

MISSOULA COUNTY COMMISSIONERS' JOURNAL: JULY, 2011

BCC = BOARD OF COUNTY COMMISSIONERS

JC = Commissioner Jean Curtiss, Chair

BC = Commissioner Bill Carey

ML = Commissioner Michele Landquist

The following Claims Lists were signed during the month of JUNE 2011:

Date Signed	Claims List Date	Who signed	Amount
July 5, 2011	July 5, 2011	JC, ML	\$7,963.28
			\$536.11
July 7, 2011	July 6, 2011	BCC	\$359.25
			\$1,519.10
July 8, 2011	July 7, 2011	JC, BC	\$1,875.13
			\$718.80
			\$73.89
July 8, 2011	July 8, 2011	JC, BC	\$15,796.97
			\$16,523.50
			\$3,967.00
July 8, 2011	July 8, 2011	JC, BC	\$1,763.04
			\$600.00
			\$2,861.81
July 11, 2011	July 8, 2011	BCC	\$178.00
			\$172.07
			\$20,030.00
July 12, 2011	July 11, 2011	BCC	\$11,688.61
			\$16,648.56
			\$236,161.74
July 13, 2011	July 13, 2011	BCC	\$21,970.15
			\$104,966.00
			\$1,017.69
July 14, 2011	July 7, 2011	JC, BC	\$160,861.22
			\$361,092.94
			\$22,239.11
July 14, 2011	July 13, 2011	BC, ML	\$407.04
			\$1,327,187.55
			\$547.72
July 18, 2011	July 13, 2011	BC, ML	\$40,912.03
			\$2,687.06
			\$68,810.57
July 18, 2011	July 15, 2011	BC, ML	\$124,590.60
			\$68,892.15
			\$61,782.04
July 19, 2011	July 11, 2011	BC, ML	\$27,014.62
			\$8,317.76
			\$49,700.26
July 19, 2011	July 18, 2011	BC, ML	\$34,419.40
			\$366.63
			\$12,144.08
July 20, 2011	July 19, 2011	BC, ML	\$1,562.86
			\$1,775.16
			\$5,435.24
			\$95,805.38
			\$104,397.18
			\$38,424.74
			\$10,628.59
			\$503.47
			\$7,655.60
			\$770.00
July 20, 2011	July 20, 2011	BC, ML	\$419.25
			\$64,749.55

July 21, 2011	July 21, 2011	BC,ML	\$1,229.65
July 22, 2011	July 21, 2011	BC,ML	\$190.08
			\$24,777.28
			\$1,728.64
			\$113,343.23
			\$2,725.00
			\$110.00
			\$221.13
			\$15,977.67
July 25, 2011	July 25, 2011	BCC	\$97.94
			\$19,739.46
			\$282.82
			\$1,781.12
			\$8,876.89
			\$8,540.93
July 26, 2011	July 19, 2011	BCC	\$56,452.15
	July 25, 2011	BCC	\$6,805.59
July 27, 2011	July 25, 2011	BCC	\$28,059.46
			\$3,000.00
			\$1,409.07
July 27, 2011	July 26, 2011	BCC	\$2,475.00
			\$9,665.22
			\$435,156.06
			\$499,144.58
			\$115,477.22
July 27, 2011	July 27, 2011	BCC	\$25,529.86
			\$1,445.00
			\$11,438.97
			\$12,334.15
			\$9,297.71
			\$45,842.09
July 28, 2011	July 27, 2011	BCC	\$11,495.92
			\$41,297.56
			\$5,884.91
			\$3,160.00
			\$9,750.61
July 28, 2011	July 26, 2011	BCC	\$25,517.46
	July 28, 2011	BCC	\$7,125.61
July 28, 2011	July 28, 2011	BCC	\$2,875.02
			\$32,596.14
			\$1,916.35
			\$2,100.91
July 28, 2011	July 28, 2011	BCC	\$37,348.70
			\$4,824.99

All Claims Lists were returned to the Accounting Department.

FRIDAY, JULY 1, 2011

BCC did not meet in regular session. BC on vacation through Tuesday, July 5th; ML out of office all day.

Monthly Report - JC examined/approved/ordered filed the Monthly Reconciliation Report for Justice Court 2, Karen A. Orzech, Justice of the Peace, for month ending June 30, 2011.

Monthly Report - JC examined/approved/ordered filed the Monthly Reconciliation Report for Justice Court 1, John E. Odlin, Justice of the Peace, for month ending June 30, 2011.

Monthly Report - JC examined/approved/ordered filed Monthly Reconciliation Report for Clerk of District Court, Shirley E. Faust, for month ending June 30, 2011.

Vickie M. Zeier
 Vickie M. Zeier
 Clerk & Recorder

Jean Curtiss
 Jean Curtiss, Chair
 BCC

MONDAY, JULY 4, 2011

COURTHOUSE IS CLOSED FOR THE INDEPENDENCE DAY HOLIDAY

TUESDAY, JULY 5, 2011

BCC met in regular session; quorum present. BC on vacation through this date.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) OPG Director's Update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Community Council communications; 3) RI Director's Update.

ADMINISTRATIVE MEETING

Resolution No. 2011-080 – BCC signed, dated July 5, 2011. Adopting Missoula County Human Resource Policies and Addenda (as amended), superseding all other Personnel Policies and Amendment.

Resolution No. 2011-079 – BCC signed, dated July 5, 2011. Budget Amendment for Auditor depicting revenues/expenditures for Veterans Burial Allowance overage in amount of \$6,880. For total disclosure, expenditures included in formal FY11 Operating Budget/Revenue Estimates for County.

Resolution No. 2011-078 – BCC signed, dated July 5, 2011. Approving Missoula County DUI Task Force Plan and Amendment for SFY2012.

Letter – JC signed (along with Mayor Engen and UofM President Royce Engstrom), dated June 27, 2011. To Kim Latrielle, CEO/Missoula Area Chamber of Commerce, stating that "State of Missoula" messages will now be given in a public forum independent from/instead of the Chamber's annual luncheon. Mr. Engstrom/UofM will now participate in this forum. Original to Melani Coyle/City for further signatures/handling.

Additional discussion item(s): Repair work on pathway.

WEDNESDAY, JULY 6, 2011

BCC met in regular session; all three present.

CHIEF ADMINISTRATIVE OFFICER MEETING

Encroachment Agreement – BCC signed, dated June 20, 2011 between Spearhead LLC, Missoula Winery LLC (of Lot 1, MDP-Phase 3C) and County (Airport Industrial District) for the Winery's continued use of a portion of Historic La Londe Ranch for the existing bocce ball court (which is encroaching on County property).

Additional discussion item(s): Flood update/EOP: Public Works to offer clean up assistance; NW Energy will be contacted re: gas lines; Public Meeting will be scheduled.

NO PUBLIC MEETING HELD THIS DATE

THURSDAY, JULY 7, 2011

BCC met in regular session; all three present. Late morning: BCC took tour of new Warehouse Facility.

ADMINISTRATIVE MEETING

Change Order – JC signed, dated July 7, 2011. Authorizes Facilities Manager to approve Change Order #9 with Sirius Construction for new ducting to first floor HVAC system in Administration Building to bring up to current code/improve efficiency. Amount: \$24,640 (included in 2012 budget). Original to Larry Farnes/Facilities Management for further signatures/handling.

Amendment – BCC signed, dated July 7, 2011. To Missoula County Employee Benefits Plan – PPACA Claims and Appeals Compliance Amendment.

Board Appointment – Due to recent resignation, BCC appointed Jessie Fischer as a new Regular member of the County Parks Board to fulfill an unexpired term to June 30, 2014.

Grant Award – JC signed Sub-Grant Award for County Sheriff's Office/Western Regional Juvenile Detention Grant from MT BOCC (#1-L05-91068) which helps counties in Western region with detention costs. Amount/\$277,052 (+ \$273,357.97 local matching). Original to Gary Elliott/ Sheriff's Dept.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated July 6, 2011. Amount/\$25,512.86. To County Auditor.

Additional discussion item(s): Orchard Homes Neighborhood Meeting.

FRIDAY, JULY 8, 2011

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BCC met in regular session; all three present. Afternoon: BCC held meeting with Clinton Rural Fire Dept.

Vickie M. Zeier
Vickie M. Zeier
Clerk & Recorder

Jean Curtiss
Jean Curtiss, Chair
BCC

MONDAY, JULY 11, 2011

BCC met in regular session; all three present. Evening: ML attended meeting of Bonner Community Council, held at Bonner School.

Plat – BCC signed. Owner-Donald A. Calder, Jr. Mountain Acres No. 2, Lot 8, located in the SW¼ of Section 36, T 13 N, R 18 W, PMM, Missoula County. Total gross area: 86,338 sq. ft. Improvements Agreement/Guarantee – Outstanding improvements relate to mobilization/subgrade prep/gravel/geotextile fabric. Completion date/prior to August 2011. Estimated costs/\$3,625; guaranteed by deposit of check to Missoula County.

Plat – BCC signed. Owner-Lloyd A. Twite Family Partnership. Linda Vista Twelfth Supplement Subdivision (to be known as Miller Creek View Addition), located in the N½ of Section 13, T 12 N, R 20 W, PMM, Missoula County. Total area: 23.54 acres. Improvements Agreement/Guarantee – Relates to street and sewer improvements. Completion on or before June 3, 2012. Estimated costs/\$634,824.62; guaranteed by irrevocable trust indenture issued on behalf of Lloyd A. Twite Family Partnership in amount of \$793,531.00.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) Homestead Vista Subdivision/Phasing Plan (*info*); 3) Junkermier Shoreline Permit (*action*); 4) OPG Director's Update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Community Council communications; 3) Boehmier Open Space Bond Project; 4) Subdivision Regulation Revisions; 5) RI Director's Update.

Shoreline Permit – JC signed. #11-06 for Applicant William Junkermier to replace existing, damaged dock at 8198 Lindbergh Lake Road (Diamond Bar L Ranch Tract 3-Lot 72). Original to Mitch Doherty/OPG.

Letter – BCC signed, dated July 11, 2011. To Stephen Ruguleiski, c/o Sheriff's Department, congratulating him on his retirement/thanking him for his many years of service to the County.

TUESDAY, JULY 12, 2011

BCC met in regular session; all three present.

Indemnity Bond – JC signed. Conoco Phillips Fleet Services, Carol Stream, IL, Principal for Frenchtown School District #40 Warrant #25053665, issued May 11, 2011 on Claims Fund. Amount/\$9,150.53 (for gas/diesel purchases). Warrant lost.

ADMINISTRATIVE MEETING

Contract – BCC signed, dated July 6, 2011. Between County and Cedar Mountain Software, Inc. for reconstruction of Missoula In Motion website. Amount/\$12,700. Term/July 1-September 9, 2011. Original/copy/PDF to Alex Stokman/MIM.

Resolution No. 2011-082 - JC signed, dated July 12, 2011. Reimbursement Resolution qualifying Boehmier Open Space Bond Project (City Portion of \$13,840) for funding through 2006 Open Space Bond. Copy to Nancy Heil/RI.

Easements – BCC signed following permanent road easements/temporary construction easements for Petty Creek Road Project #MT PFH 71-1(1):

- 1) Parcel 044 – Robert/Judith Esta Anderson (\$11,900);
- 2) Parcel 046 – Robert/Judith Esta Anderson (\$7,000);
- 3) Parcel 047 – Mitchell Hicks/Kay Johnston (\$17,400).

Originals to Steve Niday/Surveyors.

Additional discussion item(s): 1) Library Feasibility Study and Campaign; 2) Letter request for DHS/FEMA State/Local Funding; BCC declined to sign/endorse.

WEDNESDAY, JULY 13, 2011

BCC met in regular session; all three present. Evening: BCC, City officials, State & Federal Reps, et al met with residents affected by 2011 Flood.

CHIEF ADMINISTRATIVE OFFICER MEETING

Agency Agreement – BCC signed, dated July 13, 2011. Between County (PHC) and United Way of Missoula County setting forth terms of relationship between them for 2011-2012 (July 1, 2011-June 30, 2012). Three originals to Brenda Lynch/PHC for further signatures/handling.

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Employee Contracts – BCC signed. Between County and following for employment by PHC. Terms/July 1, 2011-June 30, 2013 (all effective 6/26/11) – unless otherwise noted:

- 1) Liz Rolle (Dental Hygienist) – Term/July 1, 2011-June 13, 2012. Salary/\$33.31 hourly (up to 6 hrs per week).
- 2) Scott Murray (Physician Assistant “PA”) - Term/July 1, 2011-January 15, 2012. Annual salary/\$81,200 (40 hrs/week).
- 3) Kevin Chin (Physician) - Annual Salary/\$140,000.
- 4) Lorraine Rowe-Conlan (Pharmacist) - Term/July 1, 2011-June 13, 2012. \$47 per hour.
- 5) Cory Adams (Clinical Pharmacist) – Annual salary/\$102,000.
- 6) Anna Burham (Dental Hygienist) - Term/July 1, 2011-June 13, 2012. Salary/\$31.20 hourly (11 hrs per week).
- 7) Vicki San Souci (Dental Hygienist) - Salary/\$36.67 hourly (23 hrs per week).
- 8) Dana Boylan (Behavioral Health Services Clinical Supervisor) - Annual salary/\$54,000.
- 9) N. Nelle Cotten (Physician) - Annual salary/\$140,000.
- 10) Ken Bogart (PA) - Salary/\$42.50 per hr.

Three originals to Kim Mansch/PHC for further signatures/handling.

Resolution No. 2011-083 – BCC signed, dated July 13, 2011. From U.S. Forest Service accepting easement conveyance of a portion of Larch Camp Loop Road and formally recognizing this road. [See 7/14/11 Journal entry].

Request for Records Disposal/Transfer Authorization – JC signed. From Nursing. 2 boxes: OPC Medicaid Claims (7/1/02-6/30/03) and OPC files (1/1/01-12/31/02). To Records.

Letter – BCC signed, dated July 13, 2011. To Chair/Executive Director of Missoula Redevelopment Agency, thanking them and laying out County's Records Center Warehouse Project for consideration/participation by MRA. [Letter revised/signed again on 7/14/11].

Additional discussion item(s): Milltown land acquisition (info only).

PUBLIC MEETING – JULY 13, 2011

1. CALL TO ORDER

Commissioners Present: Acting Chair Commissioner Bill Carey, Commissioner Michele Landquist
Commissioner Absent: Chair Commissioner Jean Curtiss

Staff Present: James McCubbin, Deputy County Attorney

2. PLEDGE OF ALLEGIANCE

3. PUBLIC COMMENT: None

4. ROUTINE ADMINISTRATIVE ACTIONS AND PUBLIC ANNOUNCEMENTS

- a. Weekly Claims List (\$1,441,490.34)

Executive Session

Commissioner Landquist made motion that the Board of County Commissioners approve the Weekly Claims List in the amount of \$1,441,490.34. Acting Chair Commissioner Carey seconded the motion. The motion carried a vote of 2-0.

- b. Public Announcements

Proclamation: Norman Moeller Volunteer Day, July 14, 2011.

5. HEARING (Certificate of Survey)

Ibey-Cuddeback (Dolly) Family Transfer

James McCubbin read the staff report and asked Ms. Dolly Ibey-Cuddeback the standard Family Transfer questions.

Executive Session

Commissioner Landquist made motion that the Board of County Commissioners approve the request by Dolly Ibey-Cuddeback to create one (1) additional parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Acting Chair Carey seconded the motion. The motion carried a vote of 2-0.

6. OTHER BUSINESS: None.

7. RECESS

THURSDAY, JULY 14, 2011

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BCC met in regular session; all three present in the morning. JC on vacation in the afternoon through Monday, July 25th. Evening: BC attended retirement party for Greg Oliver.

ADMINISTRATIVE MEETING

Consent to Representation – BCC and Vickie Zeier/Clerk & Recorder signed July 14, 2011. Granting informed consent to representation for County Attorney's Office to provide legal defense in case of *Robert M. Braach & Dawn Braach vs. Vickie Zeier, Missoula County Clerk and Recorder, DV-11-830*. Though defense of this case may raise a potential conflict of interest, County Attorney's Office can satisfy professional responsibilities to exercise independent professional judgment for each client and fulfill its professional duties to both. Original to James McCubbin/County Attorney.

Easement – BCC signed following permanent road easement for Upper Miller Creek Road Project #5899: Parcel 01 – Ronald/Carrie Brunell (\$18,650). Original to Steve Niday/Surveyors.

Easements – BCC signed following permanent road easements/temporary construction easements for Petty Creek Road Project #MT PFH 71-1(1):

- 1) Parcel 036 – Dwayne Heikes, LLC (\$14,150);
- 2) Parcel 037 – Dwayne Heikes, LLC (\$4,700);
- 3) Parcel 038 – Dwayne Heikes, LLC (\$4,350);
- 4) Parcel 039 – Dwayne Heikes, LLC (\$5,500);
- 5) Parcel 040 – Dwayne Heikes, LLC (\$10,250).

Originals to Steve Niday/Surveyors.

Contract – BCC signed, dated July 12, 2011. Between County and Camp Well Drilling to drill well for roundabout and median landscaping irrigation at Missoula Development Park/Roadway ROW adjacent to Lithia. Term/July 13-July 30, 2011. Amount/\$2,930 (lowest bid received). One original to Barb Martens/Projects.

Request – BCC approved submission/JC signed 2011 State CDBG/Economic Development Program/MT DOC Planning Grant Application on behalf of The Emergent Institute to develop a new company to manufacture affordable wheelchairs. Amount requested/\$25,000. County also asks State to waive match requirement in light of County's recent level of assistance to TEI. Original to Cindy Wulfekuhle/OPG.

Amendment – JC signed, dated July 14, 2011. Reimbursable Agreement (#DTFH70-10-E-00036) Amendment #4 to contract between County and FHWA for Petty Creek Road project. Extends termination date from June 20, 2011 to June 30, 2012 to allow time to complete right-of-way acquisition process. Two originals to Greg Robertson/Public Works for further signatures/ handling.

Resolution No. 2011-084 – BCC signed, dated July 14, 2011. Amending previously adopted Resolution 2011-083 (signed July 13, 2011) to fix error incorrectly assigned #8498 as RSID number, and that Larch Camp Loop Road Dust Abatement District be referenced as RSID #8926.

Interlocal Agreement – BCC signed draft dated June 17, 2011. Between County and City of Missoula related to Mullan Road/Flynn Lane Intersection, and Flynn Lane Trail improvements. MDT has agreed to do design for signal. Original to Greg Robertson/Public Works for further signatures/handling.

Request – BCC appointed Bill Carey as Acting Chair while Jean Curtiss is on vacation July 14-25, 2011.

Letter – BCC signed, dated July 14, 2011. To Lee Bastian/Manager/Region #2 Dept. of FWP, Missoula, strongly supporting proposed action described in Draft Environmental Assessment for Milltown State Park Proposed Parcel Acquisitions (416 acres of former NW Energy property, 13.6 acres of Milltown Bluff land, and 35 acres known as Jacobs parcel).

Request for Records Disposal/Transfer Authorization – JC signed following from:

- 1) Clerk & Recorder: 11 boxes/Article of Incorporations (1/1/1901-4/29/1963). To be microfilmed.
 - 2) Motor Vehicles: 6 boxes/Computer (Long) Reports and MV Receipts (1/1/2006-3/11/2009).
 - 3) Treasurer: 16 boxes/Misc: Bank Statements/Distribution Reports/School Account Funds, etc. (7/1/2001-6/30/2009).
 - 4) Treasurer: 2 boxes/Bank Statements/Canceled checks (1/2/1946-2/6/2003).
- To Records.

Additional discussion item(s): # of Western MT Fair tickets needed for employees.

FRIDAY, JULY 15, 2011

BCC did not meet in regular session. ML out ill all day. Afternoon: BC presented retirement plaque to Gail Hanowell/Library. JC on vacation through Monday, July 25th.

Vickie M. Zeier
Vickie M. Zeier
Clerk & Recorder

Jean Curtiss
Jean Curtiss, Chair
BCC

MONDAY, JULY 18, 2011

BCC met in regular session; quorum present. JC on vacation through Monday, July 25th.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) Homestead Vista Subdivision/ Phasing Plan (*action*); 3) OPG Director's Update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) RI Director's Update.

Letter – BCC signed, dated July 19, 2011. To John Kellogg, PCI, Missoula, informing him that BCC partially conditionally approved phasing plan for Homestead Vista Subdivision (modifying requested phasing dates) subject to amended conditions of approval. Deadlines: Phase 1-December 15, 2012; Phase 2-December 15, 2014.

TUESDAY, JULY 19, 2011

BCC met in regular session; quorum present. JC on vacation through Monday, July 25th.

ADMINISTRATIVE MEETING

County Payroll Transmittal Sheet – BCC signed. Pay Period: 13/CY2011 - Pay Date/July 1, 2011. Total Payroll/\$1,273,108.97. To County Auditor.

Contract – BC signed. Between County Superintendent of Schools ("SOS") and Mineral County/ State of MT (the County) and Missoula County for services of the Missoula County SOS. Amount/\$3,300 for FY2012. Original to Erin Lipkind/SOS for further signatures/handling.

Contract Documents/Agreement – BC signed, dated July 19, 2011. Between County and Knife River Corporation for installation of roundabout at intersection of Airway/Expressway, and completion of landscaping within medians along Airway/Expressway. Amount/\$827,550.50 (lowest bid). Contract time defined therein. Four originals to Barb Martens/Projects.

Easements – BCC signed following permanent road easements for Upper Miller Creek Road Project #5899:

- 1) Parcel 03 – John/Katie Smith (\$200).
- 2) Parcel 04 – Lloyd A. Twite Family Partnership (\$3,400).

Originals to Steve Niday/Surveyors.

Easements – BCC signed following permanent road easements/temporary construction easements for Petty Creek Road Project #MT PFH 71-1(1):

- 1) Parcel 017 – Jason Barkell (amount not noted);
- 2) Parcel 042 – John/Linda Dretha Harris (amount not noted);
- 3) Parcel 045 – Ray/Shirley Boyer(\$2,500);
- 4) Parcel 068 – Dale/Bonny Kennedy (\$4,600);
- 5) Parcel 071 – Gary/Joyce Robbins (\$5,450).

Originals to Steve Niday/Surveyors.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated July 13, 2011. Amount/\$23,161.33. To County Auditor.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated July 19, 2011. Amount/\$21,602.42. To County Auditor.

Request for Records Disposal/Transfer Authorization – BC signed following from:

- 1) Judge Henson: 1 box/Court Notes (6/1/2000-2/28/2001).
- 2) Judge Harkin: 1 box/Court Notes (1/9/2001-6/19/2001).
- 3) Justice Court 1: 8 boxes/Misc: Civil/Criminal/Tickets, Month End Reports, Receipts, etc. (1/1/2001-6/30/2003).
- 4) Employee Benefits: 14 boxes/Claims Batch (Medical/Dental/RX), Health Insurance Enroll (7/1/2000-6/30/2003).

To Records.

Additional discussion item(s): 432/438 West Spruce Common Boundary Fence: Letter will be written approving fence.

WEDNESDAY, JULY 20, 2011

BCC met in regular session; quorum present in morning. ML out of office all afternoon. JC on vacation through Monday, July 25th.

CHIEF ADMINISTRATIVE OFFICER MEETING

Contract – BCC signed, dated July 18, 2011. Between County and Sire Technologies, Inc. to implement ECMS (Electronic Content Management System) for all County departments. Amount/\$396,376.20 Term/July 28, 2011-March 31, 2012. One original to Makeba Andrews/Records.

Reimbursable Agreement – BC signed. Contract #DTFH70-10-E-00036 between County and FHWA for Petty Creek Road project. Reimburses County for entire cost of prep/application of dust abatement product. [County has contract with WE Dust to honor per mile cost for this work.] Two originals to Greg Robertson/Public Works for further signatures/ handling.

Letter – BCC signed, dated July 20, 2011. To Lyn Hellegaard, Missoula Ravalli TMA, endorsing the I-Ride Vanpool Program fleet replacement/expansion projects proposed by MRTMA.

Additional discussion item(s): Public Works update.

Tax Abatement Requests – At meeting with Clerk & Recorder, BCC approved following letters dated July 21, 2011:

- 1) Approving request from James L. Thomas, Missoula, to refund motor vehicle taxes/fees paid for VIN #1FMYU04191KA73900. Vehicle was totaled in month registration was due.
- 2) Approving request from Lorena L. Renfro, Missoula, to refund motor vehicle taxes/fees paid for VIN #2HGEJ8541WH589207. Vehicle was totaled in month registration was due.
- 3) Denying request from Klavdiya Boyukanskaya, Rosen Assoc. Management Group, Jericho, NY, for refund of penalty/interest for Taxpayer IDs #1461308, 224606, 224904, 225008.
- 4) Denying request from Marsha Hoem, Missoula, to waive penalty/interest for Taxpayer ID #3954504.
- 5) Approving request from Gordon/Geraldine Hughes, Missoula, to waive penalty/interest for Taxpayer ID #3567107.
- 6) Approving request from Robert L. Brown, Missoula, to refund penalty/interest for Taxpayer ID #6001766.
- 7) Denying request from Neil Freeland, Enterprise Fleet Management, St. Louis, MO, to refund motor vehicle taxes/fees paid for vehicle #2379988.

NO PUBLIC MEETING HELD THIS DATE

THURSDAY, JULY 21, 2011

BCC met in regular session; quorum present. JC on vacation through Monday, July 25th. Afternoon: BC attended retirement party for Cheryl Dunn/PHC. Evening: ML attended Fair Planning Committee Meeting, held at Fairgrounds.

Indemnity Bond – BC signed. Hamilton Smith, Missoula, Principal for Friends of Missoula Public Library Warrant #202425, issued April 19, 2011. Amount/\$50 (for Writing Contest Prize). Warrant lost.

ADMINISTRATIVE MEETING

County Payroll Transmittal Sheet – BCC signed. Pay Period: 14/CY2011 - Pay Date/July 15, 2011. Total Payroll/\$1,352,851.78. To County Auditor.

Resolution No. 2011-081 – BC signed, dated July 21, 2011. Reimbursement Resolution relating to County Airport Tax Increment Industrial Infrastructure District; modifying boundaries to include certain parcels of land, and calling for public Hearings on August 10th and 31st.

Resolution No. 2011-085 – BC signed, dated July 21, 2011. Relating to Records Center renovation; providing ability for County to reimburse itself for this project (\$750,000) from future space needs bond issues.

Resolution No. 2011-086 – BC signed, dated July 21, 2011. Relating to Admin Building HVAC repairs; providing ability for County to reimburse itself for this project (\$40,000) from future space needs bond issues.

Resolution No. 2011-087 – BCC signed, dated July 21, 2011. Adopting FY12 Elected Officials' Pay Schedule. Increase includes 1) a 1.5% base increase (effective 6/26/11), and 2) a longevity increase of 1% of base rate (effective on anniversary date of elected official).

Request for Records Disposal/Transfer Authorization – BC signed; from Superintendent of Schools: 1 box/Bus Contracts/Fall Report/Tuition Closeout/TR-1. (7/1/2004-6/30/2006). To Records.

Additional discussion item(s): MUTD Bicycle Facilities Grant.

FRIDAY, JULY 22, 2011

BCC did not meet in regular session. ML out of office all day. JC on vacation through Monday, July 25th.

Request for Records Disposal/Transfer Authorization – BC signed. From Parker. 1 box: Court Notes (12/14/01-5/2/01) [sic]. To Records to be destroyed.

Vickie M. Zeier
Vickie M. Zeier
Clerk & Recorder

Jean Curtiss
Jean Curtiss, Chair
BCC

MONDAY, JULY 25, 2011

BCC met in regular session; quorum present. JC on vacation through this date.

Indemnity Bond – JC signed. Rehab Seminar, Port Townsend, WA Principal for Woodman School District #18 Warrant #11005238, issued April 4, 2011 on SD18 Claims Fund. Amount/\$435 (for SE Conference March 9-11, 2011). Warrant not received via US Mail.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) Bitterroot Ranch Subdivision (Phasing Plan creation)-action; 3) Canyon Gate Apartments (Rezone & Planned Variation); 4) OPG Director's Update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Conservation Easements; 3) Community Council communications.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated July 25, 2011. Amount/\$700.45. To County Auditor.

Request for Records Disposal/Transfer Authorization – JC signed. From Sheriff's Office. 1 box: Day Book Sheets (12/1/02-6/30/03). To Records to destroy.

TUESDAY, JULY 26, 2011

BCC met in regular session; quorum present. JC out all day at "No Adverse Impacts" Workshop, held in Post Falls, ID. Late afternoon: ML attended NorthWestern Energy Community Leaders Reception.

Certificate of Survey – BCC signed. Owners-Richard C., III/Heather M. Marcella (Tract A-1, COS 2471; 6.87 acres), Richard C./Mary Ellen Marcella (Tract B-1, COS 2471; 7.73 acres and Tract C-1, COS 2602; 5.27 acres). Showing Common Boundary Lines located in the NE¼ of Section 32, T 13 N, R 15 W, PMM, Missoula County.

ADMINISTRATIVE MEETING

Memorandum of Understanding – BCC signed, dated July 20, 2011. #GMS App. #H3516-MT-DJ between County and City of Missoula for ongoing Byrne Memorial Justice Assistance Grant for 2011. Amount/\$21,646 to County Sheriff's Office for part-time property clerk; \$46,901 to City for operation costs/tools and equipment. Two originals to Carl Ibsen/Sheriff for further signatures/ handling.

Road Inventory Forms – BCC signed following forms for completed subdivision improvements: 1) #2011-02: Green Bench Court/Green Bench Garden subdivision; 2) #2011-01: Iowa Avenue/East Missoula, Block 44 subdivision. Originals to Greg Robertson/Public Works.

Improvements Agreement/Guarantee – BCC resigned [from June 8th]. Date July 12, 2011 with Thomas/Jamie Phillips for Bridger Addition Subdivision. Exhibit "A" sets forth improvements to be completed no later than March 10, 2012 (relating to streets/erosion control/permits/signage). Estimated costs/\$28,300; guaranteed by Letter of Credit from First Security Bank in amount of \$38,205 (expires June 10, 2012). Original to Jeff Seaton.

Letter – BCC signed, dated July 26, 2011 to Michael Tree, Mountain Line, Missoula, supporting MUTD's application to Federal Transit Administration for funding through livability grant program. BCC also offers public space at Courthouse to serve as bike station for commuters.

Additional discussion item(s): Ronan Telephone Company presentation; BCC will invite.

WEDNESDAY, JULY 27, 2011

BCC met in regular session; all three present.

Plat – BCC signed. Owner-Estate of Ivah G. Schmitz. Diamond Bar 3 Minor Subdivision (3 lots of Tract B, White's Orchard Homes/Block 1/Lot 1, located in the SW¼ of Section 27, T 11 N, R 20 W, PMM, Missoula County. Total gross area: 80.16 acres. Improvements Agreement/Guarantee – Outstanding improvements relate to gate removal/fence modification/signs/gravel turnaround on West Carlton Creek Road. Completion on/before June 15, 2013. Estimated costs/\$10,437.50; guaranteed by Letter of Credit issued on behalf of Angela Lipski, PR for Estate of Ivah Schmitz, in favor of County from First Interstate Bank of Missoula.

CHIEF ADMINISTRATIVE OFFICER MEETING

Application – JC signed State of MT (DPHHS/Early Childhood Services Bureau) Grant Application (\$40,000) for Early Healthy Start Council (part of Missoula Forum for Children & Youth). Funds to be allocated in FY2012 budget. Originals to Peggy Seel/OPG.

2012 Budget – BCC reviewed, approved and/or denied 105 Enhancement Requests. Matrix available for review in BCC Office. Original to Andrew Czorny/CFO.

County Transportation Ballot – Dated July 26, 2011. JC voted/signed FOR approval of Lolo Elementary special education route changes (Lolo School District No. 7). Original to Superintendent of Schools.

Additional discussion item(s): FY2012 Budget – Preliminary Budget Hearing.

PUBLIC MEETING – JULY 27, 2011**1. CALL TO ORDER**

Commissioners Present: Commissioner (Chair) Jean Curtiss, Commissioner Bill Carey, Commissioner Michele Landquist

Staff Present: Marnie McClain, Deputy County Attorney, Greg Robertson, Director Public Works, Janet Rhodes, OPG

2. PLEDGE OF ALLEGIANCE**3. PUBLIC COMMENT**

Craig Ronzoni: Salmon Lake Resident, River Watch Subdivision. Prepared a letter with questions regarding the Seeley Lake Refuse District. Their Subdivision is about 3 miles from the transfer site and in the past years the assessment rurals have been paying and been using the site and now told we can't use the site any more, so I wanted to request that our subdivision be annexed in and allowed to use this site. I've already presented the letter to Commissioner Curtiss and asked that it be entered into the record. I was going to read it out but we'll give you time to review it on your own and get back to me so we're just asking to please consider helping us stay on there to where we can use the dump at the fees that they pay; the other county residents pay \$125 a year as compared to when I checked to see if I had to pay for it privately, they wanted nearly \$2,000 a year for my same garbage pickup. I'm 3 miles from the transfer site; Seeley Lake Residents are actually 7 miles from the site. I'm the one next to it and I can't use it. That's all I have.

Chair Curtiss: I understand that you can't stay for our meeting ~ we will be discussing the fees, did you want to make any comment about that?

Craig Ronzoni: I would. I've heard that they're proposing to increase the fees and I just want to say that I support that. As do some of my other residents down there and I will be staying to talk to you a little later on that. Thank you.

Ken Knie: I'm here to solicit your support on four items, they're in reference to the Grant Creek Glen Eagle in the north hills issue, if you'd be willing to help me with this, this would allow us to bring our 30 year journey on this property to an end. I know your working with Kirby on the RSID issue and if you would consider 3 other items, we could put this thing to bed and we could all get a good night sleep.

1. Conservation easement on most of the balance of the North Hills properties.
2. Senior Retirement Facility Zoning next to the Glen Eagle Subdivision
3. and a retraction on Mike Sehestedt's front page article.

1. The Conservation Easement, my family and I believe that this land belongs to the Elk primarily and then to the rest of the wildlife. Back in the mid 80's we had an agreement with the Rocky Mountain Elk Foundation to put the entire 600 acres into the conservation easement and the county stopped it at that time. They said they needed a large tax base for it. I've been talking with the Five Valley Land Trust, Rocky Mountain Elk and Fish Wildlife, Parks and they're all for this but we need your support in order to make it happen.

2. The Senior Retirement Facility Zoning next to the Glen Eagle Subdivision, this is something that has been a dream of mine since we bought the property and it would keep the densities all down to where the subdivision is and also the traffic to an absolute minimum.

3. That Missoula Article after we made a settlement agreement with the city on their de-annexation of the property they interviewed everybody that was involved in that lawsuit and Mike Sehestedt chose to say some pretty screwy things in that paper and I would really like to bring that thing to an end also, since he's gone it's pretty well come to a halt. I would like to bring that to an issue. That article was like a 9-1-1 to my life, my family's life and old Dester's life. It was like the twin tower business of the twin towers blew up.

4. The RSID. This would cap it off by giving this city and county the tax base that they stop the original conservation easement on, it would secure the elk, the winter range forever. It would allow everyone to get paid quicker, give my family their horse range and give me my retirement facility and it also put risk management, give them a good night's sleep.

