some cases there will be quite a bit of right of way.

Chairman Evans asked if that meant there would be additional right of way to widen the road from Briggs to Highway 93.

Horace Brown stated that was the case but some of the mounds that exist currently would have to be eliminated.

Lucas Zuckerman from Missoula Parks and Recreation presented a statement on their behalf. He explained why his department was interested in Miller Creek Road Improvements. His department is responsible for the urban forest, parks, open spaces and trail which make an important contribution to the well being of the community. He asked that the Board of County Commissioners take the impact into account when making a decision on the adequacy of right of way. He encouraged buffering vegetation to protect bicycle and pedestrian facilities and nearby residences, and consider a separated trail on the east side of the roadway, instead of bike lanes and sidewalks within the road cross-section. Consider routing children via an easement across the unimproved land to the east to make a safe connection to the Cold Springs school as far south as possible. The final suggestion was to set up an area wide RSID for maintenance including Miller Creek and Linda Vista neighborhoods.

Chairman Evans temporarily closed the hearing on the Miller Creek Road Improvements.

#### **Appeal of Denial of Floodplain Permit Application (Cera) - Lolo Creek**

Brian Maiorano, Office of Planning and Grants, gave the staff report.

Charlie Vandam, of Land & Water Consulting, representing Fred and Penny Cera, is appealing the denial of the Floodplain Development Permit Application #97-022. The application was to construct a 135 foot levee laterally across the floodplain at 13905 Highway 12 West, legally described as Tract A, COS 2721, Section 1, Township 11 North, Range 21 West.

The Floodplain Administrator denied the permit on April 1, 1998, with findings and conclusions listed in a report of the same date. The applicant has appealed this ruling, as allowed under the Floodplain Regulations. The Board of County Commissioners may also consider granting a variance to the regulations. Staff recommends denial of the variance.

The outlet of the existing side channel has been constricted by a dike that has been in place for many years. The effects of a recent rip rap project along the bank are unknown at this time.

In the spring on 1997, the side channel carried a considerable amount of water. The water's elevation in this side channel was one to two feet higher than the elevation of the water in the main channel, due to the constriction at the side channel's outlet into the main channel.

The Montana Department of Natural Resources estimates that the 1997 flood in Lolo Creek was of approximately a 25 year frequency.

The floor of the Ceras' basement is at approximately the same elevation as the bank of Lolo Creek, and several feet below the elevation of a 100-year flood. The Ceras report that approximately six inches of groundwater entered their basement last spring.

The proposal does not meet the requirements of section 5.02 (C). The proposed levee is not designed to be at least three feet higher than the elevation of a flood of 100-year frequency, nor is it designed to safely convey a flood of a 100-year frequency. The applicant has not provided information showing that a levee constructed to the above specifications would not increase the unobstructed elevation of a flood of 100-year frequency.

The Department of Natural Resources and Conservation has stated that any new levee needs to be owned and maintained by the public. No public entity has been identified to own and maintain the proposed levee.

A reasonable alternative exists to correct the problem; the constriction at the outlet of the side channel could be lessened. The Missoula Conservation District believes this could be accomplished without disturbing the integrity of the existing rip-rap or levee. Proper permits would be required to conduct such a project; permission is not granted as part of this finding.

Chairman Evans asked for public comment.

Charlie Vandam, Land & Water Consulting, was present representing Fred and Penny Cera, who were not present. He stated that the beaver dam upriver was also adding to the problem. The area in question is considered flood fringe and the proposal was to use land fill to lessen the water flowing into the Ceras' pond. Installation of this material would not cause an increase in flood height on Lolo Creek. He felt their alternative was reasonable to control the flow into the Ceras' pond and property.

Chairman Evans asked if a reduction in the pond level prior to spill into Lolo Creek had been considered.

Charlie Vandam stated that proposal had been considered. It would required removing some dike material and installing a head gate or larger pipe for drainage.

Brian Maiorano stated that the proposed levee is below the 100 year flood level because the levee would not be built to withstand such a flood.

Tim Wolfe, Territorial Engineering, who originated the permit, stated that the project was physically easy and non-destructive, protects the basement and doesn't disturb the rip rap. It is a common sense approach but it does not fit into any regulations.

Chairman Evans asked Marnie McClain if the statement that if a 135 foot dike were built, it would have to meet State and Federal standards and State standards would also require the dike to be owned and maintained by the public was correct.

Marnie McClain stated that was correct.

Chairman Evans stated she would like to help in this case, but the proposal did not make sense.

Commissioner Hart felt it was dangerous to grant such a request as the County is not in the flood control business.

Chairman Evans stated that she has had to restructure yard and landscaping in two houses she owned to prevent the same problems that the Ceras are experiencing. The danger of living in such an area must be borne by the homeowner. She is not willing to impose on taxpayers the cost to have the County own and maintain the dike.

Charlie Vandam stated again that the proposal was for fill material and not a levee, on flood fringe property, to protect the Ceras' property.

Brian Maiorano stated that the alternative to lower the pond level and enlarge the culvert was a more proper option to reduce the flooding.

There being no further comment, Chairman Evans closed the public hearing.

Commissioner Hart moved that the Board of County Commissioners support the Floodplain Administrator's recommendation to deny the permit to the Ceras, based on the findings of fact and conclusions of law. Chairman Evans seconded the motion. Chairman Evans stated for the record that according to state law, the County would be required to own and maintain the levee, and she was not willing to do that. The motion carried on a vote of 2-0.

#### **Public Hearing on Miller Creek Road Improvements**

Chairman Evans stated that this was a continuation of the public hearing held previously and invited anyone who was interested to please come forward and speak.

Lloyd Twite stated that he strongly supports Option #3, the underpass. He added that Bob Beach, the most affected land owner, is also in favor of Option #3. Any other plan would not take care of traffic into the future, and the area did not need another "Band-Aid" fix. Option #3 has the endorsement of the most affected landowners in the area and is far superior to the other options proposed. It also has the endorsement of the major financier, as none of the cost is being taken out of County funds.

Barbara Cornelius, 2923 Hilltop Drive, stated that she was also in favor of something that was not a "Band-Aid." A lot of her neighbors and herself will keep shouting "Bridge, Bridge, Bridge," until somebody listens. She felt that the area to be improved was small, and what would happen beyond Mockingbird when the street went back to narrow Miller Creek Road. She did not agree with Mr. Twite, the worst option would be the overpass. She realized she was mistaken as to whether the road went over or under and when corrected, she withdrew her objection.

There being no further comment, Chairman Evans closed the public hearing.

Mark Landkammer, Office of Planning and Grants, presented a letter prepared by his office to the Board of County Commissioners. It was a collection of observations from the previous public meetings and input from the developers and consultants. The objective was to outline the issues that have come forward. As staff, they are recommending Option #4 with possible modifications as practical. This option was chosen as it preserves as many turning movements as possible, which will be needed.

Chip Johnson, Druyvestein, Johnson & Anderson, Inc. (DJ&A), stated that he had met with Bob and Deb Cole to review the plan that Bob Cole presented. Part of the Coles' plan would be to have the road remain two lanes and have a traffic signal for north bound traffic. One of the problems with the proposal is the steep grade at the intersection and the inability to stop on icy roads. An option to solve the unsafe condition would be to move the intersection north to more flat ground, but doing that would require more right of way from the Beaches and the Coles. He appreciated the amount of time and thought the Coles have expended on this project. Some of their ideas make good sense but there are some conditions that would be hard to solve. There are a lot of things that need to be considered. He told the Coles his concerns, especially the boulevard sidewalks and the elimination of one of the lanes.

Chip Johnson also responded to the OPG proposal, the idea of turning movement is a sound idea but would require excessive right of way to achieve a 90 degree turn. He did not feel that Option #4 created a safe turning situation and did not favor that option, and that during monitoring, turning traffic was infrequent. He was not willing to



sacrifice safety for turning options. The removal of the raised islands also created a safety issue, the islands would help control the flow of traffic during snowy condition.

Commissioner Hart stated that there was concern about high maintenance on Option #3, but the raised islands on Option #4 would also be high maintenance.

Chip Johnson said that the islands did require more maintenance but defined the flow of traffic and lessened speeds, he would favor leaving the islands in if Option #4 was chosen. The underpass in Option #3 will not be like the Orange Street underpass, it will not be a steep "dive" and water will drain out of the area. He wanted to make it clear that Option #3 was designed and planned for with a 20 year minimum and Lloyd Twite is willing to spend the money necessary to provide a solution to mitigate the impacts.

Commissioner Hart asked Horace Brown about his letter regarding the Miller Creek Road Improvements.

Horace Brown entered his letter into the record.

#### **MILLER CREEK ROAD IMPROVEMENTS BETWEEN BRIGGS & MOCKINGBIRD WAY**

The improvements to this section of road will handle the traffic for the new subdivision that is proposed. The intersections are the primary controllers of the level of service. The three lane road that is proposed will carry the same amount of traffic as a four lane on the north bound lanes. The south bound lane will carry the same amount of traffic as a two lane road would.

The level of service of the north bound lanes would be B at 12,000 ADT, C at 18,000 ADT and D at 25,000 ADT. The level of service of the south bound lane would be C at 10,000 ADT and D at 14,000 ADT.

If you considered the level of service on the three lane it would be as follows; B at 12,000 ADT, C at 14,000 - 15,000 ADT and D at 15,000 - 18,000 ADT.

With a 45 foot width on the roadway the street could be striped as a four lane in the future by moving the bicycle lanes off the roadway or eliminating them completely. This is not an option that I recommend but it is available. The roadway north of Briggs would also have to be widened in order to carry the additional traffic.

#### **OPTION 1**

A limited amount of new right-of-way is required for this option. This is the second best configuration. Left turns are eliminated from the intersection when traveling north on Miller Creek Road. DJ&A determined this was not a problem, all other lanes will be available for turning motions.

The traffic on Lower Miller Creek Road will stop until the south bound lane is clear. This will allow traffic to use the center lane all the way to Briggs if they wish to do so. The upper portion of traffic on Miller Creek Road will have a free lane through the intersection with no conflicts. The only delay here will be the stop sign which would cause some congestion during peak traffic hours.

#### **OPTION 2**

This is the simplest of designs, but may not work well during peak hours because of the turning motion. This will require a lot of right-of-way. If a traffic light is needed it is built too close to the hill. If this intersection is to be constructed it should be moved further north so that no new construction would be required when the intersection meets warrants for a traffic light.

#### **OPTION 3**

This is the best option for traffic movement. It is also the most costly. It is harder to maintain during the winter time. This intersection will carry the most traffic of the four options. It also will have the highest level of service over time. It limits turning movements from the intersection but that is not a large negative. Off ramps could be provided in the future to make this a better option.

#### **OPTION 4**

The intersection does not meet warrants for traffic lights at this time. It is similar to Option 1 except traffic lights have been added.

I have attempted an analysis showing that the new roadway would accommodate the proposed subdivision that the Twite Family is proposing. Nine hundred lots would increase the ADT a total of 6,300 trips/day. The traffic is on the verge of being 10,000 ADT at this time. The average daily traffic would reach 16,300 at build out that would bring the level of service to D. If you add the projected increase of other subdivisions I would expect at the end of 10 years the ADT would be about 15,000. At 15 years the ADT would be about 17,000. At the end of 20 years the traffic would be above the level of service D and congestion would be a large problem.

I believe that if all the improvements are completed from Briggs to the County gravel pit, the roads will handle the projected traffic from the expected subdivision. If a large subdivision is built on the Maloney Ranch, then a new access road would be required before the next 20 years occur to accommodate all of the new traffic from that area.

Commissioner Hart asked for clarification of the levels of service listed.

Horace Brown stated that level of service B is a good level of service, about half of a 4-lane road. Level of service C on the south bound lane would be the same as a two lane road. When you reach level of service D, the road can handle the traffic but there is a need for something better.

Commissioner Evans asked Horace Brown what the level of service would be for Option #3.

Horace Brown said he looked at each option from the capacity to handle traffic, Option #3 will handle the most traffic of the four options. He stated that he liked Option #1 because it took care of the problem with the least cost and would allow for widening in the future, but would eliminate the bike lanes and necessitate the widening of the road north of Briggs.

Chairman Evans stated that a majority of the public favored Option #3. She wanted to provide the least intrusion with multiple lanes of traffic to the people of the area that were easy and safe. The results of Option #4 looks like a five-lane highway in a residential area.

Horace Brown stated that the lights with Option #4 would cause a problem because the hills are too steep.

Gilbert Larson, DJ&A, stated that the grade would be 5% in Option #3, the other options would make the grade 8%. As comparison, the Reserve Street overpass on Broadway is a 5% grade, and Linda Vista Boulevard under the power lines is an 8% grade.

Horace Brown stated that Option #2 would not work because of the steepness of Upper Miller Creek Road. To make this option work, the intersection would need to be moved further to the north where the area is flat, which would require more right of way.

Chairman Evans stated that other concerns were the cost and the ability to gain right of way. The property owner who would be most affected favors Option #3. She was not willing to go to court to condemn land or create a road that looks with a 4-lane highway when it is not what the neighborhood wants.

Mark Landkammer stated that his letter was to lay out all the issues so that the Board would have the information necessary to make their decision. There are merits to all the options and could argue for any one. He would still favor Option #4, providing the best bike and pedestrian access, sidewalks on both sides, the maintenance and the turning issues. However, the OPG could work with any decision the Board makes.

Commissioner Hart stated that she really appreciated this group of people looking at these plans, it gave her another focus to work from. She appreciated Bob Coles' ideas as well. She thanked everyone for their time and effort on this process.

Chairman Evans asked what the orange flags were for on the fence at the Wye, did they indicate County right of way?

Horace Brown stated he did not know what they were for.

Lloyd Twite stated that the orange flags were put there by some folks who were moving horses and were to let the horses know the fence was there.

Commissioner Hart asked about the level of service on the three lanes with Option #3. Was the increase from the new homesites figured in his report?

Horace Brown stated that by the end of the build out of the Twite property in 20 years the level of service would be "D."

Lloyd Twite stated that the ADT at level of service D would not be exceeded.

Horace Brown stated that Option #3, at the end of 20 years, would still handle more than the 16,000 ADT.

Vaughn Anderson, DJ&A, explained that a level of service is "how you feel." Level B is free-flowing movement, level C represents a range in which the influence of traffic density on operations becomes marked where impacts are felt, level D is the ability to maneuver being severely restricted because of traffic congestion, level E is at or near capacity and level F is a complete failure of movement. He stated that the traffic listed at level of service D would be at peak operations and for a limited period of time and only on the south bound lane. The rest of the time the level of service for the southbound lanes would be at B or C. The level of service changes when intersections are introduced. Option #3 provides the best level of service and DJ&A supports Option #3. It does eliminate the turning movement, however, the current percentage of turning traffic is at 1% or less.

Mark Landkammer commented that the 1% of traffic turning will increase as the valley grows and that influenced the OPG decision to favor Option #4 with turning movement.

Chairman Evans closed the public hearing.

Commissioner Hart stated that she supported Option #3 and would like to see boulevard sidewalks included.

Chairman Evans stated that she strongly supported Option #3 and hoped the development team could find the best way to handle the bike, pedestrian and horse issue with this option. She was satisfied that a lot of time and effort had gone into the planning process and was pleased to support Option #3.

Commissioner Hart moved that the Board of County Commissioners approve the Option #3 proposal for the Miller Creek Road Improvements between Briggs and Mockingbird Way. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Chairman Evans stated that she appreciated the fact that the Maloney Ranch and Twite Family Partnership people were willing to front the money to do this project.

Barbara Cornelius stated that Lloyd Twite has answered her questions and withdrew her objections.

There being no further business to come before the Board, the Commissioners were in recess at 4:50 pm.

Following the public meeting, Chairman Evans signed Resolution No. 98-043, a Resolution relating to \$480,000 limited obligation notes for the Partnership Health Center Project; authorizing the issuance, awarding the sale, determining the form and details, authorizing the execution and delivery and levying taxes for payment thereof.

**PUBLIC MEETING - June 3, 1998, 7:00 pm, County Courthouse Annex, Room 201**  
**Miller Creek View Addition Planned Unit Development Rezoning and Preliminary Plat Subdivision**

The Public Meeting was called to order at 7:00 p.m. by Chairman Barbara Evans. Also present were Commissioner Fern Hart, Deputy County Attorney Colleen Dowdall, County Surveyor Horace Brown, and Dave Loomis and Tim Hall from the Office of Planning and Grants.

Dave Loomis, Office of Planning and Grants, stated that there were two letters for the record to be added, one from John Schaffer and one from Robin Lee and Amy DeGarmo. The entire contents of those letters appear later in these minutes. He then presented the staff report.

Mr. Lloyd A. Twite on behalf of The Lloyd A. Twite Family Partnership, is requesting approval to rezone the subject property from several existing zoning districts and unzoned land to the Miller Creek View Addition Planned Unit Development (PUD). Mr. Twite is also requesting approval for the Miller Creek View Addition Preliminary Plat Subdivision, a 910 lot subdivision on 336 acres.

The proposed subdivision is located south of the existing Linda Vista Development, to the south and west of the city limits of Missoula. The property is legally described as portions of Sections 12 and 13, T12N, R20W, P.M.M., Missoula County.

The land is vacant except for an existing home and out buildings in the area of proposed Phase V. These buildings will be removed as Phase V is developed.

Current uses of the land include the single-family residential land use in Phase V and barley and wheat planting and production in Phases II, III, IV, V and VII. Phases I and VI are vacant.

The property is bounded on the north by existing Linda Vista Subdivision single-family residential land use, on the south by agricultural crop and vacant land, on the east by low-density single-family residential land use, and on the west by vacant land and crop land uses.

The area is partially zoned and partially unzoned. The zoned area is approximately 70% and the unzoned area is approximately 30%. The zoned area includes the C-RR1, C-RR2, and C-A3 county zoning districts.

The 1997 Miller Creek Area Comprehensive Plan Amendment to the 1990 Urban Area Comprehensive Plan Update, recommends different land uses and densities depending on specific location, including, "Residential, maximum density of 4 dwelling units per acre", "Residential, maximum density of 2 dwelling units per acre", "Residential, maximum density of 1 dwelling unit per 5 acres (Reserved)", "Rural/Natural Resource and Agricultural Land", "Existing Parks", "Potential Parks", and "Neighborhood Commercial."

The PUD zoning proposes several different land uses, including three types of residential lots (single-family detached, single-family attached in no more than the attachment of 2 structures, and multi-family apartments or condominiums), a school site, open space and parks, and a neighborhood commercial area at the intersections of Linda Vista Boulevard, proposed Road C, and Miller Creek Road. The single-family attached and detached residential land uses and the open space and parks land uses are generally spread throughout the overall development. The multi-family apartments or condominium land uses are located at the outer ends of the single-family attached and detached land uses. The school site land use is located between Phases II and III. The neighborhood commercial land use is located at the northeast corner of the development, fronting on Miller Creek Road and Linda Vista Boulevard.

Lot size for the residential ranges from approximately 7,000 square feet to 25,000 square feet, depending on the land use, the particular phase, and the location of the lot. Setbacks and building height are fairly standard, but vary according to land use. The proposal calls for a maximum height for the single-family residential land uses of 30 feet, and a maximum building height of 40 feet for the apartments or condominiums. The proposed setbacks are: front - 15 feet, rear - 10 feet, and the side - 10 feet or 1/3 the height of the building (whichever is greatest), with one exception. The exception is that the single-family residential land use allows for one zero side yard setback. This means that single-family attached or duplex units are allowed throughout the development.

External access to all lots within all phases is from a county dedicated public street.