4. ROUTINE ADMINISTRATIVE ACTIONS AND PUBLIC ANNOUNCEMENTS

a. Weekly Claims List (\$3,368,432.13)

Executive Session

Commissioner Landquist made motion that the Board of County Commissioner approve the Weekly Claims List in the amount of \$3,368,432.13. Commissioner Carey seconded the motion. The motion carried a vote of 3-0.

b. Public Announcements

Fair – August 9-14.

Tomorrow, Thursday at Paul's Pancake House, Make a Wish Fund Raiser all day Thursday, July 28th. Paul's Pancake House is donating a portion of their profits to Make-A-Wish.

5. BID AWARD (Public Works)

Highway 12 Bike/Ped Trail

Greg Robertson read the Staff Report.

Public Comment: None

Executive Session

Commissioner Carey made motion that the Board of County Commissioners approve the contract to Western Excavating in the amount of \$367,420.00 subject to concurrence by the Montana Department of Transportation. Commissioner Landquist second the motion. The motion carried a vote of 3-0.

6. HEARING

Canyon Gate Apartments Rezone & Planned Variation (44 attached units on 1.58 acres) East Missoula

Janet Rhodes PowerPoint Presentation

Janet Rhodes read the Staff Report

Jamie Hoffman, Architecture representing the owners of the Ole's Property. There are three in partnership; two are here today if you have any questions of them. Gave presentation.

Chair Curtiss: So you're not proposing to develop the lots across Michigan on that triangle?

A – No, rezoning doesn't apply to that area.

Chair Curtiss: asked about the rate for 1 bedroom apartments versus multi-family units.

A – There's a demand for 1 bedroom units. 1 bedroom units have the most stable population, less change over.

Chair Curtiss: The zoning that you're requesting has some commercial uses and could you talk a little bit about that?

A - Yes, they are in CR 3 there are some commercial uses allowed as conditional and special exceptions. Conditional uses administrative through the Office of Planning and Grants and some would have to come before the Board of Adjustments. They include professional offices and professional services, those commercial uses.

Greg Martinsen: The reason for no changes to the triangle portion is because there's currently in the works with Public Works and the Highway Department and the East Missoula Community Council; they're trying to put together a plan to clean up Hwy 200 so they decided to back off and wait to see what happens. In the respect that it may change the use of that property. Michigan Avenue may be vacated or relocated and changed.

Commissioner Landquist: So by clean up you mean ~ develop community, sense of travel, sense of place. I think we've been in on some of those discussions at the TPPC

Greg Martinsen: Yes. Sidewalks, curbs, landscaping, traffic control better.

Nina Cramer: A neighbor of this project. Come to support this project. Would like to see improvements to the neighborhood. Excited about the walkways and trees that will come with the project. I would like to say a public thank you to the developer.

Commissioner Landquist: They talked about landscaping. Other projects talked about landscaping and signage but it never happened, is there some type of bond requiring this to happen.

Janet Rhodes: Yes, There are some conditions. Condition #6 – Page 3 of the Plan Variations Staff Report. One of the things that you are allowed to do for the Zoning Resolution for a Planned Variance is to look a little more closely at landscaping. And so the landscaping plan is required and the condition requires the landscaping plans to be met and the requirement of 3.05. There's no final plat so it will be approved at Planning Board.

Executive Session

1. Commissioner Carey made motion that the Board of County Commissioners approve the request to rezone the property legally described as "all of Lots 5-8" and the northeasterly 9 feet of Lot 9 and southeasterly 57 feet of Lots 16 & 17 and northeasterly 101/2 feet of Lot 17 and all of Lots 18-26 of Block 19 of East Missoula Addition located in Section 24 of Township 13 North, Range 19 West from CC 2 general commercial to CR 3 residential 36 dwelling units per acre be approved based on the Findings of Fact in the Staff Report. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

2. Commissioner Carey made motion that the Board of County Commissioners approve that the Canyon Gate Apartments Planned Variation be approved, based on the Findings of Fact and subject to the conditions of approval in the Staff Report, as amended by the Planning Board. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

Commissioner Landquist: I would like to go on record and say it looked like a really nice project and I wish the owners and neighborhood well on it and appreciate your willingness to work with the plans that have been in place....the comp plans, the growth plans even those that are out of date and look at the 'what-ifs'. I think it's going to be overall, a nice addition to East Missoula as they continue to maybe have a resurgence of growth there.

Chair Curtiss: The Budget Hearing will continue at 3:00.

7. **OTHER BUSINESS:** None

8. **RECESS:** There being no further business to come before the Board, the Commissioners were in recess at 2:16 pm.

PRELIMINARY BUDGET HEARING held same afternoon [not recorded].

THURSDAY, JULY 28, 2011

BCC met in regular session; all three present.

ADMINISTRATIVE MEETING

Letter – BCC signed, dated August 1, 2011. To Dennis Schneider/MSB Investments, LLP, conditionally approving phasing plan for Bitterroot Ranch Subdivision (contingent on matters relating to Weed Management Plan. Final plat deadlines are: Phase 1: 2/23/16; Phase 2: 2/23/19; Phase 3: 2/23/22; Phase 4: 2/23/25.

Letter – BCC signed, dated July 28, 2011. To Phyllis/Richard Tag, approving request to create new parcel by use of family transfer exemption for property for COS 862 and Portion A of COS 4651.

Resolution No. 2011-088 – JC signed, dated July 28, 2011. [Revising Resolution No. 2011-081]. Relating to County Airport Tax Increment Financing Industrial District; modifying boundaries to include certain parcels of land (per Exhibits A-D). Public Hearings to be held on August 10th and 31st, 2011.

Contract – BCC signed, dated July 12, 2011. Between County and UrbanTrans Consultants, Inc. to develop suggested scope of work for use in request for proposals to evaluate the TDM programs/services. Amount/\$4,000. Term/July 1-October 31, 2011. One original to Mirtha Becerra/OPG.

MOU – BCC signed, dated July 28, 2011. Between County and Mountain Line (MUTD) for limited fixed route services in conjunction with County events (specifically, to provide paratransit to and return from Western MT Fair at no cost to eligible passengers). Amount/\$8,000 to MUTD. Term/August 9-13, 2011. Two originals to Steve Earle/Fair for further signatures/handling.

Contract – BCC signed, dated July 28, 2011. Between County and High Tech Audio for provision of sound/stage/lighting for Mission Mountain Wood Band (2011 Western MT Fair Concert Night Show). Amount/\$4,850. Term/August 13-14, 2011. Two originals to Steve Earle/Fair for further signatures/handling.

Easements – BCC signed following permanent road easements/temporary construction easements for Petty Creek Road Project #MT PFH 71-1(1):

- 1) Parcel 024 – Cooper Family Trust (\$11,555);
- 2) Parcel 035 – Dwayne Heikes, LLC (\$2,875);
- 3) Parcel 064 – Erika Burleigh (\$2,000);
- 4) Parcel 079 – C. Vernon/Kathryn Raye Cahall (\$1,150).

Originals to Steve Niday/Surveyors.

Easement – BCC signed following permanent road easement for Upper Miller Creek Road Project #5899: Parcel 02 – B. Neal/Carol Ann Maier (\$18,850). Original to Steve Niday/Surveyors.

Additional discussion item(s): 1) Missoula Chamber Governmental Affairs Staff Job description; 2) Cancel August meeting w/BCC/Mayor/City & County CAO's; will resume in September.

FRIDAY, JULY 29, 2011

BCC met in regular session; quorum present. ML out of the office all day.


Vickie M. Zeier
Clerk & Recorder


Jean Curtiss, Chair
BCC

MISSOULA COUNTY COMMISSIONERS' JOURNAL: AUGUST, 2011

BCC = BOARD OF COUNTY COMMISSIONERS

JC = Commissioner Jean Curtiss, Chair

BC = Commissioner Bill Carey

ML = Commissioner Michele Landquist

The following Claims Lists were signed during the month of JUNE 2011:

Date Signed	Claims List Date	Who signed	Amount
August 1, 2011	July 28, 2011	BCC	\$1,500.00
			\$29,676.55
			\$3,800.00
			\$3,506.67
			\$277.08
August 1, 2011	August 1, 2011	BCC	\$366.82
			\$4,811.10
			\$938.70
			\$1,729.05
			\$2,104.25
			\$12,441.20
			\$295,251.32
			\$25,191.13
\$258.61			
August 1, 2011	July 28, 2011	BCC	\$2,735.28
August 2, 2011	August 1, 2011	BCC	\$42,561.00
			\$8,958.79
August 2, 2011	August 2, 2011	BCC	\$2,950.00
			\$684.86
			\$27,528.02
			\$13,482.12
			\$5,432.95
			\$14,613.14
			\$880.70
			\$2,122.75
			\$21,920.36
			\$48,107.40
August 3, 2011	August 2, 2011	BCC	\$559.96
			\$2,260.00
			\$2,203.91
			\$40.00
			\$773.17
August 4, 2011	August 3, 2011	BCC	\$3,693.94
			\$10,014.96
			\$6,473.48
			\$3,802.00
			\$27,434.81
August 4, 2011	August 4, 2011	BCC	\$106,617.60
August 5, 2011	August 4, 2011	BCC	\$1,363.80
			\$1,017.96
			\$2,645.94
			\$7,547.44
			\$3,862.19
August 8, 2011	August 4, 2011	BCC	\$108.71
			\$202.92
			\$17,057.11
August 10, 2011	August 4, 2011	BCC	\$5,880.73

August 10, 2011	August 9, 2011	BCC	\$1,053.76
			\$25,704.37
			\$22,298.19
			\$8,618.20
			\$91,544.33
			\$2,011.20
			\$2,352.76
			\$27,300.31
			\$1,269.54
			\$0
August 11, 2011	August 10, 2011	JC, BC	\$195.41
			\$37,836.28
			\$57,460.06
			\$6,557.82
			\$7,421.00
			\$13,503.00
August 11, 2011	August 11, 2011	JC, BC	\$1,000.00
			\$414.00
August 12, 2011	August 11, 2011	JC, BC	\$8,488.72
			\$9,085.99
			\$7,308.62
			\$50.73
			\$2,143.85
			\$696.94
August 15, 2011	August 12, 2011	BCC	\$582.06
			\$2,379.99
			\$6,003.03
			\$9,024.98
			\$27,075.04
			\$7,486.00
			\$6,934.99
			\$9,196.00
			\$741.95
			\$1,190.00
			\$8,170.02
August 16, 2011	August 15, 2011	BCC	\$119,499.86
			\$17,549.24
			\$12,500.00
			\$1,106,634.76
			\$19,376.03
			\$5,522.75
			\$58,045.05
\$3,399.33			
August 16, 2011	August 16, 2011	BCC	\$177,160.13
			\$15,584.00
			\$1,208.48
			\$84,737.89
August 17, 2011	August 16, 2011	BCC	\$2,715.58
			\$1,427.00
			\$350,787.22
			\$13,903.36
August 17, 2011	August 17, 2011	BCC	\$60,749.27
			\$149.26
			\$10,201.00

August 19, 2011	August 17, 2011	BCC	\$7,081.48			
			\$16,453.49			
			\$12,102.68			
			\$96.00			
			\$48.35			
			\$545.73			
			\$144.30			
			\$5,422.88			
			\$40,837.66			
			\$4,195.00			
			August 19, 2011	August 18, 2011	BC, ML	\$5,486.50
\$41,642.58						
\$28,617.96						
\$9,846.23						
\$15,454.03						
\$28,059.85						
\$7,596.35						
\$1,042.90						
\$5,540.84						
August 23, 2011	August 22, 2011	BCC				\$497.79
						\$276.79
			\$7,281.29			
			\$397.48			
			\$8,520.71			
			\$30,471.56			
			\$34,090.37			
			\$52,269.17			
			\$11,280.00			
			\$3,311.54			
			\$1,534.93			
August 23, 2011	August 23, 2011	JC, ML	\$33.82			
		BCC	\$95,986.00			
		BC, ML	\$117.00			
		JC, ML	\$33.00			
August 24, 2011	August 23, 2011	BCC	\$50,338.86			
			\$21,235.16			
			\$12,943.07			
			\$47,745.33			
			\$3,229.80			
			\$44,558.75			
August 24, 2011	August 24, 2011	BCC	\$19,400.36			
			\$1,845.05			
			\$80.59			
			\$3,039.88			
			\$1,107.20			
			\$44.00			
			\$694.00			
			\$26,891.89			
			\$1,150.80			
			August 25, 2011	August 24, 2011	BCC	\$10,458.00
August 25, 2011	August 17, 2011	BCC	\$29.98			
August 25, 2011	August 25, 2011	BCC	\$23,100.73			
			\$50,009.52			
August 26, 2011	August 25, 2011	BCC	\$54.24			
			\$502.00			
			\$1,399.08			
			\$408.11			
			\$17,131.73			
			\$9,616.62			
			\$1,224.14			
			\$1,108.36			
\$818.00						

August 26, 2011	August 26, 2011	JC, BC	\$12,011.85
August 30, 2011	August 29, 2011	JC, BC	\$433.52
			\$2,651.17
August 30, 2011	August 25, 2011	JC, BC	\$1,533.05
August 30, 2011	August 29, 2011	JC, BC	\$8,608.06
			\$1,185.97
			\$630.00
			\$8,830.30
			\$292.00
			\$236,958.17
			\$3,071.40
			\$26,823.50
			\$933.18
			\$3,813.22
August 30, 2011	August 30, 2011	BCC	\$3,365.71
			\$5,265.88
			\$55,849.69
			\$20,500.00
			\$1,937.77
August 31, 2011	August 31, 2011	JC, BC	\$123.96
			\$707.60
			\$455.56
			\$3,804.25

All Claims Lists were returned to the Accounting Department.

MONDAY, AUGUST 1, 2011

BCC met in regular session; all three were present.

Monthly Report - JC examined/approved/ordered filed the Monthly Reconciliation Report for Justice Court 2, Karen A. Orzech, Justice of the Peace, for month ending July 31, 2011.

Planning Status Meeting - BCC/OPG Staff. Agenda: 1) Public Comment; 2) Sann Shoreline Permit; 3) Gallatin Estates Subdivision (Extension Request Appeal); 4) NAI (No Adverse Impact) Floodplain discussion; 5) OPG Director's update.

Rural Initiatives Update - BCC/RI Staff. Agenda: 1) Public Comment; 2) County Building/ownership & maintenance; 3) HR 2584; 4) Communications; 5) RI Director's update.

Shoreline Permit - JC signed. #12-01 for Applicants Steve Sann/Greg Lane to install dock at 44458 Elbow Lake Road (Tract 2A/COS #6245), Elbow Lake. Original to Mitch Doherty/OPG.

Letter - BCC signed, dated August 4, 2011 to Dean Crofts, Florence, MT, denying a one-year extension of preliminary plat approval deadline for Gallatin Estates Subdivision (due to missed deadline for extension). BCC is considering amending subdivision regulations to establish review process for hardship cases.

Memorandum of Agreement - JC signed, dated May 30, 2011. Between County Parks Board and Mount Jumbo West Little League for Capital Matching Fund Program/Spring FY11 grant money for completion of dugouts/bleachers. Amount/\$1,000. Funds must be spent by May 30, 2013. Two originals to Lisa Moisey/Parks. [Approved at May 25, 2011 meeting].

TUESDAY, AUGUST 2, 2011

BCC met in regular session; all three were present.

Replacement Warrant - JC signed. Susan Dickey, Missoula, Principal for MCPS Warrant #212954, issued June 27, 2011 on MCPS Payroll Fund. Amount/\$631.43 (for wages). Warrant not received in mail; no bond of indemnity required.

Replacement Warrant - JC signed. Thomas J. Adams, Missoula, Principal for MCPS Warrant #212858, issued June 24, 2011 on MCPS Payroll Fund. Amount/\$163.84 (for wages). Warrant not received in mail; no bond of indemnity required.

ADMINISTRATIVE MEETING

Annual Task Order - JC signed. #12-07-3-31-011-0 to County Unified Gov't Master Contract for period July 1, 2005-June 30, 2012 between Missoula City-County Health Dept. ("MCCHD") and MT DPHHS (for MT Tobacco Use Prevention Program). Amount/\$91,928 for FY2012. Three originals to Julie Mohr/MCCHD for further signatures/handling.

Task Order – JC signed. #12-07-5-21-085-0 to City-County Unified Gov't Master Contract for period July 1, 2005-June 30, 2012 between MCCHD and MT DPHHS (for WIC Program). Amount/\$1,900 for FY2012 (nutrition education and coupons for WIC participants to redeem at Farmer's Market). Three originals to Julie Mohr/MCCHD for further signatures/handling.

Task Order – JC signed. #12-07-3-01-098-0 to County Master Contract for period July 1, 2011-June 30, 2012 between MCCHD and MT DPHHS (for MT Nutrition and Physical Activity Program). Amount/\$15,000 for FY2012 (Community Breastfeeding Promotion). Three originals to Julie Mohr/MCCHD for further signatures/handling.

MOU and Agreement – JC signed. Between County (MCCHD's Be Your Best Diabetes Prevention Program) and Missoula Family YMCA. Clarifies dimensions of mutually beneficial cross referral process. Two originals to Julie Mohr/MCCHD for further signatures/handling.

Memorandum of Agreement – JC signed. Between County (MCCHD) and St. Patrick Hospital for CATCH (Coordinated Approach to Child Health) Program (delivery of training/curriculum/UM student intern). Amount to SPH/\$29,876. Term/July 1, 2011-June 30th 2012. Two originals to Julie Mohr/MCCHD for further signatures/handling.

Change Order – JC signed. #1 to contract between County and Knife River for Airway/Expressway roundabout and median landscaping. Change Order includes: 1) adding turf sod, gravel pad for well drilling, and storm manhole; 2) removing yards of unsuitable material in medians/replacing with reclaimed asphalt; 3) deleting two items; 4) changes to catch basin; and 5) Adding \$2,695 to original contract; new total amount/\$826,545.50. Original to Barb Martens/Projects.

Right-of-Way Certification Letter – BCC signed, dated August 2, 2011. To Greg Gifford/Project Manager, FHA, Vancouver, WA, certifying that Missoula County has obtained legal/physical possession of/right to enter all lands necessary to complete #MT PFH 70-1(1) Petty Creek Road project within defined project limits for Option 1 Schedule. Original to Steve Niday/Surveyors.

Contract – JC signed. #11-07-4-51-104-0 between MCCHD and MT DPHHS for HIV Medical Case Management Services. Term/July 1, 2011-March 31, 2012. Amount/up to \$36,000. Three originals to Julie Mohr/MCCHD for further signatures/handling.

Request for Records Disposal/Transfer Authorization – JC signed. From Financial Services. 21 boxes: Claims FY03 (7/1/2002-6/30/2003). To Records to be destroyed.

Additional discussion item(s): Space needs.

WEDNESDAY, AUGUST 3, 2011

BCC met in regular session; all three were present. Noon: JC attended Missoula Indian Center Open House. Late afternoon: JC attended McDonald's (East Broadway) Grand Re-Opening.

Monthly Report - JC examined/approved/ordered filed the Monthly Reconciliation Report for Justice Court 1, John E. Odlin, Justice of the Peace, for month ending July 31, 2011.

Monthly Report - JC examined/approved/ordered filed Monthly Reconciliation Report for Clerk of District Court, Shirley E. Faust, for month ending July 31, 2011.

CHIEF ADMINISTRATIVE OFFICER MEETING

Letter – BCC signed, dated August 3, 2011. To Janice Ritter/FHA/Vancouver, WA. Right-of-Way Certification letter for MT PLH 2002(1) Upper Miller Creek Road Reconstruction Project, stating ROW has been acquired in accordance with current FHWA directives covering acquisition of real property (four parcels/total amount: \$41,100). Original to Amy Rose/Public Works.

Resolution No. 2011-089 – BCC signed, dated August 3, 2011. Resolution of Intent to rezone property legally described as all of Lots 5-8, and NE 9 feet of Lot 9, and SE 57 feet of Lots 16-17, and NE 10.5 feet of Lot 17, and all of Lots 18-26 of Block 19, East Missoula Addition, located in Section 24, T 13 N, R 19 W, PMM, from C-C2 (General Commercial) to C-R3 (Residential) Zoning District. Hearing held July 28, 2011.

Request for Records Disposal/Transfer Authorization – JC signed. From Justice Court 2. 2 boxes: OPC Civil JP (9/12/2000-10/2/2000) and Tickets JP2 (10/20/2000-2/26/2001). To Records to be destroyed.

Additional discussion item(s): Ronan Telephone Co. Broadband Grant Project.

NO PUBLIC MEETING HELD ON THIS DATE

THURSDAY, AUGUST 4, 2011

BCC met in regular session; all three were present. BCC attended 8th Annual Partnership and Tourism Awards Luncheon, held at DoubleTree.

ADMINISTRATIVE MEETING

County Payroll Transmittal Sheet – BCC signed. Pay Period: 15/CY2011 - Pay Date/July 29, 2011. Total Payroll/\$1,313,511.52. To County Auditor.

Contract – BCC signed, dated July 29, 2011. Between County and Missoula Art Museum to engage artists/audiences in creative exploration of contemporary art relevant to our community/state/region. Amount/\$195,000 for FY2012. One original to Jean Harte/OPG.

Agreement – BCC signed. Between County and MCCHD and MCPS for continued participation by Registered Dietician in providing care to nutritionally at-risk students. No fiscal impact to County. Term/August 29, 2011-June 8, 2012. Three originals to Julie Mohr/MCCHD.

Agreement – JC signed. Task Order #12-07-5-01-032-0 to County Master Contract for period July 1, 2005-June 30, 2012 between MCCHD and MT DPHHS (for Maternal/Child Health). Amount/\$131,412. Term/July 1, 2011-June 30, 2012. Three originals to Julie Mohr/MCCHD for further signatures/handling.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated August 3, 2011. Amount/\$61,612.33. To County Auditor.

Resolution No. 2011-090 – BCC signed, dated August 4, 2011. Setting Assessments for Seeley Lake Refuse District (approved at July 27, 2011 Preliminary Budget Hearing).

Additional discussion item(s): Housing cooperatives (to discuss again in October).

FRIDAY, AUGUST 5, 2011

BCC met in regular session; quorum present. ML out of the office all day.

Letter – BCC signed, dated August 4, 2011 to Bud Wilson, Missoula, reiterating the fact that BCC does not have legal authority to make any changes to his taxes for years prior to 2009. BCC suggested he contact the Property Tax Assessment Office in Helena. He must also complete personal property inventory form for the DOR.

Letter – BCC signed, dated August 4, 2011 to Will Deschamps, Missoula, re: his letter concurring with concerns raised by Patty Lovaas in the past Mill Levy election. BCC invited Mr. Deschamps to attend a meeting with Ms. Lovaas on August 22nd.


Vickie M. Zeier
Clerk & Recorder


Jean Curtiss, Chair
BCC

MONDAY, AUGUST 8, 2011

BCC met in regular session; quorum present. JC at MEP Board Retreat all day. BC/ML in meetings all afternoon re: Knie Bankruptcy.

Planning Status Meeting – BCC/OPG Staff. (CANCELED)

Rural Initiatives Update – BCC/RI Staff. (CANCELED)

TUESDAY, AUGUST 9, 2011

BCC met in regular session; quorum present. ML out of the office most of the week at Western MT Fair. Early afternoon: BCC judged exhibits at the Fair.

ADMINISTRATIVE MEETING

Contract – BCC signed, dated July 27, 2011. Between MCCHD and Chem-Safe Environmental, Inc. for Household Hazardous Waste Collection/Conditionally Exempt Small Quantity Generator Waste Collection events September 16-17, 2011. Term/September 15-October 31, 2011. Amount/approx. \$22,490. Two originals to Julie Mohr/MCCHD.

Contract – JC signed. #512023 between MCCHD and MT DEQ for purpose of delegating to County the authority to review certain water supply/wastewater/solid waste/stormwater systems in subdivisions in compliance with Sanitation in Subdivisions Act and MT Water Quality Act, etc. Amount/\$7,000-\$10,000. Term/July 1, 2011-June 30, 2013. Two originals to Julie Mohr/MCCHD.

Modification – JC signed. #4 to contract between MCCHD and MT DEQ for public water supply inspections/testing by County for 1st half of FY 2012. Extends contract term to December 31, 2011 and adds additional amount of up to \$24,055. Two originals to Julie Mohr/MCCHD.

Request – BCC approved 2011 P.L. 110-343 Elections a/k/a Secure Rural Schools and Community Self Determination Act. Funding will be distributed same as 2010 (85% Title I, 8% Title II and 7% Title III). Forms to be submitted on behalf of County to State of MT. To Chris Lounsbury/ES.

Contract – BCC signed. Between County Territorial Landworks, Inc. for services related to improvements to Mullan Road/Flynn Lane corridor (bike/ped pathway and crossing improvements). Term/August 9, 2011-September 30, 2012. Amount/\$15,000. Two originals to Jeff Seaton/PW.

JUL 11 11:04 AM PAGE 0441

Change Order – BCC signed. #1 to contract between County and GeoNAV for land-based LIDAR Project. Change Order: 1) Adds automated sign mapping/associated conversion costs; 2) Extends contract to September 30, 2011; 3) Changes total cost from \$50,278 to \$58,943. Two originals to Julie Mohr/MCCHD. Two originals to Jeff Seaton/PW for further signatures/handling.

County 2012 Budget Enhancement Request – BCC approved. For Public Works to purchase used 8,000 lb capacity forklift. Amount/\$48,000. Two originals to Jeff Seaton/PW.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated August 4, 2011. Amount/\$22,165.22. To County Auditor.

Request for Records Disposal/Transfer Authorization – JC signed following from:

- 1) Accounting: 1 box/Journal Vouchers (12/1/2000-10/31/2001). To be destroyed.
- 2) Financial Services: 4 boxes/Journal Vouchers/Reimbursements/Warrants (3/1/2003-6/30/2003). To be destroyed.
- 3) Accounting: 24 boxes/Misc: Claims/Journal Vouchers/Reimbursements/Warrants, etc. (7/1/2000-6/30/2001). To be destroyed.
- 4) Accounting: 33 boxes/Claims/Vouchers/Reimbursements/Warrants (7/1/2001-6/30/2002). To be destroyed.

To Records.

Letter – BCC signed, dated August 9, 2011 to Karyl Tobel, Big Sky Economic Development Trust Fund, MT DOC, Helena, fully supporting Blue Marble Biomaterial's application for BSEDTF Category II Planning grant.

Letter – BCC signed, dated August 9, 2011, To Whom It May Concern, supporting telecommunications fiber optic infrastructure project known as "Montana West", and commending Ronan Telephone Company for qualifying to participate in "Broadband Technology Opportunity Program."

Additional discussion item(s): Blue Marble Biomaterials (info).

WEDNESDAY, AUGUST 10, 2011

BCC met in regular session; quorum present. ML out of the office most of the week at Western MT Fair.

Indemnity Bond – JC signed. Ed's Creek Water Co., Missoula, Principal for Public Works Warrant #30205422, issued June 13, 2011 on County 2110-501-430230-932 Fund. Amount/\$43,820 (for irrigation system for parcels 037-047). Warrant lost.

CHIEF ADMINISTRATIVE OFFICER MEETING

Employee Contract – BCC signed. Between County and Joseph Byington, DMD, for professional services at PHC. Term/July 1, 2011-June 30, 2013 (effective June 26, 2011). Salary/\$125,000 yearly or \$60.90 hourly. Three originals to PHC for further signatures/handling.

Contract – BCC signed, dated August 2, 2011. Between County (Weed District) and Mountain Valley Plant Management for continuation of Clearwater River Yellowflag Iris Eradication Project. Amount/\$2,326. Term/August 22-September 16, 2011. Two originals to Bill Otten/Weed District.

Request for Records Disposal/Transfer Authorization – JC signed. From Accounting. 2 books: Journal Vouchers 1968-1987. To Records to be destroyed.

Letter – BCC signed, dated August 10, 2011. To Ellen Buchanan/Director, Missoula Redevelopment Agency, thanking her and MRA for generous contribution of tax increment financing dollars to County's Records Center Warehouse project.

Additional discussion item(s): Update of Fees proposal.

PUBLIC MEETING – AUGUST 10, 2011

1. CALL TO ORDER

Commissioners Present: Commissioner (Chair) Jean Curtiss, Commissioner Bill Carey
Commissioners Absent: Commissioner Michele Landquist

Staff Present: James McCubbin, Deputy County Attorney, Greg Robertson, Director of Public Works, Barb Martens, Development Park Manager, Denise Alexander, OPG, Steve Hutchings, Public Works

2. PLEDGE OF ALLEGIANCE

3. PUBLIC COMMENT

Fair Week

4. ROUTINE ADMINISTRATIVE ACTIONS AND PUBLIC ANNOUNCEMENTS

- a. Weekly Claims List (\$2,157,678.32)

Executive Session

Commissioner Carey made motion that the Board of County Commissioners approve the Weekly Claims List in the amount of \$2,157,678.32. Chair Curtiss second the motion. The motion carried a vote of 2-0.

- b. Public Announcements
This is Fair Week

5. **HEARING (Certificate of Survey)**
Russell (Ronald) Family Transfer

James McCubbin read the Staff Report and asked Sylvia Russell the basic subdivision questions. After submission of the application, Ronald Russell passed away.

Chair Curtiss: The request for Commission Action lists Morman Creek Road and I think it's off of Valley Grove.

James McCubbin: The application identifies the location as 7020 Morman Creek Road. You are right it is in the Valley Grove area. We'll have Mr. Martinsen clarify that.

Chair Curtiss: They live on Morman Creek Road and they own this other parcel.

James McCubbin: I apologize for that but the project location on the Request for Commission Action (RCA) is incorrect.

Chair Curtiss: So the project is Tract A-1 of COS 5440

Public Comment: None

Executive Session

Commissioner Carey made motion that the Board of County Commissioners approve the request by Ronald Russell to create three (3) additional parcels by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Chair Curtiss second the motion. The motion carried a vote of 2-0.

6. **HEARING (first of two hearings)**

Modify Boundaries of the Missoula City Airport Industrial Tax Increment Financing District (2nd Hearing: August 31, 2011). Barb Martens read the Staff Report.

Chair Curtiss: Barbara could you address ~ there will be some zoning changes needed then in the future, is that what we do?

Barb Martens: There will be. Currently the land where the expansion is proposed is zoned light industrial and then residential. And I believe the airport is going to talk about that more but they will need to go through that zoning process.

Airport Personnel:

Brian, Deputy Director Missoula Airport: The basic for us is when we approached the County the main thing was that we discovered that through land acquisitions we were always in the Tiff District and it just made sense to us to make sure that the Tiff District actual does near our boarder, so that's where the conversation started. I'm just here to answer any questions and Elaine will go over your Findings and Facts for you.

Elaine Hawk, Planned Use Land Consulting: The property consists of a contiguous area within the accurately described boundary and this is just listing out the Statue requirements of 715-299. The property is not entirely zoned for light or heavy industrial use at this time, the airport is in the process of rezoning the property. The property does not include any property within any other special districts. The property is deficient in infrastructure improvements or industrial development and the property has as its purpose the development of infrastructure to encourage the growth and retention of secondary value adding industries. Now to readdress the rezoning issue as Barb mentioned, there are I believe three districts and one of them is industrial. At this time we will be following through with the Missoula Airport Plan for growth and development and preparing a Missoula Business Park District, similar to the Development Park District. So we have started that process and are moving forward with that plan.

Recessed – Continue August 31st.

7. **HEARINGS**

a. **Update Land Use Fees for Services Rendered by the Missoula Office of Planning and Grants**

Denise Alexander, Office of Planning & Grants: Presentation on the background of the recommend Land Use Fee Amendment that was requested.

James McCubbin: I'd like to just add a little bit of clarification and it's probably primarily schematics. To the extent that you're making a decision on fee schedules based on decisions to subsidize private activities, I don't agree that that's in your...within your discretion or your ability to do. I say it's largely schematics because I do agree with Denise's report that on these kinds of fees it is within your discretion to determine what part of cost of processing and application is really for the benefit of the particular applicant versus other economic benefit to the community as a whole. So like on the 50% bases, if you determine that 50% of the benefit of that applicant is going to the applicant but 50% is

really benefiting the community at large, then you can charge a 50% of cost fee. But what you can't do is essentially...well subsidize, local government, general powers, local governments in Montana don't have the ability to decide to spend tax payer money to subsidize private projects. So that's just one slight clarification, I was trying to look up the exact statute on fees but basically your fees have to be based on the cost of the services that are basically benefiting an individual.

Public Comment:

Amy Fisher, Realtor Association: We do have a government affairs committee and we did discuss it this week. In general the feeling was that we didn't want to come here and say what didn't like about it and be all opposed because I think there are good suggestions in here. The biggest issue that the committee felt was that we just weren't given an adequate time to comment. First we heard of this was in an email from Denise, came out 3:00 on a Friday on the 29th saying fax in your comments if you have any. The report is long, the survey that you did is like 243 pages and I have to admit I stopped reading on about page 10. There are people on our committee that would like to offer suggestions; they do feel like the development industry could be a tremendous resource to OPG and to the County Commissioners in offering suggestions. We feel like we have shared goals here, we all want to see the County make a revenue and meet its budget. We all want to see affordable housing and rather than sort of being isolated from that conversation, which is how the committee feels, is that it's sort of put out there, it's a done deal and what's the use of even commenting because the wasn't a collaboration to begin with. If it's possible, they wanted me to come today and just express our desire if this vote could be put off and not made today so that there was more time to comment. I'm not a land use person and I won't pretend to be but there are people that would like to make suggestions and they just feel like they weren't given an adequate opportunity.

Chair Curtiss: Some of the fees are going down. We had some discussion about accessory structures that don't require a building permit, so those would be...the two that we've talked about the most are sheds that are 120 square feet so a 10x12 shed or smaller and decks that are 30 inches or less in height so they don't require a permit either. So we talked about whether somebody in unzoned area because if you're in a zoned area there could be other things, like setbacks and things that could apply. If you're in an unzoned area that those two would not require the land use compliance...its either land use or zoning compliance. We've talked about not charging a fee for those two items because if you have 5 acres you should be able to put your shed wherever you want. We hope you don't put it on your septic system, however. If we decide not to make a decision today but to give it a second time for hearing we could send out the additional language that we were considering for that, right? Steve, do you think that would be helpful in your department if those two items that didn't require a permit didn't also require the land use compliance permit?

Steve Hutchings: Yes.

Chair Curtiss: And your staff easily will be able to say; it's a shed, it's small, you don't need it?

Steve Hutchings: Yes.

Chair Curtiss: So we probably need to clarify storage buildings.

Steve Hutchings: [inaudible]

Chair Curtiss: Structures that do not require a permit; If you're in an unzoned area you don't need a permit for buildings that are 120 sq. ft. or less in floor area, agricultural buildings, and detached decks/structures less than 30" in height.

Steve Hutchings: Buildings that are more than one story high do require a permit.

Recessed – Continue August 31st.

b. Amend Missoula County Building and Electrical Permit Fee Schedule

Greg Robertson read the background.

Chair Curtiss: It's important to mention that in both OPG and Public Works in response to the slow-down in the subdivisions and building that we've had staff reductions so in OPG for example in 2006 we had 6.5 FTE that worked on subdivision and zoning, 7 in permits. Now we have 3 in subdivision and 5 in permits, so that's 5 1/2 less. In Public Works we had 6 inspectors, now we have 3. I think that it's probably a good idea to continue this Hearing also to next week. It will be good to use Rural Initiatives email list to send out a second notice and maybe we could do a press release or something to let people know that they should look these over and give them links to the websites.

James McCubbin: Can we just clarify, you said next week, so this will be continued August 31st.

Chair Curtiss: August 31st, yes.

Recessed – Continue August 31st.

8. OTHER BUSINESS

Joe Jensen: Target Range resident near the McClay Bridge. I'm coming in to ask, suggest that that area get some attention. It's a really popular place for people during the summer, which is great but it's definitely getting really hammered with use. Would recommend Porta-Potties and a dumpster. Beer cans and such get throw in the bushes. Parking is a problem off Edwards, after 3:00 you're not allowed to park there, there's a sign that designates that whole street no parking from 3:00pm-6:00am

during the summer months. The problem...two problems ~ the sign is behind a tree and so people don't see it. There's a lot of people that park there and then show up after floating the river and their car's gone, they're frustrated, they don't know what's going on. Plus, on North going to the bridge, that last block before the bridge and then the block after the bridge, the no parking signs have been ripped off. The whole thing needs a lot of attention. It seems a little extreme to tow. If they ticketed instead it would probably pay for the porta-pottie and dumpster, not sure if it works that way.

Chair Curtiss: The tickets would probably end up in the bushes with everything else. An article in the Missoulian today said that people who get a big fine and have to get it out of impound, pay attention.

Joe Jensen: There's 18-20 year olds that drink down there so you probably don't want to take a family there.

Chair Curtiss: Just so you know, that is a regular route of the Deputies in the summer.

Joe Jensen: I have called it in and they told me they don't actually address Edwards unless people call in. If the people parking there weren't leaving garbage and urinating in people's yards then it wouldn't be a big deal. I'm all for people using it, it's a great place for people to hang out. It just needs to be taken care of. Is it realistic to get a dumpster down there for a few months a year?

Chair Curtiss: I don't think we have a public right-a-way to put any of that stuff or a budget to pay for it. We worked with Fish, Wildlife & Parks to do something at Kona Bridge but we had the land there.

Joe Jensen: What about...there's that big shoulder on the left as you're going across the bridge, that's not a big enough right-a-way to put something?

Chair Curtiss: I don't know. Apparently Greg's gonna have to go put up new signs so we'll have him look.

Greg Robertson: Sheriff is satisfied with signage and the way it's being managed. Not designated as a recreation site. Residents shouldn't have to put up with the mess and people that come through there. No easy answer on how to handle McClay law enforcement. The problem with this site and others is that these are not designated recreational sites and they become that way and so there's inadequate infrastructure to really manage properly those sites. A lot of those recreation areas that they need to be developed as such and they're really not. I don't have an easy answer.

Joe Jensen: Surprised that the Sheriff is satisfied with signage, the sign is behind a willow tree, not noticeable.

Greg Robertson: We can remove the limbs and check that out.

Chair Curtiss: So Greg you can go check out the signs in relation to the no parking areas?

Greg Robertson: Yes. Limits for no parking signs needs to be revisited.

9. RECESS

There being no further business to come before the Board, the Commissioners were in recess at 2:20.

Tax Abatement Requests – At meeting with Clerk & Recorder, BCC approved following letters dated August 11, 2011:

- 1) Approving request from John Roberts, Santa Barbara, CA, for refund of renewal fees paid for Vehicle #1716969 (contingent on proof of sale of 1998 Jeep).
- 2) Approving request from Maria Ramos, Missoula, for refund of renewal fees paid for Vehicle #2058269 (contingent on proof of sale of 1998 Dodge Intrepid).
- 3) Approving request from Daniel Bennett, Missoula, for refund for Vehicle #2231785.
- 4) Upholding previous decision to deny request from Klavdiya Boyukanskaya, Rosen Assoc. Management Group, Jericho, NY, for refund of penalty/interest for Taxpayer IDs #1461308, 224606, 224904, 225008, as MT Law does not allow a grace period for tax payments.
- 5) Approving request from Shannon Tonn/River of Lif Ministries, Missoula, for refund for Vehicle #1998145.
- 6) Denying request from Nancy Bartlett, Seeley Lake, MT, for refund for Seeley Lake Refuse fees ("SLRF") paid both on mobile home/real estate tax bills (Tax IDs #2152306 and 90021850). County did not bill her twice for these fees (2010 mobile home taxes did not include SLRF; 2011 mobile home tax bill does include SLRF).
- 7) Approving request from Deborah Bissell, Clinton, to delete tax bills 2006-2011 for Taxpayer ID #90429651, as mobile home doesn't exist.
- 8) Approving request from Daniel Bennett, Missoula, for refund for Vehicle #2230423.
- 9) Approving request from Thomas Adams, Missoula, for refund for VIN #2CNBJ18U6N6927209. Vehicle was totaled in month registration was due.
- 10) Approving request from Daniel Bennett, Missoula, for refund for Vehicle #1891139.

THURSDAY, AUGUST 11, 2011

BCC met in regular session; quorum present. ML out of the office most of the week at Western MT Fair.

Plat – BCC signed amended plat of Kellie Acres Lots 1A/1B (in order to file boundary line relocation). BCC signatures required due to removal of Conditional. Public Access Easement (made 10/11/05).

Amended Plat – BCC signed. Owners: Lot 34A (Roy/Suzanne Johnson); Lot 1 (Troy/Jodie Rasmussen). Kellie Acres, Lots 1A and 18, located in the SW¼ of Section 25, T 13 N, R 20 W, PMM, Missoula County. Total area/5.77 acres (net).

ADMINISTRATIVE MEETING

Contract – BCC signed, dated August 9, 2011. Between County and CKM Carpentry to extract/ crate/transport eight Edgar Paxson murals to secure storage; and replace ultraviolet membrane on main window in County Courthouse. Amount/\$13,500 (from \$65,000 granted by HB 645). Term/August 14-September 23, 2011. One original to Philip Maechling/OPG.

Contract Documents – BCC signed. Between County and Western Excavating to construct Lolo Highway 12 Bike-Ped Path (Federal Aid Project MDT STPE 32(62)). Amount/\$367,420 (lowest bid). Term/August 15-November 15, 2011. Five originals to Jeff Seaton/Public Works for further signatures/handling.

Close-out Certification Forms – JC signed. Provides unspent amount for SHP Continuum of Care grants: 1) for 2010 YWCA Gateway Program (\$14,241.85); and 2) 2009 SHARE House Program (\$47,995.63). Funds do not have to be returned. Three originals to Melissa Gordon/OPG.

Letter – BCC signed, dated August 11, 2011 to WGM Group, Inc./Dennis Williams, Missoula, conditionally approving Running W Ranch Subdivision Phasing Plan. Final plat submittal deadline/Phase 111 is extended to December 15, 2011 (subject to conditions of approval set forth therein). Ultimate final plat submittal deadlines are: Phase 1–FILED; Phase 2–FILED; Phase 3–May 31, 2014 (Phases 4–11 set forth therein).

Report Card on MUSAP – [See Journal entry September 1, 2011].

Additional discussion item(s): 1) Flood mitigation briefing; 2) Emergent Wheels Planning Grant Application Letter (signed August 15, 2011).

FRIDAY, AUGUST 12, 2011

BCC met in regular session; quorum present. ML out of the office most of the week at Western MT Fair. Early afternoon: ML participated in Rodeo Royalty Coronation, held at Midway Stage, Fairgrounds.


Vickie M. Zeier
Clerk & Recorder


Jean Curtiss, Chair
BCC

MONDAY, AUGUST 15, 2011

BCC met in regular session in early morning only. BCC traveled to Seeley Lake to attend Rural Land Managers MOU Meeting; returned to Missoula early evening.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) Garnet View Lots Phasing Plan Creation (*action*); 3) Clearwater Junction Subdivision Phasing Plan Amendment (*action*); 4) OPG Director's Update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Current projects; 3) Communications.

Letter – BCC signed, dated August 15, 2011 to Nathan Smith, Potomac, MT, conditionally approving Garnet View Lots Subdivision Phasing Plan. Final plat submittal deadline/Phase 1 is extended to December 15, 2011 (subject to conditions of approval set forth therein). Ultimate final plat submittal deadlines are: Phase 1–April 9, 2016; and Phase 2–April 9, 2018.

Letter – BCC signed, dated August 15, 2011 to Nathan Smith, Potomac, MT, conditionally approving Clearwater Junction Subdivision Phasing Plan. Final plat submittal deadline/Phase 1 is extended to December 15, 2011 (subject to conditions of approval set forth therein). Ultimate final plat submittal deadlines are: Phase 1–July 11, 2012; Phase 2–July 11, 2014; and Phase 3–July 11, 2016.

Letter – BCC signed, dated August 11, 2011 to Nancy Guccione/CDBG-ED Program/MT DOC/Helena, submitting application for Economic Development Planning grant funding for The Emergent Institute to prepare business plan for production of new/innovative/affordable wheel chairs. BCC also seeks waiver of match requirement for project. Original to Cindy Wulfekuhle/OPG.

Letter – BCC signed, dated September 1, 2011 to Missoula County Parents, setting forth effective parenting techniques re: risks of underage drinking. Original to Peggy Seel/OPG.

TUESDAY, AUGUST 16, 2011

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BCC met in regular session; all three present. Afternoon: BCC held meeting re: Flood Mitigation Grant Funding Application Process.

ADMINISTRATIVE MEETING – No Agenda items.

Discussion item(s): Employment Contract and related items.

WEDNESDAY, AUGUST 17, 2011

BCC met in regular session; all three present.

CHIEF ADMINISTRATIVE OFFICER MEETING

Plan Adoption – Per recommendation of County Fairgrounds Advisory Committee, BCC approved/adopted The Missoula County Fairgrounds Enhancement and Development Plan (EDP) for FY2012-2016. To Steve Earle/Fair.

Letter – BCC signed, dated August 17, 2011 to Century Link, Kalispell, stating Missoula and Lake Counties have determined citizens would be better served by routing their 9-1-1 calls through Missoula County's PSAP. BCC requests that calls originating from 754 prefix be routed to Missoula County 9-1-1 Service, effective September 15, 2011.

Additional discussion item(s): 1) Public Works Dept. update; 2) Administrative Building furniture.

NO PUBLIC MEETING HELD THIS DATE

THURSDAY, AUGUST 18, 2011

BCC met in regular session; all three present. Late morning: BCC met with Clem Work and visiting Myanmar journalists.

Replacement Warrant - JC signed. Sara Opsahl, Missoula, Principal for Sheriff/Detention Warrant #60-032582, issued June 1, 2011 on 2308-000-510360-495 Fund. Amount/\$42.46 (for release/commissary fund account). Warrant not received in mail; no bond of indemnity required.

ADMINISTRATIVE MEETING

County Payroll Transmittal Sheet – BCC signed. Pay Period: 16/CY2011 - Pay Date/August 12, 2011. Total Payroll/\$1,271,838.57. To County Auditor.

Bylaws – BCC approved/signed revisions to Open Lands Citizens Advisory Committee By-Laws. Revisions help clarify group's role/responsibilities as advisory body. Three originals to Laurie Hire/RI.

Agreement – BCC signed, dated August 18, 2011. Between County (PHC) and MetWest, Inc. (d.b.a. Quest Diagnostics) for lab/pathology testing services at PHC. Term/March 1, 2011-February 28, 2011. Payment set forth on Exhibit A. Four originals PHC for further signatures/handling.

Letter – BCC signed, dated August 18, 2011 to Jim Morton/HRC, Missoula, thanking him for info re: 2012/2013 Community Services Block Grant Work Plan and Budget. BCC supports and commends HRC for work they do on behalf of those who need assistance.

Letter – BCC signed, dated August 18, 2011 to Jim Morton/HRC, Missoula, acknowledging meeting with him on August 18, 2011 and concurring with allocations made by his agency from the Emergency Shelter Grants Program for FY2012. BCC appreciates ongoing good communication with them.

Additional discussion item(s): None.

FRIDAY, AUGUST 19, 2011

BCC met in regular session; all three present.

Vickie M. Zeier
Vickie M. Zeier
Clerk & Recorder

Jean Curtiss
Jean Curtiss, Chair
BCC

MONDAY, AUGUST 22, 2011

BCC met in regular session; all three present. Evening: JC attended Seeley Lake Refuse District Meeting, held in Seeley Lake.

Shoreline Permit – JC signed. #12-03 for Applicant Patrick Elliott to install dock at 826 Placid View Place (Lot 9 of Placid Lake South Shore Tracts-Phase 7). Original to Mitch Doherty/OPG.

Shoreline Permit – JC signed. #12-04 for Applicant John Bennett/Dunlap Cabin, LLC to modify dock and install satellite dish at 7095 North Placid Lake Road (Lot 1 of Beavertail Villa Site Lots 1-6) – subject to removal of fire pit and all treated lumber within 20 feet of shoreline. Original to Mitch Doherty/OPG.

Shoreline Permit – JC signed. #12-05 for Applicant William Cory to install submersible pump at 7328 Lindbergh Lake Road (Lot 38 of Diamond Bar L Ranch Lake Shore Tract). Original to Mitch Doherty/OPG.

Shoreline Permit – JC signed. #12-02 for Applicant John Bateman (for Julie Gardner) to replace dock at 816 Access Road (Lot 6 of Mark Addition to Big Sky Lake Estates). Original to Mitch Doherty/OPG.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated August 19, 2011. Amount/\$57,076.62. To County Auditor.

TUESDAY, AUGUST 23, 2011

BCC met in regular session. Late morning: BCC met with OVW Grant Manager re: Sustainability. Evening: BC/JC attended Historical Museum's Annual Volunteer Appreciation Picnic.

ADMINISTRATIVE MEETING

Contracts – JC signed following contracts between County and DEQ for continued funding of City-County Air Pollution Control Program for term to June 30, 2012 (and retroactively covered to July 1, 2011). :

- 1) #512005 (per Attachment A for FY 2012): State Funds (\$50,277) and Pass-Through Federal Funds (\$48,055) for total of \$98,332.
- 2) #512006 (per Attachment A for FY 2012 – County Title V Permit Services): Total of \$2,000 State Funds.

Two originals to Julie Mohr/MCCHD

Easements – ML signed following Public Utility Easements (water only) related to re-location of water main for Summit Housing Group's Lolo Vista Apartments ("LVA"):

- 1) Dated August 11, 2011 between LVA and Lolo Sewer/Water District RSID #901 for Parcels A & B/ COS #2441; and
- 2) Dated August 17, 2011 between JFJ Properties, SGL Properties, and Lolo Sewer/Water District RSID #901 for Tract 2/COS #5520.

Letter – BCC signed, dated August 23, 2011. To Doug Moeller/MDOT, Missoula. Evaro-Finley-O'Keefe Community Council requests two speed studies, as follows: segments of US Highway 93 between MM 6.0 and the Flathead Reservation Boundary, and MM 9.0 and 10.0 in the vicinity of the Grey Wolf Casino. Council also requests copy of accident history for this area.

Letter – BCC signed, dated August 23, 2011. To Tim Reardon/MDOT, Helena, regarding strained relationship between the County and MDOT. With recent change in leadership at MDOT, BCC wishes to discuss ways to develop a positive/proactive environment that can be mutually enjoyed. BCC requests a meeting with Mr. Reardon, Doug Moeller, and any immediate staff they deem appropriate. BCC is willing to travel to Helena.

Additional discussion item(s): Wildland Fires/Potential Emergency Proclamation (signed August 24th).

WEDNESDAY, AUGUST 24, 2011

BCC met in regular session; all three present.

CHIEF ADMINISTRATIVE OFFICER MEETING

Resolution No. 2011-091 – BCC signed, dated August 23, 2011. Declaring an emergency in Missoula County effective August 23, 2011 due to wildland fire burning in West Riverside area.

Subaward Agreement – JC signed. Between MCCHD and National Assoc. of County/City Health Officials ("NACCHO") for Grant #2011-071903 for Obesity Assessment of Special Education Children/Adolescents with Disabilities. Amount/\$10,000. Term/July 1, 2011-May 31, 2012. Three originals to Julie Mohr/MCCHD

Agreement – JC signed. Task Order 12-07-5-21-014-0 to City-County Unified Government Master Contract period of July 1, 2005-June 30, 2012 between MCCHD and MT DPHHS (for WIC Program services). Amount/\$324,000. Term/October 1, 2011-June 30, 2012. Three originals to Julie Mohr/MCCHD

Grant Award – JC signed. Continuation VOCA Grant from MT BOCC (#11-V01-90954) for County Victim/Witness Project for FY 2011. Amount/\$110,018 (+ \$27,530 local match). Originals to Shantelle Gaynor for further signatures/handling.

Additional discussion item(s): 1) Employee Grievances; 2) River access near Milltown Dam; 3) Roadside memorials.

PUBLIC MEETING – AUGUST 24, 2011

1. CALL TO ORDER

Commissioners Present: Commissioner (Chair) Jean Curtiss, Commissioner Bill Carey, Commissioner Michele Landquist

Staff Present: Marnie McClain, Deputy County Attorney, Greg Robertson, Director Public Works, Steve Smith, Surveyor

2. PLEDGE OF ALLEGIANCE

3. PUBLIC COMMENT

Walt Hill: Representing the Placid Lake Cabin Owners Association. We had a meeting recently and first of all we would like to express our immense gratification for the Mag-Chloride on the road between Hwy 83 and the Junction. It's amazing, better than it's ever been. The result of that is that in the last year we've had greater than 11,500 vehicles enter the Placid Lake Campground so the traffic is increasing as it is around the lake. The Ernst request of the Cabin Owners is that we have similar treatment on the roads around the lake if at all possible. We recognize that this is not been done but this year our local contractor ended up in North Dakota and so we had no Mag-Chloride or nothing on the roads and the dust has been formidable. So we would ask if there's any possible way...we would even take a half dose and put it on those lanes around the North and South Placid Lake Road because it's really getting to where it's just very, very difficult.

Chair Curtiss: The contract has been let and the work has been done this year so our contract is up. Just so you can let the cabin owners know, you can add on to our contract next year. Since you've apparently have hired someone before so you can all pitch in a little bit and you add to the contract when they're up there.

Walt Hill: Well only a limited number did and there are some problems with respect to billing and things like this if we don't do it in a contiguous fashion. We'd rather have it done by the County if we could.

Chair Curtiss: They do it based on road count on the road during a certain day or something. Greg's here, he heard what you said and he can consider it next year.

Greg Robertson: [Inaudible - sound not working on mic]

Commissioner Landquist: Are those County Roads that you're referring to?

Walt Hill: Yes.

Commissioner Landquist: You talked about maintaining them...did your Home Owners Association just do something to maintain them, is that what you're referring to?

Chair Curtiss: Not maintenance but rather they paid someone to dust abate.

Walt Hill: We did the dust abatement on a private basis up till this year but they are maintained by the County plow and this case this year the North Placid Lake Road they've done some rather marked improvement.

Commissioner Landquist: Just throwing this out ~ there might be some grant money or something that could be applied for to help with that since these are dirt roads that are around a lake and Water Quality being what it is.

Walt Hill: Well if there's any possible mechanism we'd be open in any way. There's about a 120 – 130 cabins around that lake.

Alex Stockman with Sunday Streets Missoula: Inviting everyone to participate in Sunday Streets Missoula, September 11th. Free community event.

4. ROUTINE ADMINISTRATIVE ACTIONS AND PUBLIC ANNOUNCEMENTS

Weekly Claims List (\$2,956,446.34)

Executive Session

Commissioner Carey made motion that the Board of County Commissioners approve the weekly Claims List in the amount of \$2,956,446.34. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

b. Public Announcements

Missoula Roots Festival this weekend Downtown

5. HEARING (Certificate of Survey)

Sehorn (Charles) Family Transfer

Jennie Dixon, Office of Planning and Grants read the Staff Report

Jennie asked Mike Sehorn recipient, answering on behalf of his Father, Charlie Sehorn of North Carolina the basic Family Transfer questions.

Commissioner Landquist: The recommendations that staff has made...are you willing to accept those recommendations as part of the approval of this family transfer request?

Mike Sehorn: Yes.

Chair Curtiss: The cable car that goes across the river is that for your use or someone else's?

Mike Sehorn: No, it's actually a different piece of property, different owner. I think there's a 24x24 parking easement, not sure if that's a verbal agreement or written.

Chair Curtiss: On your property?

Mike Sehorn: Yes.

Public Comment - None

Executive Session

Commissioner Carey made motion that the Board of County Commissioners approve the request to create one additional parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review, including the staff's recommendations. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

6. HEARING

Petition to Abandon a Portion of Pine Drive (to Cottonwood Lane from Hwy 83N) – Seeley Lake.

Kim Cox, Clerk and Recorder verified signatures on the petition.

Steve Smith read the Staff Report

Chair Curtiss: I want to be clear; I read from the agenda...the petition actually asks for us to abandon a portion of Pine Drive and a portion of Cottonwood Lane.

Jack Greenwood: Member of Seeley Lake Baptist Church. Read letter signed by Pastor, Bill Bogardus. I would like to add in a business meeting at our church, just recently, we have no intent of selling our property; we want to keep it and maintain it. Not only is it church property, our pastor parsonage is on that same piece property and his kids play and live in that back yard and we really have no intention of selling any property.

Vincent Chapwood, Seeley Lake Water District: I want to address how this situation came about. As you all know the water district did an upgrade over the last two or three years. Part of it was putting main lines in certain areas of town; this section actually was one of them. I worked with Marnie McClain, I worked with Greg Robertson's staff, and I worked with Steve Smith in identifying the appropriate right-of-ways for us to put our water mains in, make sure it was in public right-of-ways. Part of the upgrade was to bring a 12 inch mainline down Pine Drive and up to Cottonwood Lane right-of-way and continue down Pine Drive to Redwood thus supporting our lateral pipes throughout town. The reason we chose this area is this was a Missoula County public right-of-way, plus being part of Missoula County we had the right to go through there. The section in question, originally this was treed, it was non-passable other than ATV and snowmobile, bicycle potentially. As we went through there, obviously we took all the trees out and put it back to the natural state with grass and top soil according to the Public Works departments standards, what they wanted us to do in that section. It was not a developed road before and were not to put it back as a developed road, put it back to a natural state, thus by taking the trees out it opened it up for people to pass through there with a vehicle and what-not potentially and that's how the situation kind of came about. We do have the one main in there; there are some main valves there at the surface level. Again, it's not a developed road and potentially won't be anytime soon. One way or the other we do need a utility right-of-way, utility access for maintaining that section of pipeline, that's my only concern.

Walt Hill: The Seeley Lake Community Council, as you know, has passed a land use plan for this area, downtown Seeley Lake as well as all the surrounds, in which the County Commissioners have adopted. In the land use plan, in the downtown area there was considerable discussion about traffic through Seeley Lake. I think some of you have been to our 4th of July parade where the highway is closed for about 2 hours, leaving several irate motorists shaking their fists at us as they come through 2 hours later. As we looked at this as a plan Seeley Lake it was determined that Main Street in Seeley Lake should not be Hwy 83 but rather Pine Drive with a desire to take Pine Drive from clear up at Cedar where there's another problem, but we won't go into that here, bring it down through here (looking at map) and then it would be a dog leg and continue it here. That this road would ultimately become and it is designated in the plan as town commercial so that this could be a secondary route as well as developed into stores and facilities for tourist and others that come here and this is a designed plan and it is so listed in the Seeley Lake Land Use Plan if I could read just a portion of it. "This designation generally covers businesses on Hwy 83 and areas on both sides of Pine Drive where development is encouraged to allow Pine Drive to become the eventual Main Street for the town of Seeley Lake. Streets, sidewalks, lighting improvements are especially encouraged along Pine Drive within the boundaries of this designation." So we run into a little problem here, we have no real interest in leaving this portion of Cottonwood Drive open, it's 30 feet, it will never be developed and I think that portion could be abandoned but at the intersection of Cottonwood and Pine Drive and on down through Cottonwood here where the yellow is we feel like this would not be an agreement with the plan which we've already adopted and so we would say that we would rather not see this closed abandoned because while it's not functional as it is, we look for a time when it may become such and when that will be or if that will be, we don't know. None the less, the plan calls for it and I think it's a reasonable plan to allow us to get a secondary route through Seeley Lake and in that case we come over here to Redwood Road and out. So this junction is critical to that happening, if we abandon that now we likely can never develop it in that way.

Jack Greenwood: I'm on the Seeley Lake Community Council as well and we talked about this at our last meeting and when the plan was adopted I wasn't on the Council so I don't know what their reasoning was. If they knew that that problem was there it seems like to me there are other routes that

go all the way through that make just as much sense to me. Were you guys aware that that problem existed when you chose Pine Drive, Walt? It just seems like to me that there's other alternative routes that would serve the purpose just as well, how be it it's not as close to Hwy 83 but there are other alternative routes. Thank you.

Martin Cahoon: Jack's right on that. Everybody that wants to get around when there's a parade already knows that all they have to do is go two streets up and that one actually (looking at the map) takes you right to Double Arrow Loop, around to the grocery store and that's where everybody goes. They go up to High School Road, take a right to the Double Arrow Ranch...I don't know that road name but Tamarack, it loops right around to the grocery store, everybody goes that way. And if you come down Pine Drive to Redwood, that's a dead end too, that's the same one that goes around to the High School Loop; it's just a worst angle to come on around. The other substitute road is an easier access then going Pine Drive if it was open with the two dog legs and a more than a 90 turn back again. I don't see any justification for the Pine Drive in behind all the bars and Glens Automotive there and wrapping around the Church.

Walt Hill: For the record, we spent a lot of time on the downtown area and Seeley Lake with the Downtown Committee and many, many, many hours of hearings and discussions of these things. While there are alternate routes around, Tamarack for instance goes down to Locust which is the High School Road but it doesn't do well after that. Traffic stop on 4th of July starts at about Cedar Lane really. Having said that we did consider other routes and we did look carefully at possible scenarios otherwise, this appeared to be the best and at that time Matt with Rural Initiatives but anyway he was going to do research on this to see what it would take to widen that to 30 feet or to 60 feet to allow that dog leg to be a smooth dog leg. We recognize that there are property owners there and we recognize that it presents attractable problem but not anything that's not overcome-able. In any case, this was discussed and the alternatives were discussed at length trying to find a way. The proximity to Hwy 83 makes it very attractive as a second Main Street and so that's why these decisions were made ultimately adopted by the Committee Council as well as the Commissioners.

Chair Curtiss: The way the Road Abandonment laws in Montana work is we hold a hearing, we recess the hearing and then one Commissioner and someone from Public Works Surveyors Office has to do a sight visit and our job is to look at future needs and then we come back and make the decision at the next meeting.

People are welcome to join us; we try to set it so that you know when we're coming up to look at it.

Chair Curtiss: I have a question for Marnie. If the Commission decided to abandon this road and there are utilities within it, how do we maintain a utility easement with an abandoned road? Road can be used for public utilities or road easements.

Marnie McClain: That's exactly the question I've been sitting here thinking about, I don't have an answer today but I think it's something I need to talk to Vince about because I have some concerns about some of the certifications that we had to do as part of that project and to Greg as well.

Greg Robertson: There is a statue that does deal with it, 7-14-26-17; vacant or authorized shall not affect the right of any public utility which then qualifies as to any to maintain its plant and equipment in any such street or alley. So there is provision within the abandonment that the action of the abandonment does not impact his ability to maintain his infrastructure. The question though is what limits is he granted by this and the statue's unclear on that and that's a big question to me too. Is it treated like a prescriptive right or something along those lines? Generally with utility easements especially along roads rights-of-ways that have not been developed you like to have 20 feet for maintenance purposes whether that follows is probably the subject of some sort.

Marnie McClain: And that is one of the issues that I'm concerned about with all the assurances that we sign and I'm just a little worried that they're in there somewhere or something that said something affirmative about what we're going to do with those. I want to make sure that we don't get sideways (inaudible)

Chair Curtiss: Leaving tomorrow after 1:00 ~ that would put them arriving on site at 2:00 if anyone wants to meet them on site.

Commissioner Carey: Marnie do we have the ability to partially grant this petition, in other words, leave the...abandon that piece north of the Church's property?

Marnie McClain: I think you can exercise some discretion about it.

Chair Curtiss: We can't do more than was asked but we can do less.

Greg Robertson: That does provide some leeway in leaving a reservation upon abandonment for perpetually utility easement.

Commissioner Landquist: Can we condition it like...I realize there were trees on the lots prior to the waterlines being buried but quite often trees, roots and waterlines can be problematic as the trees grow and so aside from if we were to condition it with an easement, can we be more specific about what can and can't occur in that easement? Based on the fact that we're talking about buried utilities.

Marnie McClain: No, I think we just need to figure out what we want to do first and then start with that.

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Greg Robertson: The issue of public utility easements is covered in a different section of the Statue under public utilities and there are some very specific requirements and rights that utility companies have.

Jack Greenwood: The Baptist Church isn't opposed to keeping it as a utility easement, that's there, let's keep it there. We would like to see it not used as a vehicle access and it has become a problem. People have tried to drive through there and it's become a problem, it's basically Lockwood's back yard, it's not big enough even though it is a public right-of-way. We'd like a little clarity, since it's a County easement or right-of-way, whatever; it's basically their back yard. Is there a way that that traffic could be limited?

Chair Curtiss: Not if it's a road easement.

Greg Robertson: The Statue is pretty clear on that. It cannot be impeded by any sort of obstruction such as a gate or boulders or anything else to keep people out. The rights-of-way have to be free an unobstructed for travel purposes, unless abandoned. Especially a motor vehicle.

Commissioner Carey: So if we abandon that portion north of the Church's property we could put some boulders on either end of that?

Greg Robertson: If the abandonment goes forward, obviously we would want to consider working with Vince to figure out suitable barrier. Generally what I've seen is fences with gates because the utility company still has to have a need to get in and maintain. They may have to dig it up or make a repair or get to a valve. So they do need to have the ability to get through there but you can also restrict it with gates as a means to keep people out of there. I think that would be something the individual land owners would want to work out with the utility company because the utility company does have the right under the law to remove any sort of barrier that impedes their ability to maintain their work.

Chair Curtiss: So I think we need to be clear though that the County doesn't own this road it's an easement on private property. But if the abandonment is granted, let's say we just did the piece of Cottonwood that is adjacent to Mr. Morin's Property, because that was part of the subdivision where Mr. Morin's property and Lockwood's property, that's not your ownership. It would continue to be as it right now, part of Mr. Morin's property but it just wouldn't have the encumbrance of an easement. The same with Lockwood's, the piece of Pine Drive, if we abandon that between them and Mr. Morin, they each get half to the middle of the road. I don't know how you get to your property right now because I haven't looked at that on site for a while but you also have to realize that we need to maintain access to everybody's lot. So those are the things that Michele will be looking at with Steve when they visit. And then they come back and report to us.

Steve Smith: I was just going to reiterate what you're pointing out is ~ again Cottonwood Lane, the North half of Cottonwood Lane was platted with the subdivision so if there's any abandonment of this, if it does take place, Lots 1 & 4 will get all of it. This Church property, they get nothing. And Lot 18 because the South half of Cottonwood Lane was platted with this subdivision, Lot 18 would get half, if Cottonwood Lane is deemed to be abandoned. And if Pine is done away with, Lot 1 gets half, Lot 4 will get half.

Chair Curtiss: So we need to be clear that it isn't...it's just an easement over property that exists, that land already belongs to Mr. Morin and Mr. Lockwood and whoever owns Lot 18.

Chair Curtiss: So Michele and Steve will leave the Courthouse around 1:00 tomorrow so they should be there at 1:45-2:00, somewhere in there and visit with folks on site and report back. We do have a special meeting next week for the TIF District boundaries, the land use fees OPG and fees for Building and electrical permits so we'll add this hearing to it. Otherwise, it wouldn't be until September 14th. Marnie, will you be able to research that certification stuff you were thinking about regarding the utility?

Marnie McClain: I will try.

Chair Curtiss: If we need more time we'll take it.

Recessed until August 31st.

7. RECESS

There being no further business to come before the Board, the Commissioners were in recess at 2:16.

THURSDAY, AUGUST 25, 2011

BCC met in regular session; all three present. Morning: ML accompanied Public Works on site visit. Afternoon: JC met with Greenough-Potomac Fire Board re: Tax Issues. Late afternoon: JC attended Blue Marble Biomaterials Open House.

ADMINISTRATIVE MEETING

Mutual Aide Agreement – BCC signed, dated August 25, 2011. Between Flathead Emergency Communications Center and County (Missoula 911) for routing/handling of alternate/default routed E911 calls in each county in the event alternate routing is requested. One original & copy to Chris Lounsbury/ES.

Grant Award – JC signed. Documents re: MT DES award of 50% of SFY 2012 US Dept. of Homeland Security/Emergency Management Planning Grant Award (# EMW-2011-EP-00035) to assist with costs of running local OEM/DES. Amount/\$33,602.50 (Local Share same). Remaining 50% delayed due to prolonged budget negotiations in Washington D.C. One original to Chris Lounsbury/ES.

Requests – BCC reviewed/approved requests to grant exceptions of Sick Leave Caps for County Employees and allow following employees to receive more than 240 hours of donated sick leave during a calendar year: 1) B. Jackson (Clerk & Recorder Employee); and 2) D. Ogden (9-1-1 Services Employee). Originals returned to Debbe Merseal and Chris Lounsbury/C&R and ES.

Contract – JC signed. #12-07-3-01-010-0 between County (PHC) and MT DPHHS for MT Cancer Control Program (to implement breast/cervical/colorectal cancer screening services, etc.). Amount/\$83,710. Term/July 1, 2011-June 30, 2012. Three originals to Doreen Boyer/PHC.

Additional discussion item(s): None.

FRIDAY, AUGUST 26, 2011

BCC met in regular session; quorum present. ML out of the office all day.


Vickie M. Zeier
Clerk & Recorder


Jean Curtiss, Chair
BCC

MONDAY, AUGUST 29, 2011

BCC met in regular session; quorum present in morning. Late morning: BC/ML attended Superior Commons Grand Opening & Ribbon Cutting Ceremony. Afternoon: JC attended NRDP Trustee Restoration Council Meeting, held at State Capitol, Helena.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) OPG Director's Update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Work plan items; 3) Communications; 3) RI Director's Update.

TUESDAY, AUGUST 30, 2011

BCC met in regular session; quorum present. JC in Knife River/DEQ mediation most of day. Afternoon: BCC attended County Employee Service Awards Ceremony, held in the Courthouse's large courtroom.

ADMINISTRATIVE MEETING

Agreement – BC signed. Between County and Missoula Urban Transportation District for continuation of County Employees Bus Pass Program. Term/July 1, 2011-June 30, 2012. Amount/\$7,790. One original to Mountain Line.

Contract – BCC signed, dated August 30, 2011. Between County and Valley Electrical Contracting for Seeley Shop Lighting Retrofit Project (to install energy efficient lighting at Road Department Shop). Term/September 1-October 31, 2011. Amount/\$10,500 (+\$3,200 rebate). Two originals to Jeff Seaton/PW.

Bid Award – BCC reviewed bids/awarded contract to AWS Dredge, Inc. of Lolo Water/Sewer District Biosolids Management Project (contingent on approval of subsequent District Budget Amendment). Bid amount/\$292,799. Returned to Greg Robertson/PW.

DNRC Application/Beneficial Water Use Permit – BC signed. Modification to water rights permit to allow higher pumping rate/same volume of water for Larchmont Irrigation Project to increase efficiency/reduce cost. One original to contractor.

CDBG Program Request for Funds Form – BC signed. Drawdown #2 from grant of \$450,000 on behalf of Mountain Home Montana, Inc. Amount/\$157,183.31 – to aid with construction of new facility. Original to Jean Harte/OPG.