There are no private roads proposed. L-type curb, with gutter, and 5 foot wide boulevard concrete sidewalk are proposed for the entire subdivision.

Water will be provided by the Linda Vista Water Company. Sewer will be provided by the Missoula Wastewater Treatment Facility. The City has noted that there is existing facility hookup capacity for an additional 683 dwelling units at this time, 127 units less than proposed. According to the applicant's representative, the nearest public sewage system is adjacent to Miller Creek View Addition Phases I and II, in the Linda Vista Subdivisions.

The developer has proposed to phase the subdivision development in seven phases, with land closest to the existing Linda Vista Development developed first and the land further out last (Phase VII). The developer has asked for a preliminary plat approval time period of 30 years.

Legal notification is required and has been provided in the form of a certified letter to property owners within a 300 foot radius of the subject rezoning/subdivision property, legal ad notices in the local Missoulian newspaper, and three large public hearings notice posters placed adjacent to the subject property for the rezoning/subdivision.

Dave Loomis stated that this evening before the Board is a major project, the major project in Missoula County in quite some time. It is the Miller Creek View Subdivision and Planned Unit Development (PUD), so it is both a subdivision and a rezoning request from the Lloyd A. Twite Family Partnership.

The project is located in the Upper Miller Creek area, at the top of Linda Vista on Upper Miller Creek Road. It involves 336 gross acres, 910 units or lots. Of those, 540 are in the unzoned area and 370 are in the existing zoned area. The staff report is essentially in five sections, an introduction and two sections referring to the zoning, starting with the conditions of approval and then the zoning findings of fact and conclusions of law. The last two sections are the subdivision conditions of approval and the subdivision findings of fact and conclusions of law. Because the final document was produced in two section, the first 20 pages include the zoning conditions, the second 23 pages are the subdivision findings of fact.

Tim Hall, Office of Planning and Grants, was also present to help in the discussion of the Comprehensive Plan.

Dave Loomis stated the Board had already received the staff report and there were some exhibits describing the project. He wanted to discuss the key components of the proposal and the conditions.

Chairman Evans was asked by an audience member if this was a meeting with the Commissioners and where were they. She stated that she and Commissioner Hart were present and Commissioner Kennedy was quite ill and would not be attending the meeting.

Dave Loomis stated that the project includes some significant components, beginning with the roads being public and paved, with "L" type curbs and boulevard sidewalks, with a grassy area before the sidewalks. This is a departure from the normal Linda Vista style. The applicant has chosen this new method for the entire project. The roads are slightly less than subdivision standards, but allowed without variance through the PUD process. Secondly there are park sites and trail systems identified throughout the project. Third, the applicant, The Lloyd A. Twite Family Partnership, understands there are impacts on Upper Miller Creek Road and has proposed in the project improvements to Miller Creek Road from Mockingbird Lane on the north up to the top of the hill, essentially to the section line of the project, that would include a 36 foot, curb to curb, road including five foot bike lanes on both sides and a sidewalk on the east side.

In the submittal, there were generally two different types of residential units, single family dwellings and 12-plexes. Upon staff recommendations, the applicant has agreed to an array of residential units, including duplexes or fourplexes in the mix, consistent with the Comprehensive Plan policy for diversity of housing type.

Both the subdivision conditions and the zoning requests require consistency finding with the Comprehensive Plan.

Key conditions to the PUD rezoning include: 1) The designation of a Neighborhood/Community Facility Zone; and 2) the designation of a Mixed Use Zone.

Chairman Evans asked Tim Hall to come to the front and point out specific areas on the maps as Dave Loomis mentioned them and the suggested uses.

Tim Hall pointed out the areas in questions are the lots that border the five acre park and the three acre school site, now labeled a Community Facility site. The lots that border that facility have the potential to be used as neighborhood commercial facilities of a limited type and diversity of housing types will also be offered. It does not guarantee that they will be built, but the opportunity is there for homeowners and developers.

Dave Loomis stated that in addition, staff recommends conditions designating some limited single family areas as mixed use residential areas, from one to fourplexes. He also explained that one of the key subdivision conditions spoke about deleting Phase VII, entirely within the Miller Creek Valley.

Tim Hall explained that Phase VII is south of Lower Miller Creek Road in what is considered the true Miller Creek Valley bottom.

Dave Loomis stated that the applicants are asking for a 20 year time frame to execute the entire plan. The next key condition explained the deletion of a portion of Road G south of Road H.

The next key condition was mitigating the impact of the subdivision on the Missoula Valley air quality. The specific air quality mitigations have not been picked, they will be determined later. The Health Board realizes there are significant impacts on the air quality of the Missoula Basin.

The next key condition was a revised drainage plan to make use of open, grassy swales, not just sumps and storm water drain fields, recommended by both the Water Quality District and City Engineering.

There are additionally two new conditions which were added by the Planning Board, one to mitigate the impact of the neighborhood commercial on adjacent property owners, both on and off-site; and the other to have the governing body determine before filing for Phase VII that it is in full compliance with the adopted Comprehensive Plan at the time of filing.

Chairman Evans stated that means that if the Comprehensive Plan should change 18 years from now, and the applicant is not planning to do Phase VII until 20 years from now, at that time the phase would have to comply with the Comprehensive Plan in effect at that time.

Dave Loomis explained about the Comprehensive Plan compliance. The major test for this proposal is in the Comprehensive Plan compliance. The Miller Creek Update will be the citations. That update was completed in 1997 and sets out land uses, densities, neighborhood and community wide goals and provides development guidelines. This project is the first to implement that new plan. This project generally reflects and honors that plan, except for the lower one-half of Road G in the valley and Phase VII in Miller Creek Valley. The applicant went to great lengths to attempt to honor the Comprehensive Plan. Three-quarters of the proposal is consistent with the plan, leaving one-quarter that is not consistent with the Comprehensive Plan.

Chairman Evans requested explanation of the process that was undertaken to arrive at the Miller Creek Plan.

Tim Hall, Office of Planning and Grants, stated that the Miller Creek Comprehensive Plan project itself was initiated as a result of a very similar project, Miller Creek View Addition "First Try." The neighborhood felt the existing Comprehensive Plan that governed that area was inadequate to allow comment on the development on the Twite family land. The applicant agreed to pull their project due to citizen concern. A project was initiated to work with the neighborhood, including the developers, landowners, citizens of the Missoula Valley, or anyone who was concerned. The project took approximately two years and countless meetings. Citizen Task Forces were created to specifically address issues such as infrastructure, which included roads and parks, as well as utilities. Parks and open space, citizen involvement, wildlife, land use, and relationships of different land uses were the major areas studied. Community design workshops were conducted that developed guidelines and goals of what citizens wanted to see. Seven hearings before the Missoula Consolidated Planning Board and seven hearings before the Board of County Commissioners resulted in the document called The Miller Creek Area Comprehensive Plan Amendment, an amendment to the 1997 Comprehensive Plan for this area. The result were some very specific goals and outlines, and examples of what the citizens wanted to see in their valley, in terms of commercial uses, how to use hillsides and spaces, types of parks and neighborhood design features. This was the very first plan that took items from the Themes Document and integrated them into a true "watershed" plan, larger than a neighborhood plan, encompassing approximately 18,000 acres, including the Twite Family lands and the Maloney Ranch land.

Dave Loomis stated that the Office of Planning and Grants job is to make sure this project complies with the policies and objectives in the Comprehensive Plan. The housing diversity and mix, the provision of neighborhood commercial, the road design, the provision of parks and trails, all are consistent with the Comprehensive Plan.

The Comprehensive Plan says, however, the value of Road G and most of the lots adjacent, is designated as rural, natural resources and agricultural. A road was discussed specifically during the public process but is not included in the plan. Secondly, Phase VII, is designated as reserve residential one dwelling unit per five acres, further, the valley is not eligible to be changed from its reserve designation until the urban areas of the Miller Creek Comprehensive Plan are built out to 80% of the planned capacity. This is why the Planning Board feels those two portions of the project are not consistent with the Comprehensive Plan.

The Planning Board recommended that Road G is approved per the proposed mitigation plan by the applicant. The proposed mitigation by the applicant goes a significant direction to the conditions that are recommended by staff. The applicant has come back with some proposed mitigations, including the elimination of Road K and its adjacent lots, and the applicant agreed to some other minor modifications on the site that dealt with some of the issues about the views and steep slopes. Staff commended the applicant for being willing to discuss and bring before the Board mitigated recommendations. Staff and the applicant are not in agreement on two major areas of non-compliance in the Comprehensive Plan.

Commissioner Hart asked if the Planning Board approved the zoning, reconsidering a school site as a type of community facility.

Dave Loomis stated that the Planning Board did approve the zoning.

Commissioner Hart asked if the Planning Board approved the mixed uses in the single family units.

Dave Loomis stated the Planning Board approved all the recommendations in the zoning.

Gilbert Larson, Druyvestein, Johnson & Anderson, Inc. (DJ&A), developer's representative, was present, as were the applicants Lloyd Twite and Scott Twite, representing the Lloyd A. Twite Family Partnership. He thanked the staff, the Planning Board and the Commissioners for the work accomplished over the last five years. The plan currently proposed is significantly different from the proposal in 1994, in direct response to the Comprehensive Plan

amendment. DJ&A concurs fully with the recommendations of the Planning Board, which speaks well for the process, the applicant, the staff and the Comprehensive Plan.

This is a large subdivision that has 336 acres, the gross density is 2.7 units per acre. It includes a total of 143 acres of parks and open space, and 144 acres of lots. This will create a very attractive neighborhood. The one issue that is in contention is whether the project is in full compliance with the Comprehensive Plan. As the plan is before you and as it is recommended by the Planning Board, Phase VII would be approved. This has been developed with sensitivity to the Comprehensive Plan. The language included for Phase VII states that prior to final plat filing, the urban area is built out by 80% and public water and sewer service is available. These three conditions are tied directly to the Comprehensive Plan and are unique to this phase. The neighborhood has said they do not want to do another Comprehensive Plan, what they intended was to have an orderly build out, starting at the top of the hill and working down. The timing of Phase VII is still in question. The entire plan is in compliance with the Comprehensive Plan.

The reasons Phase VII should be approved now include the fact that this is the only area in the planned development that can provide affordable housing in a grid pattern. It also allows for logical, systematic improvement of the infrastructure. Without having approval that includes Phase VII it could affect road improvements from Mockingbird to the gravel pit road, the size of the reservoir needed, where to put the sewer, natural gas service, telephone service, electric service, etc.

Chairman Evans asked both Gilbert Larson and Horace Brown about the drainage plan for the subdivision. She wanted to make sure there was agreement and that the proposed system would work.

Horace Brown stated that he was satisfied with the parts of the drainage system that he had looked at. He was glad to see the development start at the top of the hill.

Gilbert Larson stated that he also was satisfied with the preliminary drainage plan, as one of the conditions states, final drainage plans will need approval of the County Surveyor.

Chairman Evans asked the Planning Staff if they were satisfied with the drainage plan.

Dave Loomis replied they were satisfied to the extent that there is a condition requiring future review.

Commissioner Hart stated that she was not satisfied with the drainage plan.

Chairman Evans opened the meeting for public comment.

Lloyd Twite, Managing Partner of the Twite Family Partnership, stated that the staff has done a great job. There were concerns that were mitigated with the exception of Phase VII, which has been agreed to disagree on. In terms of long term planning, it is very important that Phase VII be approved. It doesn't make sense to do this part way, it is very important to plan the whole package. The improvement to Upper Miller Creek Road will be borne strictly and totally by the Twite Family Partnership, there will be no RSID. In the area of neighborhood commercial, a covenant on the properties in the area will be established that the physical structures will be of a residential nature, so it won't look like a basic convenience store or a strip mall. When the Planning Board voted on the development, with the mitigations and amendments, the vote was unanimously in favor of it.

Linlee Nelson, 7180 Miller Creek Road, stated that they live in the triangle north of the gravel pit, with a concentration of approximately one house per two acres. She strongly objects to seeing four houses per acre right across the street from her house, too much density. She would like to see the Board of County Commissioners take into consideration the property values and the property owners that are just outside of this plan. She would like to see the density of one house per acre or half acre. She voiced her objection to living across the street from the high density of this development. She stated that Missoula County was full of examples of trailer houses being right next to \$200,000 homes. She would like to see more blending from low density to high density. She also strongly objected to having a gas station on the corner, she did not understand how a gas station could look like a house. She does not object to a small store with limited hours, but strongly objects to a gas station. She would like that option reconsidered.

Mark Pfau, 3275 Terrace Drive, immediately to the east of the planned area. He is absolutely appalled at the negative impact suffered in the area already from the current development, dump trucks racing up and down Miller Creek Road, traffic, noise and dust. He is opposed to any commercial development, be it restaurants, gas stations, mini storage units, etc. To drive to the Miller Creek Area you have to drive by existing gas stations, restaurants, etc. Most of the area residents commute to town and drive by existing facilities, there is absolutely no reason to have any commercial development up there. There is no good to come from it, there is no convenience factor, there is no reduction in traffic. The location of the commercial site seems to impact those who live east of Miller Creek Road more than the residents of Linda Vista and the proposed addition. He would not do business with any commercial development that may come to the area.

Robin Lee, 3175 Terrace Drive, had presented a letter written by herself and Amy DeGarmo to the Board of County Commissioners. Chairman Evans read the letter into the record.

*"June 3, 1998: In Upper Miller Creek, we have new homes. There are so many people, they want to build convenience stores. If we put convenience stores in, we will have more traffic. There are a lot of kids around this area, so it's more dangerous. I don't think we should put a gas station in because teens would probably hang out there. It would be a good idea to put a park in instead of stores and gas stations." --Robin Lee and Amy DeGarmo*

Robin Lee stated that there was a lot of area for wildlife and who would want to see a Safeway out in the middle of nowhere. A park would give kids something to do instead of hanging around their houses.

Amy DeGarmo stated that she did not like that they are building too many houses out there, because they are killing the animal's habitat. They are cutting down so many trees, she did not like that.

Kristine Lee, 3175 Terrace Drive, proposed that Phase VII not be approved at this time, until it is determined that there is a need for further housing. It appears that it is not in compliance with the Comprehensive Plan. She is concerned about the density of housing that is proposed, it does not appear to be consistent with the rural character of the area. She is also strongly opposed to any commercial development, it is not consistent with the neighborhood structure.

Kathy Mensing, 3220 Terrace Drive, has said previously that commercial development was a good idea, but she is not satisfied with the location. At the last Planning Board meeting she was aghast that after the public comment period ended, the public was told a gas station would be permitted. The idea of a gas station in the commercial development is completely different from the previously stated options. She would like to rescind her letter stated that she approved the commercial development, she does not want a gas station. It is not safe, she felt it was not a good idea to put a gas station under an electric sub-station. Also putting a gas station close to homes with individuals water wells did not make sense. If commercial development is built, she would like to see the hours limited. Her biggest problem with the commercial development is its location, the people across the street will be the most impacted, both visually and financially. If commercial development is wanted, it should be within the addition, so as not to impact the existing homeowners financially.

Earl Reinsel, 3120 Terrace Drive, previously testified at the May 6 Planning Board meeting and sent a letter to the Board of County Commissioners and Planning Board. He wanted to compliment the Board on the adoption of the Comprehensive Plan Amendment of 1997. It was identified as a policy document which would guide development in the area. He participated in the process and supports the conclusions. Commercial uses were recommended in the "Buck House" area west of lower Linda Vista, overlooking the Bitterroot floodplain. This area is two miles west, northwest of the proposed development on top of Miller Creek Hill. Map B also designated the proposed commercial area as residential in the Comprehensive Plan, except for a small portion just north of the Linda Vista Boulevard and Upper Miller Creek junction. In looking at this development, the commercial area is in opposition to the Comprehensive Plan. The commercial area is at the edge of the development with minimal effect on the proposal, but maximum effect on the people across the street, including noise, lights, traffic, etc. He feels this is an encroachment on their property rights. Five years ago there was a proposal for a mini storage lot on this same area which was not well received by the neighbors, so the proposal was dropped. This is almost the same thing. He urged the Board of County Commissioners to not approve the commercial development at this location, as it is in conflict with the Comprehensive Plan.

Gary Simecek, 7190 Upper Miller Creek Road, agreed wholeheartedly with Earl Reinsel. The Comprehensive Plan map shows the only place for commercial development on Linda Vista Boulevard is the northwest corner of Linda Vista Boulevard and Miller Creek Road. If you look at the plotted map, the area that is proposed commercial in this development is across the street, which would be the southwest corner of Linda Vista, Miller Creek and proposed Road C. That area is about three times the size of what is actually in the Comprehensive Plan. The Planning Board doesn't seem to believe that this is in conflict with the Comprehensive Plan. He has been told this is just a guideline, but doesn't believe this is true. He also felt the drainage should be addressed more seriously.

Arlene Brackebusch, 3077 Terrace Drive, stated that she has lived there for 30 years and wanted to tell Mr. Twite that she has never run out of gas, has never run out of food, has never run out of a place to have her hair cut, or anything else. She has enjoyed her rural lifestyle, which is why she moved there 30 years ago. When she moved to her property, the covenants were one house per five acres. Her house, which is close to the proposed commercial development, is 1.7 miles from the nearest gas station. The Rattlesnake has no commercial development and it is a nice place to live. She wants to say the same about Miller Creek. Even with the development that has come in the past 30 years, she has never said "Not in my backyard." She feels it would be only fair to the people who have invested sizable amounts of money in their property to have a buffer zone between their property and the development, not commercial, across from their investment. If there is a need for commercial development it should be moved to the center of the proposed addition and not across the street from people who are not interested in those services.

Ken Brewer, 3175 Terrace Drive.

Chairman Evans stated that it would appear that no one was home on Terrace Drive tonight.

Ken Brewer said the dogs and horses were in charge. He felt the housing density, particularly the grid type, seem real inconsistent with the rural character of the area. He would also recommend that Phase VII not be approved at this time. The concept of a buffer strip between high and low density is a good idea, and agreed that a commercial development is not the ideal buffer strip, particularly one that included a gas station next to a power substation. That raises some serious questions about fire protection and other infrastructure. The housing density seems too high and inconsistent with the Comprehensive Plan, particularly Phase VII, and the commercial development is real inconsistent with the rural character and the residents to the east take a substantial hit in terms of property values.

Marion Lenderking, 7190 Miller Creek Road, was very gratified with the attendance at the meeting. She felt there was inconsistency with the Miller Creek Plan Map B and the proposed development. One main issue is that major access to and from the area is shown to be on Linda Vista Boulevard. With the planned development, there are concerns about having two intersections so close together as the current intersection is very dangerous. It also states in the Comprehensive Plan that there should be no building along the ridge line and the commercial area is sort of a ridge line area, which is a concern. The proposed commercial development is much larger than what is shown on the



Comprehensive Plan. As the Planning Board has recommended adding commercial within the development, it would be appropriate to limit the request of the larger commercial area on Miller Creek Road, and place the burden within the new development. She is concerned about the gas station usage that was added after the public discussion, it is not necessary to have a gas pump in the area. She strongly urged that the Board of County Commissioners restrict the operating hours of the commercial area and the lighting of the area to operating hours.

Art Brackebusch, 3077 Terrace Drive, wondered if the Board of County Commissioners and the School Board had any voice in deciding where the next school would be, or if it was decided by the developers? He also questioned how much of the open area was planned for future phases with houses on them? What are the power company and telephone company going to do when the area south of Miller Creek becomes residential, is this the end of Missoula, is this where it is going to stop?

Chairman Evans read a letter from John F. Schaffer for the record.

*"May 18, 1998: To the Board of County Commissioners: I would like to express my concerns about this proposed rezoning request by Mr. Lloyd A. Twite, and my property is within 300 feet which will be affected by this rezoning. First I believe that this area should be maintain as a rural area, which was the main reason I purchased property here in Miller Creek. Also the current traffic on Miller Creek is unbearable now with the existing building that has been allowed.*

*I am required to live by a CCR, that requires that my property can only be subdivided into 1.5 acre lots, with one house per lot. I believed this was established so as to maintain a rural area, and preserve the Miller Creek area. If this rezoning is approved, at least remove the zero base lot request and require a minimum lot size of 1/2 to 1/4 acre for each dwelling along with a major improvement to the Miller Creek Road, paid for by the developer and not the residents who live in Miller Creek now.*

*I am not opposed to growth in our community as long as it is well thought out and takes in the concerns of all who live there. I would appreciate your consideration of the areas I have listed above before you grant this rezoning request to Mr. Twite."* --John F. Schaffer, 7373 Stonehaven Avenue.

Chairman Evans entered the comments into the record from Charlie Brown that were received June 3, 1998. Charlie Brown is the president of the Upper Linda Vista Homeowners Association. He, speaking for his association, supports this subdivision and spent a long time as one of the three people on the steering committee for the Comprehensive Plan and he supports this subdivision and says that it does conform to the Comprehensive Plan that they did.

Commissioner Hart stated that she went on a field trip with the planning staff and developers, showing the Planning Board and the commissioners the area and the different designated sites. Lloyd Twite had been given a letter from a man named Don Phillips which relates to his efforts in responding to the area of Linda Vista during the rain event of a few weeks ago. She read that letter into the record.

*"June 1, 1998: I haven't seen anyone jump on a problem any quicker or with more effort that you (Lloyd Twite) did during last week's weather problems. Thanks for the help and quick action. I hope more people appreciate your effort."* --Don Phillips

Commissioner Hart also stated that she had a call from John Quackenbush, who asked that she inspect the damage done during the same rain event. She did inspect the damage and she has some concerns about handling drainage.

There being no further comment, Chairman Evans closed the public hearing. She then invited Gilbert Larson to answer some of the concerns and questions raised by the public.

Gilbert Larson, DJ&A, stated that in regard to the planned open space, it would be permanent, dedicated to the County or protected in some other manner to insure that they would be perpetual, there is no intent to ever come back and build on the property. What is presented is the entire plan for the development, there will be no more proposals.

With regards to the school site, there have been several meetings with the school district and school board to determine what sites are appropriate, what their requirements would be. There have also been joint meetings that involved City Parks and Recreation and the school district, as the school would be adjacent to a park site, similar to Whittier School and Rattlesnake School, where there is a shared use of a park between a school and the community. It has worked successfully in the past and would work well here. This is an appropriate area for a school and would be acceptable to the school district. That does not guarantee a school will be built here, it guarantees this would be an acceptable site, if they determine later they want to build a school here. There are other school sites in the area that will be considered, it is not certain at this time where they will decide to build their school. This is why staff has recommended other uses may be allowed if a school is not built here.

With regards to density, the Comprehensive Plan does recommend densities of up to four units per acre. The gross density for the development is 2.7 units per acre. He was disappointed that it was not appreciated that as you look at the plan and Upper Miller Creek Road and Linda Vista, the lots that are adjacent to these areas are large, similar to what is in Linda Vista, half acre lots. Further into the development, there is a transition that takes place, where the lots become smaller and multi-family is allowed in the heart of the development.

The decision about gas sales and commercial in general will need to be made by the Board of County Commissioners. He felt there was a lot of negative reaction voiced at the meeting. The Comprehensive Plan did allow for neighborhood commercial at the intersection of Linda Vista Boulevard and Upper Miller Creek Road. The staff and Planning Board feel that what is proposed is in compliance. What was proposed, which may have been in



error, was a retail convenience store, but such stores are not built without gas sales. The store was proposed from the very beginning, it was necessary to further identify that it included gas sales so everyone would know what was coming. If that is going to be objectionable, it needs to be expressed. However, the Comprehensive Plan does allow this kind of commercial development, where appropriate and properly designed. The design for such a business is well defined and will be very different from a typical cinder block box. The Twite Family Partnership does not want to build something the neighborhood is not going to like. If it is the decision of the Board, based on the testimony, that this is not appropriate, the request for gas sales will be withdrawn.

Chairman Evans asked Dave Loomis, Tim Hall and Colleen Dowdall to respond to the comments that this development does not meet the Comprehensive Plan, leaving the gas station out of the issue for now.

Dave Loomis stated that the concept of neighborhood commercial was explored in depth in the Comprehensive Plan. One citation says that it should also be kept in mind that these commercial areas may be located at the crossroads and major intersections in the community (i.e. along Upper Miller Creek Road). Staff felt this interpretation, combined with an actual location, was consistent with the Comprehensive Plan. There are also additional conditions in the PUD that address lighting, off street parking and buffering parking on site. Another condition provides for the architectural design standards for the commercial land use.

Tim Hall stated that in addition, the Comprehensive Plan spoke specifically to the notion of neighborhood commercial uses. There are a number of standards that were suggested for neighborhood commercial uses in proximity to residential uses, including parking, lighting, signage, architectural character, etc. The intent of the commercial use is to be for the benefit of the neighborhood, not to pull people from the core of Missoula up to Miller Creek. The map itself is a guideline, when used in concert with the Comprehensive Plan, it should determine appropriate locations for uses and densities. The northwest corner of Upper Miller Creek Road and Linda Vista Boulevard was specifically identified to indicate that something in that area was proposed. The people in the planning project did indicate that the Twite Family Partnership had an interest in some commercial development at that corner. The type, the look and operation of the commercial was open to discussion. The plan does offer some recommendations for solutions for commercial uses inside the development as well as at the intersections in the area.

Chairman Evans asked Colleen Dowdall if it was decided that commercial at that particular spot should not be there, yet that was the site identified in the Comprehensive Plan, how fair would that be to the developer? What is the legality of saying this is where it was identified but it is preferred it be put somewhere else?

Colleen Dowdall stated that the Montana Supreme Court requires that in reviewing development proposals, that it be done in substantial compliance with the Comprehensive Plan. If a developer proposes commercial development in a location that is in substantial compliance with the land use map and the text of the planning document, there are obligations to follow that plan. If it is determined that the location is inappropriate after all, there would need to be some findings made as to why the recommendations of the Comprehensive Plan should not be followed. What the Supreme Court has said is if circumstances change between the adoption of the plan and the development proposal or the zoning request, rather than ignoring the plan, the plan should be changed. It is not recommended to simply act in disregard of the plan.

Chairman Evans asked it if was possible to say that if the Commissioners chooses to approve this, that the design, the buffering, the views, the look of it, is subject to further approval by the Commissioners or not?

Colleen Dowdall stated that she believed further restrictions can be placed on the design, because the Comprehensive Plan is not zoning regulations, it is simply a guideline, a recommendation for how development should occur. Once the zoning proposal comes in, then the Board can implement the recommendations of the Comprehensive Plan in ways the Board sees fit, as long as it substantially complies with the recommendation of the plan.

Chairman Evans stated that the problem she had is that looking at the planned area, it did not include the area that is in contention, that is going to have the commercial area right across the street from existing homeowners. It also concerned her that Lloyd and his group have worked very hard to try and comply with the plan. She does not want to tell the developer that they have complied with the plan, but too bad, the public has changed their mind. She is following the edict of the Supreme Court and would like to find some middle ground. She felt something properly done could be acceptable. She did not know how to say the commercial was not allowed where it was planned and would like to be able to honor what the developers and the people who live in the area have done, and find some way to ease the concerns of the public.

Gilbert Larson stated that Chairman Evans would like to reach a middle ground. What he has heard the most objection to was gasoline sales. The Twite Family Partnership is willing to withdraw their request for gasoline sales as a permitted use within the neighborhood commercial site.

Tim Hall stated that the Terrace Drive neighborhood residents were included in the planning project. The map shown is a piece of a larger area and wanted to make it clear that these residents were invited to participate in the project.

Commissioner Hart stated she had a real concern about drainage, "somehow it comes downhill, but it comes right here," (pointing to the Commissioners). She disagrees with Horace Brown, she does not believe that roads can carry all the drainage, with Linda Vista 8th and 10th are the prime examples of that, there must be other drainage systems. She felt that was being worked on but more needs to be done. If it weren't for Lloyd Twite, there would be mud in a lot more places. It is all cleaned up due to his efforts. We have a local developer who goes not only the 2nd mile, but the 7th mile, to do his part and the community is very lucky.

With regard to the open space referred to by Art Brackebusch, some of that could not be built on anyway because its slope is too great. The developer has used that area to allow it to be beautiful in the ways that it was originally beautiful.

With regard to the question of Phase VII, she stated that she will not approve that use of the land. She understands that it is important to the developer, that he is one of the best long range planners in the valley, far better than the Commissioners. Affordable housing in 20 years on grid streets needs to be considered at a later time, when the area's development asks for such a decision. At that time a whole new city center may be needed. It is fair to Lloyd Twite to say this is his master plan, and she likes what he has done for the area. Approval of Phase VII could lead to a precedent for other developers in the area, who would not wait 20 years to build this type of housing. She cannot do that, she truly honors the work done in the Comprehensive Plan. God knows how life will be 20 years from now, we all know what it was like 20 to 30 years ago.

Commissioner Hart supports integrated housing, communities are stronger when they have different types of housing and different ages. One of the inner city problems is that schools are being closed because families have moved out and there is no support left for the school that has cost the taxpayer a lot of money. The taxpayer will pay again to build a school in the suburbs. She also felt convenience centers were very important to the community, for the companionship they could provide to the elderly of the community, just for walking a grandchild there and letting the child decide what to buy. It is necessary to think in terms of what makes us a community. What also drives her decision is that it costs more for a house on five acres to serve it with fire protection, police protection, sewer and water, that it does if you are in the kind of plan presented for Phase VII. She does not believe that the public wants to pay more for that ability.

She is pleased that the Board has received descriptions about the convenience area. Her question is how much larger is the planned area than folks feel the indication on the map would be.

Dave Loomis estimated the figure was approximately three times the square footage.

Commissioner Hart stated she was pleased on her tour to hear the description of the entrance having a nice Linda Vista sign, an indication of a very special area. She felt that means a lot in Missoula, being "neighborhood" and "community," an indication of pride, she liked that proposal from the developer. Another question she asked was what the increase in density is in the PUD.

Dave Loomis stated that was not the case, only about one-third of this area was already zoned, and the gross density was approximately equal to what the planned density is, so it was probably not an issue.

Commissioner Hart stated that if this was not an issue, she would like everyone to be clear that this is not an increase in density for that area.

Chairman Evans stated that she understood that with the amount of acreage, it could have been four dwellings per acre and it is 2.7 dwellings per acre.

Dave Loomis clarified that in the Comprehensive Plan, much of the area had a designation of up to four dwellings per acre. When you add in the other acreage designated for no density or low density generally the net density in the PUD is approximately equal to what the Comprehensive Plan and the existing zoned areas are. It is generally consistent with the portion that actually is zoned. The finding say that in general the density is consistent.

Commissioner Hart asked how many gas stations would be near electric substations?

Dave Loomis stated that it could be near a substation, there are no standards established. He would try to research the distance if it is an issue.

Commissioner Hart stated that if it is a concern of the public, it should be determined.

Dave Loomis stated that Mr. Larson stipulated for the record that if the Board desires, the gas station would be withdrawn as allowed use.

Commissioner Hart would like to see the convenience area be viable. She did not know if the relationship to gas sales would increase its viability or not. She had read that enough services are needed to increase the viability of a convenience store. Another question she had was in regard to the how close the intersection of Linda Vista and Upper Miller Creek was to the next proposed intersection in the development.

Dave Loomis stated that proposed Road C and Linda Vista Boulevard are parallel to each other and they are approximately 400 feet from each other. Generally, Road C has better sight distance than Linda Vista.

Commissioner Hart asked what the length of a city block was in general?

Dave Loomis stated that the short side would be generally 200 feet to 250 feet and the long side would be 400 feet to 600 feet on average. The distance between Road C and Linda Vista would be approximately 400 feet.

Horace Brown asked what is the planned access to the commercial areas, will it be Miller Creek Road or the side streets?

Gilbert Larson stated that the access would be from the side streets.

Horace Brown responded to Commissioner Hart about the roads as drainage. He stated there would be more than drainage on the roads, he has recommended a drainage ditch on Road G, and there will be a section of sumps. The lower end of the road will act as drainage, but the rest of the road will not. There will be swales in other areas.

Commissioner Hart stated she did not believe that the streets could carry all the drainage. She did not believe that when she visited lower Linda Vista after the rain event.

Horace Brown stated that lower Linda Vista is the old area, in the new area near the top, the drainage structures work, and it is not just the street, there are swales and a holding tank. The problem was silt from the new construction area collected with the water and broke through the drainage fence and came down in certain sections.

Chairman Evans stated that when she was at Linda Vista Golf Course during the rain event, she was wondering what level of flooding this would be classified, she was informed that it equated to over a 100 year storm. She wanted to know if that fact had been verified.

Horace Brown had heard rumors to that effect, but could not verify the accuracy of the statement.

Tim Hall stated he would check the calculations with the city engineer.

Commissioner Hart said the information she received differed from source to source.

Chairman Evans stated that the rain event seemed more than a 10 or 25 year storm but she was not qualified to judge. She also stated that she agreed with Commissioner Hart that she did not have any desire to make a commercial area non-viable. She was mistaken when she thought the Terrace Drive area was not in the planning district. She still had some concerns about how a gas station would look, she has never seen one that did not look like a gas station, but she is willing to consider that. If Commissioner Hart wants to keep a gas station/convenience store in the proposal, subject to the Board's approval of design, she is willing to do that. She did not want anyone to put in a convenience center that would go broke, that is not the way she likes to do things.

Chairman Evans stated she was through with her comments and if there was a motion to come before the Board she would be very pleased to hear it.

Dave Loomis stated there were two points made earlier that he would like to address. One is the school site. The condition recommends not that if a school isn't wanted then these other uses can occur, it clearly says these other uses could occur instead of a school. It is not required to wait for the school district to decide when if ever a school should be built.

The second point was infrastructure into the Miller Creek Valley itself and how to size it and what do the power companies think, etc. The planning staff position through the Comprehensive Plan is that Mr. Twite is a piece of the puzzle of the solution to Miller Creek Valley. It is not the total solution. There are hundreds of acres in the Maloney Ranch and other sites that are included in the potential area for future urban/suburban development. When that questions is answered in the future on the Miller Creek Valley, at that time the answer to the infrastructure requirements for Miller Creek Valley will be found. It would not be good planning to have parallel sewer lines to each separate development site. The basis for the planning staff's consideration in the Comprehensive Plan about the infrastructure requirements are best answered in the future to the valley.

Commissioner Hart stated there was an item that was not clear. She asked for Gilbert or Lloyd to show on the map how far the road improvements from Mockingbird go to the south.

Gilbert Larson stated that the improvements would come all the way up Miller Creek Road to the mid-section line of section 13, this is the southern edge of the Lloyd A. Twite Family Partnership ownership.

Chairman Evans asked if this section would be paved, improved, etc.

Gilbert Larson stated that would be the section improved. He also addressed another issue mentioned to the Planning Board. The reason the developer felt they were able to improve that entire section of road is based on approval of the full development. What was proposed to the Planning Board was if Phase VII is eliminated from the plan, the improvements would only go to Road C, the reason for that is that without Phase VII, without Road G, without these additional items, it was not felt that there would be any need for improvements to this portion of Miller Creek Road which is currently to rural standards. That section would be improved later when Phase VII came in.

Commissioner Hart stated that her proposal was to approve the rezoning PUD, and asked if it could be done without Phase VII.

Colleen Dowdall agreed with Commissioner Hart.

Commissioner Hart moved that the Board of County Commissioners approve the rezoning to PUD to allow 3 types of residential units and neighborhood commercial uses.

1. The applicant shall amend the Miller Creek View Addition PUD to provide for the following zones, permitted uses and standards within the development:

- The applicant shall designate the School Site as a Neighborhood/Community Facility Zone.

Permitted Uses

Assembly Hall, Auditorium, Cemetery, Church, Civic Center, Park/Playground, Community Garden, Library, School, Public Building, Recreation Establishment or Accessory Building and Uses

- The applicant shall designate the area in Phase II, Lots 74-86 and Phase III, Lots 9-12 and 57-65 as a **Mixed Use Zone**.

Permitted Uses:

Single-Family, Duplex, Triplex, Fourplex, Neighborhood Commercial uses including, retail, personal service, professional and business office, general merchandising, eating establishment (no drive-through), repair service (other than automotive), accessory building and uses, home occupation

Maximum Residential Gross Density:

8 dwelling units per acre

Setbacks:

Front: 10 feet  
Rear: 10 feet  
Side: 5 feet

- The applicant shall designate Phase I, Phase II, lots 1-44, 62-73 and 87-92, and Phase IV as a **Residential Single Family Zone**.

Permitted Uses:

- a. Single-family Residential
- b. Attached single family
- c. Accessory building and uses
- f. Home Occupation
- h. Day-care

Maximum Residential Gross Density:

4 dwelling units per acre

Setbacks:

Front: 20 feet  
Front (Corner Lot): 20 feet - one, 10 feet - other (no garage/driveway)  
Rear: 20 feet  
Side: 0 feet (for attached), 7 1/2 feet (detached)

- The applicant shall designate the areas shown as multi-family units in Phase III as **Multi-Family**,

Permitted Uses:

Single-Family to twelve-plex

Setbacks

Front: 30 feet from parking lot curb line to livable space  
Side: 15 feet between buildings

- The applicant shall designate Phase III, Lots 13-56 and Phase V as a **Mixed Use Residential Zone**.