Request – BCC reviewed/authorized up to \$5,000 to aid Mountain Line/MUTD in funding analysis of Urban Street Car Study, as recommended in Downtown Master Plan. Project term TBD.

Larchmont Claims – BCC signed one (1) Signature Page for A/P Invoice Register dated August 30, 2011. Amount/\$20,498.95. To County Auditor.

Letter – BCC signed, dated August 30, 2011. To Deborah Austin, Forest Supervisor, Lolo National Forest, Missoula, asking why Forest Service refuses to support Nine Mile Road as a Forest Highways Program reconstruction project, as this is a high priority for Missoula County.

Additional discussion item(s): TIF expansion update.

WEDNESDAY, AUGUST 31, 2011

BCC met in regular session; all three present. Noon: JC attended United Way 2011 Campaign Kick-Off, and gave Welcoming Remarks – held at Community Medical Center.

Plat – BCC signed. Owner/Ruth I Hogan (now Ruth I. Goodwin). Hogan Acres, a 3-lot subdivision plat located in the SE¼ of SE¼ of SE¼ of Section 26, T 13 N, R 20 W, PMM, Missoula County. Total area/1.42 acres (net).

CHIEF ADMINISTRATIVE OFFICER MEETING

Contract – JC signed. Between MCCHD and Health InfoNet, Inc. ("HIN") to allow HIN to become one of their Network Providers for immunizations. No fiscal impact; MCCHD will bill and be reimbursed by HIN. Two originals to Julie Mohr/MCCHD.

Contract – JC signed. #1202PR020176 between MCCHD and MT DPHHS Early Childhood Services Bureau for continuation of RN consultant/coordinator for Best Beginnings STARS to Quality Program. Amount/\$54,821.20. Term/October 1, 2011-September 30, 2012. Two originals to Julie Mohr/ MCCHD.

Request – BCC reviewed/adopted adjustment to Human Resources Policy 206.00, Special Duty Compensation. Allows department to increase pay (1%-5%) to employee accepting additional duty assignments, on condition that pay can be covered by existing budgetary resources.

Request – BCC reviewed bids and awarded contract to Sirius Construction, Inc. for construction of Fort Missoula Picnic Shelter/Restroom Demolition Project. Bid amount/\$52,568. Returned to Jeff Seaton/PW.

Additional discussion item(s): Two Employee Grievances (postponed from 8/24/11). Steve Johnson will draft BCC response letters. [Signed September 1st and 6th, 2011; see Journal entries].

PUBLIC MEETING – AUGUST 31, 2011

1. CALL TO ORDER

Commissioners Present: Commissioner (Chair) Jean Curtiss, Commissioner Bill Carey, Commissioner Michele Landquist

Staff Present: James McCubbin, Deputy County Attorney, Greg Robertson, Director Public Works, Steve Smith, Public Works, Dale Bickell, Chief Administration Officer

2. PLEDGE OF ALLEGIANCE

3. PUBLIC COMMENT: None

4. ROUTINE ADMINISTRATIVE ACTIONS AND PUBLIC ANNOUNCEMENTS

a. Weekly Claims List (\$744,859.69)

Executive Session

Commissioner Carey made motion that the Board of County Commissioners approve the Weekly Claims List in the Amount of \$744,859.69. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

b. Public Announcements

United Way Campaign Kick-Off started today

Public Library WOW (web on wheels) Bus open house September 7, 2011, 12-3

MIM – Sunday Streets Missoula, September 11, 2011

5. DECISION (from August 24, 2011 Hearing)

Petition to Abandon a Portion of Pine Drive (to Cottonwood Lane from Hwy 83 N) Seeley Lake

Commissioner Landquist thanked all the concerned citizens of Seeley Lake for taking the time out of their personal routine to participate in this public process. Everyone's comments were considered in this decision.

Steve read the Missoula County Road Viewers Report

Commissioner Landquist: We are recommending at this time that we don't abandon the roadway easement but that we do put some signage at both ends of Pine Street where it terminates. And to that we would maybe look to James to help us decide if dead-end, no thru fare or no outlet would be the appropriate signage to use.

James McCubbin: I think definitely Greg Robertson with Public Works would need to weigh in. No Outlet would seem appropriate to me even with a legal right-a-way because there's no physically constructed road there so it seems to be the appropriate signage but really it's more in Greg's area.

Public Comment:

Letter from Bud Berckmoes

Jack Greenwood, Member of the Seeley Lake Baptist Church. I want to thank Commissioner Landquist and Steve for coming up and going on site, I was there with them. Our property is on the South side of that yellow there and to improve that to a full county road, you're going to have to take some property from our Church and we stated this last week and I'll state it again, we really have no intention of selling property. We had a little informal meeting last Sunday and that is still our consensus. We really do not want to sell our property that is our parsonage, where our pastor and his family live,

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that is their back yard. It's just not our intent or purpose to sell property; I just want to reinstate that. The other thing that I'd like to state and it's well known, the three property owners that are mostly affected by this are; Glen's Automotive, Ted Lockwood and the Baptist Church, all three of us are the ones that brought this petition forward, and we're the ones that are mostly affected. We'd like to see this, if not abandoned and Michele is aware of this...and Steve. An individual drives through there, it's a public right-a-way, he's literally driving through somebody's back yard and they're neighbors and Michele thank you, she tried to mitigate this problem, I don't know how to mitigate it, this is basically where it started. So even if you don't abandon it you don't build the road, we still haven't completely solved the problem. Thank you.

Commissioner Landquist: Thank you for bringing that up. We talked about this during our briefing meeting today and there are some other things and after we finish with dealing with this hearing part then there are some others things that we can do other than abandoning this easement to help mitigate those problems. So just the neighbor that has been driving through that easement to try to show people where the easement technically is because of the people driving through his yard because they can see it now through the other road. He can put a boulder or something there to keep people from driving through his place, that's his property. There's not a real easement there and the others that have some encroachments can come to the County for an encroachment permit which is a revocable permit should the county ever need that actual physical right-a-way again. So there are some other tools in the toolbox that land owners can use that we can talk about after this meeting or at another time.

Cheryl Thompson: You've been talking about #1 and #4 and the Baptist Church which has no number, I'm #3 and that person in question, how is he getting to #4? Is he crossing across us? I just found out about this on Thursday. So he's really trespassing to get where he's getting.

Chair Curtiss: I think there's some confusion.

Cheryl Thompson: I'm #3; person in question is #8.

Chair Curtiss: No. What was stated as I understand at the Viewers...folks are driving on Pine from Redwood, crossing your property to drive over his property because it looks like a straight shot. We do have your note and it's on record.

Executive Session

Commissioner Landquist made motion that the Board of County Commissioners accept the recommendations of the viewer's report as written. Commissioner Carey seconded the motion. The motion carried a vote of 3-0.

James McCubbin: I'd like to add ~ if people to have an encroachment or a need to use part of that right-a-way while it's not being used as an active public road, they can apply at the Public Works Dept. for an encroachment permit which will give, at least for the time being, a legal right to maintain an encroachment there. So that's one possibility as well.

6. HEARING (Second of two Hearings; first Hearing held August 10, 2011)

Modify Boundaries of the Missoula County Airport Industrial Tax Increment Financing District

Barbara Martens, Development Park Manager, read the report and the Findings of Fact as required by MCA 7-15-4299.

Chair Curtiss: Map A has Lavelle Creek listed as Velle Creek Coma Law. I think that Map B, which also says Exhibit B, has a mistake on it because if you look at the lots, of course we end up knowing these lots by what's on them, so the section where the Hawthorne Hotel is and Big Sky Brewing are shown as pink and they should be white, according to the other maps. Because they are not zoned industrial, they are zoned commercial, right?

Barbara Martens: That's correct; we will take the pink off that map.

Shaun Shay with Morrison-Maierle & **Elaine Hawk** with pLAND representing the Missoula County Airport Authority and the modification to the TIF boundaries.

Shaun went over Exhibits C-1 and C-2 (Chair Curtiss noted that these maps also need to be corrected)

Elaine read the Findings and Fact Report

Chair Curtiss: I just have one question. I think it's clear but I just wanted to make sure that while not all of the airports ownership is going to be included in the TIF the access road would be able to go through some of that land that is not going to be included in the TIF but in airport ownership. Where Whippoorwill connects and gets over to the Southern end.

Dori Brownlow, County Attorney's Office: The law does allow for infrastructure to be built from non-TIF property if the purpose is to gain access to TIF property for development. So even though part of Whippoorwill may be, I think it would maybe a non-airport road.

Lynn Fagan, Legal Counsel for the Airport: I just wanted to make it clear that part of the Whippoorwill Drive extension is subject to lease to Dr. Pruyn. I believe it expires in 10 years. He does have access to that property for agriculture uses right now.

Dori Brownlow: The Statue provides that the amendment needs to be by Ordinance. The Statue provides then that if an Ordinance doesn't become effective for 30 days. I think in this particular

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situation it's more of a notice provision, then a comment period. It doesn't provide for a separate comment, I think it's just for notice and then it becomes effective in 30 days.

Commissioner Landquist: This is technically the second public hearing that we've had on this, which by law we need to have two public hearings. The first one started out with the larger boundaries and now the boundaries have been made smaller, so my concern and question was, does this throw us back to having to go back to the drawing board with a public hearing from the beginning? The answer I received; if we were making the boundaries larger we probably would have to go back to the drawing board but because we're making them smaller, in essence we don't have to go back and start the public hearing process over. Did I get that right Dori?

Dori Brownlow: That's correct. Because after the notice then there was further review and basically similar to public comment made the determination it was more appropriate to limit it. We would have to start over if they were actually enlarging it. I would note on the Request for Commission Action (RCA) it refers to adopting a Resolution, the Statue does require by Ordinance. Then the copy of the draft proposed Ordinance was presented to the Commissioners, I believe.

Chair Curtiss: So we change the motion to say Ordinance not Resolution?

Dori Bownlow: Please.

Executive Session

Commissioner Landquist made motion that the Board of County Commissioners adopt an Ordinance to amend the Resolution #91-029 and Resolution #200-114 to modify the boundaries of the Missoula County Airport Industrial Tax Increment Financing District to include new ownership of the Missoula County Airport Authority and the County owned Lot 1, Block 4, Phase 1 of the Missoula Development Park as described in the legal description in Exhibits B & C, Missoula County Airport Tax Increment Industrial Infrastructure District expansion. Commissioner Carey seconded the motion. The motion carried a vote of 3-0.

7. HEARINGS (continued from August 10, 2011)

a. Update Land Use Fees for Services Rendered by the Missoula Office of Planning and Grants

Denise Alexander, Office of Planning & Grants: Gave an update from what was reviewed at the last meeting. During the Hearing on August 10th the request was made to continue this Public Hearing to give the public more time to review the proposal and the proposed schedules and so the Hearing was continued to today. After the August 10th Hearing we did at the request of the Commissioners send out an email with links to the proposed fee schedules and background materials, through the Rural Initiatives Newsletter list server and folks on my interested parties list and to have all the information available. The materials were also posted on the OPG website. I think we have received some comments. Letter from the Missoula Organization of Realtors dated August 22nd.

Public Comment:

Paul Rossignal, Ponderosa Development: I received this from the Rural Initiatives Newsletter and haven't had a real chance to go over it. I saw some verbiage in the definitions of user fees and stuff and about this subsidizing from general funds to all the other and I thought that does sound more fair and I'm sure you'll assure me my...if we do these user fees that my general taxes will be decreased. I'm sure that you guys can assure that my taxes will decrease if we put in these other fees.

Ken Jenkins: Opposed to any increased fees. Look at the fees we have now and look at ways to reduce those. It's bothersome that we would hire an agency from California to look at our fees. I think a lot of the reviews, a lot of these services are expensive because of the level of review; redundant review, over regulated review, those sorts of things. A large part of it is salaries and benefits. I think most of the fees are already too high and I think the study is really just a very narrow one-sided way of looking at things.

Commissioner Lanquist: One of the reasons we outsource this information is because we'd be accused of being biased. The most objective way is not to use a local firm.

Chair Curtiss: We don't just represent the people who are coming in to develop, we're also representing the rest of the community who wants to make sure that the development is good and fits their neighborhood. So I hope you realize that and that's why we say 50%, somebody does a development and they put a sidewalk in front, it benefits the public so that is the reason why we aren't trying to get 100% back.

Amy Fisher with the Missoula Organization of Realtors: Thank you very much for moving this hearing back so that we would have an opportunity to put our comments in and we did send a letter. The only thing to add is the Zoning Variance Fee. Its good news that the new proposed fee is not going to be any cost to the person asking it.

Denise Alexander, Office of Planning & Grants: Board of Adjustment Variance Fee. Example the current City fee is \$1200 for a variance for the multi-dwelling commercial or industrial development and its \$600 for a variance on a single family or duplex. So it's half of what the fee is for the larger development. So the variance for a multi-dwelling commercial industrial proposal is \$1,095 so if you wanted to go that same route you would charge half of that for a variance for a single family or duplex. Process fee \$825 whether it were approved or denied. The County proposed fee Legal ad (Independent) for adjustment fee also goes through agency review and Community Council review.

Amy Fisher, Missoula Organization of Realtors: \$5,000 development fee could be a hardship for lots of people in the urban area.

Executive Session

Commissioner Carey made motion that the Board of County Commissioners adopt the Land Use Fee Resolution and Fee Schedule before us, in the public interest to do so. Effective date October 1, 2011. Commissioner Landquist seconded the motion. The motion carried a vote of 3-1.

b. Amend Missoula County Building and Electrical Permit Fee Schedules.

Fee schedule

Chair Curtiss: I asked Steve to provide a number of building and electrical permits that we've had in the past two fiscal years. Some are up, some are down. July 2009 – June 2010 there were 563 building permits. July 2010 – June 2011 there were 693. The revenue wasn't much different so there must be smaller things, Steve?

Greg Robertson: Actually that's what's happening, the trend has gone away from the new homes being constructed to more rehabilitation remodels. Permits have actually gone up overall. But the revenue generated on a permit bases has gone down. Electrical actually went down a little bit but the revenue was about the same. Program started in 2006. Since the program started we've only modified the fee schedule once back in 2009. Revenues are down due to the down turn in economy and cuts in personnel.

Chair Curtiss: I have a question about the re-roofing permit. Steve if you could tell me again why we decided it was important to look at projects/houses when they're being re-roofed or buildings.

Steve Hutchins: That actually came about at the request of a couple citizens that had re-roof jobs done by a contractor, they weren't happy with the job and we informed them that there was no requirement for a permit. They were upset enough with the job that they paid us \$45/hour to come out and generate a report and outline the deficiencies of the roof. Roofing is a critical thing, most people are afraid to get up there and they don't know what to look for. We figured roughly two hours or two inspections in basically two hours of time that's why it's \$90. We came up with that because basically it takes us the same to inspect a large roof as it does a small roof; it's just about the same amount of time. Looking for proper ventilation, water and ice shield at the eaves. They call us out for what's called the dry end, that's when the old roof is stripped off and then paper it or whatever it takes to water and ice shield it. And then the final inspection, that's where we're looking for proper installation of the roofing material. We also have our own ladders.

Public Comment: None

Chair Curtiss: As we stated at the last Hearing, this program by State Law has to be County wide and it has to pay for itself, it's an enterprise fund.

Executive Session

Commissioner Landquist made motion that the Board of County Commissioners adopt the revised Building and Electrical permit fee schedule. Effective date, October 1, 2011. Commissioner Carey seconded the motion. The motion carried a vote of 3-0.

8. OTHER BUSINESS**9. RECESS**

There being no further business to come before the Board, the Commissioners were in recess at 3:29pm.

Following Public Meeting:

Resolution No. 2011-092 – JC signed, dated August 31, 2011. Adopting a Missoula County Ordinance: Modifying boundaries of the County Airport Tax Increment Financing Industrial District to include certain parcels of land. Public Hearings held August 10th and August 31, 2011.

Resolution No. 2011-093 (Supersedes/rescinds Resolution Nos. 2007-086, 2010-008 and 2010-105 – BCC signed, dated August 31, 2011. Enacting new and revised Land Use Fees for services rendered by the Missoula Office of Planning and Grants (effective October 1, 2011). Public Hearings held August 10th and August 31, 2011.

Resolution No. 2011-094 – BCC signed, dated August 31, 2011. Amending Building and Electrical Permit Fee Schedule (effective October 1, 2011). Public Hearings held August 10th and August 31, 2011.

MISSOULA COUNTY COMMISSIONERS' JOURNAL: SEPTEMBER, 2011

BCC = BOARD OF COUNTY COMMISSIONERS

JC = Commissioner Jean Curtiss, Chair
BC = Commissioner Bill Carey
LA = Commissioner Michele Landquist

The following Claims Lists were signed during the month of SEPTEMBER 2011:

Date Signed	Claims List Date	Who signed	Amount
September 1, 2011	August 31, 2011	BCC	\$9,056.14
			\$25,000.00
			\$242.55
			\$17,053.94
			\$2,070.68
			\$1,590.38
September 1, 2011	September 1, 2011	BCC	\$29,781.63
			\$11,123.59
			\$13,890.76
			\$1,972.98
September 6, 2011	September 1, 2011	BCC	\$168.12
			\$3,294.50
			\$1,852.62
			\$40,614.50
			\$21,980.64
			\$8,536.63
September 6, 2011	September 2, 2011	BCC	\$4,519.25
September 7, 2011	September 6, 2011	BCC	\$2,726.80
			\$79.93
			\$2,649.87
			\$1,548.98
			\$12,529.43
			\$46,841.35
			\$1,542.17
			\$2,372.24
			\$918.17
			\$14,613.53
			\$36,126.14
			\$2,122.21
			\$731.19
			\$17,481.87
September 7, 2011	September 7, 2011	BCC	\$8,000.00
			\$54,620.99
			\$21,640.16
September 8, 2011	September 7, 2011	BCC	\$16,334.73
			\$24,070.00
			\$11,961.49
			\$1,322.50
			\$6,855.82
			\$19,709.39
			\$1,278.23
			\$2,200.53
			\$4,581.05
September 12, 2011	September 12, 2011	JC, BC	\$22,513.97
September 13, 2011	September 12, 2011	JC, BC	\$250,000.00
			\$140.00
			\$80,397.70
			\$17,083.23
			\$13,772.29
			\$7,134.62
September 14, 2011	September 12, 2011	JC, BC	\$5,802.07

September 14, 2011	September 13, 2011	JC, BC	\$33,091.54
			\$380,727.74
			\$14,879.59
			\$3,161.01
			\$35,541.65
			\$8,054.79
September 14, 2011	September 14, 2011	JC, BC	\$2,756.45
September 15, 2011	September 14, 2011	JC, BC	\$3,539.38
			\$168.04
			\$5,721.63
			\$2,508.71
			\$85,962.59
			\$5,007.00
			\$8,455.32
			\$7,416.95
			\$2,003.20
September 16, 2011	September 15, 2011	JC, BC	\$1,497.26
			\$1,215,987.83
September 19, 2011	September 19, 2011	JC, BC	\$6,175.46
			\$262.11
			\$25,491.27
September 19, 2011	September 19, 2011	JC, BC	\$20,737.63
September 20, 2011	September 20, 2011	JC, BC	\$60,812.74
			\$2,156.69
			\$3,043.99
			\$918.17
			\$3,753.51
			\$609.00
September 21, 2011	September 20, 2011	JC, BC	\$8,535.11
			\$290,491.38
September 21, 2011	September 21, 2011	JC, BC	\$88,268.11
			\$4,517.97
			\$23,943.91
September 26, 2011	September 21, 2011	BC, ML	\$9,096.56
			\$6,492.33
September 26, 2011	September 21, 2011	BCC	\$33,522.70
			\$22,270.12
September 26, 2011	September 22, 2011	BC, ML	\$29,836.83
			\$508.98
			\$1,412.96
			\$1,169.80
			\$270.97
			\$2,860.00
			\$12,447.20
			\$456.57
			\$27,392.74
			\$2,799.00
			\$20,287.21
			\$23,885.83
			\$588.80
September 26, 2011	September 23, 2011	BC, ML	\$8,348.89
September 27, 2011	September 26, 2011	BC, ML	\$258,184.13
September 27, 2011	September 27, 2011	BC, ML	\$28,411.89
			\$15,157.48
September 28, 2011	September 27, 2011	BCC	\$96,798.73
September 28, 2011	September 27, 2011	BCC	\$2,914.45

September 29, 2011	September 28, 2011	BCC	\$313.22
			\$45,177.09
			\$1,631.74
			\$14,053.06
			\$776.00
			\$20,364.33
			\$12,050.36
September 29, 2011	September 27, 2011	BCC	\$14,419.22
September 29, 2011	September 28, 2011	JC, ML	\$31,140.47
			\$48,364.26
September 29, 2011	September 29, 2011	JC, ML	\$2,392.50
			\$2,319.56
			\$40,647.54
			\$5,166.27
			\$3,892.49
			\$27,465.44
			\$9,650.89

All Claims Lists were returned to the Accounting Department.

THURSDAY, SEPTEMBER 1, 2011

BCC met in regular session; quorum present in morning. Mid-day: JC participated in tour of Milltown State Park with MT State Parks Group. Afternoon: BCC attended DUI Task Force Forum *Ideas for Safe Ride Alternatives* – held at Council Chambers.

ADMINISTRATIVE MEETING

County Payroll Transmittal Sheet – BCC signed. Pay Period: 17/CY2011 - Pay Date/August 26, 2011. Total Payroll/\$1,286,164.36. To County Auditor.

Letter – BCC signed, dated September 1, 2011. To Missoula County Parents, bringing awareness of serious problem of underage drinking in Montana/Missoula. Letter sets forth effective parenting techniques for parents’ use in dealing with issue.

Contract – BCC signed, dated September 1, 2011. Between County and MMW Architects for tenant improvements of approx. 4,900 sq. ft. of medical/pharmacy space for PHC at Creamery Building. Amount/\$591,000 + \$62,992 for Consultant expenses. Work to be completed by-March 31, 2012. Three originals to PHC.

Contract – BCC signed, dated September 1, 2011. Between County and John Honsky for APRN services at PHC. Amount/\$45 per hour/\$93,600 yearly. Term/August 15, 2011-June 30, 2013. Two originals to PHC.

Memorandum – BCC signed, dated August 31, 2011. To Tim Boileau/Detention Officers Assoc. of Missoula County, acknowledging receipt on August 19, 2011 of employee grievance. BCC denied grievance for reasons set forth in Captain Kowalski’s response dated August 15, 2011. To S. Johnson/HR.

Letter – BCC approved, dated September 1, 2011. To Patty Lovaas, Missoula, responding to her letter inquiring about status of Daniel Jensen’s protest of his Wye Area Sewer SID Assessment, and explaining methodology used to determine assessments. [Signed September 2, 2011].

Additional discussion item(s): 1) Admin Building/Space Needs Project management; 2) Establish quarterly meeting w/Chamber of Commerce (JC will respond); 3) West Riverside Fire update; 4) Possible Grant Application for mitigation funding (postponed to next week).

FRIDAY, SEPTEMBER 2, 2011

BCC did not meet in regular session. ML and BC out of office all day. Afternoon: JC accompanied Chris Lounsbury and Senator Tester to West Riverside Fire Camp site.


 Vickie M. Zeier
 Clerk & Recorder


 Jean Curtiss, Chair
 BCC

MONDAY, SEPTEMBER 5, 2011

COURTHOUSE CLOSED FOR THE LABOR DAY HOLIDAY

TUESDAY, SEPTEMBER 6, 2011

BCC met in regular session; all three present.

Monthly Report - JC examined/approved/ordered filed the Monthly Reconciliation Report for Justice Court 2, Karen A. Orzech, Justice of the Peace, for month ending August 31, 2011.

Monthly Report - JC examined/approved/ordered filed the Monthly Reconciliation Report for Justice Court 1, John E. Odlin, Justice of the Peace, for month ending August 31, 2011.

Monthly Report - JC examined/approved/ordered filed Monthly Reconciliation Report for Clerk of District Court, Shirley E. Faust, for month ending August 31, 2011.

Planning Status Meeting - BCC/OPG Staff. Agenda: 1) Public Comment; 2) Meadowlark Terrace Subdivision Extension request; 3) Red Dog Ranch Subdivision Phasing Plan Amendment; 4) OPG Director's Update.

Rural Initiatives Update - BCC/RI Staff. Agenda: 1) Public Comment; 2) Grizzly Creek Geographic Name Proposal; 3) Parks/Trails Plan - project update; 4) Website update; 5) Communications; 6) Director's Update.

ADMINISTRATIVE MEETING

Grant Agreement - JC signed, dated September 6, 2011. MT DNRC Resource Development Bureau Aquatic Invasive Species Grant accepted by County Weed District to monitor invasive species/conduct vegetation survey in Blackfoot/Clearwater/Chain of Lakes area. Amount/\$17,130 (with match from BLM/Blackfoot Challenge/County Extension & Weed Districts. Term/August 29, 2011-September 30, 2012. Two originals to Extension Office for further signatures/handling.

Contract - BCC signed, dated September 6, 2011. Between County and PCI Electrical for installation of certified fire alarm system in County Records Center/2147 Ernest Avenue. Amount/\$31,928.25. Term/August 29-November 25, 2011. Two originals to Larry Farnes/Facilities Mgmt.

Reports - As required by Office of Public Instruction, JC signed all Missoula County School Budget Reports for FY 2011-12. Originals to Jessica Bird.

Board Appointment - Due to recent resignation, BCC appointed Karl Uhlig to fill an unexpired term as a member of the Bonner-Milltown Community Council until the School/Special District Election is held in May of 2012.

County 2012 Budget Enhancement Requests - BCC approved two (2) requests: 1) \$5,000 for BCC/General Fund to reflect contribution approved by BCC to the fixed route Street Car Study; 2) \$8,193 for Treasurer/Tech Fund to purchase an additional Check remittance license and scanner. To A. Czorny/CFO.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated September 2, 2011. Amount/\$34,827.16. To County Auditor.

Memorandum - BCC signed, dated September 6, 2011. To [Missoula County Employee], acknowledging receipt on August 30, 2011 of employee grievance. BCC set forth reasons Employee will not be allowed to rescind her resignation. To S. Johnson/HR.

Additional discussion item(s): 1) Allied Waste offer; 2) Wye Area Sewer Project.

WEDNESDAY, SEPTEMBER 7, 2011

BCC met in regular session; all three present.

CHIEF ADMINISTRATIVE OFFICER MEETING

Hearing - BCC set Joint Public Hearing (with City Council) for Adoption of Pre-Disaster Mitigation Plan. Hearing is set for October 24, 2011 at City Council Chambers at 7:00 pm to hear comments/adopt.

Resolution No. 2011-095 - BCC signed, dated September 7, 2011. Imposing Stage 1 Fire Restrictions in accordance with 2011 Restrictions/Closures Procedures for Northern Rockies Coordinating Group. Effective 00:01 am September 10, 2011.

Letter - JC signed, dated September 7, 2011. To A. Miller/DNRC, Helena, releasing remaining DNRC funds loaned to County from Water System Revenue Bonds (DNRC Drinking Water Revolving Loan Program), Series 2009C (for Lewis & Clark Water System Rehab Project/RSID 8496). Original loan/\$89,700; amount drawn to date/\$4,979 = funds returned/\$84,721. To Amy Rose/Public Works.

County 2012 Budget Enhancement Request - BCC approved request: \$46,641 for Sheriff/PS Fund to increase Sheriff's Property Tax Revenue by .25 mills to bring department budget into structural balance. To A. Czorny/CFO.

Additional discussion item(s): 1) Proposed gravel pits; 2) FEMA Flood Update/Grant info.

PUBLIC MEETING – SEPTEMBER 7, 2011

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1. CALL TO ORDER

Commissioners Present: Commissioner (Chair) Jean Curtiss, Commissioner Bill Carey, Commissioner Michele Landquist

Staff Present: Andrew Czorny, Chief Financial Officer, Dale Bickell, Chief Administrative Officer

2. PLEDGE OF ALLEGIANCE

3. PUBLIC COMMENT: None

4. **FINAL BUDGET HEARING** (Postponed from 8/31/11)
FY2012 Budget Summary Andrews PowerPoint Presentation**Public Comment**

Skip Rosenthal, Executive Director of Western Montana Addition Services. I wanted to take this opportunity to thank you. We received funding, our agency as part of the substance abuse prevention funding that's made available and I know Rosie Busses, she testified last time but on behalf of Flagship. The project success program continues to be in 5 schools, Frenchtown, Hellgate, Sentinel, Big Sky and Willard and we'll be continuing that this year, thank you for your support of that. We have reduced it to 20 hours per week for a 10 month period but just to let you know that we do continue to have substance abuse professionals in the school, on site, throughout the school year and that program is just kicking in now. Thank you.

Ramey Kodadek, Development Director at Youth Homes. Thank you all for being a longtime supporter for our Shirley Miller Attention Home and also recently being a supporter of our Friends to Youth Program. We really appreciate it and know how tight that budget is and know how hard you guys are working, so thanks for the support of youth homes that you give to us.

Glen Green, Frenchtown. I did have a question on one of your earlier slides there you had a projected revenue increase for property taxes of 1%, can you explain how you got that ~ how's that arrived at? How do you project a 1% increase? Common sense to me is that we're looking at all kinds of property valuation decreases and so I'm not seeing the comparability.

Andrew Czorny: We looked at it over a 10 year period and there were ups and downs throughout that 10 year period and so we took an average of the 10 year period, which was substantially above the 1% increase. It was \$6,000 some odd dollars and we went with the \$2,000 increase which was 1%, so we took a 1/3 of the 10 year average and that was how we came up with our estimate.

Chair Curtiss: It's the newly taxable values, so it's not necessarily saying that the value of your house has increased, it's saying that there's been new properties added. So it increases the value of all the properties in the County together. So it didn't go up very much.

Glen Green: Well as you well know, we've had these huge property tax increases for the last several years for the general public but it's usually been, for your projection purposes, 1% is the average is what your saying has been over the last 10 years, is that also on new?

Andrew Czorny: No, I'm saying the average has been \$6,000 ~ \$2,000 is the 1%.

Glen Green: Okay, so that's the number your using for your budget projections?

Andrew Czorny: That's what we had been using; the actual came in at .93%.

Aileen Samson – Missoula Aging Services. Like others before me, I just wanted to thank you for restoring full funding to our request through the Community based organization for a grant. The money, as you probably know, goes toward those folks who are under age 60 for meals on wheels. They can have diagnoses anywhere from things like multiple sclerosis to COPD, acute arthritis, things that cause them to be homebound. Their age does not make them eligible for the traditional meals on wheels program for those age 60 and older, so restoring that funding helps a lot based on the first two months of the fiscal that have gone by we know that we're on track to reach our goals on that program so we very much appreciate the restoration of those funds. Thank you.

Chair Curtiss: Andrew could you tell us what the next steps are to adopt the budget, when we're projected to do that?

Andrew Czorny: I believe we have a final hearing scheduled for next week, next Wednesday, September 14th, that would be the final adoption.

Chair Curtiss: So there's still time for folks to make comments on the budget. Any other final comment? None

5. OTHER BUSINESS: None

6. RECESS

There being no further business to come before the Board, the Commissioners were in recess at 1:59.

THURSDAY, SEPTEMBER 8, 2011

BCC met in regular session; all three present.

ADMINISTRATIVE MEETING

Resolution No. 2011-096 and Letter – BCC signed, dated September 8, 2011. Resolution authorizing submission of CDBG Application/Agreement to Certifications for Application for funding on behalf of Missoula Youth Homes to construct a new facility. Public Hearing held August 29, 2011. Letter to G. Byrom/CDBG Program, Helena, supporting/endorsing funding. JC signed accompanying grant documents. Possible Grant award/\$450,000. Estimated project term/March 1, 2012-June 30, 2013. Originals to Jean Harte/OPG.

Notice of Termination – JC signed, dated September 8, 2011. DEQ NOT form for Stormwater Prevention Plan Permit for MDP. Phase 3C (West Harrier/Expressway Intersection) has achieved final stabilization/permit coverage. All phases have been developed with exception of four remaining County-owned lots along West Harrier. Original to Barb Martens/Projects Office.

Resolution No. 2011-097 - JC signed, dated September 8, 2011. Reimbursement Resolution allowing County to reimburse itself for cost of County Records Center Fire Alarm installation (to PCI) with bond proceeds, if necessary. Amount/\$32,000.

Additional discussion item(s): 1) Western MT Fair preliminary results; 2) Highway 200/Speedway Intersection (BCC to invite Pascale to Admin Meeting next week); 3) Senate Bill 283.

FRIDAY, SEPTEMBER 9, 2011

BCC met in regular session; all three present. Afternoon: ML attended Grand Opening/Ribbon Cutting Ceremony for Lolo Vista Apartments.


 Vickie M. Zeier
 Clerk & Recorder


 Jean Curtiss, Chair
 BCC

SATURDAY, SEPTEMBER 10, 2011

Early evening: ML attended Operation 9-10-11 – held at Missoula Armory on S. Reserve Street.

MONDAY, SEPTEMBER 12, 2011

BCC met in regular session; quorum present. Morning: JC/BC met with Fred VanValkenburg and visitors from Indonesia. ML on vacation through Friday, September 23, 2011. Evening: JC attended Bonner-Milltown Community Council Meeting.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) LIDAR Grant Agreement; 3) OPG Director's Update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Communications; 3) RI Director's Update.

TUESDAY, SEPTEMBER 13, 2011

BCC met in regular session; quorum present. ML on vacation through Friday, September 23, 2011.

ADMINISTRATIVE MEETING

Emergency Proclamation – BCC signed, dated September 13, 2011. Proclaiming 2011 State of Emergency for flooding no longer exists in County.

DNRC Grant Agreement – JC signed. Pass-through LIDAR Grant #RRG-12-1485 for County LIDAR Mapping Project to obtain two-foot contour elevations for portions of Bitterroot/Clearwater/Swan Rivers. Amount/\$50,000. Two originals to Todd Kliez/OPG.

Additional discussion item(s): Highway 200/Speedway Intersection improvements (BCC did not favor extending project deadline).

WEDNESDAY, SEPTEMBER 14, 2011

BCC met in regular session; quorum present. ML on vacation through Friday, September 23, 2011.

CHIEF ADMINISTRATIVE OFFICER MEETING

Grant Agreement – JC signed. 2010 Supportive Housing Program Renewal Grant Agreement between US HUD and County for Ada's Place Transitional Housing Project. Total award/\$100,201; County to receive \$4,771. Term/July 1, 2011-June 30, 2012. Original to Melissa Gordon/OPG.

Agreement – BCC signed, dated August 25, 2011. Between County and Seeley-Swan Community Food Bank to alleviate hunger in Condon/Seeley Lake/Potomac/Clearwater/Ovando communities by providing three days of emergency food/money or food stamps; access to phone; vouchers for perishable food. Term/July 1, 2011-June 30, 2012. Amount/up to \$1,000. Original to Peggy Seel/OPG.

Agreement – BCC signed, dated September 14, 2011. Between County and Western MT Health Center for balance of FY11 mental health mill levy fund (\$24,013) to partially fund architectural services for renovation of Fort Missoula Hospital building into 38-bed inpatient addiction treatment center. Term begins upon receipt of grant and ends approx. five months after signing agreement. One original to Peggy Seel/OPG.

SRF Funds Release Letter – JC signed, dated August 19, 2011. To Anna Miller/DNRC, Helena, re: \$3,419,784 Wye Area Sanitary Sewer System SID 8489 Bond (DNRC Revolving Loan Program), Series 2009. County has completed this portion of project and releases to DNRC all funds in excess of the Drawn Amount (balance of \$9,659). Original to Amy Rose/Public Works.

Agreement – JC signed, dated September 14, 2011. Between County and AWS Dredge for Lolo Water/Sewer District (RSID 8901) Biosolids Management Project (including dredging lagoon/dewatering of sludge/hauling of dry sludge to Allied landfill). Term/July-November 2011. Amount/\$292,799. Original to Amy Rose/Public Works.

Contract Amendment – JC signed. Amends Standard Audit Contract between County and Nicole M. Noonan, CPA, PC. Salary for audit covering July 1, 2010-June 30, 2011 is changed from “negotiable” to \$84,400. Term/June 1-December 31, 2011. Two originals to A. Czorny/CFO for further signatures/handling.

Resolution No. 2011-098 – BCC signed, dated September 14, 2011. Adopting Resource Categories and Expenditure Order for Resource Categories for all Governmental Funds (GASB 54).

Resolution No. 2011-099 – BCC signed, dated September 14, 2011. Committing Fund Balance Resources for Special Revenue Funds (GASB 54). Resolution includes list of Funds/Department and Function/MCA Citation and Allocation Basis. Fund balances to be reviewed yearly by June 30th/determination made how much to be maintained in fund or transferred to General Fund.

Board Appointment – Due to a recent resignation, BCC appointed Todd Hughes as Member of the Clinton Rural Fire District Board of Trustees until Special District Election is held in May of 2012.

Grant Award – JC signed acceptance documents. US DOJ (Office of Justice Programs) continuation grant to County in amount of \$200,000 for Missoula Co-Occurring Treatment Court. Funding from FY11 Justice and Mental Health Collaboration Program. Term/October 1, 2011-September 30, 2013. Original to Brenda Desmond/District Court.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated September 13, 2011. Amount/\$7,714.34. To County Auditor.

Letter – BCC signed, dated September 16, 2011. To P. Corts/Dry Gulch Access/Lolo National Forest, Missoula, commenting on application for use of Forest Service cost-share roads to access the Pruyn Estate property as described in his “Interested Party” letter of August 17, 2011. BCC is concerned request is primarily for access to residential dwellings that are remote, virtually inaccessible to emergency services, and in high risk fire area.

Additional discussion item(s): None.

Tax Abatement Requests – At meeting with Clerk & Recorder, BCC approved following letters dated September 14, 2011:

- 1) Approving request from Action Services, LLC, Missoula, for refund of motor vehicle taxes/fees paid in error for Vehicle #2922364.
- 2) Approving request from John Pipkin, Missoula, to refund Treasurer/Sheriff fees (\$75) re: mobile home auction for Taxpayer ID #90327500.
- 3) Denying request from Malissa Bennett, Missoula, for refund of motor vehicle taxes/fees paid for Title #G316275, as she did not qualify for an exemption.
- 4) Denying request from Stan Hendricksen, Lolo, to refund Treasurer/Sheriff fees (\$75) re: delinquent taxes on mobile home/Taxpayer ID #90027350.
- 5) Denying request from Linda Plick, Missoula, to refund recording fees (\$44) for Power of Attorney for her father.
- 6) Denying request from George Nagel, Missoula, to waive penalty/interest for Taxpayer ID #1616901.
- 7) Denying request from Joel Shanks, Bonner, to refund motor vehicle taxes/fees paid for vehicle returned to Deals On Wheels/Title #AA0964393.
- 8) Denying request from Marsha Kirchner, Missoula, to refund motor vehicle taxes/fees paid for vehicle she didn't mean to register/Title #AA0411364.
- 9) Approving request from Ray Meyer, Clinton, to refund Treasurer/Sheriff fees (\$75) re: mobile home auction for Taxpayer ID #90140000.
- 10) Approving request from Daniel Richards, Seeley Lake, to refund Seeley Lake Refuse fee for 2010/Taxpayer ID #90349550.

PUBLIC MEETING – SEPTEMBER 14, 2011

BOOK 111 PAGE 0464

1. CALL TO ORDER

Commissioners Present: Commissioner (Chair) Jean Curtiss, Commissioner Bill Carey
Commissioners Absent: Commissioner Michele Landquist

Staff Present: Andrew Czorney, Chief Financial Officer

2. PLEDGE OF ALLEGIANCE

3. PUBLIC COMMENT: None

7. ROUTINE ADMINISTRATIVE ACTIONS AND PUBLIC ANNOUNCEMENTS

a. Weekly Claims List (\$903,740.86)

Executive Session

Commissioner Carey made a motion that the Board of County Commissioners approve the Weekly Claims List in the amount of \$903,740.86. Chair Curtiss seconded the motion. The motion carried a vote of 2-0.

b. Public Announcements: None

5. HEARING

Review Preliminary Architectural Report for Missoula Youth Homes State CDBG Grant Application

Jean Harte, Office of Planning and Grants, read the Staff Report

Geoff Birnbaum, Executive Director, Missoula Youth Homes: Spoke about the application and the need for a new home. The home we currently have has a lot of great features; it was built in the 50's, so it does need some upgrades. We have researched reconstruction of this home to meet the need for a safer, code compliant home. There's a need for separation between bedrooms for girls and boys. A lot of times when a new child comes to the home we have to relocate bedrooms and move someone that has been in a room for 3 weeks or so, this uproots their settlement in the home. After looking at several different proposals to remodel the current existing home, we realized it is most cost effective to rebuild a new home on the existing lot. We have a beautiful lot with storage and a garden that the kids are able to take care of themselves in cooperation with Garden City Harvest. The new home that we are proposing will give us more rooms and a separation between the girls and boys bedrooms. They will have their own space as needed.

Chair Curtiss: Asked if someone is working on the situation of kids aging out of foster care before graduating.

Geoff Birnbaum: Yes, they're working on it. Unfortunately the kids age out of the program at 18 years old.

Jeff Crouch, Architect: Showed presentation on the new house design.

Chair Curtiss: Do you have a plan to house the kids during the renovation?

Jeff Crouch: yes, I believe Geoff could answer this better.

Geoff Birnbaum: We have done this before; we have rented a house in the South Hills. We are prepared to do so again once we know we have the funding.

Commissioner Carey: Thanked Geoff for the good work of Missoula Youth Homes.

Executive Session

Commissioner Carey made motion that the Board of County Commissioners sign the Grant (CDBG) Application, on behalf of Missoula Youth Homes, Inc. Chair Curtiss seconded the motion. The motion carried a vote of 2-0.

6. FY 2012 BUDGET

Adopt Final Budget (2012 Budget Summary)

Andrew Czorney: 2012 Budget Presentation. Budget process would kick-off early April 2012.

Public Comment: None

Executive Session

Commissioner Carey made a motion that the Board of County Commissioners adopt the 2012 Missoula County Budget and RSID Budgets. Chair Curtiss second the motion. The motion carried a vote of 2-0.

7. OTHER BUSINESS: None

8. RECESS

There being no further business to come before the Board, the Commissioners were in recess at 2:16.

Following the Public Meeting, the BCC signed following Resolutions:

RESOLUTION NO. 2011-100

ADOPTING RURAL SPECIAL IMPROVEMENT DISTRICTS BUDGET FOR MISSOULA COUNTY FOR FISCAL YEAR 2011-2012

WHEREAS, PURSUANT TO SECTION 7-6-4024, MCA, the Board of County Commissioners of Missoula County, Montana, has held public hearings on the proposed budget of Missoula County for Fiscal Year 2011-2012, as required by law; and

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

WHEREAS, Sections 7-12-2101 through 7-12-4001, MCA, provide for the fixing of various special assessments to raise funds sufficient to meet said expenditures authorized in the budget; and

NOW, THEREFORE, BE IT RESOLVED, that the final County Rural Special Improvement Districts Budget for Fiscal Year 2011-2012 be as set out in Attachment H, and the same is hereby adopted as the final budget, subject to the conditions set forth below.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the special assessments will be fixed based on this budget.

DATED THIS 14th DAY OF SEPTEMBER, 2011

APPROVED AS TO FORM & CONTENT:

BOARD OF COUNTY COMMISSIONERS

s/ _____
County Attorney's Office

s/ _____
Jean Curtiss, Chairman

ATTEST:

s/ _____
Bill Carey, Commissioner

s/ _____
Clerk and Recorder

s/ _____
Michele Landquist, Commissioner

Attachment H to Resolution 2011-100 is on file in the Clerk and Recorders Office.

RESOLUTION NO. 2011-101

ADOPTING A BUDGET FOR MISSOULA COUNTY FOR FISCAL YEAR 2011-2012

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 2011-2012, as required by law; and

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

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

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

NOW, THEREFORE, BE IT RESOLVED, that the final County Budget for Fiscal Year 2011-2012 be as set out in Attachments A, B and C, and the same is hereby adopted as the final budget, subject to the conditions set forth below.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the levies as detailed below be fixed and adopted for Fiscal Year 2011-2012, based on the mill value of \$194,561 County-wide, and a value of \$88,880 outside the City limits of Missoula, and a value of \$190,041 for the Open Space Bonds which tax all non-timber and non-agricultural lands within the County.

Fund	Mills	Attachment
Countywide		
General	40.68	A, B, and C
Poor	5.17	A and C
Bridge	4.81	A and C
Weed	2.37	A and C

Child Daycare	0.33	A and C
Fair	1.00	A and C
District Court	3.17	A and C
Park	1.18	A and C
Library	11.79	A and C
Planning	3.32	A and C
Substance Abuse Prevention Levy	1.90	A and C
Aging	3.19	A and C
Extension	1.72	A and C
Mental Health	0.57	A and C
Search & Rescue	0.41	A and C
Public Safety	42.32	A and C
Permissive Medical Levy	4.87	A and C
Museum	2.25	A and C
Technology	2.57	A and C
Risk Management	2.87	A and C
	<hr/>	
	136.49	
Debt Service		
Risk Management Bond	0.37	A and C
Jail Bond	5.61	A and C
Open Space Bond	3.05	A and C
	<hr/>	
Total Debt Service	9.03	
	<hr/>	
Total County-Wide	145.52	
	<hr/>	

County Only		
Road	23.24	A and C
Health	9.15	A and C
Animal Control	1.60	A and C
Permissive Medical Levy (County Only)	2.19	A and C
	<hr/>	
County Only	36.18	
	<hr/>	
	181.70	

DATED THIS 14th DAY OF SEPTEMBER, 2011

APPROVED AS TO FORM & CONTENT:

BOARD OF COUNTY COMMISSIONERS

s/ _____
County Attorney's Office

s/ _____
Jean Curtiss, Chairman

ATTEST:

s/ _____
Bill Carey, Commissioner

s/ _____
Clerk and Recorder

s/ _____
Michele Landquist, Commissioner

Attachments A, B and C to Resolution 2010-101 are on file in the Clerk and Recorders Office.

THURSDAY, SEPTEMBER 15, 2011

BCC met in regular session; quorum present. ML on vacation through Friday, September 23, 2011.

ADMINISTRATIVE MEETING – CANCELED (no agenda items)

Resolution No. 2011-102 – BCC signed, dated September 15, 2011. Rezoning property legally described as all of Lots 5-8 and NE nine feet of Lot 9, and the SE 57 feet of Lots 16 & 17, and the NE 10.5 feet of Lot 17 and all of Lots 18-26 of Block 19 of East Missoula Addition, located in Section 24 of T 13 N, R 19 W, PMM, from C-C2 (General Commercial) Zoning District to C-R3 (Residential) Zoning District. Public Hearing held July 5, 2011. Resolution of Intent published August 11, 2011.

FRIDAY, SEPTEMBER 16, 2011

BOOK 111 PAGE 0467

BCC met in regular session; quorum present. ML on vacation through Friday, September 23, 2011.

County Payroll Transmittal Sheet – BCC signed. Pay Period: 18/CY2011 - Pay Date/September 9, 2011. Total Payroll/\$1,267,570.23. To County Auditor.

Vickie M. Zeier
Vickie M. Zeier
Clerk & Recorder

Jean Curtiss
Jean Curtiss, Chair
BCC

MONDAY, SEPTEMBER 19, 2011

BCC met in regular session; quorum present. ML on vacation through Friday, September 23, 2011.

Indemnity Bond – JC signed. Abdallah Elias, Missoula, Principal for Financial Services Warrant #31314735, issued August 12, 2011 on Payroll Fund. Amount/\$2,019.20 (for wages). Warrant lost.

Planning Status Meeting – BCC/OPG Staff. – CANCELED (no Agenda items)

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Land/Conservation Fund; 3) Communications; 4) RI Director's Update.

TUESDAY, SEPTEMBER 20, 2011

BCC met in regular session; quorum present. ML on vacation through Friday, September 23, 2011.

ADMINISTRATIVE MEETING

Contract – BCC signed September 20, 2011. Renewal contract between County and Supreme Court Office of the Court Administrator for IS Help Desk support of District and Youth Courts. Amount/\$5,220. Term/July 1, 2011-June 30, 2013. One original to IS.

Addendum – BCC approved/signed September 20, 2011. To Agreement between County Detention Center and Spectrum Medical Services for services provided. Addendum (dated September 12, 2011) states: 1) Effective Dates/October 1-December 31, 2011; 2) Spectrum to be compensated \$124,680 for same term. One original to Sheriff's Office.

Resolution No. 2011-103 – BCC signed, dated September 20, 2011. Budget Amendment for RSID No. 901 showing revenue increase of in amount of \$50,000 (from approx. \$3/month for tax increase in District). For total disclosure, expenditures included in formal FY12 Operating Budget/Revenue Estimates for County.

Letters – BCC signed, dated September 20, 2011. To K. Tobel/Big Sky Economic Development Trust Fund/DOC, Helena, supporting Bitterroot Economic Development District's applications for a BSEDTF Category II Planning grant on behalf the following: 1) M2Green Redevelopment LLC (to help fund feasibility study of Frenchtown Mill site); and 2) Swan Valley Innovations (to help hire professional services to write a business plan for development of local business incubator near Condon. Originals to Marcy Allen/BREDD.

Additional discussion item(s): 1) Possible repurchase of portion of Lot 1B/Block 4/MDP-Phase 1B; 2) Grant Creek Project update.

WEDNESDAY, SEPTEMBER 21, 2011

BCC met in regular session; quorum present. Afternoon: JC/BC accompanied Bob Brown, Diane Sands, et al on Tour of Post Headquarters at Fort Missoula. Evening: BC attended Evaro-Finley-O'Keefe Community Council Meeting. ML on vacation through Friday, September 23, 2011.

Replacement Warrant - JC signed. Patrick Kozeluh, Missoula, Principal for MUTD Warrant #83074647, issued July 25, 2011 on Claims Fund 7300. Amount/\$15 (for clothing allowance). No bond of indemnity required.

Indemnity Bond – JC signed. Walmart Community, Atlanta, GA, Principal for AP/Claims Warrant #27-233782, issued June 13, 2011 on County General Fund. Amount/\$4,189.03 (for supplies). Warrant destroyed.

Replacement Warrant - JC signed. Sara Opsahl, Missoula, Principal for MUTD Warrant #83074703, issued August 10, 2011 (made out to Johnston Industrial Corp). Amount/\$75. Check made out to wrong vendor; no bond of indemnity required.

CHIEF ADMINISTRATIVE OFFICER MEETING

Employee Contract – BCC signed. Between County and Winslow Lewis, PA-C, for professional services at PHC. Term/October 10, 2011-June 30, 2013. Salary/\$80,000 yearly or \$38.46 hourly (1.0 FTE). Originals to C&R and PHC.

Contract – BCC signed, dated September 19, 2011. Between County and Jim Guerrero Roofing for new roof/County Administration Building. Amount/\$41,841. Term/September 21-December 15, 2011. Originals to C&R and Facilities Management.

Contract – BCC signed, dated September 21, 2011. Between County and Linda Stoll for interim Legislative monitoring/lobbying. Amount/\$12,000. Term/September 1, 2011-October 1, 2012. Original to C&R and Ms. Stoll.

Resolution No. 2011-104 – BCC signed, dated September 21, 2011. Rescinding Stage 1 fire restrictions on private land effective at 12:01 am September 21, 2011.

Resolution No. 2011-105 – BCC signed, dated September 21, 2011. Expending \$13,840 from City's portion of 2006 Open Space Bond Proceeds for the Boehmler Project, towards transaction costs for a donated Conservation Easement on a 160 acre parcel in Upper LaValle Creek Valley.

Contract – BCC signed, dated September 16, 2011. Between County and MCAT (Missoula Community Access Television) for recording/broadcasting the regular BCC Public Meetings. Amount/\$3,000. Term/July 1, 2011-June 30, 2012. Original to C&R and MCAT.

Easements – BCC signed following permanent road easements/temporary construction easements for Petty Creek Road Project #MT PFH 71-1(1):

- 1) Parcel 065 – Todd & Jodi Trautman (\$400);
- 2) Parcel 066 – Todd & Jodi Trautman (\$1,150);
- 3) Parcel 073 – Darrell & Jane Whiteside (\$550);

Originals to Steve Niday/Surveyors.

Grant Letter– BCC approved/signed, dated September 21, 2011. To N. Guccione/Big Sky Economic Development Trust Fund (“BSEDTF”), MT DOC, Helena, supporting BREDD’s application for BSEDTF Category II Planning grant for the Missoula Vaccine Partnership to assess feasibility/develop business plan for a vaccine manufacturing facility in the region. Estimated cost/\$75,000; funding includes \$25,000 from County’s CDBG RLF account and \$25,000 from private sources). Originals to Cindy Wulfekuhle/OPG.

Special Use Agreement – BCC signed. Between County and Weedbusters Biocontrol, LLC (“WB”) to collect knapweed biological control insects at Big Sky Park in exchange for WB’s commitment to release insects for Dalmation Toadflax/Leafy Spurge in certain County Parks. Term/one year upon signature of Agreement. Originals to C&R and Lisa Moisey/County Parks.

Letter– BCC signed, dated September 21, 2011. To L. Weldon/Regional Forester, USFS Region One, Missoula, reiterating support for acquisition of former Plum Creek timber land by USFS as part of MT Legacy Project.

Additional discussion item(s): None.

NO PUBLIC MEETING HELD THIS DATE

THURSDAY, SEPTEMBER 22, 2011

BCC did not meet in regular session. BC attended Crown of the Continent 2nd Annual Conference, held at Kwa Taq Nuk Resort, Polson. Evening: BCC attended Annual Boards/Commissions Recognition Event, held at Caras Park Carousel. ML on vacation through Friday, September 23, 2011.

ADMINISTRATIVE MEETING – CANCELED (quorum unavailable)

FRIDAY, SEPTEMBER 23, 2011

BCC met in regular session; quorum present. ML on vacation through Friday, September 23, 2011.

Vickie M. Zeier
Vickie M. Zeier
Clerk & Recorder

Jean Curtiss
Jean Curtiss, Chair
BCC

SATURDAY, SEPTEMBER 24, 2011

Afternoon: JC participated in dedication of Historic Courtroom at T-1 Building, Fort Missoula.

SUNDAY, SEPTEMBER 25, 2011

JC at MACo Conference in Bozeman through Tuesday, September 27th.

MONDAY, SEPTEMBER 26, 2011

BOOK: 111 PAGE: 0169

BCC met in regular session; quorum present. JC at MACo Conference in Bozeman through Tuesday, September 27th.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) Mt. Henry Estates Subdivision Extension (*action*); 3) OPG Director's Update.

Letter – BCC signed, dated September 28, 2011 to June/Richard George, Seeley Lake, approving extension request for Mt. Henry Estates Subdivision. Plat approval expiration date is extended to October 7, 2012.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Subdivision Regulation Revisions; 3) Communications; 4) RI Director's Update.

TUESDAY, SEPTEMBER 27, 2011

BCC met in regular session; quorum present. Morning: BC/ML attended ECMS Kick-Off with SIRE Technologies. JC at MACo Conference in Bozeman through this afternoon.

ADMINISTRATIVE MEETING

County Payroll Transmittal Sheet – BCC signed. Pay Period: 19/CY2011 - Pay Date/September 23, 2011. Total Payroll/\$1,246,444.38. To County Auditor.

Amendment – BC signed. Amendment #1 to WIC Program Task Order #12-07-5-21-014-0 to Contract between City-County Health Dept. ("MCCHD") and MT DPHHS to allow Registered Dietitian to approve special formulas/medical foods to local WIC Programs that do not have RD services [see Agreements below]. Term/October 1, 2011-June 30, 2012. Amount/\$200 per week up to \$9,000 total. Originals to Julie Mohr/ Health Dept.

Agreement – BCC signed, dated September 27, 2011. Between MCCHD and Hill County WIC Program for provision of Registered Dietitian ("RD") services to high risk WIC participants (per Scope of Service). Term/October 1, 2011-September 30, 2012. Amount/\$650 per month. Originals to Julie Mohr/ Health Dept.

Agreement – BCC signed, dated August 30, 2011. Between MCCHD and Granite County for provision of public health nursing services 20 hrs/wk (per Exhibit A). Term/April 1, 2011-June 30, 2012. Amount/\$50,844.64 over five quarters. Originals to Julie Mohr/ Health Dept.

Agreement – BCC signed, dated September 27, 2011. Between MCCHD and Lincoln County WIC Program for provision of Registered Dietitian ("RD") services to high risk WIC participants (per Scope of Service). Term/July 1, 2011-September 30, 2011. Amount/\$1,000 per month (up to 5 months). Originals to Julie Mohr/ Health Dept.

Forms – BC/ML signed Signature Certification/Deposit & Request for Payment forms for HB645/MDOC funding for Courthouse historic preservation restoration (Paxson Murals storage and replace main window ultraviolet membrane). Amount/\$65,000. Term/June-September, 30, 2011. Original to P. Maechling/OPG.

Contract – BC/ML signed, dated September 15, 2011. Between County and Highway Specialties, Inc. for road striping on various County roads. Term/July 1, 2011-October 31, 2011. Amount/up to \$58,000. Originals to C&R and Greg Robertson/Public Works.

Contract – BC/ML signed, dated September 27, 2011. Between County and Sirius Construction (sole bidder) for Fort Missoula restroom demolition project and construction of picnic shelter. Term/completion 32 days after contract commencement. Amount/\$52,568. Originals to C&R and Greg Robertson/Public Works.

Easements – BCC signed following permanent road easements/temporary construction easements for Petty Creek Road Project #MT PFH 71-1(1):

- 1) Parcel 048 – Mark/Nancy Terry (\$15,650);
- 2) Parcel 049 – Mark/Nancy Terry (\$30,650);
- 3) Parcel 050 – Mark/Nancy Terry (\$17,450);
- 4) Parcel 056 – Dawn Streett (\$5,850).

Originals to Steve Niday/Surveyors.

Additional discussion item(s): None.

WEDNESDAY, SEPTEMBER 28, 2011

BCC met in regular session; all three present. Morning: JC attended MEP Board Meeting, held at GLR.

CHIEF ADMINISTRATIVE OFFICER MEETING

Contract – JC signed. #1102COMM0007 between County MT DPHHS on behalf of Early Childhood Services Bureau to expand funding for Early Healthy Start Council (part of Missoula Forum for Children/Youth). Term/September 1, 2011-September 30, 2013. Amount/\$61,000. Two originals to Peggy Seel/OPG.

Contracts – BCC signed. Between County and the following for services at UofM School of Public Health/Community Health Sciences (for benefit of PHC) for term/August 8, 2011-June 30, 2012: 1) Nerissa Koehn, MD – FTE 0.60. Amount/\$107,323; and 2) John B. Miller, MD - 0.82 FTE. Amount/\$156,343. Four originals to PHC.

MOU – JC signed. Between Child Care Resources and Missoula City-County Health Department for term July 1, 2011-June 30, 2012. Amount/\$30,740 to MCCHD by CCR. Two originals to Julie Mohr/Health Dept.

Board Appointment – Due to a recent resignation, BCC appointed George Hirschenberger (formerly 1st Alternate) as a Regular Member of the Weed Board to fill an unexpired term to December 31, 2012.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated September 28, 2011. Amount/\$12,240.02. To County Auditor.

Letters – BCC signed, dated September 27, 2011. To Health Resources and Services Administration/To Whom It May Concern, fully supporting PHC in its proposals for: 1) HRSA Capital Development (to tackle issue of space needs) and 2) HRSA 330e Funding (to support primary health care services for underserved in County) for PHC. Originals to Kim Mansch/PHC.

Additional discussion item(s): Ice Rinks at Fair (A. Czorny, S. Earle & D. Brownlow will be County negotiating team for new contract w/MAYHA.

PUBLIC MEETING – SEPTEMBER 28, 2011

1. CALL TO ORDER

Commissioners Present: Commissioner (acting Chair) Bill Carey, Commissioner Michele Landquist
Commissioner Absent: Commissioner Jean Curtiss

2. PLEDGE OF ALLEGIANCE

3. PUBLIC COMMENT

Peggy Morrison read a letter to the Commissioners on behalf of Fred Stewart regarding Maclay Bridge. PDF of letter.

4. ROUTINE ADMINISTRATIVE ACTIONS AND PUBLIC ANNOUNCEMENTS

a. Weekly Claims List (\$2,964,199.52)

Commissioner Landquist made a motion that the Board of County Commissioners approve the weekly claims list in the amount of \$2,964,199.52. Commissioner (acting chair) Carey seconded the motion. The motion carried a vote of 2-0.

b. Public Announcements
 Enjoy Fall.

5. OTHER BUSINESS: None
 None

6. RECESS

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

THURSDAY, SEPTEMBER 29, 2011

BCC met in regular session; all three present. Evening: BCC attended Open Space Bond Celebration, held at City Council Chambers.

ADMINISTRATIVE MEETING

Interlocal Agreement – JC signed September 29, 2011. Between County and Montana Dept. of Transportation to perform a Pre-NEPA/MEPA investigation of Maclay Bridge. MDT will pay entire amount of study. Two original to Greg Robertson/Public Works for further signatures/handling.

Task Order – JC signed. #12-07-5-21-060-0 to Missoula City-County Unified Gov't Master Contract between County (MCCHD) and MT DPHHS for period July 1, 2005-June 30, 2012 (MT WIC Program). For continuation of Breastfeeding Peer Counseling services for October 1, 2011-June 30, 2012. Amount/\$25,500. Three originals to Julie Mohr/ Health Dept.

Grant Award – JC signed/accepted Award Letter on behalf of County for remaining 50% of SFY 2012 US Dept. of Homeland Security/Emergency Management Performance Grant to support salaries for DES Coordinator and 2 Deputy DES Coordinators. Amount/\$33,602.50 (w/local match). Grant period/July 1, 2011-June 30, 2012. Amount/\$50,000. Two originals to Chris Lounsbury/DES.

Request – BCC approved request from Chaplain Chuck Lee/Emergency Responders Support Services for agency participation in Charitable Giving Campaign. To Cindy Wulfekuhle/OPG.

BOOK 111 PAGE 0471

Letter – BCC signed, dated September 29, 2011. To Patty Lovaas, Missoula, acknowledging receipt of her September 29, 2011, and responding once again to her inquiries about methodology used to determine assessments for RSID 8489.

Additional discussion item(s): None.

FRIDAY, SEPTEMBER 30, 2011

BCC met in regular session; quorum present. BC at Airport Authority Board Retreat, held at Salmon Lake.

Vickie M. Zeier
Vickie M. Zeier
Clerk & Recorder

Jean Curtiss
Jean Curtiss, Chair
BCC

MISSOULA COUNTY COMMISSIONERS' JOURNAL: OCTOBER, 2011

BCC = BOARD OF COUNTY COMMISSIONERS

JC = Commissioner Jean Curtiss, Chair
 BC = Commissioner Bill Carey
 LA = Commissioner Michele Landquist

The following Claims Lists were signed during the month of OCTOBER 2011:

Date Signed	Claims List Date	Who signed	Amount
October 3, 2011	September 29, 2011	BCC	\$4,660.28
			\$40,062.60
			\$534.20
			\$11,418.69
			\$10,188.49
			\$13,504.22
			\$27,603.00
October 3, 2011	September 30, 2011	BCC	\$1,123.89
			\$1,025.66
			\$1,155.69
			\$47,230.59
			\$30,585.37
October 3, 2011	October 3, 2011	BCC	\$27,626.82
			\$4,784.82
			\$50,066.68
October 4, 2011	October 4, 2011	BCC	\$14,646.86
October 4, 2011	October 3, 2011	BCC	\$14,616.06
October 4, 2011	October 4, 2011	JC, BC	\$979.00
October 5, 2011	October 3, 2011	BCC	\$28,346.89
October 6, 2011	October 4, 2011	BCC	\$165,604.42
			\$1,893.94
October 6, 2011	October 5, 2011	BCC	\$5,509.80
			\$834.77
			\$275,297.87
			\$238.00
			\$8,956.08
			\$3,073.45
			\$3,880.86
			\$8,965.10
			\$15,283.45
			\$32,378.33
October 7, 2011	October 5, 2011	BCC	\$3,967.77
October 7, 2011	October 6, 2011	JC, BC	\$5,650.62
		BCC	\$102.96
			\$8,451.69
			\$41,118.69
			\$15,817.68
October 11, 2011	October 3, 2011	BCC	\$658.06
October 11, 2011	October 6, 2011	BCC	\$4,119.46
October 11, 2011	October 11, 2011	BCC	\$4,283.64
			\$2,134.64
			\$1,108.00
			\$19,760.74
October 12, 2011	October 11, 2011	JC, ML	\$11,964.39
			\$10,084.24
			\$61,278.26
			\$43.12
October 12, 2011	October 12, 2011	JC, ML	\$5,358.79
			\$1,504.22

October 13, 2011	October 12, 2011	BCC	\$62,162.24
			\$23,613.21
			\$277.72
			\$3,350.62
		JC, ML	\$1,022.00
October 13, 2011	October 13, 2011	BCC	\$5,531.99
October 14, 2011	October 13, 2011	JC, ML	\$4,258.05
October 17, 2011	October 17, 2011	JC, ML	\$1,145,017.99
			\$5,588.82
October 18, 2011	October 18, 2011	JC, ML	\$20,333.80
			\$4,095.97
			\$3,813.92
October 19, 2011	October 18, 2011	BC, ML	\$632.43
October 19, 2011	October 18, 2011	BCC	\$26,089.02
			\$9,532.41
			\$1,470.69
			\$23,237.82
			\$223,349.99
October 19, 2011	October 19, 2011	BCC	\$3,806.60
October 20, 2011	October 18, 2011	BCC	\$20,282.92
			\$67,123.13
October 20, 2011	October 19, 2011	BC, ML	\$2,035.09
			\$2,628.17
			\$1,597.58
			\$192,776.27
			\$104,077.62
October 20, 2011	October 20, 2011	BC, ML	\$3,030.75
			\$28,822.94
			\$9,038.68
October 21, 2011	October 20, 2011	BC, ML	\$3,168.24
			\$35,825.61
			\$32,069.48
October 24, 2011	October 24, 2011	BCC	\$43,515.02
			\$259,547.86
			\$5,270.34
			\$9,492.09
			\$198,579.31
October 26, 2011	October 24, 2011	BCC	\$88.50
			\$9,960.77
			\$60,542.59
October 26, 2011	October 25, 2011	BCC	\$279,155.00
			\$19,625.13
			\$412.88
			\$29,154.81
			\$1,732.67
October 26, 2011	October 24, 2011	BCC	\$4,279.92
October 26, 2011	October 26, 2011	BCC	\$540.00
			\$8,711.77
			\$106.08
			\$136.92
			\$1,913.98
			\$1,745.75
			\$379.59
			\$447.75
			\$4,997.91
			\$40,965.62
			\$1,778.50
			\$306.53

October 27, 2011	October 27, 2011	JC, ML	\$158.34
			\$1,920.09
			\$1,460.48
			\$1,200.00
			\$41,326.24
			\$53,726.30
			\$870.36
			\$5,384.32
			\$1,165.83
			\$26,084.60
			\$658.95
October 31, 2011	October 28, 2011	BCC	\$16,914.33
			\$2,075.72
			\$2,071.61
			\$50,751.17
			\$35,187.91

All Claims Lists were returned to the Accounting Department.

MONDAY, OCTOBER 3, 2011

BCC met in regular session; all three present. Afternoon: BCC participated in field trip to site of Hall-Camas Creek Open Space Project in Potomac.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) Hunton Gravel Permit; 3) OPG Director's update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Hall-Camas Creek Open Space Bond project; 3) RI Budget Amendment; 4) BCC visits to Community Councils; 5) Subdivision Regulation Revisions; 6) Communications; 7) RI Director's update.

Joint Resolution No. 2011-106 – BCC signed (along with Clerk & Recorder/MCPS/Bonner School District), dated October 3, 2011. Approval of Application of Ailport Logging for property tax reduction for commercial or industrial personal property (approved at June 22, 2011 Public Meeting).

TUESDAY, OCTOBER 4, 2011

BCC met in regular session; all three present.

Monthly Report - JC examined/approved/ordered filed the Monthly Reconciliation Report for Justice Court 2, Karen A. Orzech, Justice of the Peace, for month ending September 30, 2011.

ADMINISTRATIVE MEETING

Resolution No. 2011-107 – BCC signed, dated October 4, 2011. Budget Amendment for Public Works/Road Dept. showing revenue increase in amount of \$30,000 (from TSEP Grant & Bridge Cash Reserve) for Riverview Bridge. For total disclosure, expenditures included in formal FY12 Operating Budget/Revenue Estimates for County.

Agreements – BCC signed three agreements between County and following for funds allocated from \$380,276 Mill Levy Funding for substance abuse prevention. Term/July 1, 2011-June 30, 2012:

- 1) Boys & Girls Club of Missoula County. Amount/\$7,000;
- 2) National Coalition Building Institute/Missoula. Amount/\$7,000.
- 3) Big Brothers Big Sisters. Amount/\$16,000.

One original to Peggy Seel/OPG.

Grant Award – BC signed. JDAI and Juvenile System Improvement Grant from MT BOCC (#11-J02-91006). Amount/\$7,000. Term/July 1, 2011-June 30, 2012. Original to County Attorneys Office.

Resolution No. 2011-108 – BCC signed, dated October 14, 2011. Denial of Petition to abandon portion of Cottonwood Lane, located in Seeley Lake Homesites Addition #3 & Seeley Lake Homesites #10A; along with portion of Pine Drive, also located in SL Homesites Addition #3. [Denied at 8/31/2011 Public Meeting]

Additional discussion item(s): Missoula Housing Authority Mutual Self Help Program. MHA will draft letter for BCC signature.

WEDNESDAY, OCTOBER 5, 2011

BCC met in regular session in early morning. BCC, Greg Robertson, et al traveled to Helena for lunch with Linda Stoll (Interim Committee Update) and then met new MDT Director Tim Reardon.

Monthly Report - JC examined/approved/ordered filed Monthly Reconciliation Report for Clerk of District Court, Shirley E. Faust, for month ending September 30, 2011.

CAO MEETING

Letter – BCC signed, dated October 5, 2011. To Whom It May Concern, supporting Nine Mile Community Center's application to MT DNRC for grant funding for proposed Nine Mile Community Pavilion. Project will enhance Center's grounds/reflect historical resource heritage of Missoula County.

Additional discussion item(s): Endobiologics Property.