Permitted Uses:

Single-Family, Duplex, Triplex, Fourplex

Maximum Residential Gross Density:

6 dwelling units per acre

Setbacks

Front: 20 feet  
Front (Corner Lot): 20 feet - one, 10 feet - other (no garage/driveway)  
Rear: 20 feet  
Side: 0 feet (for attached), 7 1/2 feet (detached)

2. The applicant shall amend the Miller Creek View Addition PUD to state that development of the site shall be consistent with the site plan approved by the governing body.
3. Bicycle parking facilities shall be required as follows:

- a. Each rental unit shall have Class II facilities to accommodate residents and guests at a ratio of 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 neighborhood commercial use establishments, mixed use establishments, and neighborhood community facility establishments according to the following:
    - (1) The individual owners shall provide and install and maintain Class II facilities to customers at a ratio of 20% of the spaces required for off street parking with a minimum of two bicycle spaces per business. (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).
    - (2) The individual lot owners shall provide and install and maintain Class I facilities to accommodate the employees of the business establishments at a ratio of 20% of the employees of the business establishment, with a minimum of one Class I space per business establishment. (Class I facilities are high security and are intended for long-term use. They fully protect the entire bicycle and its components and accessories from theft and weather. Examples are bicycle lockers, in-building parking, check-in systems, fenced-in areas and attended, covered parking.)
  - c. Bicycle parking facilities shall be in clearly designated, safe, and convenient locations and shall not impede pedestrian access. The bicycle parking facilities shall be no more than twenty (20') from an entrance to the building for which the bicycle parking spaces are intended.
4. The applicant shall amend the Miller Creek View Addition PUD to state, "The following lighting standards shall apply to each business establishment and multi-family building (triplex and greater) within the Miller Creek View Addition 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 reduced in height to accomplish the specific objective 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 that reduces the overall intensity of light and efficiently directs and focuses the light on the intended element(s), reducing the spread of light throughout the area and on adjacent properties.
5. The applicant shall amend the Miller Creek View Addition PUD for off-street parking:
- a. All residential uses, at the level of triplex and greater, shall provide off-street parking at a ratio in accord with the Missoula County Zoning Resolution.
  - b. All neighborhood commercial uses shall provide off-street parking at a ratio in accord with the Missoula County Zoning Resolution, and shall be physically located at the rear or sides of the building, away from the front of the building and away from the public or private road.
  - c. All open automobile parking areas in neighborhood commercial developments, containing 6 or more spaces in or abutting a residential area shall be effectively screened to a height of not less than 5 feet, except for sides of parking areas which adjoin other off-street parking areas. Such screening shall consist of plantings, walls or fences or combinations thereof, and shall provide at least 75% opacity at the time of planting.
  - d. A landscaped island consisting of grass, shrub and 2" deciduous tree be placed for every 10 continuous off-street parking spaces.
6. The applicant shall amend the Miller Creek View Addition PUD to provide for the following boulevard landscaping standard for all zones:
- a. The boulevard(s), less the pedestrian walkway(s) shall be landscaped with 100% living material, consisting of grass and 2" caliper (at time of planting) boulevard deciduous street trees, placed every 30 feet.
  - b. All vegetation shall be kept alive and maintained. If the vegetation dies, it shall be replaced within 1 year.
7. The applicant shall amend the Miller Creek View Addition PUD to provide for the following architectural building design standards for the zones:

"Mixed Use Zone", "Neighborhood Community Facility Zone", and "Neighborhood Commercial"

- a. Provide a repeating window pattern
- b. Provide windows on all sides of the building
- c. Provide a step back or extend forward the front wall
- d. Provide a balcony or bay window
- e. Provide a patio, porch, deck, or covered entry
- f. Provide changing rooflines (Roof slope to be a minimum of 4" vertical to 12" horizontal)

- g. Provide changing materials in the building plane
- h. Provide street furniture

8. The list of allowed uses in D(4)(1) in the Applicants submittal shall delete Commercial Mini-storage and add Gasoline Sales.

Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Commissioner Hart moved that the Board of County Commissioners approve the request for the Miller Creek View Addition preliminary plat subdivision based on the recommendation of staff, the findings of fact and the conclusions of law.

A discussion ensued between Chairman Kennedy, Commissioner Hart, Horace Brown, Tim Hall, Dave Loomis, Colleen Dowdall, Lloyd Twite and Gilbert Larson regarding the conditions. The conditions as approved are listed below.

1. The subdivision covenants shall be amended as follows:

To state that the individual lot owners shall maintain the drainage ditch and require that it will not be filled in.

To state, "All lots with slopes that exceed 10% for the building area shall have driveways graded from the street to the building setback line. Establishing driveway grades is essential for safety and convenience of future property owners."

To state that the individual owners shall maintain the boulevard area on their property, including the sidewalk, grass and boulevard trees, adjacent to their lot(s) within the subdivision.

To require that the Miller Creek View Addition Homeowner's Association be responsible for trail maintenance.

To state that the covenant additions or modifications required as a condition of approval of this subdivision shall not be amended without prior approval by the governing body. The statement shall enumerate the affected covenants.

The covenants shall be approved by OPG prior to final plat approval.

2. 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 assent of the lot owner to waive the right to protest a future RSID/SID for any improvements to a drainage system, to Miller Creek Road and Lower Miller Creek Road and all on-site roads including but not limited to paving, dust abatement, sidewalk, and road surface and easement widening, based on benefit, and may be used in lieu of their signatures 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."

3. That the proposed Phase VII of the development be deleted from the final plat.
4. The applicant shall delete the portion of Road G, located to the south of the intersection of Road G and Road H, from the final plat, with the insertion of a Cul-de-sac at the end of Road G, to be approved by the County Surveyor prior to final plat approval.
5. The applicant shall delete Road K and the lots adjacent to it from the final plat.
6. The applicant shall connect Cam Court to Christian Drive through Park 3, thereby decreasing the size of the park and labeling it as a Utility Lot.
7. The applicant shall install a temporary turnaround at the western end of Christian Drive in Phase II if a connection to a road is not possible at the time of final plat filing, to be approved by the County Surveyor prior to Phase II final plat approval.
8. The applicant shall develop a dust abatement plan and provide dust abatement to all roads adjacent to and within the Miller Creek View Addition Subdivision during and through construction and paving of the roads. The dust abatement plan shall be approved by the Health Department prior to final plat approval.
9. Prior to filing the final plat for Phase III, the applicant shall mitigate the impacts of all of Miller Creek View Addition on Miller Creek Road by improving it, extending from Mockingbird Lane to the intersection of Miller Creek Road and Road C, to a paved surface width of 36 feet, back of curb to back of curb (L-type), including a 5 foot-wide asphalt designated bicycle lane on both sides of the road adjacent to the traffic lane, and a 5 foot wide concrete sidewalk on the east side of the road and a 5' wide boulevard sidewalk with a 7 foot wide grassy boulevard with street trees placed every 30 feet on the west side of the road extending along the subdivision to the intersection with Linda Vista Boulevard. The remainder of Miller Creek Road shall have a curbside sidewalk and a bike lane along the traffic lane on the east side of the road.

10. As each phase is filed, the developer shall receive the remaining 92 credits it has according to the transportation mitigation agreement entered into by the developers of Linda Vista Phase 8th and 10th Supplement and the Maloney Ranch Phases I-IV, with the governing body.
11. The applicant shall include a designated 5 foot-wide asphalt bicycle lane, adjacent to the traffic lane, on both sides of all roads within and adjacent to the subdivision which have a right of way width of 60 feet. Plans shall be approved by the County Surveyor and OPG prior to final plat approval.
12. The applicant shall provide grading, drainage and erosion control plans for the improvement of the portion of Road C that exceeds 25% slope prior to filing of Phase IV to illustrate the impact that the improvement will have on the natural environment and the drainage gully.
13. The applicant shall waive the right to protest annexation into the Missoula Urban Transportation District, prior to final plat approval.
14. The applicant shall meet representatives with Mountain Line to establish appropriate dates to begin bus service and to determine and develop potential bus stops for the subdivision to be approved by the governing body prior to final plat approval.
15. The applicant shall pay for all costs associated with developing the trail system to a functional standard.
16. The applicant shall show all trails as public easements or as linear parks.
17. That the applicant place additional trail connectors between lots within the subdivision to provide increased access from lots to trails.
18. The applicant shall submit a complete trail plan for the subdivision showing that the proposed trails are not constructed to adversely affect the natural environment or drainage areas, but are functional, accessible, and provide adequate access to parks and, where appropriate, the open space, including the following elements:
  - a. Trail grade
  - b. Trail connectivity from lot to park to open space
  - c. Trail connectivity from road cul-de-sac to open space or park areas
  - d. Trail grading plan showing typical cuts, fills, drainage, erosion control, and revegetation components.

To be reviewed and approved by OPG prior to final plat approval for each phase of the subdivision.

19. The water supply for fire protection purposes for the subdivision shall be approved by the Missoula Rural Fire District prior to final plat approval.
20. The applicant mitigate the impact that the subdivision will have on the Missoula Valley air quality in a manner to be approved by the governing body.
21. That the applicant mitigate the impact the subdivision will have on the ability of the local sheriff department to provide basic law enforcement service, in a manner to be approved by the governing body.
22. That the applicant shall designate a building envelope on any lot with slope greater than 25%. Building envelopes shall be designated on the final plat and approved by OPG prior to final plat approval.
23. The applicant shall develop an erosion control plan, using best management practices, for all areas that may experience erosion due to all cuts, fills, and road, driveway, and utility improvements and implement the erosion control plan. The plan shall address erosion and drainage control during, before and after road construction. Plans shall be approved by OPG prior to final plat approval.
24. The applicant shall develop a drainage plan to meet a 10-year storm, including the use of open, grassy swales. Plans shall be approved by the County Surveyor and OPG prior to final plat approval.
25. The applicant shall develop a revegetation and noxious weed control plan for all disturbed slopes according to the recommendation of the Missoula County Weed Control Board. Plans shall be approved by the Missoula Weed Control Board prior to final plat approval.
26. That the approval period for the subdivision shall be for 20 years provided that each new phase be reviewed to determine whether it complies with all regulations in effect at the time of the request for final plat approval.
27. The applicant shall mitigate the impact of the neighborhood commercial on adjacent property owners, both on and off-site. Plans for the mitigation shall be approved by the Governing Body.

Mark Pfau asked for clarification if there was going to be a gas station or not.

Chairman Evans stated there would be a gas station and she has asked that the plans for any such commercial development be subject to design review by the Board.

Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Gary Simecek stated that at the Planning Board meeting it was mentioned that if Phase VII was not approved, the road up to Road C would actually bring it past the intersection of Upper Miller Creek Road and Road C by approximately 300 feet.

There being no further business to come before the Board, the Commissioners were in recess at 9:40 pm.

**THURSDAY, JUNE 4, 1998**

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

Audit List -- Commissioners Evans and Hart signed the Audit List, dated June 3, 1998, pages 2-38, with a grand total of \$150,504.12. The Audit List was returned to the Accounting Department.

Plat, Subdivision Agreement and Development Agreement - The Commissioners signed the plat, subdivision improvements agreement and development agreement for High Country Addition, a minor subdivision plat located in the NW1/4 of Section 3, T16N R15W, PMM, Missoula County, a total net area of 1.66 acres, with the owners of record being Randy and Darlene Triplett.

Plat and Development Agreement - The Commissioners signed the plat and development agreement for Sorrel Springs, Lots 6A and 6B, and amended subdivision plat of Lot 6, Sorrel Springs, located in the N1/2 of Section 21, T15N R21W, PMM, Missoula County, a total gross and net area of 9.774 acres, with the owners of record being Terry K. and Lois A. Botsford.

Plat and Subdivision Improvements Agreement and Guarantee - The Commissioners signed the plat and subdivision improvements agreement and guarantee for Brandie Addition, an urban residential subdivision located in the NW1/4 of the NE1/4 of Section 20, T13N R19W, PMM, Missoula County, a total area of 4.41 acres, with the owners/developers being Mullan Trail Enterprises.

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 with Zekra Brasher to conduct two 8 hour training seminars on self-defense for women in Seeley Lake. Performance schedule is June 12-13, 1998. Compensation shall not exceed \$450.00. Other payments include \$150.00 for travel time, \$100.00 for lodging, \$23.00 for taxi fare, and \$63.00 per diem.

Resolution - The Commissioners signed Resolution No. 98-044, a Resolution of intention to create Rural Special Improvement District No. 8839, for maintenance of one fire hydrant in the Southpointe Phase III subdivision, Missoula County, and setting the public hearing date for June 24, 1998 at 1:30 pm.

Professional Services Contract - The Commissioners signed a Professional Services Contract with Charles Asp, Asp Consulting, to complete a Targeted Capacity Grant proposal for the Substance Abuse and Mental Health Services Administration on behalf of Turning Point. Performance schedule is from June 4 - June 18, 1998. Compensation shall not exceed \$3,000.00 (\$1,500.00 from Missoula County and \$1,500.00 from Turning Point).

Grant Agreement Amendment - Chairman Evans signed a Grant Agreement Amendment for the SHARE House, extending the grant expiration date from October 1, 1998 to January 2, 1999. \$30,000.00 from the FY 99 Mental Health Center CBO Grant proposal will be used to keep the SHARE House operating. The Amendment was returned to Leslie McClintock in OPG for further signatures and handling.

Other items included:

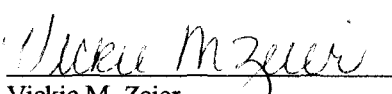
- 1) The Commissioners approved and Chairman Evans signed a letter of intent to pay \$27.28 per month to Mountain Water for fire hydrant maintenance at the new detention center.
- 2) The Commissioners discussed the feasibility of a proposal to acquire the Seeley Lake Medical Center Building as a satellite County office building. Paul Webber was going to review this issue further.
- 3) The Commissioners appointed Rick Magnussen to the Missoula Aging Services Board to fill an unexpired term through December 31, 1998; they appointed Ted Bergsieker to the Lolo Mosquito Board, with a term through December 31, 2000.


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

**FRIDAY, JUNE 5, 1998**

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

In the forenoon, Commissioners Hart and Evans and County Superintendent of Schools Rachel Vielleux canvassed the Primary Election which was held on June 2.

  
Vickie M. Zeier  
Clerk & Recorder

  
Barbara Evans, Chairman  
Board of County Commissioners



**MONDAY, JUNE 8, 1998**

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 due to illness.

Application for Issuance of Replacement Warrant -- Chairman Evans approved an Application for Issuance of Replacement Warrant naming Lavinia A. Bolik as principal for Warrant #250118, issued 5/22/98 on the Missoula County Payroll Fund in the amount of \$32.28, not received in the mail.

Monthly Report -- Chairman Evans examined, approved, and ordered filed the Report of the Sheriff, Doug Chase, showing fees and collections for the month ending May 29, 1998.

Plat - The Commissioners signed the plat for Guest Ranch Road Tracts Subdivision, located in the SE1/4 of Section 12, T20N R17W, PMM, Missoula County, a gross and net area of 10.61 acres, with the owner of record being Grace L. Siloti.

**TUESDAY, JUNE 9, 1998**

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

Application for Issuance of Replacement Warrant -- Chairman Evans approved an Application for Issuance of Replacement Warrant naming Invesco Funds as principal for Warrant #16670, issued 4/16/98 on the Missoula County High School Claims 78-42 Fund in the amount of \$290.00, not received in the mail.

**ADMINISTRATIVE MEETING**

At the Administrative Meeting held in the forenoon, the following items were signed:

Mineral/Missoula County Service Contract - Chairman Evans signed a Mineral/Missoula County Service Contract stating that the Missoula County Superintendent of Schools will perform some of the required Superintendent duties for Mineral County. Performance schedule is from July 1, 1998 through June 30, 1999. Compensation shall be \$3,300.00. The Contract was returned to Rachel Vielleux, Superintendent of Schools, for further signature and handling.

Policy Statement - The Commissioners signed Policy No. 98-A, a policy regarding a premium pay incentive for 911 dispatchers who are called in to work during their time off.

Memorandum of Agreement - Chairman Evans signed a Memorandum of Agreement between the Missoula County Park Board and the Missoula Botanical Garden Society, to provide up to \$1,500.00 in matching funds for installation of an irrigation well. Funds must be spent by April 9, 2000. The Agreement was returned to Tammy Holshue in OPG for further handling.

Agreement - Chairman Evans signed an Agreement for the Missoula Urban Area Transportation Demand Management Project Coordinator, Stuart M. Anderson, to carry out a series of preliminary Transportation Demand Management activities in the Missoula urban area. Compensation shall be \$30,000.00. The Agreement was returned to Mark Landkammer in OPG for further handling.

Amended Lighting Agreement - Chairman Evans signed an Amended Lighting Agreement with Montana Power Company to provide parking lot lighting for the new detention center. Ten units will be \$470.90 per month total, and 5 units will be \$194.45 per month total. Term of the Agreement is seven (7) years, beginning May 29, 1998. The Agreement was returned to Mike O'Hara in the Sheriff's Department for further handling.

Resolution and Quit Claim Deed - The Commissioners signed Resolution No. 98-045 and a Quit Claim Deed, transferring property described as School Addition, Fractional Lot, Block 17 to the City of Missoula for park purposes, for the sum of \$10.00. The Deed and a certified copy of the Resolution were returned to Brian Maiorano in OPG for further handling.

Other items included:

- 1) The Commissioners approved the bid for changing the sewer connection in the basement of the Pre-Release building, awarding it to Bohenek Plumbing and Heating, in the amount of \$945.00.
- 2) The Commissioners appointed Ginny Cass to the Missoula Planning Board, filling an unexpired term through December 31, 1998.

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

At a departmental meeting with the Office of Planning and Grants, the Commissioners approved Neilson and Son Subdivision for Lease or Rent (with letter to Cheryl Neilson), as per the recommendation of the Office of Planning and Grants, and subject to the following conditions:

1. The developer shall file a document of record with Missoula County waiving the right to protest a future RSID/SID for upgrading Fairbanks Lane and Mullan Road, including installation of pedestrian walkways, based on benefit, which may be used in lieu of signatures 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. Such document shall be filed prior to final plan filing.

2. The developer shall file a document of record with Missoula County waiving the right to protest a future RSID/SID for a public water system and water systems, based on benefit, which may be used in lieu of signatures on an RSID/SID petition. 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. Such document shall be filed prior to final plan filing.
3. The lot owner shall file a document of record with Missoula County assenting to the creation of an RSID for the maintenance of a park or parks in the Frenchtown area, defined as the Frenchtown school district, on an equal basis with other properties in the area. Such document shall be filed prior to final plan filing.
4. The final plan shall show the location of any Fairbanks Lane road easement located on the subject property.

**WEDNESDAY, JUNE 10, 1998**

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

Audit List -- The Commissioners signed the Audit List, dated June 10, 1998, pages 2-44, with a grand total of \$1,024,002.44. The Audit List was returned to the Accounting Department.

Monthly Report -- Chairman Evans examined, approved, and ordered filed the Monthly Reconciliation Report for Justice of the Peace, Michael Jaworsky, for the month ending May 29, 1998.

**PUBLIC MEETING - June 10, 1998**

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Fern Hart, Commissioner Michael Kennedy, Deputy County Attorney Michael Schestedt, and County Surveyor Horace Brown.

**Public Comment**

None.

**Routine Administrative Actions**

Commissioner Hart moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims list in the amount of \$1,024,002.44. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

**Restrooms at Larchmont Golf Course**

The bids were opened at 10:00 am on May 4, 1998 with only one bid being submitted from Culver-Hill Construction Company in the amount of \$22,895.00. The staff and the Larchmont Board recommend the bid be rejected since it was the only bid received and the cost was over the amount budgeted.

Commissioner Hart moved that the Board of County Commissioners reject the bid from Culver-Hill Construction Company in the amount of \$22,895.00, based on the recommendation of the Larchmont Board of Directors and staff. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

**Annexation to Seeley Lake Rural Fire District (Sunlight LLC)**

Chairman Evans read the report.

A petition has been received by the Clerk & Recorder's Office to annex four parcels of land, located in Missoula County, into the Seeley Lake Rural 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 areas to be annexed and a majority of tax-paying freeholders within the areas described, thereby meeting the requirements of 7-33-2125 M.C.A. for annexation of adjacent territory.

The areas to be annexed are described as follows:

Tract B-1 and C-1 of Certificate of Survey 4697 and Tract 1 and 2 of Certificate of Survey 4720 located in Section 8 and 17 in Township 15 North, Range 14 West.

Chairman Evans requested public comment.

Jim White, Fire Chief, Seeley Lake Rural Fire District, stated this was a logical addition to the fire district, it eliminates an island that sits at the southern end of the fire district. It will provide additional water along that route for the other people beyond this subdivision to be annexed. It make everything a continuous boundary for the south end of the district to the south end of Salmon Lake.

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

Commissioner Hart moved that the Board of County Commissioners approve the requested annexation into the Seeley Lake Fire District, noting that Jim White had responded saying it is an advantage to fire service in the area. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

#### Family Transfer - Stevens

Kathy Smith gave the staff report.

This is a consideration of a request to create two parcels using the family transfer exemption for Tract D, COS 4073 for George L. and Gertrude L. Stevens.