NO PUBLIC MEETING HELD THIS DATE

THURSDAY, OCTOBER 6, 2011

BCC met in regular session; all three present. Morning: JC swore in JP Substitute Judges. Afternoon: JC participated in special teleconference with Air Pollution control Board to set Hearing for UM Biomass Project.

ADMINISTRATIVE MEETING

Amendment – JC signed. #1 to Task Order #11-07-1-01-015-0 to County Unified Gov't Master Contract for period July 1, 2005-June 30, 2012 between MCCHD and MT DPHHS. Amount increased from \$7,500 to \$15,000 for community health assessment work (including accreditation preliminary work). Term/July 1-September 30, 2011. Three originals to Julie Mohr/MCCHD.

Task Order – JC signed. #12-07-6-11-034-0 to City-County Unified Gov't Master Contract for period July 1, 2005-June 30, 2012 between MCCHD and MT DPHHS (Office of Public Health Emergency Preparedness & Training). Annual renewal. Amount/\$97,100 for 10 months (September 1, 2011-June 30, 2012). Three originals to Julie Mohr/MCCHD for further signatures/handling.

Research Agreement – BCC signed. Between County (Weed District) and MT State University to combine spotted knapweed biological control insects and sheep grazing on Salish/Kootenai Tribe site. Amount/\$49,668 (\$2,000 from Weed Dist.; \$25,478 from Noxious Weed Trust Fund; \$22,190 from Animal Science Dept.) Term/May 1, 2011-October 1, 2012. Two originals to Jerry Marks/Weed Dist.

Easement – JC signed, dated September 30, 2011. To construct/maintain a Continuously Operating Reference Station (GPS base station) in COS 5463, Tract 1 (SE¼ of Section 27, T 12 N, R 20 W, PMM, Missoula County).

Renewal Grant Agreement – JC signed. 2011 Supportive Housing Program Grant (#MT0003B8T001003) between US HUD and County (Program Sponsor) for YWCA Ada's Place Transitional Housing Program. Total grant/\$100,201; County receives \$4,771 for administrative purposes. Term/July 1, 2011-June 30, 2012. Three originals to M. Gordon/OPG.

Contract – BCC signed, dated September 28, 2011. Between County and Kim Mansch to serve as Executive Director at PHC. Amount/\$95,612 yearly. Term/July 1, 2011-June 30, 2013. Two originals to PHC.

Resolution No. 2011-109 – BCC signed, dated October 6, 2011. Qualifying purchase of conservation easement (expenditure of up to \$250,000 in 2006 Open Space bond funds) for approx. 484 acres of land known as Hall-Camas Creek Open Space Bond Project and establishing compliance with Reimbursement Bond Regulations under the Internal Revenue Code.

Resolution No. 2011-110 – BCC signed, dated October 6, 2011. Budget Amendment for Rural Initiatives transferring \$17,325 from cash reserves for invoices from Collins Planning & Assoc. for Subdivision Regulations Reorganization Project. For total disclosure, expenditures included in formal FY12 Operating Budget/Revenue Estimates for County.

Lease Agreement – BCC signed, dated January 1, 2012 between County (OPG) and Chris/Marie-Ange Buzan for lease of property at 127 West Spruce, Missoula, for Missoula in Motion office space. Term/January 1-December 31, 2012. Amount/ \$2,750 monthly. One original to OPG.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated October 4, 2011. Amount/\$6,198.81. To County Auditor.

Letter – BCC signed, dated October 6, 2011. To V. Hammill and Restoration Trustee Council Members, Helena, commenting on the Council's draft "Upper Clark Fork River Long Range Restoration Priorities/Fund Allocation Guidance Plan". BCC generally supported Plan, with exception of establishment of arbitrary boundary for use of Silver Bow Creek leftover funds.

Letter – BCC signed, dated October 4, 2011. To J. Jordon/Mutual Self-Help/NeighborWorks, Great Falls, endorsing their application to start Mutual Self-Help Housing Program in Missoula County. BCC encourages USDA-RD to fund the technical assistance grant.

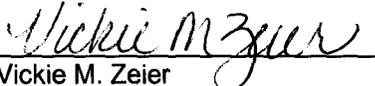
Letter – BCC signed, dated October 6, 2011. To MAYHA Board Reps, Missoula, agreeing with their letter requesting changes to and better defining existing agreement between County (Fair) and MAYHA. BCC has designated a team to negotiate new terms and asks that MAYHA do same. BCC would also like a tour of the facility.

Additional discussion item(s): Holiday schedule for Public Meetings.

FRIDAY, OCTOBER 7, 2011

BCC met in regular session; all three present. Afternoon: BC attended special PHC Board Meeting.

Site Visit - BCC accompanied Greg Robertson, Todd Klietz, et al on site visit to Tower Street.


Vickie M. Zeier
Clerk & Recorder


Jean Curtiss, Chair
BCC

MONDAY, OCTOBER 10, 2011

THE COURTHOUSE WAS CLOSED FOR THE OBSERVED COLUMBUS DAY HOLIDAY

TUESDAY, OCTOBER 11, 2011

BCC met in regular session; all three present. Afternoon: JC participated in UM Listening Session: *Planning for the Changes Ahead* – held at DoubleTree. Evening: JC attended meeting of Lolo Community Council.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) Lolo East Subdivision Phasing Plan Amendment (*action*); 3) Otto Family Transfer; 4) OPG Director's update.

Letter – BCC signed, dated November 3, 2011 to Bitterroot Development Corp., c/o Darin Patzer, Hamilton, approving Phasing Plan Amendment for Lolo East Subdivision (subject to approval of Weed Management Plan in amended COA #17). Final plat submittal deadlines: Phase 1-November 30, 2014; Phase 2–November 30, 2016.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Stewardship Award; 3) Communications; 4) RI Director's update.

ADMINISTRATIVE MEETING

MOU – JC signed. Annual MOU (since 2003) between MT DPHHS and Interim Assistance Providers Coalition for SSIT Program (Missoula County oversees projects/signs on behalf of participating counties: Missoula, Butte, Silverbow, Lewis & Clark, Yellowstone). Missoula County to receive approx. \$60,000 for term October 1, 2011-September 30, 2012. One original to Peggy Seel/OPG.

Grant Award – JC signed. Contract between County and America's Promise Alliance (100 Best Communities for Young People Award) to conduct a local celebration event and/or fund a local youth-serving program. Term/October 15, 2011-March 1, 2012. Amount/\$2,500. Originals to Shantelle Gaynor for further signatures/handling. One original to Peggy Seel/OPG.

Board Appointment – Due to a recent resignation, BCC appointed current Alternate Margaret Wafstet as a Regular Member of the Library Board to fill an unexpired term to June 30, 2012.

Letter – BCC signed, dated October 11, 2011. To Lorna Richardson, Missoula, responding to her e-mails re: COS 5900. After consultation with County Attorney's Office and Public Works Director, BCC believes her concern is a private matter between her and her neighbors (which is clear from Supreme Court decision/subsequent order to deny reconsideration).

Additional discussion item(s): Return of Historical Museum items (see Journal Entry 10/12/11).

WEDNESDAY, OCTOBER 12, 2011

BCC met in regular session; quorum present. Afternoon: JC/ML accompanied Pat O'Herren, et al on tour of State Crime Lab. BC out of office all day.

CAO MEETING

Agreement – BCC signed, dated October 12, 2011. Between County and City Life Community Center for funds allocated from \$380,276 Mill Levy Funding for substance abuse prevention. Amount/\$6,000. Term/July 1, 2011-June 30, 2012. One original to Peggy Seel/OPG.

Bid Award - BCC accepted bid from WE Dust Control, Inc. [lowest bid] for 2012 Deicing Product to be delivered to County at both 6089 Training Drive (PW) and 6636 DeSmet Road (WE Dust's rail yard). Amount/\$62,550. Term/October 15, 2011-April 15, 2012. Original to J. Seaton/PW.

Request – JC signed, dated September 27, 2011. Consent to Assignment of Rights/Obligation of MAEDC to MCDC with respect to City of Missoula Brownfields Revolving Loan Fund. Original to John Adams/OPG.

Agreement – BCC signed, dated October 12, 2011. Between County (MCCHD) and Strata Inc. for Gasoline Station Document Review/Sampling Oxygenated Fuel Program (to ensure compliance with City-County Air Pollution Control Program Regs). Amount/\$4,850. Term/November 1, 2011-March 31, 2012. Two originals to Julie Mohr/MCCHD.

Request – JC signed. Assured Guaranty Certificate of Consent to Transfer, Assumption and Release of Tax Increment Industrial Infrastructure Bond Insurance. (CIGF to transfer Bond Insurance/Debt Service Reserve Insurance to Assured Guaranty). Originals to A. Czorny/CFO.

Letter– BCC signed, dated October 11, 2011. To Peggy Turner, Missoula, advising her that donated items to Historical Museum at Fort Missoula are an integral part of its collection and cannot be returned. Once County takes ownership, it must follow state law.

Additional discussion item(s): Wye Sewer Interlocal Agreement.

Tax Abatement Requests – At meeting with Clerk & Recorder, BCC approved following letters dated October 13, 2011:

- 1) Approving request from Debra Sears, Missoula, for refund of motor vehicle taxes paid in error for VIN #1FMEU53827UA38935 (once proof of sale is submitted).
- 2) Denying request from Natalie Mendoza, Missoula, for refund of motor vehicle taxes paid on Vehicle #234845. MT DOJ requires military paperwork on date of transaction.
- 3) Approving request from Robert Sheridan, Missoula, for refund of motor vehicle taxes paid in error for VIN #YV1RH58D622191459 (once proof of sale is submitted).
- 4) Approving request from Amy Steinke, Missoula, for refund of motor vehicle taxes paid in error for VIN #JM1BK12F481795182.
- 5) Approving request from Patty Catlin, Missoula, to refund penalty/interest for Taxpayer ID #4587101; bill mailed to wrong address.
- 6) Approving request from Michael Kincaid, Missoula, for refund of motor vehicle taxes paid in error for VIN #1FDKE30GOPHB75560.
- 7) Denying request from Robert Efinger, Missoula, for refund of motor vehicle taxes paid on Vehicle #664638. MT DOJ requires military paperwork on date of transaction.
- 8) Denying request from B. Trainer, Missoula, to refund penalty/interest for Taxpayer ID #2441155; Closing Agent should have explained process.
- 9) Denying request from William Prescott, Missoula, to reduce property taxes for Taxpayer ID #334900. County suggests he contact DOR for further info.

PUBLIC MEETING – OCTOBER 12, 2011

1. CALL TO ORDER

Commissioners Present: Commissioner (Chair) Jean Curtiss, Commissioner Michele Landquist
Commissioners Absent: Commissioner Bill Carey

Staff Present: Dori Brownlow, Senior Attorney

2. PLEDGE OF ALLEGIANCE

3. PUBLIC COMMENT: None

4. ROUTINE ADMINISTRATIVE ACTIONS AND PUBLIC ANNOUNCEMENTS

a. Weekly Claims List (\$1,241,988.72)

Commissioner Landquist made a motion that the Board of County Commissioners approve the Weekly Claims List in the amount of \$1,241,988.72. Chair Curtiss seconded the motion. The motion carried a vote of 2-0.

b. Public Announcements

Mountain Line and their plans for the future of Missoula's Public transit. They're holding community meetings so residents in the district and county community residents can attend one of the following three workshops. Each of the three workshops will run the same exercises and the purpose of this is to look at more transportation options, do you need a special bus routine in your neighborhood, more frequent service, etc. These workshops are on October 26th, 12:00pm – 2:00pm at the University, University Center Room 332. October 26th, 6:00pm – 8:00pm at Southgate Mall, in the Community Room and October 27th, 6:00pm – 8:00pm at Holiday Inn Downtown, Park Ballroom.

Kim Brown Campbell, OPG Office: As a grant writer I primarily work on prevention and help for victims of domestic violence and also for crisis mental health and jail diversion of folks with mental illness, when possible. I'm here to talk about October, often known as Domestic Violence Awareness Month and/or relationship violence awareness month. One of the main things that we're working on right now is part of a grant called Community Defined Solutions; it's a federal grant through the office of violence against women. We are providing anti-stalking kits to any victims of stalking, which is basically defined as unwanted and persistent contact by one person to another, usual this is if you were in an intimate relationship or were with the person. The kits will be in three locations: The YWCA at 1130 W. Broadway, Crime Victim Advocates Office at 500 N. Higgins, Suite 201, SARC, which is the Student Adult Resource Center on the University Campus, in the Curry Health Center, I believe its 634 Adie. The kits are customizable to each person who might need them; they consist of a keychain flashlight

that also has a whistle. We also have pull alarms that are hand-held that can be inserted into a door or window when it is open. Basically the kits are customizable per person. We have disposable cameras with flash for taking pictures if there's any evidence that someone's vandalized or have been monkeying with your home or car. We ask that you take good pictures and take good notes, document time, place and event of what's going on. We're doing a series in the Missoulian, there's a group of folks that work for different agencies; the YWCA, WORD, Crime Victim Advocates Office, OPG – opinion section of the Missoulian. There will be one every Monday for the 5 Mondays in October. This week's section has a resource guide that you can clip and save. Kim's email: kcampbell@co.missoula.mt.us, Phone: 258-4904.

5. PROCLAMATION

Relationship Violence Awareness Month. Chair Curtiss read the proclamation.

6. HEARING (Certificate of Survey)

Otto (Thomas) Family Transfer

Jennie Dixon read the staff report.
Jennie asked Mr. Hinkel the basic Family Transfer questions.

Public Comment: None

Executive Session

Commissioner Landquist made a motion that the Board of County Commissioners approve the request to create one additional parcel by the use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Chair Curtiss seconded the motion. The motion carried a vote of 2-0.

7. OTHER BUSINESS

None

8. RECESS

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

THURSDAY, OCTOBER 13, 2011

BCC met in regular session; all three present. Evening: JC gave welcome at 10-Year Plan Stakeholders Meeting, held at City Council Chambers. ML attended West Valley Community Council Meeting.

Replacement Warrant - JC signed. Mark Colyer, Florence, Principal for District Court Warrant #30203136, issued April 28, 2011 on 2180 Fund. Amount/\$37.50 (jury duty/mileage). No bond of indemnity required.

ADMINISTRATIVE MEETING

Agreement – BCC signed. Between County and Seeley Lake Sewer District to provide Management/Administrative Services. [Not signed per County Attorney. Agreement on hold.]

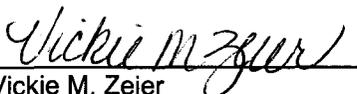
Letter – BCC signed, dated October 11, 2011. To R. Samdahl/DEQ Opencut Division, Kalispell, NOT supporting proposed expansion of Hunton gravel Pit, due to issues with floodplain regulations.

Grant Letter – BCC approved letter, dated October 13, 2011. To N. Guccione/Big Sky Economic Development Trust Fund ("BSEDTF"), MT DOC, Helena, in support of BREDD's application for BSEDTF Category II Planning grant to further Western MT Development's efforts to purchase/redevelop Stimson mill site in Bonner. [Note: BCC signed 10/17/11; letter not mailed per BREDD, as timeline for financing project was too tight]. Original to Marcy Allen/BREDD.

Additional discussion item(s): None.

FRIDAY, OCTOBER 14, 2011

BCC did not meet in regular session; ML out of the office all day. BC on vacation through Tuesday, October 18, 2011.


Vickie M. Zeier
Clerk & Recorder


Jean Curtiss, Chair
BCC

MONDAY, OCTOBER 17, 2011

BCC met in regular session; quorum present. Late morning: JC attended Local Economic Development Funding Meeting, held at Catlin Plaza. BC on vacation through Tuesday, October 18, 2011.

Monthly Report - JC examined/approved/ordered filed the Monthly Reconciliation Report for Justice Court 1, John E. Odlin, Justice of the Peace, for month ending September 30, 2011.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) Canyon View Business Park Subdivision Phasing Plan Amendment (*action*); 3) Miner's Addition Subdivision Phasing Plan Amendment (*action*); 4) Lindbergh Lake Property Nonconforming Structure discussion; 5) OPG Director's update.

Letter – BCC signed, dated October 31, 2011 to Paul Forsting/Territorial Landworks, Inc., conditionally approving Phasing Plan Amendment for Canyon View Business Park Subdivision (subject to approval of Weed Management Plan in amended COA #20). Final plat submittal deadlines: Phase 1-December 1, 2021; Phase 2-December 1, 2026; and Phase 3-December 1, 2029.

Letter – BCC signed, dated October 31, 2011 to Northern Lights Development, LLC c/o PCI, conditionally approving Phasing Plan Amendment for Miner's Addition Subdivision (subject to approval of Weed Management Plan in amended COA #27). Final plat submittal deadlines: Phase 1-April 12, 2022; Phases 2 through 6-April 12, 2029.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) BCC-Tribe meeting 10/19; 3) Communications; 4) RI Director's update.

County Payroll Transmittal Sheet – BCC signed. Pay Period: 20/CY2011 - Pay Date/October 7, 2011. Total Payroll/\$1,242,670.69. To County Auditor.

TUESDAY, OCTOBER 18, 2011

BCC met in regular session; quorum present. Afternoon: JC attended special MEP Board Meeting, held at St. Patrick Hospital. BC on vacation through this date.

ADMINISTRATIVE MEETING

Agreement – BCC signed. Collective Bargaining Agreement between County and AFSCME, Council #9 (9-1-1 Unit) for July 1, 2011-June 30, 2013. Original to HR.

Forms 2880 – JC signed. County's application to HUD for \$100,201 for YWCA Ada's Place Project (January 3, 2012-January 2, 2013) and \$147,498 for SHARE House Project (July 1, 2012-June 30, 2013). Required for 2011 Continuum of Care/Supportive Housing grant applications. Originals to M. Gordon/OPG.

Contract – BCC signed. Between County and WE Dust Control, Inc. for 2012 Deicing Product to be delivered to County at both 6089 Training Drive (PW) and 6636 DeSmet Road (WE Dust's rail yard). Amount/\$62,550 [WE Dust lowest bidder]. Term/October 15, 2011-April 15, 2012. Two originals to J. Seaton/PW.

Additional discussion item(s): Title III Funds.

WEDNESDAY, OCTOBER 19, 2011

BCC met in regular session; all three present. Afternoon: BCC traveled to Pablo to meet with Salish, Kootenai Tribes.

CAO MEETING

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated October 7, 2011. Amount/\$116,326.53 (for period 9/8/11-10/6/11). To County Auditor.

Additional discussion item(s): 1) County Atty's Office update; 2) Wye Area Sewer Project; 3) Discussion on request to place cremated ashes on Courthouse lawn; BCC agreed area is not large enough/too urban/too public. CFO will relay decision to family.

NO PUBLIC MEETING HELD THIS DATE

THURSDAY, OCTOBER 20, 2011

BCC met in regular session; all three present in morning. Afternoon/Evening: JC attended Leadership MT's Alumni Organization *Transitions in Leadership*, held at Holiday Inn.

ADMINISTRATIVE MEETING

Agreement – BCC signed. Collective Bargaining Agreement between County and AFSCME Detention Support Unit for July 1, 2011-June 30, 2013. Original to Jean Shannon/HR.

Contract – BCC signed, dated October 17, 2011. Between County and The Poverello Center/Salcido Center for services to five or more individual clients daily. Amount/\$8,800. Term/July 1, 2011-June 30, 2012. One original to Peggy Seel/OPG.

Contract – BCC signed, dated October 17, 2011. Between County and The Poverello Center/Joseph Residence to serve 36 families and enhance "exit readiness program". Amount/\$34,382. Term/July 1, 2011-June 30, 2012. One original to Peggy Seel/OPG.

Contract – BCC signed, dated October 13, 2011. Between County and Missoula Food Bank to provide ROOTS and Kids Table & Kids Table Take Out programs. Amount/\$38,800. Term/July 1, 2011-June 30, 2012. One original to Peggy Seel/OPG.

Forms 50070 – JC signed. Drug-Free Work Place Certification for YWCA Ada's Place (January 3, 2012-January 2, 2013) and SHARE House Projects (July 1, 2012-June 30, 2013). Required for 2011 Continuum of Care/Supportive Housing grant applications. Originals to M. Gordon/OPG.

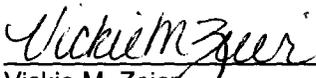
Change Order – JC signed. #2 to contract between County and Knife River for Airway/Expressway roundabout and median landscaping/MDP. Change Order includes: 1) adding supply power to well/irrigation controller; 2) replace 1HP Pump with 2HP Pump; 3) Installing curb fill/topsoil; and 4) Adding \$12,615 to original contract; new total amount/\$839,160.50. Original to Barb Martens/Projects.

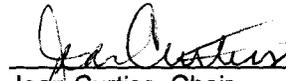
Letter – BCC signed, dated October 18, 2011. To R. LaHood/Secy of Transportation, US DOT, Washington, D.C., supporting grant application for Port of Northern MT Multimodal Hub Center project (Northern Express Transportation Authority's request for \$9,998,910 in TIGER III grant funding).

Additional discussion item(s): 1) Maclay Bridge public process overview; 2) Occupy Missoula.

FRIDAY, OCTOBER 21, 2011

BCC met in regular session; quorum present. Evening: ML attended Retirement Pot Luck for Linda Crowley, held at Dean Stone Building.


Vickie M. Zeier
Clerk & Recorder


Jean Curtiss, Chair
BCC

MONDAY, OCTOBER 24, 2011

BCC met in regular session; all three present. Afternoon: BCC held meeting with Andrew Czorny, Larry Farnes, et al re: Occupy Missoula. Evening: BCC held Joint Hearing with City Council re: Pre-Disaster Mitigation Plan.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) Miner's Addition Subdivision Phasing Plan Amendment (*action*); 3) Canyon View Business Park Subdivision Phasing Plan Amendment (*action*); 4) Mahlum Meadows Rezone; 5) OPG Director's update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Stewardship Award Recommendation; 3) Communications; 4) RI Director's update.

Letter– BCC approved letter signed by Vickie Zeier, Clerk & Recorder/Treasurer, dated October 24, 2011. To Ailport Logging, Bonner, pertaining to Ms. Zeier's discussion with BCC/Deputy County Attorney/DOR representative regarding when Ailport's business closed, status of personal property taxes for equipment, and setting forth timeline of this issue.

TUESDAY, OCTOBER 25, 2011

BCC met in regular session; all three present in morning. Afternoon: JC/BC met with Peter Nielsen, Keith Large, et al re: update on Stimson. ML out of the office all afternoon.

ADMINISTRATIVE MEETING

Resolution No. 2011-111 – BCC signed, dated October 25, 2011. Adopting Missoula County Updated Pre-Disaster Mitigation Plan (required by FEMA for grant eligibility). Joint Public Hearing held October 24, 2011.

Amendment – JC signed, dated October 25, 2011. #4 to Agreement between County and HDR Engineering, Inc for Lolo RSID 901 Permit Renewal assistance. Discharge permit to expire 2012 (every five years). Amount/\$12,000. One original to Greg Robertson/PW.

Amendment – JC signed, dated October 25, 2011. #1 to Agreement between County and HDR Engineering, Inc for Road Department On-Site Sewer Pump Station (to develop contract language for bidding purposes and provide construction oversight). Amount/\$10,700. One original to Greg Robertson/PW.

Resolution No. 2011-112 – BCC signed, dated October 25, 2011. Budget Amendment for Public Works/Bridge Dept. in amount of \$15,000 (from TSEP Grant & Road Cash Reserve) for Seeley Lake Sewer District update of PER. For total disclosure, expenditures included in formal FY12 Operating Budget/Revenue Estimates for County. [Resolution retracted/replaced with Resolution #2011-123 on November 22, 2011].

Agreement – BCC signed, dated October 18, 2011. Between County and Western MT Addiction Services for after school program at Frenchtown High School. Amount/\$30,000 (allocated from \$380,276 Mill Levy Funding for substance abuse prevention.). Term/July 1, 2011-June 30, 2012. One original to Peggy Seel/OPG.

Agreement – BCC signed, dated October 25, 2011. Between County and WMMHC Addiction Services for 1) after school Flagship Program for 540 youth at four schools; 2) outpatient treatment to 80 adolescents; 3) outpatient treatment to 350 adults; and 4) residential treatment to at least 10 women with dependent children. Amount/\$82,714. Term/July 1, 2011-June 30, 2012. One original to Peggy Seel/OPG.

Agreement – BCC signed, dated October 25, 2011. Between County and Western MT Addiction Services for Flagship Program at Big Sky and Hellgate High Schools. Amount/\$77,000 (allocated from \$380,276 Mill Levy Funding for substance abuse prevention). Term/July 1, 2011-June 30, 2012. One original to Peggy Seel/OPG.

Agreement – BCC signed, dated October 25, 2011. Between County and Western MT Addiction Services for Project Success in four urban high schools. Amount/\$115,948 (allocated from \$380,276 Mill Levy Funding for substance abuse prevention). Term/July 1, 2011-June 30, 2012. One original to Peggy Seel/OPG.

Agreements – BCC signed eight (8) agreements between County and following for FY2012 CBO Funding:

- 1) Human Resource Council-IAP Program. Amount/\$225,075.
- 2) Western MT Mental Health Center for 1) mobile crisis response team; 2) care in residential crisis stabilization program; and 3) maintain rate of involuntary commitments to MT State Hospital. Amount/\$185,000.
- 3) YWCA of Missoula for 1) provision of food/shelter/clothing/support services for adults/child victims of domestic/sexual violence; 2) peer counseling to victims; 3) crisis hotline services. Amount/\$35,000.
- 4) East Missoula Community Council to promote interests/welfare of residents of East Missoula. Amount/\$1,000.
- 5) Opportunity Resources to provide rides for clients on Sundays. Amount/\$9,766.
- 6) Swan Valley Community Council to promote interests/welfare of residents of Swan Valley Community. Amount/\$1,000.
- 7) WORD, Families in Transition for 1) rent stabilization/security deposit funding; 2) supportive services; 3) follow-up case management; and 4) resource/referral info. Amount/\$23,750.

One original to Peggy Seel/OPG.

County Transportation Ballot – JC voted, dated October 25, 2011, FOR approval of the following route change/additions: 1) Route SE16 (decrease current route by 4.2 miles due to relocation of special needs student); and 2) Route SE17 (add new Preschool Bus for 2011-2012 school year). Returned to Superintendent of Schools.

Letter – BCC signed, dated October 25, 2011. To M. Greil, Missoula, re: recreational parking along Tamarack Drive/West Riverside area. BCC provided info from meeting with Sheriff and Public Works Director to discuss process to create no parking zones, as well as ongoing work with MT FWP on new regional park facility.

Additional discussion item(s): 1) Stimson clean up; 2) Admin Building details; 3) Missoula Economic Partnership contract.

WEDNESDAY, OCTOBER 26, 2011

BCC met in regular session; all three present. Morning: BCC met with City Council and OPG re: Interlocal Agreement.

CAO MEETING

Contract Amendment – BCC signed, dated October 26, 2011. Loan Program Amendment to agreement for moderate-or low-income owner-occupied household secured by real property with Thomas/Patti Wolf, Lolo for water/sewer repairs to property in RSID 8901 (Lolo Water/Sewer District). Amended amount/\$2,680. Original to Jean Harte/OPG.

Agreement – BCC signed, dated October 26, 2011. Between County and Child Care Resources for FY 2012 CBO Funding (to offer training opportunities to caregivers, and health consulting to child care programs). Amount/\$69,928. One original to OPG.

Agreement – BCC signed, dated October 26, 2011. Between County and The Parenting Place for FY 2012 CBO Funding (to support parents in efforts to reduce child abuse/neglect, and provide safe environment). Amount/\$10,000. One original to OPG.

Request – JC signed Counter Offer to Sun Mountain Sports' offer to purchase up to two acres of Park 9, MDP-Phase 2 (at \$3.10/sq. ft.), as set forth in Addendums A & B (which includes relocation of detention pond). Closing Date: 60 days from date of signed counter offer.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated October 25, 2011. Amount/\$16,505.81. To County Auditor.

Additional discussion item(s): 1) County Attorneys' Office Departmental update; 2) H. Luttschwager of Risk/Benefits to write letter/comments re: Medicare eligibility changes.

PUBLIC MEETING – OCTOBER 26, 2011

1. CALL TO ORDER

Commissioners Present: Commissioner (Chair) Jean Curtiss, Commissioner Bill Carey, Commissioner Michele Landquist

Staff Present: Tim Worley, OPG, Greg Robertson, Director Public Works, James McCubbin, Deputy County Attorney, Anne Hughes, Communications & Projects Manager

2. PLEDGE OF ALLEGIANCE

3. PUBLIC COMMENT

BOOK 111 PAGE 0482

Patricia Lamb: Missoula resident concerned about taxes and retirement. Because the County and I'm assuming the Commissioners are part of ICLEI (International Council for Local Environment Initiatives) open land, infill all part of ICLEI, I'm wondering how that effects how you protect the financial wellness of Missoula County? Missoula County and Missoula City pay membership in ICLEI.

Chair Curtiss: I've never seen dues to ICLEI on any of our budgets so I don't think we pay into that. We may be on a list but we don't pay dues. We're one of the founding members of the Missoula Economic Partnership; we work on jobs that way. We don't usually respond back in the open comment times but we are concerned about jobs in our community, or course.

Bill Chandler: I just wrote an article in the Missoulian, in it I submitted the idea that political correctness has allowed fascism and totalitarianism into our culture, it wasn't to be negative, it was meant to expose a reality. I would like to invite you to hear Kitty Worthman; she lived through the Nazi occupation, she was an eyewitness to history and she speaks of what happen from a local perspective. Kitty speaks tonight - 7:00 at the Guest House Inn. The High School Mill Levy had some issues, has any action been taken to remedy the problem? Things like the user logons that were deleted, late mailings, computer audits.

Chair Curtiss: I would invite you to take part when we canvass votes after an election, then you would find that we have gone through all of that stuff; the County Attorney's Office went through and found no issues. When we canvass those votes we could show how many ballots were sent out, how many people were registered to vote and how many came back. The media apparently didn't pick up on that as well as they should have.

Bill Chandler: The Mega load litigation, the lawsuit, I was told that it costs us the county \$2,000 to do that lawsuit. \$2,000 effective shut a business out of our community, that sounds really, really cheap, you can't do anything with a lawyer for \$2,000 anymore. So I'm wondering if there's somebody else that's supporting it.

Chair Curtiss: We were joined in the lawsuit by some others organizations that did have their attorney's do a lot of the prep work. It's no different than anything else, it's just like the lawsuit from Ms. Lovaas, that according to the County Attorneys Office didn't have a basis but we still have to deal with it. And we didn't keep the company out; they were rolling through here Monday night.

Bill Chandler: Is there any way I can find out who joined that lawsuit?

Chair Curtiss: It's been in the media and you can go to our website, it's under public information. It's all listed there as well as all documents that were related to it.

Tricia Auras: Occupy Missoula ~ it's very unclear what their policy is and what they're thinking of when they protest. No matter what tax plan is followed or how much is raised, the lack of fund comes from overspending and mismanagement of tax payer's money by all levels of government. I would hope that they would get involved in finding ways to change the system without having to destroy it.

Jeanette Zengraff: Lolo resident ~ very concerned about what I consider a lack of real enthusiasm on the part of our County, Commissioners and our City Council regarding a striving to keep the regulations down. To be very concerned about what now I understand the City government is pushing, which would be to say corporations are not human beings and shouldn't be given that liberty to support candidates of their choosing. We hope that you will stand against the 10th United States Circuit Court of Appeals October 21st decision which upheld a rule prohibiting roads on nearly 50 million acres of land in National Forest across the U.S. including 6.4 million acres of inventoried roads and lands managed by the US Forest Service in Montana.

Mary Elise Overaker: A few years ago I went by the Friends of the Library in Lewistown to a conference on public discourse and the point was being made that we live in a participatory democracy. Listening to the people that were at the conference, I began to think about how possible it is to participate in a democracy. I started thinking about the minimum wage and how many jobs the parents and the family have to work in order to be able to keep a roof over their heads and the children and so forth. It occurred to me that by the time they had accomplished this work that they had to do, how much time do they have left to participate in a democracy? To participate in a public discourse? Given the minimum wage at that time, which has gone up. So having made that point, I went home because I was hearing from not a lot of the public but from elected officials and service providers and people who had not experienced what the lower end of the income scale had experienced. Homeless veterans, people with addictions on the street, people who had lived for decades in horrendous third world conditions because they didn't fit back in society for one reason or another. I've become acquainted with a lot of the people who are in that situation, I didn't fit too well myself, I substitute taught instead of being in the public education system in the regular fashion because I didn't agree with a lot of the ways things were being done in public education. I aware that there a lot of people who have given of their time and their lives and their effort, who don't have houses and who don't have cars and have seen a pretty rugged life. I think it's good not to think that we're entitled to anything, I think the work ethic is necessary but many people have ways of contributing that don't include punching the time clock. The tax reforms have to happen, that's for sure. I like the chant that the march did with the Montana Organizing Project and I love that chant...one, two, three, four, pay your taxes like the poor. I love that chant and I think that's true.

Chair Curtiss: On behalf of the Commission we support citizens that have publicly assembled and engage in civil discourse, no matter what their political position. The Occupy Missoula participants have been extremely easy to communicate with and work with and have been consistently respectful

of the Courthouse lawn. They have signed a special use permit that has been administered by our facilities department and have agreed to every request that we've made to them to preserve the integrity of the lawn and the gazebo and other things on the lawn. The Commissioners have established a regular meeting with these participants to communicate and make sure that issues are dealt with and that the grounds are kept up and will continue to monitor the situation. Any new information will be considered. We don't know how long they plan to be there but they are working on that issue and we'll re-evaluate as it goes forward. It's part of the first amendment right to peaceably assemble and that's why they are still there.

4. ROUTINE ADMINISTRATIVE ACTIONS AND PUBLIC ANNOUNCEMENTS

a. Weekly Claims List (\$2,656,016.49)

Executive Session

Commissioner Carey made motion that the Board of County Commissioners approve the Weekly Claims List in the amount of \$2,656,016.49. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

b. Public Announcements

November 16th – Commissioners will take a city bus at approximately 11:15 to the new City roundabout at Airway Blvd & Expressway. Everyone is welcome to ride along.

Missoula County was chosen for the 5th time as one of the 100 best places in the United States for children and youth.

5. HEARING

Mahlum Meadows Zoning (from unzoned to C-RR1; one dwelling unit per acre) – South Side of Waldo Road, Wye Area

Tim Worley read the staff report.

Tom Mahlum: Would like to thank Tim Worley from the OPG for helping us with this process, it was a challenging process, didn't know quite what curtailed but it took a lot of phone calls and meetings with Tim down there and he was very helpful in getting us to fill the paperwork out and move this process forward. I'm here to answer any questions that you guys have of the...to support the zoning on it, I don't think I need to go through the whole process again, you have all the paperwork in front of you but like I said, if you have any questions that need to be answered, I will do my best to answer them.

Commissioner Landquist: What is the purpose as you drive to the end of the cul-de-sac and then beyond that? There's a road that goes both left and right (East & West) what is the purpose of that and will it ever be extended in either direction?

Tom Mahlum: Those are for the three lots at the end of the cul-de-sac that is basically where the black top ended.

Chair Curtiss: So they serve as driveways not roads to anything else?

Tom Mahlum: Driveways to the lots, yes.

Commissioner Landquist: And also at the end of that it looked like there was a metal sewer manhole, so is that where the sewer connection would be?

Tom Mahlum: Yes, it's all on gravity flow that goes from the lots on the side of the hill, which will flow all the way to Waldo Williams Road and that's where that backline was laid in there so we just have to pull that plug and it goes right to the City.