George and Gertrude Stevens have submitted a request for a family transfer exemption to the Montana Subdivision and Platting Act for a 20.37 acre parcel located in the area known as Farviews Acreages (near Shadows Keep), accessed by private road easement off Whitaker Drive. Mr. and Mrs. Stevens propose to create two approximately 6.5 acre parcels and an approximately 7.3 acre parcel, two of which will be transferred to their adult children, Thomas G. Stevens and Cindy M. Hughes, and the Stevens plan to build on the remainder parcel. In March 1998, the Stevens entered into a Buy-Sell Agreement with the current owners of the property, Richard R. and Sandra E. Hurt, which is contingent upon approval of this request.

The history of the parcel is as follows: COS 4073 was filed in May 1992 by Dajon Enterprises, Inc. creating six parcels greater than 20 acres in size. The Hurts purchased the parcel in September 1996 and entered into a Buy-Sell Agreement in March 1998 as described above.

According to the records kept by the Missoula County Surveyor, the applicants have not used any exemptions to the Subdivision and Platting Act.

Dick Ainsworth, Professional Consultants Inc., was present representing George and Gertrude Stevens. George Stevens, Tom Stevens and Cindy Hughes were also present.

Commissioner Hart asked Dick Ainsworth if this property was approximately 1/3 mile south of Ben Hogan where it intersects Whitaker, and approximately 2/3 to 1/4 mile east?

Dick Ainsworth stated that was correct, the road to the property has been there for a number of years.

Commissioner Kennedy asked if the road was private?

Dick Ainsworth stated that was correct, the road was private.

Commissioner Kennedy asked if there would be an easement in favor of the recipient?

Dick Ainsworth stated that was correct, there would be an easement.

Commissioner Hart stated the transfer was to one son and one daughter and asked if this was a large family?

Dick Ainsworth stated there was one other son who already had a home elsewhere and the Stevens did not anticipate doing this again.

Commissioner Kennedy asked if one of the family members would come forward.

Cindy Hughes was present and come forward to answer questions.

Commissioner Kennedy stated he just wanted to place a face with a name, and did not have any questions for her.

Chairman Hart asked for public comment. There being none, the public hearing was closed.

Commissioner Hart moved that the Board of County Commissioners approve the request to create two parcels using the family transfer exemption for Tract D, COS 4073, for George L. and Gertrude L. Stevens, based on the findings of fact. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

Commissioner Hart told the applicants that this does not assure there would be septic permit approval on these lots, it does not assure there would be a school bus up that road, it does not assure that other county services could reach the property, and it does not assure Comprehensive Plan compliance.

#### Family Transfer - Eyler

Kathy Smith gave the staff report.

This is a consideration of a request to create a parcel using the family transfer exemption for Tract 2-A, COS 1773 for Nancy R. Eyler.

Nancy Eyler has submitted a request for a family transfer exemption to the Montana Subdivision and Platting Act for a 10.03 acre parcel located off El Toro Drive and adjacent to Highway 93 north of the Wye. Ms. Eyler proposes to split the parcel in half for transfer to her husband, Rod Henry. There is currently a residence on what would become the remainder parcel.

The history of the parcel is as follows: COS 1773 was filed in 1979 by Donald J. Dosch creating Tract 2-A as a family transfer parcel and Tract 2-B as a remainder. Mr. Dosch transferred Tract 2-A to himself, Patricia M. Dosch and Kristine M. Dosch, as joint tenants, in September 1984. Tract 2-B has since been divided into four 2.5 acre parcels. Nancy Eyler purchased Tract 2-A in June 1992.

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

Commissioner Hart stated that Ms. Eyler had purchased Tract 2-A and asked Kathy Smith about Tract 2-A-1 and Tract 2-A-2 on the accompanying map.

Kathy Smith responded that those were the proposed tract numbers after the split of the parcel.

Nick Kaufman, WGM group, was present representing Nancy Eyler, who was not present. Rod Henry was present. The intent of this transfer is part of Nancy Eyler and Rod Henry's future financial and estate planning. There is no immediate intention to sell the property.

It was noted that the two parcels directly south of this property were created with a very old survey number, prior to the family transfer review process.

Commissioner Kennedy asked about the access for parcel 2-A-2.

Nick Kaufman stated access would be city easement off El Toro through an existing easement. There is no intention to have access from Highway 93.

Chairman Evans asked for public comment. There being none, the public hearing was closed.

Commissioner Hart moved that the Board of County Commissioners approve the request to create a parcel using the family transfer exemption for Tract 2-A, COS 1773, for Nancy R. Eyler, as it does not appear to be an attempt to evade the Subdivision Act. Commissioner Hart also stated that the same considerations given to the Stevens apply. Commissioner Kennedy seconded the motion. The motion carried on a vote of 3-0.

#### Vacation of Railroad Track Crossing at Mullan Road in Huson

This is a petition to alter "The Railroad track crossing at Mullan Road located in the East 1/2 of Section 25, Township 15 North and Range 22 West in Huson."

The reasons for the request are as follows:

1. According to Condition #11 of the Missoula Board of County Commissioners' approval letter of Homestead Acres, a petition to close the railroad crossing must be initiated in order to file the plat.
2. The road crosses the railroad tracks at an angle which may be unsafe.

Colleen Dowdall stated the requirement for subdivision approval was that the applicant initiate a petition for the Commissioners to consider the closure of the crossing. Approval of the subdivision was not conditioned upon the actual closure, but that the issue be brought to the Commissioners for their discretion.

Ron Ewart, Eli & Associates, stated the initiation of this petition was a condition of approval for Homestead Acres. That subdivision has been filed, therefore he is not present for any reason associated with that subdivision. He wanted to present some observation about the situation. Currently there are two railroad crossings in Huson, one on Huson Road with lights which crosses the road at a 90° angle. The other crossing is on Mullan Road. These crossings and roads form a loop for access to Huson. There are approximately 20 homes on Mullan Road. This crossing could be unsafe, but there might be some alternatives to closing the tracks. If the tracks are closed it would create a dead end. His suggestions would be to curve Mullan Road before it comes to the tracks so the road crosses the tracks at a 90° angle.

Ken Kailey, Road Department and Surveyors Office, stated that he has seen the Board before on this particular crossing in September, 1997. Back in 1989 this crossing was inspected, which resulted in a written document to the Frenchtown School District stating that the crossing was hazardous for school buses because of the road's angle to the tracks, the presence of fog in the area, and no lights at the crossing. County personnel were also instructed not to use the road if they were in County vehicles, and if they chose to do so, it would be at their own risk. The railroad speed at this crossing is 55 mph. Alternatives to the crossing have been looked at. There is an area just west of the crossing where there is enough room for a road to go from Mullan Road to Huson Road without crossing the tracks. That alternative was met with opposition, the land would not be provided to the county by the owner as mentioned in a death bed statement. A second alternative was moving the tracks and redesigning the crossing. This alternative also goes into private property and was also met with opposition. A final suggestion was to build a bus turn around so the bus did not need to cross the tracks and the road could remain open. His main concern is an 85-passenger school bus that crosses the tracks at least twice daily.

Chairman Evans asked if the potential for gates and lights was explored with Montana Rail Link (MRL).

Ken Kailey stated that option had been explored but scores very low on MRL's list as there is another crossing within 1/2 mile that already has lights on it. If the crossing is closed, the people who live at the crossing on the west side would have a mile and a half detour, which at slow speeds would take approximately 6 minutes. Currently there are approximately 130 cars per day using the crossing, based on traffic counts from 1990 to 1997. There has been no

significant increase or decrease in traffic in that period of time. There is one accident noted in the records at this crossing, involving a car and train. The train just clipped the car and there were no injuries as a result of the accident. He is in favor of closing the crossing as there is not a viable alternative at this time.

James Bieber, MRL, stated that after consideration for this crossing, Montana Rail Link is in favor of closing it to the general public. In the last two years the Federal Railroad Administration (FRA) has made an effort to close redundant crossings. Based on the fact that there are other means to gain access to the properties out there, and there are lights on the previous crossing, MRL feels this qualifies as a redundant crossing. With the growing number of people moving to the country and using this crossing, it will increase the chances for an accident. MRL feels it is well worth the inconvenience to consider closing this crossing.

Scott Waldron, Fire Chief, Frenchtown Rural Fire District, recognizes this is an unsafe crossing, probably the most dangerous in the Frenchtown area. An evaluation of response time if the crossing was closed was conducted by the fire department, it would increase response time to the homes on Mullan Road. The fire department is in favor of anything that will improve safety. If the road remains open, the fire department will evaluate their use of this road. The best alternative from the standpoint of emergency response would be cross arms and lights.

Horace Brown, County Surveyor, stated that he believed this was a very dangerous crossing. County Surveyor personnel and equipment are not allowed to use the crossing. It is an inconvenience, but if even one life is saved, it is worth it.

John Lewis, Department of Transportation (DOT), manages the program for installation of signals for railroad crossing statewide. This particular crossing is low enough on the list that it would be in the neighborhood of 20 years before the project could be funded.

Chairman Evans asked if the DOT didn't fund the signal installation, what would it cost?

John Lewis stated the installation would cost at a minimum \$100,000.

Chairman Evans asked if the money was available to install a signal, who would determine if permission was granted for such an installation?

John Lewis stated that a signal agreement could be worked out between the railroad and any public entity, such as the county, to install the signal should funding be available. There is a policy in place that states if 50% of the funding could be raised, the DOT would work with the group to fund the remainder.

Chairman Evans asked for public comment.

Bob Garnett, 23780 Mullan Road, stated he has lived in the area since 1972. As mentioned there has only been one accident at the crossing since he has lived there. He doesn't see why it is felt the crossing is unsafe. There are no children on the bus when it crosses the railroad tracks. If the crossing is closed, the children would have to walk across the tracks which is dangerous due to mountain lions and other wildlife in the area. Please don't close the crossing.

Robert Bishop, 23660 Mullan Road, stated his son was the first one to get on the bus in the morning, so there are no students on the bus as it crosses the tracks. Since 1995, he has used the crossing at least twice a day. If you can't see a train coming, it is due to total inattentiveness. There is a stop sign on the west side, and it is possible to see a train coming. If you cross the tracks coming east from the interstate, you cross the tracks once and can see all the way to Frenchtown, and look both ways for at least a mile, to see if a train is approaching. It takes longer to drive around than to wait for a train, increasing air pollution, gas consumption and time. By closing the crossing, it would force traffic in front of other houses with children and increase traffic on Mullan Road. Would the increase in fire department response time increase insurance to the residents. \$100,000 for the installation of lights and gates is extremely high. Gates would not be needed, there is no reason for large amounts of people to cross the tracks, mostly local people use the road. For him personally it would be a large inconvenience to close the crossing.

Chairman Evans stated she has had numerous calls that if this crossing is closed, there would only be one way out of Huson. Would Mr. Bishop come up and show on the map why that is so?

Robert Bishop came to the map and illustrated the other way out of town.

Chairman Evans stated that technically there was another way out of town.

Lloyd Pearson stated that he has lived in the area since 1987. He does not understand why the road should be closed. He does not consider the road dangerous and does not present a serious problem. He related a story that happened several years ago in Minnesota, where he tried to close a road that went near his property. He was told by those county commissioners that the road could never be closed because public money was spent on that road. He feels the same is true of this crossing, public money is spent on it so it can never be closed. He would agree with another crossing from the end of Carl Mecham's property that would allow the road to go through and avoid crossing the tracks altogether. He showed the Commissioner his proposed alternative on the map.

Chairman Evans stated that this alternative was the area where the resident would not provide easement to the county.

Scott Waldron stated that Clay Mecham, who owned the property prior to his death, personally spoke to him just before his death. Mr. Mecham had asked Scott Waldron what he felt about the situation. Scott was present when

Mr. Mecham died and there was no death bed statement about the easement. Scott would encourage the county to approach Mr. Mecham wife about the possibility.

Michael Sehestedt stated that he worked on a number of possibilities. One would have been to get parallel railroad tracks on the north side, but there is a structure that encroaches on the railroad right of way which eliminated that suggestion. The County was told "no" as far as a donation of right of way. This is a significant cost item in terms of liability exposure for the County. If someone were injured at this crossing, money could be sought from the County. The justification could be used from these proceedings that the County knew the road was dangerous and allowed it to remain open.

Laura Brott, 28230 Mullan Road, cannot see any reason why this road should be closed. She was told that Stenerson Road is a private road, not maintained by the County and could be closed at any time.

Commissioner Hart told Laura Brott that this was a County road.

Laura Brott stated there was no maintenance on that road. She was told by her insurance agent that if the road is closed and there is only one way out, their fire insurance would increase. It was only a few weeks ago that Scott Waldron used the road to check a fire on Mullan Road. It isn't any more dangerous than any other place. What are you going to do, lock us up to get us away from each other. You can't protect us all, we have to be responsible for ourselves.

Scott Waldron stated there should be no reason for insurance costs to increase if this road is closed.

Carol Hodge, 24175 Huson Road, which is the road that will carry all of the traffic off Mullan Road. Even if there is a crossover at Mecham's, there is still only one way out of town. If an emergency should happen, there would be no way for the residents to leave town, they would be virtually landlocked. You need two roads into a town, no matter the size.

Chairman Evans understood what was being said, but the map clearly shows Stenerson Road and the road off the interstate as two ways in and out.

Carol Hodge stated that was incorrect and came to the map to show Chairman Evans the situation.

John Lehman, 23645 Mullan Road, pointed out that going east on Mullan Road the resident would not give right a way for a road. He had a hand drawn map and showed the Commissioners his alternative. There was a possibility to run the road through Mecham's property toward Highway 10 and I-90, which would maintain two ways in and out of town. He also did not know if Stenerson Road had been awarded to the county.

Colleen Dowdall stated that Stenerson Road was dedicated as a County road as a condition of approval for a subdivision across which the road passes. This subdivision was approved in the past two years.

Ron Ewart stated Stenerson Road is being dedicated to the County. The subdivision plat will be filed shortly. He spoke with Pam Mecham on Tuesday, June 9, 1998, and the Mecham family is adamantly opposed to granting right of way for the road to be moved.

John Lehman added that making the approach from the west 90° is a good idea, but coming from the east it would be harder to see if a train was coming.

Al Hodge, 24175 Huson Road, wanted to know who will take care of Huson Road when the extra traffic is routed to it by the closure. Nothing has been done to the road lately. He felt if Denny (Washington) didn't want people crossing his railroad tracks, let him do something to Huson Road. The first thing that has been done to Huson Road was done yesterday, "to butter us up."

Several members of the audience shouted agreement with Mr. Hodge.

Chairman Evans cautioned the crowd about unruly behavior and shouting out comments.

Commissioner Hart stated that the Board needed to hear the public, but she wanted to know about the crossing, not road maintenance. She wanted to hear about solutions to a very dangerous crossing.

Delores Lehman, 23645 Mullan Road, stated that her property was on the left heading west on Mullan Road. Her concern was if the crossing was closed, how will the road be maintained. She was concerned about emergency vehicles being able to reach her property.

Laurie Weyer, 24230 Mullan Road, was concerned about emergency response time to her house. Six minutes extra is a long time, it could be a matter of life and death. She reiterated that the school bus is empty before it goes over the tracks. Another concern was the wear and tear on Mullan Road. There are no speed limit signs in that area, cars go as fast as they want. It is only graded approximately twice a year, between grading it is full of potholes. Huson Road is also not maintained and is in poor shape. She does not want to feel cut off if the crossing is closed.

Gayle Meade stated she has owned property in the area since 1978. Currently she and her husband are building a home on Tract 4. She is against closing the crossing and against moving the road which would go right past her bedroom window. It has been there for years, she did not understand why the County wanted to close it now. When Denny Washington bought that railroad, did he not buy the responsibility and liability of keeping the railroad crossing safe?

Chairman Evans stated that the logical answer is that Denny may be responsible for the railroad, but someone else is responsible for the road that crosses the tracks.

Richard Meade stated that he and his wife Gayle are building a home just to the right as you cross the track. Something that has been said it that it is inconvenient, and he knows that everyone is inconvenienced at one time or another, but for him it is a mile and a half around and will be an inconvenience for the rest of their lives.

Joe Heuchert, 23970 Mullan Road, was the party forced to have this condition to initiate the closing of the crossing. This condition was not explained prior to his subdivision review and came as quite a surprise. He was not happy with the condition being added. It was not an original condition and he had no notice of it being added prior to the subdivision review. He does not want the railroad crossing closed, with a little common sense you will know the train is approaching. He does not feel the crossing is unsafe, that is the opinion of the Board. Have any of the Commissioners crossed that crossing?

Chairman Evans stated that it had been some time, but yes she had crossed it.

Commissioner Hart stated that she had crossed it just last year.

Joe Heuchert stated the only unsafe crossing was coming from the west going east. He also wanted to know which side of the railroad the bus turnaround would be on.

Colleen Dowdall stated that the School District and County Surveyor would make that decision.

Joe Heuchert stated Denny Washington could extend "that little wire of his" for the light. He could not imagine it would be that expensive and Denny had enough money. It is his railroad and should be his responsibility. Please do not close the crossing.

Lloyd Bruce stated that he owns Tract 3, adjacent to his mother Gayle Meade's property. He does not want the crossing closed and does not want a road put across his property. A little common sense in crossing the tracks is needed by everyone.

Bob Garnett stated that he kept hearing how dangerous this crossing is. He felt the history of the crossing speaks for itself.

John Lehman was wondering why the crossing couldn't be extended to the west, increasing the sweep of the road and swinging it out to make the existing crossing more of a 90° angle.

Commissioner Hart asked Horace Brown to respond to pulling the turn out further to make more of a 90° angle.

Horace Brown stated that it could be done but would require some engineering and there was not enough right of way to do that improvement at this time. Some additional right of way would have to be acquired.

Ken Kailey stated moving the crossing to the west or southwest had been considered, where a 90° angle could be achieved. However, once the tracks are crossed coming from the west, there is a shelf of land there which appears to be private property. Obtaining the rights to that land have not been pursued at this time.

Ron Ewart stated the property belonged to Tom Scheffer, Sr., and Mr. Scheffer would be approachable regarding the right of way.

Delores Lehman stated that the road heading west of the left of track is a right of way road for the railroad to get to the trestle and is used as a fire break.

There being no further comment, Chairman Evans closed the public hearing.

Commissioner Kennedy asked Ken Kailey if a new alignment is chosen, would there be sufficient sight distance to improve the safety of the intersection.

Ken Kailey stated it would improve the sight distance. He added that if the railroad crossing is closed and an alternate route is chosen, there is a possibility of moneys available to assist in the road realignment. There is also a possibility of getting some assistance from the railroad to move the crossing to the west.

Commissioner Kennedy asked James Bieber if this alternative could work, would MRL have an objection to reconfiguring this particular crossing and keeping it open.

James Bieber stated that MRL would work with the Board on any solution that might be reached.

Commissioner Kennedy addressed the public who commented on this proposed crossing and asked them if there is a potential solution to fix this problem and keep the road open, would they be willing to participate in the cost of the fix. He asked the crowd to indicate their agreement by a show of hands.

A member of the audience stated she did not understand the question.

Commissioner Kennedy stated that if there is a solution that can work, and the road needs to be reconstructed, there will be an associated cost to that, and his question to the audience is whether or not, as homeowners, they are willing to participate in that cost of reconstruction if this solution is selected. Are they willing to participate in the cost of the improvement.

Only one audience member raised their hand to state they would be willing to participate in the cost.

Chairman Evans allowed public comment even though the hearing had been closed.

Robert Bishop stated he had said yes to Commissioner Kennedy's question, because the benefit will be to the homeowners, conditional on a known dollar figure before a final vote. As the project would benefit him, he was willing to incur some cost in fixing the problem.

Commissioner Kennedy stated that the project was headed in a good direction. MRL has stated they would cooperate, Ken Kailey stated there is a potential for some funds, and some willingness from the public, there is a reason to pursue this further to find out what the cost might be.