Chair Curtiss: Greg, I know when we met for Planning Status on Monday, Mr. Mahlum hadn't had a chance to visit with you yet about whether or not it works to put a sidewalk along...based on the drainage and the way the road is and such along Waldo. Have you had time to look at that? And the water lines that could go that way or could go a different way.

Greg Robertson: To answer your question, Waldo Williams Road several years ago was designated as a state secondary route and it is scheduled for reconstruction in 2017, I think is the timeline now. That's a complete redo from Hwy 93 out to the Huson interchange. As part of that project we have been making a fairly significant investment in and around Frenchtown area with public trails and early on our discussion with DOT we requested formerly that they continue the trail work throughout both preserve what's been built or relocate as necessary to accommodate the new road construction and they continue it down Hwy 93. They are in the very, very preliminary planning stages of the project and I don't know that I've received a formal response. However, the likelihood of the trail being extended would be along the North side, that's predominately where most of the development is occurring or has occurred. **In this particular area, the area is so flat that there has been since the Subdivision has been put it, wouldn't say it's significant but enough that we're paying attention to it, drainage issue where it comes across Waldo Road just immediately West of here.** It's almost a reverse flow type arrangement and that area is dependent on catching some of the run-off coming from both Waldo Williams Road as well as the development to the North. It would be my preference that at this time, unless we're going to deal with the drainage issue, which I think is a little bit bigger than just putting in a sidewalk or walkway, that we stick with our plan for along the North side and work with MDT to get that accomplished as our long term solution to the bicycle pedestrian

needs for the frontage road and leave the Southside alone, at least for now. It has some issues with it and I think if we put additional improvements in there, it's going to be a problem. Along Mahlum Lane, I think, the cul-de-sac road, that particular road was designed with the idea that there were no walkways planned. There is easements but in terms of the drainage that was not contemplated as part of the engineering design and I think there will be some...because of how flat it is I think we will need some additional easements to accommodate the drainage and potentially relocation of the ditches to accommodate any sort of pedestrian trail. We really haven't looked at it this is not a condition that my department, I believe....

Chair Curtiss: And it's a private road.

Greg Robertson: And it is a private road so there is an issue of long term maintenance of it.

Chair Curtiss: So as the Hwy Department gets to this road in hopefully 2017, they will be redoing the drainage and all that stuff to make this a better road.

Greg Robertson: Yes, it will be a comprehensive rehabilitation reconstruction.

Chair Curtiss: Then will they take over maintenance?

Greg Robertson: Yes, they will.

Commissioner Landquist: Is there any chance that in the future Waldo Road would warrant having a path along both sides?

Greg Robertson: I think it's really dependent on what happens with development. The subdivisions that are planned for the area, some have been platted, most are in paper form right now and are always subject to change. Depending on what happens, there's two components that really need to be addressed; one is sewer which pretty much has been dealt with for the Wye area but I think the bigger issue is water and what is to be done with providing that service to achieve the density that these developments are looking for. The study that we did a couple of years ago, looking at what we might do for a regional type water facility in the area, the conclusion was that first of all, it was very expensive, there was marginal, lukewarm interest on the part of Mountain Water to extend their facilities West. So the conclusion that we came to was that if there was to be a centralized water system it would start off small and build around the Waldo Williams development on the East side of the Hwy and in fact, most of the developments were reliant upon the Waldo Williams Development for water supply. If you go back and look at the subdivision immediately to the west, that's the one that was discussed during Tim's presentation. The plan was to extend water to that subdivision to achieve its density, obviously since things went south with the economy, most of those plans are on hold. I've detected no movement or really interest in...

Chair Curtiss: Actually Mahlums presented us on Monday at Planning Status with a couple proposals for extending that water system, so there is some work happening.

Greg Robertson: Oh, okay well I've just not been involved with it so I don't know. I do know that Mahlum's had originally intended to...or this particular subdivision originally intended to connect in and they were working with the developers in the area to get the water across Hwy 93.

Chair Curtiss: So the one question then would be - if as the State redesigns this since we just saw that the subdivision next door is required to put a trail, will the State consider all of that as they deal with drainage and maybe make sure it's rated to where a trail on both sides could be there in the future. Not necessarily paid for by the State.

Greg Robertson: Yes, I would hope so that's something that we would want to work with the State on when they get into their design process. Currently where they're at with it right now is they've developed their preliminary field report and really that's about it and they're waiting for it to rise to the top before they start doing and spending money on planning. When they get into that stage I have confidence that they'll be working with us to deal with what we know of the roadway and what our plans for future development should they come to _____, or at least plan them so that when it comes in the future that there's minimal impact to all of the work that the State is doing.

Chair Curtiss: And the other thing that came up on Monday is more of a question for James but we'd have to figure out first get the legal next, where we would house it? One idea was rather than just putting a waiver on here saying in the future they could contribute to a trail system whether we could establish some sort of a path escrow fund that they could figure out what 600 feet or however long this is and put it in an account that in the future when there's a trail next door and the Hwy has done its work we'd have a pot of money to help maybe even be able to (un auditable) that match or something.

James McCubbin: The immediate concern I'm having is the time line.

Chair Curtiss: Because the _____ is out.

James McCubbin: Yeah we're looking at not until 2015, probably I guess. That first phase can be built at any time but if they ask for that long, it's probably going to take close to that long and when you take money for public purpose, it generally has to be spent 3-5 years, I can't remember the time line, so we have a legal issue there.

Commissioner Landquist: So how was it done with the monies that were received for traffic mitigation on Mullan Road?

James McCubbin: I think most of those were established and those funds received before that log law clarified, it's the impact fee law that was passed.

Chair Curtiss: So would another option be and I don't know, I guess I'd have to ask Mahlums or Tim, are the two lots closes to Waldo Road developed yet?

Chair Curtiss: They are? So we couldn't take a 10 foot easement off of those because they already belong to somebody else.

Commissioner Landquist: I thought one of them was still vacant on the right?

Tim Worley: I they're both developed out. I can go back to the aerial. Yes, they both are.

Commissioner Landquist: So what is the name of the subdivision that's across the street from Mahlum Meadows?

Commissioner Landquist: Looking at the subdivision across the street from Mahlum Meadows, I did notice that as far as the way it looks when you're at the intersection of Mahlum Lane, the street design and stuff very much is in keeping with the neighborhood characteristics, with it not having a trail on Mahlum Meadows. I think it's more important to get the trail on Waldo Road especially if Mahlum Meadows isn't going to be connected in the future directly at the end of the street to anything else so there's not going to be anymore through traffic. I do think it's important that we preserve the easements that are there.

Public Comment

Bill Chandler: Cost of walkway?

Chair Curtiss: Our Public Works Director just stepped out, he does have the standard number – it is more than you would expect.

Diane Qualisky: First home built in subdivision. Told walkways would be put in when subdivision was finished. Yards have been finished to roadway, concerned about mess after the walkway is put in. I hope it gets zoned as single family dwellings without the walkways as being a requirement on Mahlum Lane.

Jim Carlson, Env Health Director: I just wanted to give a little background information. This area is in Wastewater treatment plant service area, it does have some groundwater problems. One of the lots in the subdivision has had nitrate levels exceeding 10 milligrams per liter in water. In order to maintain the sustainability of the aquifer for use as drinking water in this area, we have worked diligently with the county and the public works department to ensure that sewer can be installed. We encourage and our main interest is to get as many facilities in the Wye area connected to sewer as possible. This subdivision was approved under the sanitation and subdivision act and our local regulations to be connected to sewer, when sewer's available. However, we don't want the presence of sewer to provide for surprises to people that have already invested in lots and have expectations of who their neighbors will be with regard to high density development and the best way to insure that we keep our agreements whole between the public and our plans to develop areas is in this case, I think, to go ahead and pass the single family dwelling zoning.

Executive Session

Commissioner Landquist: Can we deal with this in a couple parts as far as approving the zoning first and chat about any conditions?

Chair Curtiss: I think we want the conditions before the zoning.

James McCubbin: Yes, and I do know there's another funding mechanism, there is a waiver approving this plat and it's specifically waivers any protest of approving districts for pedestrian walkways.

Chair Curtiss: It's already on the plat?

James McCubbin: It is on the plat. That's in your packet. Regardless of whether the State puts in the trail, the County could still do it as an approval district, that's an option. Also we could do it in conjunction with the State if the reason why they balked at it or something, it's a funding issue that might be something we can explore at that time.

Chair Curtiss: Does it say on Mahlum and Waldo?

James McCubbin: It says Waldo Road. Acceptance of the deed for a lot within the subdivision constitutes consent of the block owner to waive the right to protest____ RSID/SID for improvements to Waldo Road including installation of pedestrian walkways or bikeways based on benefit. The waiver shall run with the land and shall be binding on the (inaudible) successors and assigns of each owner (inaudible).

Chair Curtiss: Okay so that's part of the record. I think that's a good option and the other is that the easements still exist, as Michele has pointed out, on these lots along Mahlum if in the future that makes sense to the people who live there.

Chair Landquist: Maybe one of these days these older folks that own them now are going to be selling and younger people that might want them, they may want that interconnecting-ness at that time.

Chair Curtiss: Tim, should we be working from attachment 1 which is the Planning Boards recommendation plus the green sheet, is that what we should be working with?

Tim Worley: That would probably work.

Chair Curtiss: So if we agree that Planning Board struck #1, we'll go to #2. I'm looking at the conditions on the white sheet. That one is to require them to build on Waldo Road since we now know there are issues and also a waiver for the future. Is there a motion in regard to condition #2?

Condition #2: Commissioner Carey made motion that the Board of County Commissioners strike condition #2. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

James McCubbin: If we don't have a bonding immediately, what do we have to enforce to require them to do the bonding? You have not yet passed a resolution of intent to some of this, is that correct?

Chair Curtiss: Yes.

James McCubbin: So we have two sets that we have to do. You have to do a Resolution of Intent and then at a later date you have to come back and actually do the Resolution finalizing it. What I suggest is that you treat this in a manner that we commonly do for subdivisions and that is; you condition the resolution of intent upon there either being construction or bonding and that you only pass the final resolution changing the zoning or an acting zoning here if there has previously been either completion of construction or improvements agreement put in place. That just keeps it clean and we don't have...it addresses the Planning Boards issue, we don't have any enforcement issues at that point, it's basically self-enforced, you just don't finalize the zoning until one or the other is done. Either the constructions done or more likely scenario, we just get an improvements agreement into place. This is going to be a condition not of the final zoning but to get the final zoning done.

Chair Curtiss: So it's the resolution that we'd do that in? The condition still has to address the fact that they have to have some sort of fire protection.

James McCubbin: It either needs to get done before you finalize zoning or we have an improvements agreement in place.

Chair Curtiss: Right, so #5 maybe just says that they have to have that and then we talk about how they do that in the resolution. #5 still needs to say that a public water system for fire protection or storage tank related improvements must be built or installed. Then the security part of it will be addressed in another place.

James McCubbin: So Tim, you were just going to include these conditions in the zoning district language, or?

Tim Worley: Well, being a standard zoning district I don't think I would go that direction.

James McCubbin: Where were you going to put the conditions?

Tim Worley: We will issue 'an approval letter; it's not exactly the same as a written statement following a subdivision approval but it's public record.

James McCubbin: I guess what I'm think is just instead of having a separate letter just incorporate it into your resolution so your initial resolution of intent will state those conditions that intends to pass this zoning if these conditions are met and to find that these conditions can be met either by actually doing the construction or by having the improvements agreement then assuming we get the improvements agreement your final resolution will just acknowledge that the conditions for the resolution for intent have been satisfied through receipt of an improvements agreement with adequate security ensuring that these improvements will done. Your resolution of intent and your final resolution will address the same issues; they'll have a little bit different language.

Commissioner Landquist: That's probably the most transparent way of being able to do it because it has to get posted in the paper and 30 days has to pass. How many times does this end up in the paper?

Tim Worley: Twice.

Commissioner Landquist: Okay, so if we incorporate that into the resolution paper and it's crystal clear what went on here, what the decision was today.

Commissioner Carey: I'm wondering if in 5 we've struck asphalt pathway and we ended the first sentence at installed, what if we keep the stricken language down to subject to following contingencies being met? Without a date, I don't know how that would work. But then if you struck #1 – the developer shall provide a cost estimate for walkways improvements approved by public works, we don't need that and left the rest as it is or perhaps change the dates. Does it cover the improvements issue?

Tim Worley: The one thing if I could plug something in, I think we need to change one thing in the sentence that Bill just read; the developer shall provide a cost estimate for...I think we should plug in firefighting related improvements. I'm not sure why I missed that.

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James McCubbin: Well you just take out the word 'walkway' and just leave it as improvements. And you need to take out the reference to March 15th because what it's going to be is either it's going to be...it's going to be just before you sign a resolution.

Chair Curtiss: I wonder if it can say; a public water system for fire protection or storage tank related improvements shall be installed by November 30th, 2012. And then as you stated earlier in the resolution we'd say the following conditions must be met either by completion or improvements guarantee.

James McCubbin: The only other information are the dates, if you want to set a deadline, we do need to state that.

Chair Curtiss: Right. If they choose to do the fire hydrant system they'll have to wait for the water to get over there so you might want to give them a little more than a year.

Tom Mahlum: I was going to comment on the same thing. At the mercy of that system if it comes out our way and if we miss it by 6 months or 4 months or something, I'd love to have some flexibility instead of putting the kyboshes on that fire hydrant and having to put in a tank and dig up the park area, it would be an eyesore. That's when I talked to Daniel who's in charge of the system out there in our area; he had recommended that would be the cleanest and simplest approach. He would love to have that fire hydrant either on the front entrance of Mahlum Meadows or the back entrance.

Chair Curtiss: And I'm sure Frenchtown Fire would love it too. So the other thing is then you'd understand if we gave you more time like that you would still have to get the estimate for what the cost is, put up the bonding for that and we'd make sure the bonding could go till 2013, can it go that far? Or the improvements guarantee?

James McCubbin: We're on a similar process to subdivision but we don't actually have a statue limit on this one. It's just part of our zoning resolution that you can condition for public safety.

Chair Curtiss: So as long as they put up the improvements guarantee the zoning could go into effect? The other folks could connect to the sewer and all that stuff and then we'd be waiting for the fire suppressant until they got water there.

James McCubbin: What I'd suggest you do is maybe the deadlines that are put down here but make it extendable if under appropriate circumstances, that would just be discretionary extension but that way if we get to that deadline and you do have that information and it's a few months out, you need more time to hook up and that'll make sense but if there's no indication that this is ever going to happen maybe it's appropriate to just put in the tank.

Tom Mahlum: And I think I can keep informed with the engineer who's in charge of that water system and they can keep me up beat on that and I can keep that up to you guys also. And so would that...just to refresh me...would that zoning then kick in sooner than later with this resolution?

Chair Curtiss: Zoning could still happen after the 30 days as long as all the...

James McCubbin: Zoning could happen tomorrow...you're right we have to have the 30 days for the protest. But yes it could happen immediately after that, provided you have the improvements agreement. So during that 30 days you can put together an improvements agreement, security so a month from now we could...

Tom Mahlum: I'd work with Daniel on that and the engineers and figure out that. That was my concern, I was thinking if some realtor came in and decided to buy one of these lots within 30 days and we didn't have it zoned properly and he decides to buy it – worst case scenario he goes hey I see it's unzoned so if we drag our feet on zoning it?

James McCubbin: If you have a transfer of one or more of the lots during the protest period but we have signatures from the current property owners on a petition but even arguing that the new owners could protest it, it's not going to be enough people protesting it.

Commissioner Landquist: What's in place for fire suppression there now?

Tom Mahlum: We have hydrants at Jellystone, there are two hydrants at Jellystone Park and we have the Spring Meadows fire department about 800 yards away, which enables our home owners to get a 10 rating on their insurance. So they have the best of both worlds.

Commissioner Landquist: I just needed some peace of mind.

Tom Mahlum: Oh yeah, they're right across the street and like I said I have hydrants at Jellystone and so it's a 10 rated insurance policy.

Commissioner Carey: I'm not sure how we ended up modifying condition #5.

James McCubbin: Here's what I'd suggest...is that we don't come up with the specific language today because Tim's going to have to revise your resolution of intent anyway, if we're going to do it that route. So what I would suggest is make a clear record of what you want substantively and then Tim and I can work on the language and get it to you by Admin as soon as possible tomorrow.

Tim Worley: I'm in the Swan tomorrow.

James McCubbin: So it'll be Tuesday.

Commissioner Landquist: So in that case this motion here should be able to do exactly what you're saying; conditionally approved based on the findings of fact in the staff report and subject to the recommended conditions of approval that we just discussed.

James McCubbin: And the only change being that they're going to be revised slightly for language to fit it within the resolution format.

Chair Curtiss: So should we make a motion that...to direct staff to word condition #5 to make sure there's a water system for fire protection and a guarantee for paying for it, then we can adopt the conditions and adopt the intent to zone?

James McCubbin: Right.

Condition #5: Commissioner Carey made motion that the Board of County Commissioners address the need for a public water system for fire protection or storage and an improvements guarantee to cover it. The exact wording will be brought to an Administrative Meeting. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

Chair Curtiss: Now we can do the Zoning.

James McCubbin: The zoning you're going to make a final decision when we get you that language.

Chair Curtiss: So we can do that at an Admin Meeting?

James McCubbin: Yes. You took public comment today you don't have to make the decision today that will be on the agenda.

Chair Curtiss: Do we want to Tuesday or give you until Wednesday?

Tim Worley: I'd prefer a little more time.

Commissioner Landquist: That's good because we'll be moving and settling in over there.

Chair Curtiss: Okay so we will delay the final motion based on the wording for the intent to create this until November 2, 2011 at 10:00am in the new conference room at 199 W. Pine Street.

Commissioner Carey: So we're talking about the intent to rezone resolution?

Chair Curtiss: Yes. And then they'll have that language for #5 and we'll adopt the zoning based on those conditions and the resolution.

Tim Worley: I do have one question on the timing of...there's sort of two water supply options here and it seems like the municipal is the better one but it sort of depends on whether there's any prospect for larger development in that area West of 93. I'm just wondering if we can, I think it automatically renewable sort of setup is a good thing but is there any way we can put some sort of sunset on that, or some sort of backdrop?

James McCubbin: Yes, I wouldn't have it be automatically renewable but set a deadline and I guess that is something we need to address. But provide that this deadline may be extended upon application within the Commissioners discretion. So what initially deadline do you want is the thing we need to know.

Chair Curtiss: We had November 30, 2013 is the latest date it shows on here. I think it's a good thing to review. That way if you come back next year and say, you know nobody's going to extend that water system and I can't afford to, then we can talk about a different option. But this still give you two years.

James McCubbin: But you're going to want to apply for an extension if you need one, well in advance of the date. In case they say no which is maybe unlikely.

Chair Curtiss: One of the things that's in the proposed one was talking about the improvements agreement having an expiration date of December of that year. So I think we can talk about it more on Tuesday...or Wednesday, you could try to convince us a reason for it to be longer but I just think it's good to kinda keep on top of it so we know if there's a need to build a tank instead.

Tom Mahlum: Also if that happens, that means that there's definitely some action at the O'Keefe Creek, they're pretty darn close to starting to do some construction at least, there's some movement going on because if they don't have any water then...it's a dead end street because they can't afford to put in a water system so it has to come somewhere at some time.

Chair Curtiss Recessed the hearing, to be continued at an Administrative Meeting Nov. 2nd.

6. OTHER BUSINESS

None

7. RECESS

There being no further business to come before the board, the Commissioners were in recess at 3:04.

THURSDAY, OCTOBER 27, 2011

BCC met in regular session; quorum present. Morning: ML attended Mountain Line Regional Coordinating Committee Meeting, held at Holiday Inn. Evening: JC attended All Community Councils Meeting, held in East Missoula.

Replacement Warrant - JC signed. Alice Downey, Coeur d'Alene, ID, Principal for MCPS Warrant #214218, issued October 7, 2011 on Payroll Fund. Amount/\$144.48 (for wages). Warrant not received in mail; no bond of indemnity required.

Replacement Warrant - JC signed. Treasure State ORFF, Darby, Principal for Bonner School Dist. #14 Warrant #14769, issued June 27, 2011 on School Dist. #14 Claim Fund. Amount/\$75 (for membership dues). Warrant not received in mail; no bond of indemnity required.

ADMINISTRATIVE MEETING - CANCELLED

Request for Records Disposal/Transfer Authorization - JC signed. From Finance. -6 boxes: RSID files/Payoff slips (1997-2004). To Records to be destroyed.

FRIDAY, OCTOBER 28, 2011

BCC met in regular session; all three present.


Vickie M. Zeier
Clerk & Recorder


Jean Curtiss, Chair
BCC

MONDAY, OCTOBER 31, 2011

BCC met in regular session; all three present. Afternoon: BCC participated in tour of Fairgrounds Skating Facility.

Replacement Warrant - JC signed. Seeley Lake Community Council, Seeley Lake, Principal for Health Department Warrant #30203369, issued May 4, 2011 on Payroll Fund. Amount/\$2,352.05 (for contracted services). Warrant not received in mail; no bond of indemnity required.

Replacement Warrant - JC signed. UNUM Life Insurance, Portland, ME, Principal for MCPS A/P Warrant #27-231549, issued April 25, 2011 on 287 Fund. Amount/\$3,211.60 (for LTC Insurance). Warrant lost; no bond of indemnity required.

Planning Status Meeting - BCC/OPG Staff. Agenda: 1) Public Comment; 2) Wadsworth Shoreline Permit; 3) LiDAR Grant; 4) OPG Director's update.

Shoreline Permit - JC signed. #12-07 for Applicant Gayle Cory Wadsworth to install new dock at 7350 Lindbergh Lake Road (Lot 39 of Diamond Bar L Ranch 2nd Lake Shore Tract), Lindbergh Lake. Original to Mitch Doherty/OPG.

Rural Initiatives Update - BCC/RI Staff. Agenda: 1) Public Comment; 2) Communications; 3) Planned tree removal projects/County Parks; 4) Update on planned Public Meetings to introduce Parks/Trails Plan; 5) All Community Council Meeting review; 6) RI Director's update.

County Payroll Transmittal Sheet - BCC signed. Pay Period: 21/CY2011 - Pay Date/October 21, 2011. Total Payroll/\$1,252,658.64. To County Auditor.

MISSOULA COUNTY COMMISSIONERS' JOURNAL: NOVEMBER, 2011

BCC = BOARD OF COUNTY COMMISSIONERS

JC = Commissioner Jean Curtiss, Chair

BC = Commissioner Bill Carey

ML = Commissioner Michele Landquist

The following Claims Lists were signed during the month of NOVEMBER 2011:

Date Signed	Claims List Date	Who signed	Amount
November 1, 2011	October 31, 2011	BCC	\$107,749.62
			\$249.62
			\$13,052.35
			\$36,877.81
November 2, 2011	October 31, 2011	JC, ML	\$41,712.52
November 2, 2011	November 1, 2011	JC, ML	\$592.00
			\$258.00
			\$5,955.73
			\$8,981.77
			\$14,773.93
			\$15,503.00
			\$169,658.78
November 3, 2011	November 2, 2011	JC, ML	\$421.89
			\$100,933.36
			\$870.79
			\$1,157.58
			\$270.00
			\$2,269.00
			\$241.50
			\$44,693.74
November 3, 2011	November 3, 2011	JC, ML	\$132,960.70
			\$2,320.00
			\$9,514.73
			\$12,800.94
			\$2,358.33
			\$5,175.76
November 7, 2011	November 7, 2011	BCC	\$4,209.37
			\$107.69
			\$2,327.65
			\$6,908.63
			\$12,538.50
November 8, 2011	November 7, 2011	BCC	\$1,039,001.34
November 9, 2011	November 7, 2011	BCC	\$49,362.40
			\$43,440.71
			\$585.83
November 9, 2011	November 8, 2011	BCC	\$3,260.73
			\$532.49
			\$55,905.88
			\$35,532.87
			\$12,383.77
			\$19,707.09
			\$127,880.49
November 10, 2011	November 9, 2011	BCC	\$280.00
			\$590.91
			\$840.13
			\$41,711.97
			\$6,132.38
November 14, 2011	November 9, 2011	BCC	\$9,837.12
			\$4,234.59
			\$2,118.53
			\$176.67
			\$35.00
			\$1,933.00
			\$178.92
			\$2,313.91
November 14, 2011	November 10, 2011	BCC	\$278,248.12
			\$21,416.51
			\$1,172.58

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November 15, 2011	November 15, 2011	JC, ML	\$1,027.64
			\$39,625.10
			\$33,006.94
			\$9,878.52
			\$8,634.04
November 16, 2011	November 15, 2011	BCC	\$7,815.90
			\$945.09
			\$27,981.52
			\$2,167.43
			\$162,814.85
			\$24.00
November 16, 2011	November 16, 2011	BCC	\$4,390.31
			\$106,859.02
November 17, 2011	November 16, 2011	BCC	\$3,154.05
			\$62,124.55
			\$21,574.09
			\$5,506.37
			\$3,205.31
			\$925.00
			\$3,083.52
			\$25,592.98
			\$47,004.42
			\$48,750.17
November 22, 2011	November 16, 2011	BCC	\$1,699.09
November 23, 2011	November 22, 2011	BCC	\$1,874.94
			\$44,049.00
			\$29,834.55
			\$74,269.59
			\$2,865.37
			\$4,962.02
November 28, 2011	November 23, 2011	BCC	\$23,564.73
			\$15,225.23
			\$8,830.52
			\$21,721.83
			\$9,098.83
			\$381.30
			\$44,915.09
November 28, 2011	November 28, 2011	BCC	\$6,356.96
November 30, 2011	November 29, 2011	BCC	\$72,432.46
			\$43,936.87
			\$3,573.88
			\$12,528.95
			\$6,194.26
			\$67,189.70
			\$31,361.39
			\$4,467.87
			\$6,138.43
			\$660.08
			\$19,880.22
			\$102,450.90
			\$5,441.92
November 30, 2011	November 30, 2011	BCC	\$732.47
			\$280.00
			\$62,307.27
			\$1,596.47
November 30, 2011	November 23, 2011	BCC	\$47,848.98
			\$52,047.37
November 30, 2011	November 30, 2011	JC, ML	\$45.00
			\$4,500.00

All Claims Lists were returned to the Accounting Department.

TUESDAY, NOVEMBER 1, 2011

BCC met in regular session; all three present.

ADMINISTRATIVE MEETING

Subdivision Improvements Agreement/Guarantee – BCC signed. With James/Mandy Burns, owners/developers of Bratumn Acres Subdivision. Relates to construction of paved property access/shared gravel driveway approx.. 160 feet long/paved pedestrian walkway. Completion date/no later than July 15, 2013. Estimated costs/\$27,000; guaranteed by Bitterroot Valley Bank (effective July 14, 2011).

Agreements – BCC signed four (4) agreements between County and following for FY2012 CBO Funding:

- 1) Missoula Aging Services for 8,000 meals delivered to homebound adults with disabilities. Amount/\$15,000.
- 2) MUTD to provide ADA paratransit/senior van service to 1,900 clients. Amount/\$20,000.
- 3) Evaro-Finley-O'Keefe Community Council to promote interests/welfare of residents of their community. Amount/\$1,000.
- 4) Child Development Center to 1) provide short term respite care for clients with developmental disabilities; and 2) provide crisis placement for same. Amount/\$8,000.

One original to Peggy Seel/OPG.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated November 1, 2011. Amount/\$12,286.38. To County Auditor.

Additional discussion item(s): Commissioner Redistricting.

WEDNESDAY, NOVEMBER 2, 2011

BCC met in regular session; all three present. Afternoon: BCC toured vacant Salvation Army Building. Evening: JC attended Special Health/Air Pollution Control Board Meeting Hearing on UM Biomass Boiler Permit.

CAO MEETING

Contract – BCC signed, dated September 26, 2011. Between County and Lila Erickson, MSPAS, PA-C, for services at PHC. Amount/\$80,000 yearly. Term/December 1, 2011-June 30, 2013. Two originals to PHC.

Easements – BCC signed following permanent road easements/temporary construction easements for Petty Creek Road Project #MT PFH 71-1(1):

- 1) Parcel 076 – Leonel, Jr. & Hannah Acevedo (\$4,950).
- 2) Parcel 077 – Leonel, Jr. & Hannah Acevedo (\$5,550).

Originals to Steve Niday/Surveyors.

Contract – JC signed. Between County and MT Dept. of Commerce to develop Preliminary Engineering Report to replace Riverview Bridge in Seeley Lake. Amount/\$30,000 (\$15,000 from TSEP Grant; \$15,000 from County Bridge Cash Reserve). Two originals to Greg Robertson/Public Works.

Board Appointment – Due to dissolution of MAEDC and change in management of MonTEC to the University, BCC appointed CAO Dale Bickell as County Representative to the MonTEC Board.

Agreement – BCC signed, dated November 2, 2011. Between County and YWCA of Missoula, Ada's Place, Transitional Housing Program. Total grant award/\$100,201; County to receive \$4,771 for administrative purposes. Term/July 1, 2011-June 30, 2012. One original to OPG.

Additional discussion item(s): 1) Ashby Road construction; 2) Grievance response (Steve Johnson will draft memorandum); 3) Status of November 23, 2011 Public Meeting.

BCC signed after Admin Meeting: Resolution No. 2011-113 – Dated November 2, 2011. Resolution of Intent to zone unzoned property legally described as Mahlum Meadows Subdivision (located in Section 21, T 14 N, R 20 W, PMM, Missoula County) to C-RR1 (Residential)

NO PUBLIC MEETING WAS HELD THIS DATE

THURSDAY, NOVEMBER 3, 2011

BCC met in regular session; all three present.

Replacement Warrant - JC signed. Nicklous Nash, Missoula, Principal for MCPS Warrant #214515, issued October 21, 2011 on Payroll Fund. Amount/\$297.34 (for wages). Not received in mail; no bond of indemnity required.

Replacement Warrant - JC signed. Radio Shack, Fort Worth, TX, Principal for Facilities Warrant #30207510, issued July 26, 2011 on 1000 Fund. Amount/\$67.57 (for BNC Connections). Not received in mail; no bond of indemnity required.

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Replacement Warrant - JC signed. DPHHS, Helena, MT, Principal for PHC Warrant #30162919, issued November 1, 2010 on 2274 Fund. Amount/\$2,501 (for lab services). No bond of indemnity required.

Monthly Report - JC examined/approved/ordered filed the Monthly Reconciliation Report for Justice Court 2, Karen A. Orzech, Justice of the Peace, for month ending October 31, 2011.

Monthly Report - JC examined/approved/ordered filed the Monthly Reconciliation Report for Justice Court 1, John E. Odlin, Justice of the Peace, for month ending October 31, 2011.

ADMINISTRATIVE MEETING

Contract Amendment - BCC signed. #7 to Contract between County and MT Department of Corrections and Missoula County Detention Facility. Changes standard rate of per diem (per day) for General Population offenders from \$56.24 to \$62.75, retroactive to July 1, 2007. Two originals to Sheriff for further signatures/handling.

Resolution No. 2011-114 - BCC signed, dated November 3, 2011. Ending 2011 Fire Danger State of Emergency (which began August 23, 2011).

Agreement - BCC signed, dated October 25, 2011. Between County and American Red Cross for FY 2012 CBO Funding (for financial assistance/direct disaster assistance relief to 11 families impacted by potential wildfires). Amount/\$4,750. One original to OPG.

Memorandum - BCC signed, dated November 1, 2011. To Detention Officers Assoc. of Missoula County, acknowledging receipt on September 15, 2011 of employee grievance by two officers. BCC does not agree that contract violation occurred; grievance was denied. To S. Johnson/HR.

Additional discussion item(s): 1) Space needs; 2) BCC supports The Confederated Salish/Kootenai Tribes' recommendation to name creek located on Flathead Indian Reservation "Sim-heh Creek" [see Letter, November 10th].

FRIDAY, NOVEMBER 4, 2011

BCC met in regular session; all three present. Morning: JC attended meeting of *Let's Move Missoula!*, held at Currents.

Early evening: JC attended unveiling of UofM/Grateful Nation Montana Fallen Soldier Memorial, held on UofM Campus.


Vickie M. Zeier
Clerk & Recorder


Jean Curtiss, Chair
BCC

MONDAY, NOVEMBER 7, 2011

BCC met in regular session; all three present.

Monthly Report - JC examined/approved/ordered filed Monthly Reconciliation Report for Clerk of District Court, Shirley E. Faust, for month ending October 31, 2011.

Planning Status Meeting - BCC/OPG Staff. Agenda: 1) Public Comment; 2) Baker Apartments Rezone; 3) OPG Director's update.

Rural Initiatives Update - BCC/RI Staff. Agenda: 1) Public Comment; 2) Hall Camas Creek Open Space Bond Project; 3) MOU Agenda; 4) Planning Projects Update; 5) Communications; 6) All Community Council Meeting Update; 7) RI Director's update.

County Transportation Ballot - JC voted, dated November 7, 2011, FOR approval of the following Seeley Lake route change/additions (as set forth therein): 1) Route 1 (add 63.2 miles for students north to MM29/west around Boy Scout Road); 2) Route 2 (add 13.6 miles for students on Airport, Road, etc.); and 3) Route 3 (add 52.8 miles for students south of Seeley Lake). Returned to Superintendent of Schools.

TUESDAY, NOVEMBER 8, 2011

BCC met in regular session; all three present. Evening: ML attended Lolo Community Council Meeting, held at Lolo Community Center.

Replacement Warrant - JC signed. Jim O'Reilly, Missoula, Principal for Fair Warrant #30-209769, issued September 2, 2011 on 2160 Fund. Amount/\$275 (for arena supplies). Warrant not received in mail; no bond of indemnity required.

Replacement Warrant - JC signed. International Choral Festival, Missoula, Principal for Fair Warrant #30-210296, issued September 15, 2011 on 2160 Fund. Amount/\$203.50 (for Rodeo Program Sales). No bond of indemnity required.

ADMINISTRATIVE MEETING

Proclamation – BCC signed. Dated November 8, 2011. Awarding 2011 County Land Stewardship Award to Ralph and Bruce Thisted of the Nine Mile Valley for their efforts in caring for natural resources/providing citizens opportunity to learn from their success.

Letter – BCC signed, dated November 7, 2011. To V. Hammill and Restoration Trustee Council Members, Helena, supporting Council's proposed revisions to "Upper Clark Fork River Long Range Restoration Priorities and Fund Allocation Guidance Plan," as the revisions are a reasonable compromise.

Letter – BCC signed, dated November 8, 2011. To M. Sutton/Economic Development Administration, Denver, approving transferring EDA Financial Assistance Award 05-19-02752 to the MT Community Development Corp. The County chooses to terminate its role as other co-recipient of award (as Missoula Area Economic Development Corp. has been dissolved). County believes it is in best interest of EDA Revolving Loan Fund to have fund administered solely by MCDC.

Additional discussion item(s): Big Rig Op Ed.

WEDNESDAY, NOVEMBER 9, 2011

BCC met in regular session; all three present.

CAO MEETING

Request – BCC reviewed/approved request to grant exception of Sick Leave Cap for Clerk of District Court County Employee Donna Duffy, allowing her to receive more than 240 hours donated sick leave during a calendar year. Original to Clerk of Court Shirley Faust.

Additional discussion item(s): BCC Tickler File.