Robert Bishop stated that the plan sounded good, and wanted to find out what the cost would be before he committed to sharing in the cost.

Delores Lehman asked how the cost would be split between the property owners.

Commissioner Kennedy stated there were several ways to accomplish the funding.

Chairman Evans stated that generally it would be through an RSID, a boundary would be established, a way to assess the cost would be established, the amount would be established, and the public would have the opportunity to protest.

John Lehman stated this crossing concerns an increase in traffic, and they are paving alleys in Missoula, what could be done about paving the road to help with dust abatement.

Chairman Evans stated the money for the alley paving was done to improve congestion mitigation and air quality, and generally within the air stagnation zone.

Horace Brown stated that Huson was outside the boundaries of the air stagnation zone.

Chairman Evans stated the boundaries are set by law and the Commissioners could not stretch the money to cover everyone who needed it.

Horace Brown stated the only other option was millings, but there wasn't enough received to put on all the roads requested. It might be addressed at a later date.

Chairman Evans asked Horace Brown to put this road on this list.

Horace Brown stated he would put this road on the list with all the others requested.

Chairman Evans stated she would favor looking at the proposal to realign the road, trying to find a way that gives Huson this crossing, provides for the public safety and makes less liability for the County and the railroad. This will take some time and some effort and she is willing to support the process.

Colleen Dowdall stated that by law, before the Commissioners could vote on the petition, there needed to be a site visit with the County Surveyor and at least one Commissioner. The decision is continued for one week, or however long it takes to complete the site visit. The Commissioners have 30 days to complete the site visit and make a decision on the petition.

Chairman Evans took the prerogative of the chair and postponed action on this petition until July 1, 1998. In the meantime, the County Surveyor and one or more of the Commissioners will perform a site visit and a cost estimate will be prepared. The petition will be heard again on July 1, 1998, at the 1:30 public meeting, close to the beginning of the agenda.

Chairman Evans recessed the meeting for five minutes at 3:00 pm.

Chairman Evans reconvened the meeting at 3:05 pm.

#### **Vacation of Cul-de-sac Bulb of Alloy South in Momont Industrial Park, Phase I**

This is a petition to abandon "The outer radius of cul-de-sac bulb of Alloy South located in Lot 1, Block 2 and Lot 1, Block 3 of Momont Industrial Park Phase I in Section 36, Township 14 North and Range 20 West."

The reasons for the request are as follows:

1. The cul-de-sac bulb outside the Alloy South right-of-way is not needed because instead of ending in a cul-de-sac as earlier planned, Alloy South will continue north and intersect with Expressway.
2. Alloy South when platted with Momont Industrial Park had a big truck parking area as part of the right of way, in 1980 the truck parking area was vacated and a fifty foot radius cul-de-sac was dedicated per Resolution 80-4, in Book 149 and Page 1808.

Ron Ewart stated this request is to vacate the Alloy South cul-de-sac. A subdivision called Platinum Court, a 4-lot light industrial subdivision, is in the process of being filed in Momont Industrial Park. When the industrial park was



first platted, Alloy South ended in a big truck parking area, which was vacated in 1980. The plan since then has changed, now Expressway continues through the area toward the north, leaving no reason for the cul-de-sac.

Chairman Evans asked for public comment. There being none, the hearing was closed.

The action on this petition was continued to June 17, 1998, allowing time for the County Surveyor and at least one Commissioner to view the site.

#### 1997 Update to Urban Comprehensive Plan

Philip Maechling, Office of Planning and Grants, gave the report.

The 1998 Update of the Missoula Urban Comprehensive Plan is an amendment to the current 1990 Urban Comprehensive Plan. This amendment includes updated information and data for the urban area, as well as new text incorporating "Planning for Growth in Missoula County," themes developed by the Missoula Growth Management Task Force during work sessions from 1994 to present. The 1998 Update was reviewed by the Missoula Consolidated Planning Board at three public hearings, dated 10/21/97, 11/18/97 and 2/24/98. The Missoula Consolidated Planning Board deliberated and revised the 1998 Update during six meetings, dated 11/4/97, 12/16/97, 1/6/98, 1/20/98, 2/24/98 and 3/10/98. The Missoula Consolidated Planning Board unanimously recommended adoption of the 1998 Plan with revisions.

The 1998 Update was reviewed by the Missoula City Council and the Missoula Board of County Commissioners at three public hearings, dated 4/13/98, 4/15/98 and 6/1/98. The Missoula City Council and the Missoula Board of County Commissioners deliberated and proposed revisions to the 1998 Update during five meetings, date 4/9/98, 4/22/98, 5/6/98, 5/20/98 and 5/27/98.

Chairman Evans asked for public comment.

Scott Waldron, representing Missoula County Fire Protection Association, stated that at the last joint hearing of the City Council and the Board of County Commissioners, some concerns were expressed that emergency services needs had not been appropriately addressed. This plan has now been updated with regard to language and level of service definition, and the association supports the plan.

Sarah Busey, League of Women Voters, stated there were three concerns that have now been addressed. The League strongly supports the updated Urban Comprehensive Plan.

Lin Smith stated that as a scenario stakeholder, the work had been extremely educational. To know how much hard work has gone into the plan is gratifying. She stated that it was time to update the Comprehensive Plan.

There being no further comment, Chairman Evans closed the public hearing.

Chairman Evans made the following statement: "I would respectfully ask the commissioners not to adopt this plan at this time and I would like to tell them about an experience I had recently. I was scheduled to speak to my Kiwanis group, which has about 150 or so folks at it. This was the day after the adoption of the plan by the City. What I wanted to hear from my Kiwanis group, which I think is a fairly broad representation of the community, is how clearly they understood this plan. So I got the red and green cards from the chamber that said yes or no. I asked them, 'Have you seen this plan?' The majority of the cards were 'no,' there was maybe five that said 'yes.' 'Have you seen the amendments?' There were less who said yes. 'Have you taken the amendments and have you integrated them with the document?' Nobody raised their hand. That is a fairly broad group, fairly broad representation of this county, that has 80,000 to 90,000 people in it. At the end of my comments, I said, 'Do you want this on the ballot?' The majority of them said yes. 'Would you sign a petition to put it on the ballot?' The majority of them said yes. I did not stand and count number so I can't give you numbers, but it's indicative to me that the public would like to have the opportunity to read the document. In order to read the document, you have to take the document that has taken 4-1/2 years to build, you have to take these amendments and you have to integrate it into the document. When I have asked for a final copy, I have been told that there will not be a final copy until they are adopted. So the public has not had the opportunity to look at a document that has everything in it, with the language that has been stricken taken out, and the language that has been adopted put in. It seems to me that rushing like a fire engine to fire to adopt this without the opportunity for the public to look at it and say, 'Yes, I like it,' is rushing too fast. I would like us to give the public some clean documents, I'd like them to have the opportunity to read it so that they know whether they like it or not. This is the plan that is supposed to last 20 to 50 years. The legislature recognizes the serious implications of a comp plan to the point that they put in the statutes that it can be on the ballot. I would like to see it on the ballot, but if people aren't willing to put it on, I would like to at least see the public have the opportunity to read a document from beginning to end without having to integrate this (the changes) into another document, because 80,000 or 90,000 people aren't going to do that. So I would like to give them the opportunity to say, 'Yes, I like it,' or 'No, I don't,' because those 80,000 or 90,000 people have not participated for 4-1/2 years. When this plan was finished on Friday afternoon, when we got the amendments on Friday, they were adopted on Monday. That does not give: 1) even time for a clean document; 2) let alone time for all the people in this community to read it. So I would respectfully ask that you do not adopt it at this time."

Commissioner Hart stated that this is not a county wide plan such as in Ravalli and Flathead Counties. This is an urban area plan. It is larger than Miller Creek and has been in the works longer than Miller Creek and there was not a vote on Miller Creek. She felt this was an excellent plan with many participants and it was time to pass the comp plan.

Commissioner Hart moved that the Board of County Commissioners adopt the 1998 Update of the Missoula Urban Comprehensive Plan in its final draft form with revisions. Commissioner Kennedy seconded the motion.

Commissioner Kennedy stated that the comp plan is a product of 4+ very hard years of work on the Growth Management Task Force. The overall public participation has been remarkable. The two people who testified today, one representing the Fire District and the other representing the League of Women Voters, testified about different things but said the same thing. They expressed concerns about the document and all those concerns were met. That is an important aspect of the decision about to be undertaken. Because of the openness of the project in the last 4 years and particularly the last several months, when there have been concerns issued from any and all quarters, there has been remarkable effort to address all those concerns. He was unaware that any of those serious concerns were unaddressed. He believed this is a compilation of the best thinking that goes into planning in this County. He was very happy and supportive of the plan.

The motion carried on a vote of 2-0. Chairman Evans abstained.

#### Other Business

Commissioner Kennedy apologized for not being able to attend important meeting during the past week due to his illness. One of the decisions made by the Board during his absence gave him concern, the choice of the alternative for the Miller Creek Road Improvements. He has examined the option and it lead him to believe that there are other alternative that need to be examined. He respectfully requested the Board reconsider that decision. He is prepared to discuss in detail his reasons for this reconsideration, which include safety, cost and maintenance. He feels there need to be additional alternatives studied.

There being no further business to come before the Board, the Commissioners were in recess at 3:25 pm.

#### THURSDAY, JUNE 11, 1998

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

Plat - The Commissioners signed the plat for Lone Pine Subdivision, an amended minor subdivision plat of Lot 10, Mountain Acres No. 2, located in the SW1/4 of Section 36, T13N R18W, PMM, Missoula County, a total gross and net area of 2.31 acres, with the owners of record being Bruce P. and Barry L. Hunn.

Plat - The Commissioners signed the plat for Huson Heights, a subdivision located in the E1/2 of Section 26, T15N, R22W, PMM, Missoula County, a gross area of 30.056 acres, with a net lot area of 26.016 acres, with the owners of record being Thomas and Selina Scheffer.

#### ADMINISTRATIVE MEETING

At the Administrative Meeting held in the forenoon, the following items were signed:

Agreement - The Commissioners signed a renewal application for the Food Stamp Nutrition Education Program Support Agreement, agreeing to support the program for the fiscal year September 1998-October 1999. The Agreement was returned to Alice Dailey in the Extension Office.

Lease Agreements - The Commissioners signed four Lease Agreements with Missoula Correctional Services, Inc.:

1. For space for a Community Service Program at 304 West Broadway; with a monthly rent of \$565.00;
2. For space for expansion of the Correctional Services Program at 302 West Broadway; with a monthly rent of \$493.00;
3. For space for a Misdemeanant Probation Program at 304 West Broadway; with a monthly rent of \$530.00;
4. For space for a Pre-Release Center at 304 West Broadway; with a monthly rent of \$3,500.00.

The term of each contract is month to month, commencing July 1, 1998. The Agreements were returned to Sue Wilkins at Missoula Correctional Services for further signature and return.

Agreements - The Commissioners signed two Agreements between the Missoula County Youth Court and/or Missoula County Youth Drug Court and the Fort Peck Tribes for detention of persons charged with or convicted of violations of Montana State law or held as witnesses at the Fort Peck Indian Youth Services Center. Performance schedule is through June 22, 1998. The County shall reimburse the Fort Peck Tribes \$85.00 per day. The Agreements were returned to Judge John Larson in District Court for further signatures and handling.

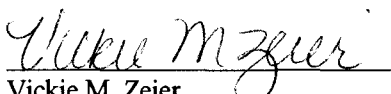
Other items included:

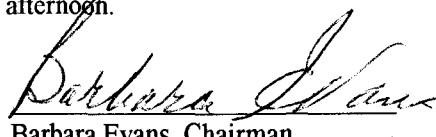
- 1) The Commissioners approved a request to remove the 20 foot below grade excavation provision from the specs for the sale of gravel from the Tower Street Park.

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

#### FRIDAY, JUNE 12, 1998

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

  
Vickie M. Zeier  
Clerk & Recorder

  
Barbara Evans, Chairman  
Board of County Commissioners

**MONDAY, JUNE 15, 1998**

The Board of County Commissioners met in regular session; a quorum of members was present. Commissioner Kennedy was on vacation the week of June 15-19.

Submittal Documents - The Commissioners signed submittal letters and documents for a grant to the Center for Substance Abuse Treatment to establish a residential treatment facility for women diagnosed with chemical dependency who are pregnant and/or have dependent children. The documents were returned to Cindy Wulfekuhle in OPG for further handling.

**TUESDAY, JUNE 16, 1998**

The Board of County Commissioners met in regular session; a quorum of members was present. In the afternoon, Commissioner Evans accompanied County Surveyor Horace Brown on a site inspection for the request to vacate the cul-de-sac bulb of Alloy South in Momont Industrial Park Phase I.

**ADMINISTRATIVE MEETING**

At the Administrative Meeting held in the forenoon, the following items were signed:

Sign Sponsorship Agreements - The Commissioners signed Sign Sponsorship Agreements with Red's Towing and Quality Supply for a Fairgrounds sign. Each sponsor shall contribute \$25,000.00, to be paid at the rate of \$416.67 per month beginning August 1, 1998 and ending July 30, 2003. Each sponsor shall receive one hour per day for five years of their name on the readerboard. One set of original contracts was returned to Sam Yewusiak, Fair Manager, for further handling.

Resolution - The Commissioners signed Resolution No. 98-046, for a tax refund for Robin Pfau in the amount of \$773.05, for property erroneously taxed as part of the Missoula Rural Fire District.

Resolution - The Commissioners signed Resolution No. 98-047, Annexation to the Seeley Lake Rural Fire District, a Parcel of Land Located in Missoula County. The parcel is described as Tract B-1 and C-1 of Certificate of Survey 4697 and Tract 1 and 2 of Certificate of Survey 4720 located in Section 8 and 17 in T15N R14W.

Other items included:

- 1) The Commissioners discussed a claim for the County Shops Lease with the Airport Authority.

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

**WEDNESDAY, JUNE 17, 1998**

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

Audit List -- Commissioners Evans and Hart signed the Audit List, dated June 17, 1998, pages 2-44, with a grand total of \$276,809.00. The Audit List was returned to the Accounting Department.

Letter - Chairman Evans signed a letter to the Montana Department of Justice, Board of Crime Control, detailing expenditures from the past three fiscal years to be used as a formula basis for funding under the Juvenile Accountability Block Grant. The letter was returned to Alan Egge, Juvenile Detention Officer.

Commissioner Hart moved to approve the Western Regional Juvenile Detention budget proposal for Missoula County's portion, and authorize the Chairman to sign. Commissioner Evans seconded, and the motion carried on a vote of 2-0. Chairman Evans then signed the documents.

**PUBLIC MEETING - June 17, 1998**

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Fern Hart, Deputy County Attorney Michael Sehestedt, Deputy County Attorney Colleen Dowdall and County Surveyor Horace Brown.

**Public Comment**

None.

**Routine Administrative Actions**

Commissioner Hart moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims list in the amount of \$276,809.78. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

**Vacation of Cul-de-sac bulb of Alloy South in Momont Industrial Park, Phase I**

Horace Brown gave the report.

This is a petition to vacate the bulbs on a cul-de-sac. The intent of the development park is to continue the road north to intersect with Expressway. As soon as the project is completed for the airport interchange, the railroad crossing will be closed and this will allow an additional exit from the Industrial Park. The County will retain 60 feet of right of way.

Commissioner Hart moved that the Board of County Commissioners approve the request to abandon the outer radius of cul-de-sac bulb of Alloy South located in Lot 1, Block 2 and Lot 1, Block 3 of Momont Industrial Park Phase I in Section 36, Township 14 North and Range 20 West, in that the cul-de-sac bulb is outside the Alloy South right of way and is not needed. When Alloy South was platted in the Momont Industrial Park, it had a big truck parking area as part of the right of way. In 1980 the truck parking area was vacated and a fifty foot radius cul-de-sac was dedicated. This will eliminate the outer edges of that cul-de-sac. Chairman Evans seconded the motion.

Chairman Evans verified with Ron Ewart, Eli & Associates, that this request covered both sides of the bulb.

Ron Ewart stated that was correct, the request covers both side of the bulb.

The motion carried on a vote of 2-0.

**Intent to Create RSID #8458 (Construction of domestic water supply and distribution system for Sunset West area)**

Jesse Sattley, Administrative Assistant to the Chief Administrative Officer, gave the staff report.

This is the creation of RSID #8458 - Sunset West Water system - Construction of a domestic water supply system for the Sunset West area of Missoula County.

The Sunset West Water system was given an administrative compliance order from DHES to solve specific water quality problems with their system in September 1992. The Homeowners association requested Missoula County's help to address those problems through a Rural Special Improvement District to improve the quality and quantity of their system. In 1994, a RSID was created and set in place to assess the district for the improvements. A water rights hearing did render a favorable decision on a new well site, however, there were easement situations that were not completely resolved. The RSID was not in a position to offer a bond sale to finance the improvements at that time.

Since 1994 a few more complications have arose. The Bond Counsel strongly recommended that we go through the process of creating the RSID again since several properties have sold in the district and we need to inform the new owners of the assessments. Other changes from the new district include a loan application through a new program of the State Revolving Fund (not available in 1994), that finances water improvements at an interest rate of approximately 4.25%, so we will not sell RSID bonds for the project. Also changed is the term of the assessment from 15 years to a 20 year period. The general budget for the improvements has changed a little, but the end line is the same as follows: Total project is \$445,107.00; Less Treasure State Grant Proceeds, \$154,107.00; Total RSID assessment cost estimate is \$291,000.00 or \$6,614.00 per parcel - the same as was detailed in 1994. In the process of creating the new district, the Board of County Commissioners have decided to waive all RSID administrative fees if necessary to keep the cost in the parameters of the original RSID.

One letter of protest was received from John and Sharon Lee.

Chairman Evans asked for clarification if Freds Lane, where the complainant lives, is within the district.

Jesse Sattley stated that was correct, it was within the district.

Chairman Evans asked for public comment.

Nancy Robert, President of the Sunset West Homeowners Association, requested that the Board approve this RSID. She stated she has been trying to get this water district established for the last eight years. Currently water is obtained at 7 gallons per minute (gpm) over a 24-hour period for 37 homes, leaving homes without water during the summer, up to 21 days. This is not a healthy situation.

There being no further comment, Chairman Evans closed the public hearing.

Commissioner Hart stated the Lee's, in there protest letter, said they had a well. She asked how many other homes in the area had individual wells.

Nancy Robert stated there were 17 private wells in the area. The Lee's have two wells, each putting out about 2 gpm. The Lee's are not hooked up to the current water system but do pay a general fund fee to the Homeowners Association.

Michael Sehestedt stated, regarding those 17 wells, one of the requirements of the RSID is that if they hook to the new water system, they have to physically cut or remove pipes so they are no longer also hooked to their wells. The wells can be used for outside watering purposes but cannot be cross connected to the basic water system.

Chairman Evans asked if the Lee's statement that they would not have irrigation for their garden was correct.

Michael Sehestedt said the water system being installed by the RSID, and the water rights associated with it, is limited to domestic use and no more than 1/4 acre of lawn and garden exterior watering. However, the Lee's would continue to have their other wells to address other watering needs, or they could forego hooking up to the new system and continue just as they are now. No matter what their choice is, they will be assessed for the capital improvements.

Commissioner Hart asked if there was a maintenance figure in the RSID.

Cindy Wulfekuhle, Office of Planning and Grants, stated maintenance would be addressed through a separate fee, not part of the construction RSID.

Michael Sehestedt stated whenever an RSID is created, that district can assess, on an annual basis, maintenance and operation costs. This will be the course of action on the Sunset West RSID.

Commissioner Hart wanted to hear that fact, there will be a maintenance RSID and it will follow this capital improvement RSID.

Nancy Robert stated that was her understanding, and the homeowners support that decision.

Michael Sehestedt stated that at the last homeowners meeting the existence of the maintenance and operations RSID was addressed.

Commissioner Hart moved that the Board of County Commissioners approve the creation of RSID #8458, Sunset West water system, construction of domestic water supply system for the Sunset West area of Missoula County, in that there was not a great number of protests and it is a need that has been documented. In the event that the County needs to waive the RSID administrative fee, the Board approves the waiver of the fee. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Chairman Evans asked what the usual process was upon approval of an RSID, so that the homeowners would know what to expect.

Michael Sehestedt stated that the Commissioners will sign the formal resolution creating the RSID. The homeowners will receive notice of their assessment now that the RSID has been implemented and created, and funding has been secured.

#### Family Transfer - Smith

Kathy Smith, Paralegal, County Attorney's Office, gave the staff report.

This is a consideration of a request to create a parcel using the family transfer exemption for Tract 1, COS 3548, located in Section 31, T16N, R19W, for Shelley Sue Smith.

Shelley Smith has submitted a request for a family transfer exemption to the Montana Subdivision and Platting Act for a 6.59 acre parcel located South of Arlee off Highway 93 North and adjacent to the East Fork of Finley Creek. The property is located on the Flathead Indian Reservation and a letter dated May 7, 1998, from the Tribe is attached. Ms. Smith proposes to split the parcel in half for transfer to her mother, Janice W. Smith.

The history of the parcel is as follows: COS 3548 was filed in January 1988, creating Tract 1 as an occasional sale parcel. Ms. Smith purchased Tract 1 in December 1997.

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

Chairman Evans asked for public comment.

Shelley Smith, the applicant, was present, and came forward to answer questions from the Commissioners.

Commissioner Hart stated that when the Board receives an application for a family transfer, it must be determined that the division of land is not an attempt to avoid subdivision review. She asked if the property was Shelley Smith's and she was intending to have her mother live there.

Shelley Smith stated that was correct, she did own the property and was intending for her mother to live there.

Commissioner Hart asked if Janice Smith was going to build a home there.

Shelley Smith stated that she hoped to have a place built for her mother by the time she retires in two years.

Commissioner Hart asked if Janice Smith was in Missoula County.

Shelley Smith stated that her mother lives in Wisconsin, where she has a seasonal job during the summer. During the winter Janice Smith visits Montana and stays at Shelley's house.

There being no further comment, Chairman Evans closed the public hearing.

Commissioner Hart moved that the Board of County Commissioners approve the request to create a parcel using the family transfer exemption for Tract 1, COS 3548, located in Section 31, T16N, R19W, for Shelley Sue Smith, in that it does not appear to be an evasion of the Subdivision Act. Chairman Evans seconded the motion.

Commissioner Hart told Shelley Smith that she would receive a letter stating the Board's approval, but such approval does not guarantee sanitary restriction being lifted, access, dust abatement, etc.

Chairman Evans pointed out to Shelley Smith the concerns of Confederated Salish and Kootenai Tribes as expressed in their letter.

Shelley Smith stated she had a copy of the Tribes' letter and wanted to add that the property in question was the furthest away from Finley Creek. She also noted that access to the property would be from the existing access, no new access to Highway 93 was anticipated.

The motion carried on a vote of 2-0.

**Amendment to Shoreline Regulations (Crib dock standards)**

Brian Maiorano, Office of Planning and Grants, gave the staff report.

This is a consideration to revise the Shoreline Regulations, Resolution #97-104, to allow certain types of crib docks when other types of docks are unfeasible.

Crib docks are currently prohibited except by variance, at they often disrupt lake currents and cause water stagnation and decreased water quality. On some lakes however, such as Lindbergh Lake, driving pilings is unfeasible due to a rocky lake bottom. Also, in some instances, float docks are undesirable. Properly designed crib docks that allow the free transfer of water cause few impacts to water quality.

The proposed amendment, as advertised in newspapers and sent to agencies and individuals for comments, is in Section 2.5, "Construction or Installations Not Allowed in the Lake or the Shoreline Protection Zone," and would change "Crib docks" to read as follows:

"Crib docks, except where physical conditions make pilings unfeasible. In those situations, individual cribs must not exceed twenty square feet, must allow at least 10 feet of open water from an adjacent crib, must occupy no more than 50% of the lineal footage of the dock, and must be placed in a straight line."

Brian Maiorano stated that favorable comments have been received from some of the agencies and individuals asked to respond. Montana Fish, Wildlife & Parks, Region One, believed the proposed amendment was reasonable but expressed concerns that allowing crib docks could lead to shoreline "rock picking," causing increased sedimentation. Fish, Wildlife & Parks would prefer floating docks whenever feasible.

Based on the comments of Fish, Wildlife & Parks, OPG recommended one change to the language of the amendment, to add "and float docks" in the first sentence. The concerns about "rock picking" are already addressed in another section of the Shoreline Regulations.

Commissioner Hart asked if the amendment was stating that docks be placed in a straight line?

Brian Maiorano stated that wording meant that on a single dock the cribs would go straight out from the lake shore, not make an "L" or "T" turn.

Chairman Evans asked for public comment. There being none, the public hearing was closed.

Commissioner Hart moved that the Board of County Commissioners approve the recommendation of the Office of Planning and Grants of the amendment to the Shoreline Regulations, Resolution #97-104, which would read as follows: "Crib docks, except where physical conditions make pilings and float docks unfeasible. In those situations, individual cribs must not exceed twenty square feet, must allow at least 10 feet of open water from an adjacent crib, must occupy no more than 50% of the lineal footage of the dock, and must be placed in a straight line." Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

**Meadowlands Lots 2A & 2B (2-lot commercial subdivision - Wye area)**

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

The applicant, Wayne Pavsha, is proposing a 2 lot commercial summary subdivision south of the Wye on Thornton Drive. The total size of the property is 2.25 acres. The lots will be 1.0 and 1.25 acres in size. The property is legally described as Lot 2 of Meadowlands, NE 1/4 Section 28, T14N, R20W. The Meadowlands subdivision was reviewed and approved in 1994, creating 6 lots.

The original proposal called for lots that were 1.12 and 1.13 acres in size. On May 27, 1998, the applicant's representative submitted a revised proposal with lots 1.0 and 1.25 acres in size (Attachment A). Full size plans of this revision were not submitted.

The subdivision is zoned C-C2, General Commercial. A building is being constructed on proposed Lot 2B for Missoula RV Repair. A building permit was issued on December 8, 1997. The remainder of the property is vacant at this time.

Access to both lots is proposed from Thornton Drive, which is a private road paved to 32 feet within a 60 foot right of way. There was a variance request from the 80 foot right of way that was approved with the first Meadowlands subdivision. There is an old access from the Highway 10/93 that exists on the northern portion of the property not currently used, but blocks drainage on the property which results in some flow and ponding. The property owner is responsible for removing this access and reshaping the side slopes to match existing conditions. This responsibility is included as a condition of approval. Individual well and septic systems will serve the lots.

Highway 10/93 is a Primary Travel Corridor and the Meadowlands Subdivision and its covenants predated those standards. Issuance of the building permit for the current building project was not contingent on compliance with the standards, but any future building on either lot will have to comply with the standards. The existing development on proposed Lot 2B could still comply with the applicable standards that are not related to the actual building, covering landscaping, signage, trash screening and fencing. A condition related to those standards has also been included.

The Office of Planning and Grants recommends approval of the Meadowlands, Lots 2A and 2B Summary Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report. OPG also recommends approval of two variance requests, one to not provide sidewalks or pedestrian walkways in the subdivision, and the second to vary from the required 80 foot easement to a 60 foot easement along Thornton Drive.

Ron Ewart, Eli & Associates, developer's representative, was present. The applicant, Wayne Pavsha, was not present. The developer does understand the need for landscaping and will provide such landscaping shortly, as well as other Primary Travel Corridor standards. The old access from Highway 10/93 causing the drainage problem has already been repaired.

Chairman Evans asked for public comment. There being none, the public comment section was closed.

Commissioner Hart asked if anything needed to be done to accommodate the change in lot size from what was on the original plat.

Nancy Heil stated there is an attachment to the proposal dated May 27, 1998, regarding the change in lot size from what was submitted with the preliminary plat. She requested the Board of County Commissioners approve the amended application.

Commissioner Hart moved that the Board of County Commissioners approve the variances to Meadowlands Lots 2A and 2B Summary Subdivision based on the recommendations of staff, the findings of fact and conclusions of law. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

1. A variance from Section 3-2(5) to not provide sidewalks or pedestrian walkways in the subdivision.
2. A variance from Section 3-2(3) to vary from the required 80 foot easement to a 60 foot easement along Thornton Drive.

Commissioner Hart moved that the Board of County Commissioners approve Meadowlands Lots 2A and 2B Summary Subdivision subject to the following conditions, based on the findings of fact and conclusions of law in the staff report, subject to subdivision submittal amendment dated May 27, 1998. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

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 the assent of the lot owner to waive the right to protest a future RSID/SID for installation of pedestrian walkways to Highway 10/93, 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."

2. The lot owner shall remove the approach from Highway 10/93 and reshape the side slopes to match the adjacent conditions. The slope shall be revegetated to prevent erosion and invasion of noxious weeds. An encroachment permit for this work shall be obtained from the Montana Department of Transportation prior to plat filing.

3. 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 sewer and potable and firefighting 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."

4. The developer shall contribute \$100.00 per new lot to the Missoula Rural Fire District prior to plat filing.

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

"This property is within the Airport Influence Area and subject to the requirements of the Airport Influence Area Resolution."

6. The applicant shall file a development agreement, subject to County Attorney approval, stating that both lots shall comply with the Primary Travel Corridor Standards. The agreement shall be filed prior to final plat filing. An overall design plan shall be provided for the existing development on Lot 2B showing compliance with standards except for actual building construction. The plan shall be approved by OPG prior to plat filing.
7. The minimum building setback line required by the Primary Travel Corridor standards shall be shown on the face of the plat.

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

**THURSDAY, JUNE 18, 1998**

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:

Interlocal Agreement - Chairman Evans signed an Interlocal Agreement with the Department of Justice and the Department of Corrections for daily fees for state agencies who confine inmates in the current Missoula County Jail. Duration of the Agreement is from July 1, 1998 until September 30, 1999. The basic rate is \$47.00 per day per inmate. The Agreement was returned to Mike O'Hara, Jail Captain, for further signatures and handling.

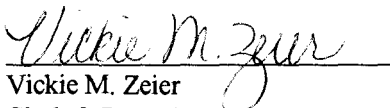
Other items included:

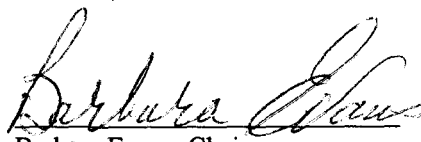
- 1) The Commissioners discussed a request from the Frenchtown Rural Fire District for payment for equipment and facilities usage during the April, 1996 Alberton/MRL derailment. Commissioner Hart moved, and Commissioner Evans seconded a motion to approve payment to FRFD in the amount of \$32,340.00.

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

**FRIDAY, JUNE 19, 1998**

The Board of County Commissioners did not meet in regular session; Commissioner Hart was in Thompson Falls attending a Mental Health Board meeting.

  
Vickie M. Zeier  
Clerk & Recorder

  
Barbara Evans, Chairman  
Board of County Commissioners

**MONDAY, JUNE 22, 1998**

The Board of County Commissioners did not meet in regular session; Commissioner Evans was out of the office all day, and Commissioner Kennedy was on vacation the week of June 22-26.

**TUESDAY, JUNE 23, 1998**

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:

Resolutions - The Commissioners signed two resolutions:

1. Resolution No. 98-048, a resolution relating to Rural Special Improvement District #8458 (Sunset West Water System); creating the district for the purpose of undertaking certain local improvements and financing the costs thereof.
2. Resolution No. 98-049, to abandon a portion of cul-de-sac on Alloy South, located in Lot 1, Block and Lot 1, Block 3 of Momont Industrial Park Phase I;

Policy Statement - The Commissioners signed Policy No. 98-B, revising Missoula County personnel policies to discontinue providing group insurance benefits for temporary employees, effective July 1, 1998.

Standard Agreement - Chairman Evans signed a Standard Agreement with the Traffic Safety Bureau, Montana Department of Transportation, for Missoula County Sheriff's Department In-Car Video Cameras. Project shall be completed no later than September 30, 1998. Payment shall not exceed \$12,000.00. The Agreement was returned to Don Morman, Sheriff's Department, for further signatures and handling.

Contract Modification - Chairman Evans signed a Second Modification for the Missoula County Domestic Violence Grant. Performance schedule is from July 1, 1997 through September 30, 1998. Compensation shall be up to \$35,688.00. One original was returned to Leslie McClintock in OPG for further handling.

Payroll Transmittal Sheets - The Commissioners signed Payroll Transmittal Sheets for Pay Period 10, with a total Missoula County payroll of \$625,632.63; Pay Period 11, with a total Missoula County payroll of \$607,804.87; and Pay Period 12, with a total Missoula County payroll of \$630,412.91. The sheets were returned to the Auditor's Office.

Other items included:

- 1) At a departmental meeting with the Office of Planning and Grants, the Commissioners approved the Amended Plat of Fly Inn Subdivision, per the recommendation of the Office of Planning and Grants, and subject to the following conditions:



1. The Fly Inn covenants shall also be amended to reflect the removal of Fly Inn Lane and the common area easement prior to plat filing.
  2. A cash-in-lieu of park dedication fee shall be paid for the entire Fly Inn property in an amount to be approved by the County Attorney prior to plat filing.
- 2) At a departmental meeting with the Office of Planning and Grants, the Commissioners approved and Chairman Evans signed two permits to replace existing docks on Lindbergh Lake:
1. for Dean Bruschwein, Lot 56 of the Diamond L Bar Ranch;
  2. for George McCabe, Lot 6A of the Diamond L Bar Lakeshore Tracts.

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

**WEDNESDAY, JUNE 24, 1998**

The Board of County Commissioners met in regular session; a quorum of members was present. In the afternoon, Commissioners Hart and Evans attended the HUD Award Presentation Ceremony for the Partnership Health Center held at the Health Department Conference Room.

Audit List -- Commissioners Evans and Hart signed the Audit List, dated June 19, 1998, pages 2-42, with a grand total of \$306,439.89. The Audit List was returned to the Accounting Department.

Plat and Development Agreement - The Commissioners signed the plat and development agreement for Grass Valley Estates, a 4-lot subdivision plat of Lot 12, COS 1159A, located in the SE1/4 of Section 4, and the NE1/4 of Section 9, T13N R20W, PMM, Missoula County, a total area of 20.21 acres, with the owner/developer being Loree R. Olson.

**PUBLIC MEETING - June 24, 1998**

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Fern Hart, Deputy County Attorney Michael Sehestedt, Deputy County Attorney Colleen Dowdall and County Surveyor Horace Brown.

**Public Comment**

None.

**Routine Administrative Actions**

Commissioner Hart moved that the Board of County Commissioners approve the routine administrative items adopted this week and approve the weekly claims list in the amount of \$306,439.89. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

**Intent to Create RSID #8839 (Maintenance of one fire hydrant - Southpointe Phase III)**

Michael Sehestedt, gave the staff report.

This is the creation of RSID #8839 - Southpointe Phase III fire hydrant.

The Southpointe Phase III subdivision petitioned Missoula County to create a Rural Special Improvement District for fire hydrant maintenance. A Resolution of Intention to Create RSID #8839 was passed on June 4, 1998, for the purpose of maintenance of one (1) fire hydrant to serve Southpointe Phase III subdivision of Missoula County. The total estimated annual cost per year including County costs is \$343.73. The total estimated annual cost per each single family residential parcel is \$20.22. There are 17 lots in the district.

No protests were received.

Michael Sehestedt stated this was a condition of approval for the Southpointe Phase III subdivision.

Chairman Evans asked for public comment. There being none the public hearing was closed.

Commissioner Hart moved that the Board of County Commissioners approve the creation of RSID #8839, Southpointe Phase III Fire Hydrant, in that the notice of intent has been published and there have been no protests received. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Chairman Evans stated the next item on the agenda was a Mullan Road Abandonment and Horace Brown needed be present for the hearing. He had been called to the meeting so the agenda item was skipped until he arrived.

**Family Transfer - Richardson**

Kathy Smith, Paralegal, County Attorney's Office, gave the staff report.

This is a consideration of a request to create a parcel using the family transfer exemption for a parcel described in Book 23 Micro, Page 536 less COS 4672 located in Section 17, T15N, R22W, for Robert E. and Myrna A. Richardson.

Robert and Myrna Richardson have submitted a request for a family transfer exemption to the Montana Subdivision and Platting Act for an approximately 118 acre parcel located in the Ninemile area northwest of Huson. Mr. and Mrs. Richardson wish to create a 2 acre parcel for transfer to their adult son, Tom Richardson.

The history of the parcel is as follows: Mr. and Mrs. Richardson have owned this property since 1955. They came before this Commission on May 15, 1996, requesting to create two family transfer parcels for their daughters, Aline Haacke and Kathleen Alger, which were approved. COS 4672 was filed in February 1997, creating the two family parcels, along with the deeds transferring the property.

According to the records kept by the Missoula County Surveyor, the applicants have used the exemption to the Subdivision and Platting Act as described above.

Chairman Evans opened the public hearing.

Robert E. Richardson was present and came forward to answer questions.

Commissioner Hart stated that the review process was used to see if the request was used to evade the Subdivision Act. She noticed that two parcels were given to two daughters in 1996, and this transfer was for a son. She asked how many children Mr. Richardson had.

Robert Richardson stated he had six children.

Commissioner Hart asked if Mr. Richardson was planning to give each child a parcel?

Robert Richardson stated that the other three children would not be interested in land, however, if they were, he would give them land.

Commissioner Hart asked if the two daughters were living on their parcels?

Robert Richardson stated that one daughter has drilled a well and was currently building a home.

Commissioner Hart asked if the son planned to live on the property?

Robert Richardson stated his son would live on the property.

There being no further comment, Chairman Evans closed the public hearing.

Commissioner Hart moved that the Board of County Commissioners approve the request to create a parcel using the family transfer exemption for the parcel described in Book 23 Micro, Page 536 less COS 4672, located in Section 17, T15N, R22W, for Robert E. and Myrna A. Richardson, for transfer to their adult son, Tom Richardson, as this does not appear to be an evasion of the Subdivision Act. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Commissioner Hart told Robert Richardson that he would receive a letter stating the Board's approval, but such approval does not guarantee septic permit, water, access, dust abatement, etc.

#### **Family Transfer - Parke**

Kathy Smith, gave the staff report.

This is a consideration of a request to create four parcels using the family transfer exemption for COS 4163 located in Section 11, T11N, R16W, for Janet and Charles Parke.

Charlie Parke has submitted a request to create four parcels using the family transfer exemption to the Montana Subdivision and Platting Act for a 79.05 acre parcel located just south of Highway 90 and just west of the Granite County line. Mr. Parke proposes to create four family transfer parcels, and a remainder, for transfer to his adult children: Charles E. Parke; Adam R. Parke; Grant T. Parke; and Amy R. Mills; all of whom reside in Drummond, MT. Approximately half of the parcel would be a remainder parcel.

The history of the parcel is a follows: COS 4163 was filed as a retracement survey on what was previously described as Government Lots 3 and 4. Mr. Parke had originally submitted this request in April 1997, but the property was then held by Parke Logging, Inc. On March 23, 1998, the property was quitclaimed to Janet and Charles Parke and the request resubmitted.

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

Chairman Evans opened the public hearing.

Charlie Parke was present and came forward to answer questions

Commissioner Hart asked Mr. Parke how many children he had?

Charlie Parke stated he had just the four children mentioned in the report.

Commissioner Hart was curious as to what road served the area.

Charlie Parke stated that as you travel over Beaver Tail Hill, take the Beaver Tail exit and head east. There is a bridge across the river and the road is about a half mile from the river and goes up the hill, between the river and Gillespie Creek.

Chairman Evans stated the configuration of the four parcels made Lot 4 long and skinny, was that due to the topography?

Charlie Parke stated it was not exactly drawn as he had originally proposed, but the intent was to provide a nice building site in each parcel.

Chairman Evans asked if the proposed sites could be changed?

Colleen Dowdall stated that the applicant has to do something roughly close to what is approved, but a request to review changes could be done.

Charlie Parke stated the area has not been surveyed yet.

Chairman Evans stated that the final configuration would be needed prior to final filing.

There being no further comment, Chairman Evans closed the public hearing.

Commissioner Hart moved that the Board of County Commissioners approve the request to create four parcels using the family transfer exemption for COS 4163 located in Section 11, T11N, R16W, for Janet and Charles Parke, for transfer to their adult children, Charles E. Parke; Adam R. Parke; Grant T. Parke; and Amy R. Mills, as this does not appear to be an evasion of the Subdivision Act. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Chairman Evans told Charlie Parke that he would receive a letter stating the Board's approval, but such approval does not guarantee septic permit, water, access, dust abatement, etc.

#### **Abandonment of Former Mullan Road Right-of-Way at El Mar Estates**

This is a petition to abandon "The Mullan Road right-of-way located in Tract 1 of Certificate of Survey 4580 in the SW 1/4 of Section 10, Township 13 North, Range 20 West.

The reasons for the request are as follows:

1. The relocation of Mullan Road has left an area of the former Mullan Road right-of-way between El-Mar Estates Corporation and the existing right-of-way which is no longer used for any public purpose and is not part of the present road system.
2. The road is no longer physically present on the ground. The only remaining reference to the road's previous existence is a Missoula County road map and various historic documents and references upon which the map is based.
3. The Petitioners do not believe there is any present benefit being derived from that portion of the old Mullan Road which is being requested to be abandoned and that other uses have superseded any other use of the roadway in prior years.
4. The area to be abandoned is intended to be incorporated into a proposed subdivision which would be of greater benefit to the community than maintaining an unused County road right-of-way.
5. The Petitioners are unaware of any plans for reconstruction of the road or any possible beneficial use of the road by the public.

Elmer Frame presented an exhibit to the Commissioners. The map shows a small sliver of land which is requested to be abandoned in favor of El Mar Estates. The Montana Department of Transportation purchased the necessary right-of-way to reconstruct Mullan Road north of its original location. The other area shown on the map was purchased by El-Mar Estates, and the ownership extended to the center of Mullan Road prior to the realignment.

Chairman Evans asked for public comment.

Dirk Williams, Church, Harris, Johnson & Williams, P.C., was present representing Bob and Connie Chestnutt, who live on Pheasant Drive, Block 2, Lot 11, of El-Mar Estates, to the south of the proposed abandonment. There is a subdivision proposed by El-Mar Estates to go roughly in the 120 feet between the Chestnutt's backyard and Mullan Road. The lots for this new proposed subdivision are 110 feet deep, very narrow, and are 1/4 of an acre or less. This area is completely out of character with the neighborhood. The Chestnutt's use this portion of Mullan Road to gain access to their back yard and the abandonment would eliminate their access. There is a moratorium on additional sewer hookups to the El-Mar Estates sewer system, but the approval of this proposed subdivision was done before the moratorium was imposed, so these new lots would be grandfathered in. El-Mar Estates is asking the County to abandon a County property right to facilitate an inappropriate development for this area.

Conal Gallagher, homeowner on Pheasant Drive, would like the Commission to question the validity of the grandfathering of the seven lots. The conditions of approval have changed and he would request this approval be denied on those grounds. It was not clear to him how adding seven new units to a failing sewer system, known to be

failing for several years, could be a benefit to the community. He requested the Board deny the abandonment of Mullan Road.

John Koenes, President of El-Mar Estates Homeowners Association, stated the association is against any other development or additional hookups to the sewer system. The association is on record as being against this abandonment.

Chairman Evans asked Elmer Frame if the proposed seven lots were part of the El-Mar Estates master plan?

Elmer Frame stated that it was not shown as lots as part of the master plan.

Chairman Evans asked Elmer Frame if the abandonment was essential to the newly proposed seven lots.

Elmer Frame stated that the abandonment was for only a small sliver as shown. The subdivision would have to be redone to exclude that portion if the abandonment was not approved. It was assumed that El-Mar Estates owned all the land.

Chairman Evans stated that whether or not the Board approves the abandonment it does not affect the ability to develop these seven lots as approved.

Commissioner Hart stated that the original approval called for a frontage road in that area.

Elmer Frame stated the frontage road had been constructed.

Commissioner Hart stated that Elmer Frame bought the fee subject to the easement. A house could not be built, but a road could be constructed.

Horace Brown stated that the area was County right-of-way, the County has the easement and El-Mar has the fee. If the road is public, El-Mar would need an encroachment permit, if it is a public road, it would need to be approved by the surveyors office.

Commissioner Hart stated that access onto Mullan Road was to be limited and a one-way frontage road would be built that the County would maintain.

Horace Brown stated that was correct because it is Mullan Road right-of-way. If the Board vacates the road, it becomes a private road not maintained by the County.

Colleen Dowdall stated that Elmer Frame's ownership extends only through a portion of the right-of-way. There is a small gap of right-of-way between the old right-of-way and the new right-of-way, there is a gap between Elmer Frame's ownership and the state's right-of-way. The documents would need to be inspected to see how the fee had transferred over time.

Horace Brown stated that if this is beyond Elmer Frame's ownership, beyond the center of the road, and the road is vacated, the County does not own the fee. Whoever owns the land on the other side would still own the fee, so it did not appear that the abandonment was doing anything to benefit Elmer Frame.

Colleen Dowdall stated that this matter should be continued so a site inspection could be arranged and she and Horace Brown could look at all the documents and determine ownership.

Don Michael was wondering if anyone has inspected the road Elmer Frame had already constructed. He stated it would be a real danger and the water from the recent rains was flooding the common area. He was totally against the development.

Dirk Williams wanted to clarify which parts of the road are to be abandoned.

Elmer Frame stated that Title Insurance was purchased which indicated that he owned all the land platted. This right-of-way was not cleared when the new Mullan Road was constructed. The title company is taking responsibility for correcting this as it was their error.

Chairman Evans was not clear as to which portion of the road was to be vacated, the small sliver or the entire road.

Elmer Frame was not clear either as he was not the one who started the procedure.

Commissioner Hart stated that Elmer Frame bought the larger portion of the area and does pay taxes on the property.

Colleen Dowdall stated that the right-of-way for the sliver portion was the unknown portion. The frontage road that has been constructed on the larger area was not in question to be abandoned.

Elmer Frame stated that the covenants that were in place are the same covenants placed on the proposed seven lots. Mobile homes are not allowed but manufactured homes are allowed.

Dirk Williams stated the extent of the abandonment needed to be clarified before the decision was made.

Commissioner Hart wanted to visit the site with Horace Brown.

The decision on the abandonment was scheduled for July 15, 1998.

Fly Inn Lot 2 Summary Subdivision - Seeley Lake

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

The applicants, Rick Brighton and Bob Thorne, are proposing to divide Lot 2 of the Fly Inn subdivision into 3 lots. The property is located on Airport Road in Seeley Lake, near the western boundary of the Seeley Lake Airport. The Fly Inn subdivision, reviewed as a major subdivision and approved in September 1996, created 5 lots with 5 dwelling units on Lot 2. However, Health Department regulations only permit 3 dwelling units on Lot 2. A shared access drive, called Fly Inn Lane, was approved to serve Lots 1 and 2. A common area easement was included on the southern portion of Lots 1 and 2 to provide a jogging path. A five foot gravel path within a ten foot public pedestrian easement was required along the portion of the subdivision that fronts Airport Road.

An amendment to the original Fly Inn Plat, approved June 23, 1998, was proposed and is being reviewed concurrently with this proposal. The plat amendment would remove Fly Inn Lane and the common area easement. The applicants propose to pay a cash-in-lieu of parkland dedication to meet the park requirement. The amended plat would be filed prior to the Fly Inn Lot 2 plat.

The current proposal is to divide Lot 2 into 3 lots. Two lots would be one acre in size; the third would be 1.37 acres. The applicants propose for the lots to access directly onto Airport Road, instead of Fly Inn Lane. There will no increase in the density or number of dwelling units due to this subdivision, the applicant is requesting to draw lot lines between units that were already approved in the original subdivision.

The initial Fly Inn Lot 2 proposal included 3 one acre lots and a 0.38 acre common area, which would have been used to house an airplane hangar serving the Fly Inn subdivision. After the agency review period, the applicant revised the application to delete the hangar/common area plan. In order to accommodate 7 planes, the hangar would have to be too large for the width of the common area. Seeley Lake Rural Fire District and the Department of Natural Resources also raised concerns about fire protection and defensible space. The Missoula County Health Department noted that the access to the hangar was proposed over an existing drainfield on Lot 1, which would not be allowed.

During review of the original Lot 2 which included an airplane hangar, Jim White of the Seeley Lake Fire District stated that the District would require a 12,000 gallon water tank equipped with a well and a fire department connection. After reviewing the revised proposal, Jim White stated that the water requirements were not as great but were still a necessity.

All of the original Fly Inn subdivision lots remain under the original ownership. One residence has been constructed on Lot 1. The other lots, including Lot 2, are vacant. The applicants have stated that the goal of the development is to provide recreational/seasonal residences for people who could fly private planes into the Seeley Lake Airport.

Ron Ewart, Eli & Associates, developer's representative, was present. The applicants, Rick Brighton and Bob Thorne, were not present. From a practical and marketability standpoint, a shared road does not make sense, individual access would be better and should not present a problem. With individual access and no loop road, the common area was not needed. This development is more seasonal and aviation oriented. A cash-in-lieu agreement to the Seeley Lake area was arranged and the original plat was amended. The applicants will work with the Seeley Lake Fire Department to mitigate any concerns they may have.

Chairman Evans asked for public comment. There being none, the public hearing was closed.

Commissioner Hart felt there might be too many entrances on Airport Road.

Horace Brown stated the area where these three lots was located was fairly flat with good sight distance.

Commissioner Hart asked if there was any development on the other side of the road.

Horace Brown said there would be a subdivision there but it was not planned for traffic to enter directly onto Airport Road.

Chairman Evans asked that approach permits for any entrances to Airport Road been approved to create entrances opposite each other to the satisfaction of the County surveyor.

Horace Brown stated the approach permits were approved out of Seeley Lake.

Chairman Evans asked Horace Brown to inform the Seeley Lake office that there was a concern about entrances onto Airport Road.

Horace Brown stated he would inform the office of the concerns expressed.

Commissioner Hart moved that the Board of County Commissioners approve the variance for Fly Inn Lot 2 Summary Subdivision to vary from a 24 foot road width to a 22 foot road width for Airport Road, based on the recommendations of staff, the findings of fact and conclusions of law. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Commissioner Hart moved that the Board of County Commissioners approve Fly Inn Lot 2 Summary Subdivision subject to the following conditions, based on the findings of fact and conclusions of law in the staff report. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

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 the assent of the lot owner to waive the right to protest a future RSID/SID for improvements to Airport 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 depicted herein."

2. 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 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."

3. The Amended Plat of Fly Inn plat shall be filed prior to filing the Fly Inn Lot 2 plat.
4. The final plat shall show the location of the utility easement serving the subdivision.
5. The applicant shall mitigate the need for water for firefighting purposes prior to plat filing. The mitigation plan shall be approved by the Seeley Lake Rural Fire District and OPG.
6. The final plat shall include this statement:

"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 the development of a fire fighting water system based on benefit, and may be used in lieu of their signatures 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."

There being no further business to come before the Board, the Commissioners were in recess at 2:30 pm.

**THURSDAY, JUNE 25, 1998**

The Board of County Commissioners met in regular session; a quorum of members was present. In the afternoon, Commissioner Hart attended the HUD Award Ceremony for the Bridge Apartments.

#### ADMINISTRATIVE MEETING

At the Administrative Meeting held in the forenoon, the following items were signed:

#### Resolutions - The Commissioners signed two resolutions:

1. Resolution No. 98-050, a resolution fixing salaries of certain elected officials as follows:
 

Clerk of the District Court	\$41,582.96
County Auditor	\$41,582.96
County Surveyor	\$41,582.96
County Commissioner	\$43,582.96
Clerk & Recorder/Treasurer	\$49,899.55
County Supt. of Schools	\$43,582.96
County Attorney	\$64,480.33
County Sheriff/Coroner	\$55,687.55
2. Resolution No. 98-051, a resolution fixing salaries of County Justices of the Peace at \$42,032.96.

Contract - Chairman Evans signed a Montana Cadastral Database Project Contract between the Missoula County Surveyor's Office and the State of Montana Department of Administration, to provide funding for activities approved by the Department under the Project. The Contract takes effect June 30, 1998. Total amount of the Contract will not exceed \$14,000.00. The Contract was returned to Horace Brown, County Surveyor, for further handling.

Revised Employee Benefits Plan Document - The Commissioners signed the Missoula County Employee Benefits Plan Document, amending and restating the July 1, 1990 Plan.

Agreement - The Commissioners signed a Right of Way Agreement with Lester Bruce Madsen, Bruce Anthony Madsen, Patricia M. Madsen, and Erik Madsen, to acquire right-of-way from Madsens as part of the Airport Interchange Project. County will pay \$37,858.70 and will quit claim to Madsens the right-of-way interest acquired by deed recorded at Book 492, Page 1884, and will grant to Madsens two access points to the granted right-of-way.

Professional Services Contract - Chairman Evans signed a Professional Services Contract between the Montana Department of Agriculture and the Missoula County Weed District, for administration of the Weed Seed Free Forage Program. Term of the Contract is through December 30, 1998. Compensation shall be \$1.25 per acre. The Contract was returned to the Weed Department for further signature and handling.

Contract - The Commissioners signed a Contract for Johnsrud Park Road, Reestablishing Native Surfacing and Repair. Cost to the County is \$25,000.00 in man-hours and materials. The Contract was returned to Horace Brown, County Surveyor, for further signatures and handling.

Modification - Chairman Evans signed a contract Modification for the Johnsrud Park Road project, increasing the funding from \$75,000.00 to \$200,000.00. The Modification was returned to Horace Brown, County Surveyor, for further signatures and handling.

Modification - Chairman Evans signed a First Modification between the Missoula County Partnership to Strengthen Families and the Montana Department of Public Health and Human Services, moving \$500.00 to the TRAVEL line item in order to pay for unanticipated travel costs. The Modification was returned to Peggy Seel in OPG for further handling.

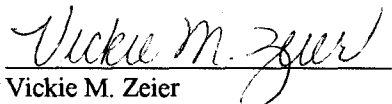
Other items included:

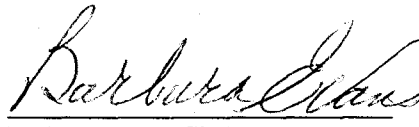
- 1) The Commissioners approved a budget transfer of \$2,000.00 to purchase a new laptop computer for the Office of Emergency Management.

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

**FRIDAY, JUNE 26, 1998**

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

  
Vickie M. Zeier  
Clerk & Recorder

  
Barbara Evans, Chairman  
Board of County Commissioners

**MONDAY, JUNE 29, 1998**

The Board of County Commissioners met in regular session; all three members were present. In the forenoon, Commissioners Hart and Kennedy accompanied County Surveyor Horace Brown on a site inspection for the request to vacate the railroad crossing at Mullan Road in Huson. Commissioner Evans had inspected the site on June 16 while on another site inspection with the County Surveyor.

Plat - The Commissioners signed the plat for Hay Addition, a one-lot minor subdivision located in the SW1/4 of Section 26, and in the SE1/4 of Section 27, T13N R18W, PMM, Missoula County, a total gross and net area of 1.00 acres, with the owners of record being Clarence Chester Hay and Catherine Oretta Hay.

Resolution - Commissioners Hart and Kennedy signed Resolution No. 98-052, a resolution to adopt the 1998 Update of the Missoula Urban Comprehensive Plan. Commissioner Evans abstained.

At a departmental meeting with the Office of Planning and Grants, the Commissioners approved Birch Subdivision for Lease or Rent, based on the findings of fact in the staff report, and subject to the following conditions:

1. The property owner shall file a document of record with Missoula County waiving the right to protest a future RSID/SID for upgrading of Butler Creek Road, including installation of pedestrian walkways, based on benefit, which may be used in lieu of signatures 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. Such document shall be filed prior to final plan filing.
2. The property owner shall file a document of record with Missoula County waiving the right to protest a future RSID/SID for public water and sewer systems, based on benefit, which may be used in lieu of signatures on an RSID/SID petition. The lot owner shall connect to public sewer within 180 days of when the public sewer main is available to the property. 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. Such document shall be filed prior to final plan filing.
3. A development agreement shall be filed, subject to County Attorney approval, that states that the driveway and culvert shall meet the requirements of Missoula County Subdivision Regulations and the Missoula Rural Fire District. The development agreement shall be filed prior to plan filing. A written letter of approval from the Missoula Rural Fire District stating that the driveway and culvert meet its requirements shall be submitted prior to issuance of a building permit.
4. A Riparian Management Plan shall be developed for the property, subject to OPG approval, prior to plan filing.

**TUESDAY, JUNE 30, 1998**

The Board of County Commissioners met in regular session; all three members were present. In the forenoon, Commissioner Evans participated in the groundbreaking ceremony for the new Missoula County High School Stadium.

Indemnity Bond -- Chairman Evans examined, approved, and ordered filed an Indemnity Bond naming Carol Ferrie as principal for Warrant #25027757 issued 4/7/98 on the Missoula County SD #40 Claims Fund in the amount of \$300.00 now unable to be found.

ADMINISTRATIVE MEETING

At the Administrative Meeting held in the forenoon, the following items were signed:

Resolution - The Commissioners signed Resolution No. 98-053, a resolution creating Rural Special Improvement District #8839, for fire hydrant maintenance for Southpointe Subdivision, Phase III, Missoula County, Montana.

Grant Agreement - Chairman Evans signed a 1997 Supportive Housing Program Renewal Grant Agreement with the United States Department of Housing and Urban Development, a three-year renewal of funding for three units of the YWCA Transitional Housing Program. HUD's total fund obligation is \$105,940.00. The Agreement was returned to Leslie McClintock in OPG for further signatures and handling.

Notice of Hearing - Chairman Evans signed a Notice of Hearing for a proposed motor vehicle wrecking facility license for Thomas F. Collins, Collins Auto Recycling and Sales, 9919 Garrymore Lane, Missoula, MT. The hearing is scheduled for Wednesday, July 8, 1998 at 1:30 pm in Room 201 of the Missoula County Courthouse.

Release and Request to Waive Interest - Chairman Evans signed a Release and Request to Waive Interest on the Social Security Assessment. The Release was forwarded to the Public Employees Retirement Division, Department of Administration, Helena, MT.

Contract - The Commissioners signed a Contract with Norm Jones Contracting to perform work to repair flood damage at the Raser Drive railroad crossing and vicinity roadway. Compensation shall be \$1,992.00. Agreement will commence on June 30, 1998 and be completed before July 10, 1998.

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