PUBLIC MEETING – NOVEMBER 9, 2011**1. CALL TO ORDER**

Commissioners Present: Commissioner (Chair) Jean Curtiss, Commissioner Michele Landquist, Commissioner Bill Carey

Staff Present: James McCubbin, Deputy County Attorney, Greg Robertson, Director Public Works, Steve Smith, Surveyor, Nancy Heil, Rural Initiatives, Janet Rhoades, OPG, Kim Cox, Clerk & Recorder

2. PLEDGE OF ALLEGIANCE**3. PUBLIC ANNOUNCEMENTS**

* Friday, November 11th is Veterans Day, there will be a ceremony on the Courthouse Lawn at 11:00 am for the public.

* Assistance is available for anyone needing help with heating/utility bills – call 2-1-1 for the Human Resource Council Hotline.

* This is also a good time to help the Food Bank and the local blood drive.

4. PUBLIC COMMENT: None.**5. ROUTINE ADMINISTRATIVE ACTIONS**

Weekly Claims List (\$2,601,567.71)

Executive Session

Commissioner Carey made motion that the Board of County Commissioners approve the Weekly Claims List in the amount of \$2,601,567.71. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

6. HEARINGS**a. Review & Approval of 310 Permit for MRL (cut trees from banks of Rattlesnake Creek)**

James McCubbin read the staff report (photo's included with packet)

Public Comment:

Bob Giordano: I run the Missoula Institute for Sustainable Transportation. This is related to transportation with the visibility needed for the buses to move across the rail line safely but one of our tenants is environmental soundness so it in a way conflicts with keeping the watershed in the healthiest state as possible.

James McCubbin: Application came from Montana Rail Link. They control their right-of-ways. I think they were approached by Beach Transportation or the School system. The other comments that we received, other than the application is Marnie had contacted FWP, got a response from Lab NoTech, who's a FWP Fisheries Biologist. FWP's can have a right to inspect 310 permits, inspect the site before commenting. They reviewed the application and went over photo's with the project

representative, Dick Bailey and wrote that no inspection is requested, recommend the project be approved with the following conditions and it doesn't say the conditions that are in your report.

Dick Bailey: Field Engineer with MLR, I'm glad to answer any questions you may have at this point.

Chair Curtiss: Mr. Bailey, it looks like on your application that the alternative that you looked at was to do nothing, which would leave the site distance concern. Have you considered or talked about the fact that these root (inaudible) will probably need to be trimmed again.

Dick Bailey: We have not considered that. I'm not an arbores by trade and it's our understanding from the conditions that trimming them to approximately 6 inches above the ground or less, I don't know how long it takes a tree to grow but I know based on the ones in my yard, it takes a really long time for them to grow back. So this solution is essentially a semi-permanent solution to this that requires no ongoing kind of maintenance or monitoring for a long time. It's my guess that as trees grow, grow, grow, grow, grow at some point someone realizes there's a site distance problem and that's kind of what happen here. Clearly those trees having been growing there for a long time and that's true.

Chair Curtiss: Do you have any experience with the mirror solution that was presented today?

Dick Bailey: We're requesting that the Commission look at this application as it is. We're not necessarily looking to implement a mirror solution, if you will, because there are several modes of failure for mirrors. I understand that mirrors seem to work pretty well in like blind hallways within say, a courthouse building; I'm not subject to extremes to environment like snow, ice, vandalism, wind, all those sort of things.

Chair Curtiss: And the sun from the West?

Dick Bailey: Exactly. And so it's our thought and our request to use this as a solution to this site distance.

Commissioner Landquist: Is this time sensitive that we approve this? Or, could we send this back and allow Bob and others, who he would be contacting, the opportunity to look at other alternatives and price out. Bob called me over the lunch hour and I have to admit, when I first heard about this and after thinking about it and talking with Bob, I know how well Cottonwoods do grow in the right conditions, they will branch out. They will grow others and it's going to continue to be sort of a maintenance thing. I don't know what's going to cost more, maintaining a mirror, safe guarding that or coming back and pruning trees but I think the public has expressed an interest and unless this is a time sensitive thing and I understand the safety of school buses and others, but I would like to have the public have a little more time to investigate what's being proposed here and look into other solutions for it. This isn't like a subdivision where we're under some wire to get this approved by a certain date so I'd like to know the feasibility of doing that here today would be.

James McCubbin: Well, I will admit I'm less familiar with the 310 law then Marnie is. I'm not aware of a statue for a deadline. I think it's just a reasonable time to respond to the permit application. If you choose to continue this, I think if you continued it for a week there wouldn't be any problem with that probably.

Chair Curtiss: It doesn't look like the application has any continued maintenance ability in it; you'd have to ask permission if it needed trimmed again, right?

Dick Bailey: That's correct.

Chair Curtiss: I just don't think a mirror is feasible just because it's going to face west and it's going to be vandalized. That's my two issues.

Commissioner Landquist: I thought so too.

Greg Robertson: In my experience, I have had some experience with a mirror that was installed by a private property owner, in a public right-of-way on the outside of a curve so that he could gauge traffic on him blind driveway, it was a very bad situation. The mirror made it worse and actually caused some accidents. I think there's some problems with even doing something like this, frankly it's highly unusual that we would use a mirror in transportation engineering to gauge distance and speed. I don't know that type of activity is encouraged anywhere in the country, I've not heard of it frankly as being reliant upon that for safety. The other issues of maintenance and vandalism and basic safety I think, what is being proposed makes the most sense. The conditions that have been established are reasonable and consistent with other types of permits of this nature. We do tree trimming and clearing in the right-of-way all the time to improve site distances, we don't use mirrors to preserve trees so that people can look around them, they're obstacles and this clearly is a site distance issue. A bus or car approaching this with reduced site distance is going to be taking a risk and the only way they currently can do that is to encroach out on to the tracks to get a good look down the rail, that's not a good thing. I would think the tree trimming would be very infrequent and probably wouldn't happen very often and if so it would be very minimal. So I think really what's proposed is the safest both for the traveling public as well as the trains.

Chair Curtiss: I don't have a problem with delaying the decision for one week. I just don't think the mirror is a solution.

Commissioner Landquist: I think if Bob's willing to do the legwork to do that public outreach for this, it would make sense.

11/16/11

Commissioner Carey: I can wait a week. Like you, Commissioner Curtiss, I'm very skeptical of the mirror.

Executive Session

Hearing recessed until next Wednesday, November 16th @ 1:30.

b. Hall/Camas Creek Open Space Project

Nancy Heil read the staff report.

James McCubbin: I would just note that the proposed exhibit to the conservation easement, I was asked to comment on that to make sure there wouldn't be any legal issues with it, indicating a possible subdivision or something like that. I believe it was after the date of this draft. I had suggested that instead of referring to this as a parcel of land; make it a portion of land. There's nothing wrong with doing a conservation easement that doesn't apply to whole property and having an exhibit that shows what part is and is not part of the conservation easement or subject to the conservation easement.

Chair Curtiss: So you're talking about Exhibit A?

James McCubbin: Yes, I'm sorry, Exhibit A.

Chair Curtiss: So it should say exclusion portion? Excluded portion?

James McCubbin: Right, something like that or even just a portion of land instead of a partial. So I made those comments, I think they're intending to incorporate those in. I've also suggested that they put a note on the exhibit, the survey exhibit saying what the purpose of the exhibit is and that is simply to show an area of land that's now subject to a conservation easement and it's not intended to create parcels.

Commissioner Landquist: Wait a minute; in this land description here on Exhibit A (that's what you're talking about) if it said a portion of land wouldn't...the way this is reading...I don't know where you want to change that but a portion of land being a portion of that property. There are two portions here in that sentence.

James McCubbin: Yes and actually, technically that makes sense but they can just strike the first part. They could just say a portion of that property described in. Then just put a purpose statement on there to clarify that's not intended to deflect new parcels. Those are my suggestions; I think they were going to be incorporated by Territorial. Like I said, that email discussion occurred after this exhibit was prepared, put that into the record for you.

Louise Kogan, Five Valleys Land & Trust: Showed ppt

Public Comment

Heather Wills: Member of the County Open Lands Committee. Our committee recommends by unanimous vote the Commissioners approve this funding request for the Hall Family/Camas Creek Conservation Easement. The Hall Ranch project has rich historic value, great working landscapes and healthy wildlife habitat. An access road will be created for the public to utilize public forest land for all types of recreation. This working ranch has been in operation since the 1890's raising crops, cows and trees. With agricultural land decreasing county wide, this project could be encouragement for other producers in the region. The 482 acre easement neighbors what are now State lands that have been actively managed for timber harvest and provides vital habitat for both mammals and birds. Remnants of the rail beds that use to haul timber out of the woods are evident on the Hall property. Subdivisions are also neighbors to this property. The committee valued the historic value, the working lands aspect and the recreational and hunting opportunities this project provides. There was discussion about the \$250,000 or 50% of the appraised easement valued request but we felt comfortable with that request. The committee appreciates the Hall Family and the work they have done to keep the land open and in great shape. We give this project a strong recommendation for your consideration. Thank you for your time.

Chair Curtiss: We did go out and visit this property along with the Open Lands Committee and can certainly see the great things we'll be protecting with this Conservation Easement there.

Nancy Heil: I would just note when the Commission moves towards making a motion that instead of the motion that you'll see in your request for commission action form of being the lesser of the \$250,000 or 50% of the appraised easement value that you could just go ahead and in the amount of \$250,000.

Executive Session

Commissioner Landquist made a motion that the Board of County Commissioners approve the expenditure of Open Space Bond funds in the amount \$250,000. Value via the attached resolution for the purchase of the Conservation Easement for the Hall/Camas Creek Project based on the findings that the project qualifies for funding by recommendation of the Open Lands Advisory Committee public hearings and staff analysis. Commissioner Carey seconded the motion. The motion carried a vote of 3-0.

c. Baker Apartments Rezoning from C-C2 (General Commercial) to C-R3 (Residential, 36 dwellings/acre) Hwy 200, Peacock Street

Janet Rhoades read the staff report.

Bill Harrison: Architect of record should this project proceed. Would like to point to two simple items; the zoning density on this project is a bit misleading, site this size after pretty thorough examination would yield a 4-plex and 6-plex at the very largest, due to the balance of parking vs. size of structure requirement and the limitation proposed by setbacks. I agree with Planning Board, the planning for sidewalks and creations of communities where none exists is a wonderful idea but how to accomplish that is a subject of debate. To require a property owner of a project of this scope, to me seems a bit over zealous to put in sidewalks that may or may not meet future planning goals and objectives. I would urge council to at least consider requiring a waiver to perhaps not for test future sidewalks but not require them at this time.

Public Comment: None

Chair Curtiss: For the record: The rezoning still allows for some types of commercial if that ends up being a better use of property in the future.

Commissioner Carey: Question for Bill if you would, is there a height restriction involved in this new zoning?

Bill Harrison: Height would be 30 feet. I believe it's 25 foot ~ front and rear yard setback and that on Peacock Street is a relaxed at 12 ½ due to the fact that no structure can be built adjacent to that street. The setback on the adjacent property would be 7 ½ feet or 1/3 the total height of the building.

Executive Session

Commissioner Carey made a motion that the Board of County Commissioners approve the request to rezone property described as a fraction of Lots 16 & 17 of Block 20, East Missoula Addition, located in Section 24 of Township 13 North, Range 19 West, from C-C2 (General Commercial) to C-R3 (Residential, 36 dwellings per acre) based on the Findings of Fact in the Staff Report and subject to the Conditions of Approval recommended by Planning Board. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

d. Petition to Establish a County Road (East Fork of Ashby Creek Road) Sections 3, 10 & 11, T12, R16

Kim Cox, Clerk & Records office verified signatures.

Steve Smith read the staff report.

Jim Davis: Land owner Ashby Creek ~ Petitioner for this to be a public road.

Jack Meyers: Representing the old Pruyn Estate. I'd like to reiterate what Jim said. We've agreed to pay the costs, I believe, which will be with the engineering and surveying costs, so there wouldn't be any direct cost to the County.

Jeanette Ailport: When we bought our property we got an easement from BLM to use the road going to our property. I talked to Champion when we got an easement to use the road going up this draw from them, just for our own use, they said you only need that easement there, you don't need it on the road because it's a public road. It was always a road that everybody used. We want to make it so it shows it's legally a county road, an un-maintained county road.

Tony Leam, Manager for DNRC: We recently acquired this property from the Nature Conservancy; we acquired a little over 32,000 acres in the Potomac Valley a year ago. We determined with help from the Surveyor's Office that the Ashby Creek Road was an old county road, non-maintained. The other roads on the other side, Wallace Creek Road, some of the Cramer Creek Roads some of the Camas Creek Road that accessed the property we acquired are believed to be and have been determined to be old un-maintained county roads. The East Fork of Ashby, we asked about that and determined that there was no public record to show that had ever been declared a county road. We realize it's been used as a county road forever and it is not our intent that we would want to prohibit that public use. It is State ground and there are no records showing that there is an easement for any other land owner in Section 3 that would allow access on that road. We will not dispute the request if the petition for making it a county road, if the Commissioners decide they would accept that as a non-maintained county road, we will not dispute that. We don't ask one favor of you to make it legal in the eyes of the State of Montana; we would ask that you request an easement on that road. We would have no charge for it, we'd have to go to the land board and layout the facts and recommend that this become a county road, a non-maintained county road. So that would clear up any title information or deficiencies that the private land owners have on the use of that road.

Chair Curtiss: So you're saying that you would ask the land board to treat this different than the other historical right-of-ways that they want us to buy?

Tony Leam: No, we would do that on this piece of ground because we've only owned it for a year. It has been used openly by the public ever since the road was built. We can't...we're not in a position to feel that it makes any sense for us to fight an issue of descriptive rights on that road, but to get the legal documentation so it's recorded in the Courthouse ~ we would have to issue an easement on that road or you'd have to go to court. You have to do something to have documentation that it shows up in a Courthouse that this is a public road. And because it is trust land right, only the landlord can agree to that.

James McCubbin: What I understand you're saying is you acknowledge that there's a prescriptive easement but you still want the county to apply for an easement?

Tony Leam: We have to have the documentation before the land board. It is public trust land and the land board is the board that has the ability to put an encumbrance, legal encumbrance on State land.

James McCubbin: But the land board also has the ability to acknowledge an encumbrance that already existed before the State acquired the property.

Tony Leam: We're trying to get the paperwork so that when it gets to the...as a public record. It's both a public record on State lands and its public record in the Courthouse so that the issue of access goes away.

Greg Robertson: I think I know what you're saying but I'm still a little bit confused as to why the county needs to be involved with this? It seems to me in order to clarify Title and access to the properties that property owners as individually or as a group could petition the land board and leave the county out of it. Am I missing something?

Tony Leam: Nope, you're exactly correct. The land owners could come to us requesting an easement on that road, we would grant it at no cost. The only thing there, we would probably require, is that we would have to form a road users association so we could address future maintenance of the road.

Commissioner Landquist: Who's maintaining the road now? It looks like a good road to me.

Tony Leam: In the past it's always been the logging company, the owner of the land and the user of that road that has done the majority of the maintenance on that road.

Commissioner Landquist: So that would have been Plum Creek.

Tony Leam: That would have been Plum Creek or Champion or Anaconda Company. Now the State, in our use of that road because we have access on that road all the way through Mr. Davis' property, we will maintain that road consistent with our use of the road. If we use the road and it requires some maintenance, we will maintain it based on our use. We're not obligated to maintain it for others use.

Chair Curtiss: So if you have a logging sale or something?

Tony Leam: Right.

James McCubbin: So if you would require some kind of maintenance organization if the property owners applied what maintenance expectations would you have with the county...If the county were to apply for that easement?

Tony Leam: We have...we're not in the position to force the county to do any maintenance, more than they normally do on any un-maintained county road.

Chair Curtiss: Here comes the scary part, there's a bridge there somewhere.

Tony Leam: There's a culvert there today.

Greg Robertson: And they want to replace it.

Tony Leam: And we want to replace it with a bridge.

Chair Curtiss: So there's this little piece in the law that says; counties are responsible for all bridges except on State Highways or something. So that is worrisome to our budget.

Tony Leam: My understanding is you also receive funding for maintenance of bridges.

Chair Curtiss: Yes but we have a long list of bridges. So we periodically get some help from the State to replace a bridge but it's not a given.

Tony Leam: We have engineered the relocation of the lower portion of the Ashby Creek Road and we've had engineers design the bridge structure. We've given that to your county road department for their engineers to look at and sign-off on, hopefully. We are getting grant money to do this work and some State money that goes along with that for supervision and administration of the contract.

Commissioner Landquist: So let me get this straight. This used to be owned by others, the last owner was Plum Creek and then you got it from the Nature Conservancy and it was unclear if it was a county road. Whatever you have, you knew that there was a road going through there and even though it goes through Mr. Davis' property you have an easement on his property to use this unnamed, unowned road. Is that correct?

Tony Leam: We have an easement for the entire East Fork Road that was probably obtained by Anaconda Company through private ground. That was passed down from Anaconda to Champion to Plum Creek, Nature Conservancy to us. We have the legal right to use the road that's on the private property. There are no documented easements across section 3 on the East Ashby Road that allows anybody; I don't believe maybe the BLM. BLM has some rights but they don't own much ground up there anymore. The public has no legal rights on any of them and that's one of the things that when we talked to Mr. Davis we requested that if it becomes a county road, that it goes all the way up through his property to the State line so that the public would still have legal access to get to the State land up there.

Commissioner Landquist: So are those road lines accurately depicted on this map here? Do they go far enough?

Tony Leam: Yes, they do.

Commissioner Landquist: So even though now this land is owned by you guys, the DNRC, that makes it public lands, doesn't that give the public the right to use your easement to access those lands or no?

Tony Leam: The public would have use of the road to the private land. The easement we have is not for public access, it's for management of our land. We can't guarantee the public access across private land.

Commissioner Landquist: There's still quite a bit of an active cattle grazing association up here and they use those lands too, right?

Tony Leam: Yes.

Commissioner Landquist: So I guess I'd be concerned if there's not a cattle guard - are there cattle guards on this now? How would making this a public road affect the grazing rights of the people up there?

Heather Wills: Land owner, my family is part of the grazing association that has used this land since 1932. On East Ashby, where it forks from East to West Ashby, there are no cattle guards. The first cattle guard you will come...if you go towards Potomac is where the private...the State land starts. This land is all open for use, as far as cattle are concerned. The first fences would be at that first cattle guard. There are three cattle guards to the highway but there is no cattle guard in this area.

Commissioner Landquist: Who maintains those cattle guards, the cattle grazing association?

Heather Wills: No, the county.

Jeanette Ailport: We're talking about us getting an easement through section 3. Jim Davis or Pruyn's, they don't have an easement through our property. So when we make this a county road, we're not getting any money, but we're giving...like they were saying access for them to get through our land for free, without an easement. So that's another good reason to make it a county road, plus like they were saying that people could get to the State land access, right now they all just drive through there.

Jim Davis: To answer one of your questions Michele, it is a very good road, it's very durable. I was a logger for 31 years, whoever was hauling the timber out it, maintained it. However, there really haven't been any timber sales up there besides what the State's proposing. The last 8 years the roads just been maintained by itself so it's a very durable road. I'd like to reiterate what Tony said about the public not having an easement up there, they do have a prescriptive easement up there and they've used it for years. However, this is why it's really good for the county to take this over and you can consult with James on this, things have really changed in the last 10 years considering easements. The Supreme Courts made a lot of decisions, every governing body from the BLM to counties have made other decisions and it was surprising to hear Tony say that the public doesn't have easement up there today. I think they have a prescriptive easement, which is good enough for me. The easiest way to take care of this, which I was contacted by the Pruyn's Estate, Eli & Association, Mark Bubber?, he contacted the State and was going for an easement, I said maybe the simplest way to take this is to talk to James, see if the county would consider it, which I did, James put me up to Dale Bickell, who put me up to Steve who said it was something they would consider. I'm willing to back Tony's project for putting in the bridge, we can all work on any maintenance and it's something we've done in the past. We would not like this to cost the county any money.

Jeanette Ailport: Where's the bridge going in?

Tony Leam: East Ashby Road, where East Ashby Road leaves the main Ashby Road and crosses Ashby Creek - 5 1/2 miles up.

Jeannette Ailport: I thought the culvert was working just fine. What's wrong with the culvert?

Dana Boruch, DNRC: We are relocating a mile portion of the Ashby Creek Road to move it away from the creek to improve fisheries. And because of that relocation that you have already said you were okay with, that's going to move it away so it requires that realignment where the bridge comes in.

James McCubbin: Doesn't sound like anybody disputes that there's an existing public prescriptive easement, what are you going to do with the existing easement if you relocate the road? Can you abandon that?

Dana Boruch: First of all what I would say is a prescriptive right is only prescriptive until a judge says so. They have acknowledged that they have a cloud on their title, so until the issue is resolved...even the public can acclaim prescriptive right. They can claim it all they want but until its official by a court or some piece of paper, it's only a concept of prescriptive right. When Tony points out that the State would like for the county to come and get a paper easement on this, it's because right-of-way law changes every day, it changes every two session...every session in the courts, so to get a permanent piece of paper, that's it. The law changes or court changes interpretation, the papers permanent and the road is permanent and it's a permanent public right.

James McCubbin: If there's an existing public prescriptive easement, whether there's been a court order or not, moving the road will not make that easement go away, it's a perpetual easement, anybody can claim it at any time in the future. So is that something that anybody's thought about?

Chair Curtiss: What you're talking about is moving the prescriptive right over to where the new road will be.

Tony Leam: Moving the main Ashby Road, we're not moving the East Ashby Road. The main Ashby Road will be surveyed as part of the engineering design and that will become, what is still the county road.

Executive Session

Site Viewing: Commissioner Landquist and Greg Robertson on Monday, November 14th leaving the courthouse at 2:15.

Hearing is in recess until December 7th.

e. Excavation Permit to Extend Water Main (26th Ave & S 9th St W) PCI.

Greg Robertson read the staff report.

Commissioner Landquist: Is this on the other side of the road from where I'm seeing an irrigation ditch noted?

Greg Robertson: The irrigation is north of the Montgomery Building.

Chair Curtiss: North of the Church.

Commissioner Landquist: Do they need to take any special precautions in dealing with the proximity of the irrigation ditch?

Greg Robertson: No

John Kellogg, Professional Consultants: Bryant Jacobs actually put together the plans here; he could answer any specific questions. The actually county encroachment is just right at 29th Street, the rest is through City property.

Bryant Jacobs: 1009 Reserve Street, we maintain at least 10 feet away from the irrigation ditch on the north side. Its 50 feet away from the City limit. The irrigation ditch and this water line and underground utilities are all within...would all be within the utility easement for 9th Street.

Public Comment: None

Executive Session

Commissioner Landquist made motion that the Board of County Commissioners approve the request to install a new 10 inch water main at 1009 Reserve Street. Commissioner Carey seconded the motion. The motion carried a vote of 3-0.

7. **OTHER BUSINESS:** None

8. **RECESS @ 3:20 pm.**

Following Public Meeting:

Resolution No. 2011-115 – BCC signed, dated November 9, 2011. Expending \$250,000 of 2006 Open Space Bond Proceeds for purchase of conservation easement for Hall-Camas Creek Open Space Project. Hearing held November 9, 2011.

THURSDAY, NOVEMBER 10, 2011

BCC met in regular session; all three present.

ADMINISTRATIVE MEETING

Resolution No. 2011-116 – BCC signed, dated November 10, 2011. Budget Amendment for Library adding \$27,360 from Broadband Tech Opportunity Grant to help purchase WOW Mobile Public Computer Center. For total disclosure, expenditures included in formal FY12 Operating Budget/Revenue Estimates for County.

Letter – BCC signed, dated November 9, 2011. G. Daumiller/MT State Library, Helena, re: request from Brian/Theresa Naugle, Evaro, to name an un-named stream in Missoula County "Grizzly Creek". BCC noted there are eight streams with the same name in MT, and are supporting The Confederated Salish/Kootenai Tribes' recommendation to name it "Sim-heh Creek" (Salish word for grizzly bear).

Restoration Advisory Council Notes – BCC signed thank you notes to the following for their role in ushering the long range plan through the process to completion, benefitting natural resources in the Clark Fork watershed for decades: 1) Maureen Conner/County Commissioner/Phillipsburg/VP of RAC; 2) Mary Price/Salish & Kootenai Tribes; 3) Chris Brick/Clark Fork Coalition Science Director; and 4) Carol Fox/Natural Resource Damage Program.

Ballot – JC voted/returned US Dept. of Agriculture County FSA Missoula/Mineral County Committee Election Ballot to choose farmer or rancher representative to serve on Committee.

Additional discussion item(s): OPG Interlocal.

FRIDAY, NOVEMBER 11, 2011

COURTHOUSE IS CLOSED FOR THE VETERANS DAY HOLIDAY

Morning: JC spoke at Veterans Day Memorial Event, held on the Courthouse Lawn.



Vickie M. Zeier
Clerk & Recorder


Jean Curtiss, Chair
BCC

MONDAY, NOVEMBER 14, 2011

BCC met in regular session; all three present.

Site Visit – ML accompanied Greg Robertson on a site visit to Ashby Creek Road – Potomac.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) Canyon East Subdivision Phasing Plan Amendment (*action*); 3) Willowbrook Subdivision Phasing Plan Amendment (*action*); 4) OPG Director's update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Parks/Trails Plan Public Meeting update; 3) Communications; 4) Director's update.

Letter – BCC signed, dated November 16, 2011 to Perry Ashby, Florence, conditionally approving Phasing Plan Amendment for Willowbrook Meadows Subdivision. Final plat submittal deadlines: Phase 2 - extended to January 7, 2016 (subject to approval of Weed Management Plan in Amended COA #17); Phase 3 – January 7, 2017; Phase 4 – January 7, 2018; Phase 5 – January 7, 2019; Phase 6 – January 7, 2020.

Letter – BCC signed, dated November 16, 2011 to Perry Ashby, Florence, conditionally approving Phasing Plan Amendment for Canyon East Subdivision. Final plat submittal deadlines: Phase 7 - extended to July 2, 2018 (subject to approval of Weed Management Plan in Amended COA #16); Phase 8 – July 2, 2020; Phase 9 – July 2, 2022; Phase 10 – July 2, 2024.

TUESDAY, NOVEMBER 15, 2011

BCC met in regular session; all three present. Morning: BCC canvassed November 8th Election. Evening: JC attended annual meeting of Community Medical Center Foundation, held at CMC.

ADMINISTRATIVE MEETING

Bid Award – BCC awarded Contractor Agreement to Patterson Enterprises, Inc. (lowest bidder) for Lolo 901 District Pressure Reducing Vault (PRV) Project. Amount/\$99,817.29. Original to G. Robertson/PW.

Resolution No. 2011-119 – BCC signed, dated November 15, 2011. Budget Amendment for Public Works showing \$100,000 revenue from Lolo RSID FY 2011 Cash Carry and Capital expenditure for PRV Vault Project on Glacier Drive. For total disclosure, expenditures included in formal FY12 Operating Budget/Revenue Estimates for County.

Resolution No. 2011-118 – BCC signed, dated November 15, 2011. Budget Amendment for Public Works showing \$10,000 transfer from Road Labor (Petty Creek Road ROW) and Capital expenditure (surveying equipment/Trimble). For total disclosure, expenditures included in formal FY12 Operating Budget/Revenue Estimates for County.

Resolution No. 2011-117 – BCC signed, dated November 15, 2011. Budget Amendment for Public Works showing \$60,000 transfer to Grant Creek Project from RSID Admin for expenditure to HDR Settlement. For total disclosure, expenditures included in formal FY12 Operating Budget/Revenue Estimates for County.

Request – BCC reviewed/approved Full Settlement Authority (\$25,000 to \$1 Million) for mediation of tort case prior to trial in District Court (Hoffman vs. Missoula County/MC Sheriff's Department, Defendants). Original to Hal Luttschwager/Risk Management.

Letter – BCC signed, dated November 15, 2011. To Albert Yee, Missoula, responding to his missive regarding Chaplain Chuck Lee. BCC stated Mr. Lee is an independent contractor and not eligible for County-related benefits. However, his organization is eligible to receive donations from County Employees; on September 29, 2011 the BCC included Mr. Lee's non-profit (Emergency Responders Support Services) to be part of the County's Annual Charitable Giving Campaign.

Resolution No. 2011-120 – BCC signed, dated November 15, 2011. Resolution of Intent to rezone property legally described as fraction of Lots 16 & 17 of Block 20, East Missoula Addition (located in Section 24 of T 13 N, R 19 W, PMM) from C-C2 (General Commercial) to C-R3 (Residential). Hearing held (and approved) November 9, 2011.

Additional discussion item(s): 11/16/11 Chamber Ad Hoc Board Meeting.

WEDNESDAY, NOVEMBER 16, 2011

BCC met in regular session; all three present. Evening: JC attended Evaro-Finley-O'Keefe Community Council Meeting, held at Evaro Community Center.

CAO MEETING

Agreements – BCC signed eight (8) agreements between County and following for FY2012 CBO Funding:

- 1) Mountain Home Montana to assist young mothers and children by providing meals/shelter/supervision/medical care. Amount/\$28,500.
- 2) Watson Children's Center for .75 FTE Kitchen Manager. Amount/\$10,000.
- 3) Missoula Youth Homes for services to 125 youth. Amount/\$43,000.
- 4) Salvation Army/Transportation Program to provide 120 clients with emergency transportation assistance. Amount/\$14,000.
- 5) Salvation Army/Winter Shelter Program to provide 125 households with shelter assistance during November 2011-April 2012. Amount/\$21,000.

One original to Peggy Seel/OPG.

Grant Agreement – JC signed. Sober Truth on Preventing Underage Drinking (STOP) Grant (#MT0003B8T001003) between County and UofM Curry Health Center for substance abuse prevention strategies through Missoula Forum for Children & Youth. Total grant/\$50,000; UofM to receive \$3,500. Term/October 1, 2011-September 30, 2012. One original to OPG.

Request – BCC reviewed/approved request to grant exception of Sick Leave Cap for PHC Employee Kelly Banks, allowing her to receive more than 240 hours donated sick leave during a calendar year: Original to Kim Mansch/PHC.

Contract – JC signed, dated July 1, 2011. Between MCCHD and D. Christiansen, MD, to serve as Medical Advisor at MCCHD. Amount/\$8,720 annually. Term/July 1, 2011-June 30, 2012. Two originals to J. Serstad/MCCHD.

Letter – BCC signed, dated November 16, 2011, To Whom it may Concern, lending their full support (on behalf of PHC), to the Seeley-Swan Hospital District's proposal to the Health Resources and Services Administration for Rural Health Care Services Outreach Grant funding. Funds will help with dental needs of disadvantaged residents of Seeley Swan Valley. Original to Kim Mansch/PHC.

Additional discussion item(s): None.

SPECIAL PUBLIC MEETING – NOVEMBER 16, 2011

1. CALL TO ORDER 1:30

Commissioners Present: Commissioner (Chair) Jean Curtiss, Commissioner Bill Carey, Commissioner Michele Landquist

Staff Present: Andrew Czorny, Chief Financial Officer

2. PLEDGE OF ALLEGIANCE

3. PUBLIC ANNOUNCEMENTS

Good time to donate to the Food Bank here in town or food pantries in your neighborhood. Tis the Season when we're heating our homes, those people with wood stoves are already starting to have chimney fires. Missoula Rural Fire Department does have on hand, 6 & 8 inch brush kits and rods for do-it-yourself chimney cleaning. It's a good time of year to consider doing that as your cranking up the woodstoves too.

4. PUBLIC COMMENT: None

5. ROUTINE ADMINISTRATIVE ACTIONS

Weekly Claims List (\$1,041,666.18)

Executive Session

Commissioner Landquist made motion that the Board of County Commissioners approve the weekly claims list in the amount of \$1,041,666.18. Commissioner Carey seconded the motion. The motion carried a vote of 3-0.

6. HEARINGS

a. Review & Approval of 310 Permit for MRL (Banks of Rattlesnake Creek)
(Continued from November 9, 2011)

Chair Curtiss: Recessed from November 9, 2011 to give people more opportunity for spreading the word and commenting. We also have some emails that we'll enter into the record. Is there further comments?

James McCubbin: Read the emails for the record.

Public Comment

Bob Giordano: Handouts. I appreciate you holding this hearing open one more week. I believe it is an important community issue when we talk about cutting down trees, especially cottonwood trees on the base of the Rattlesnake Creek. The coordinator for the Rattlesnake Watershed Group sent you an informative email about the health of our watersheds and how important that is for our living environment here in the Missoula Valley. The issue before is to try to increase school bus safety and the only option other than to do nothing, that was on the table, seems to be cutting down these trees. Mr. Bailey from Rail Link emailed a list of concerns that Commissioner Curtiss forwarded to myself and others and I'd like to go through those concerns and our responses to those. MRL hasn't put mirrors up before so they aren't prepared to calibrate them. It needs to be addressed, who would put the mirror up and who would take care of that? There's a new mirror out called the "low-blow mirror" that gives even better visibility. But it got me to thinking, if this a dangerous crossing or a potentially dangerous crossing, should the school buses use Van Buren or North 2nd? Take this concern off the table, that a school bus would miss a freight train and that the gates were not coming down and that we would have a tragedy. Vandalism is a concern; the greatest concern would be spray paint, that's why the manufacturer recommends putting them 10-12 feet off the ground. We would recommend that the 310 application's not complete and that we should look more seriously at these safety mirrors and also about that possibility that the bus doesn't use that rail crossing, maybe use Van Buren or North 2nd. I don't know how many buses actually come down there with kids, on Greenough across that tracks, that was not part of this application. The trains will increase, so maybe we can talk about a different alternative route.

Tracy Hoffman – Beach Transportation: He did not contact me. We have an average of 10 buses per day crossing that track. There are a number of drop-offs just up the hill, Waterworks Hill at the housing development on the left. It would be inconvenient, and not as time efficient to go up and around, although the trains do stop us at times. We transport approximately 300 children across those tracks a day. That's not including any field trips to the peace farm or to any of the trailheads up that side of the Rattlesnake.

Chair Curtiss: If you did take the North 2nd then you would reach another...in my mind...another dangerous spot if you tried to cross Orange Street where there's no light on North 2nd.

Tracy Hoffman: A harder intersection, yes.

Nicholas Bailey Montana Rail Link, Licensed Engineer: I would like to speak to a couple of the issues that have been brought forth in the emails, as well as in today's testimony. It was said that the mirror would not function as a traffic control device and I would like to make a comment about that. My comment would be that any device placed in a public right-of-way that public vehicles are using that's causing them to look in a place different then where the actual conflict may lay, walks and quacks like a traffic control device even if someone would say it's not a traffic control device. Therefore, I would offer that it is functioning effectively as a traffic control device. I'm not an attorney but it would be my thinking that Madison/Greenough Drive is a City right-of-way and so if the decision of this policy body would be to place a mirror within the right-of-way of the City that would be compelling action on the Cities part to place what appears to walk and quack like an approved traffic device within the Cities jurisdictional right-of-way. It would be my thought that MRL is not going to take the responsibility of placing again...what appears to walk and quack like an unapproved traffic control device. And then be the entity responsible for calibrating, maintaining, ensuring that it is 24/7 operational when there's no manual regarding a mirror's use. Some of the testimony regarding the environmental effects, I would take at face value, they are given by the sales representative for the manufacturer and that's fine, as what it is. Until it's listed as a traffic control device, MRL cannot install the device, in this case. We appreciate the correction from the Rattlesnake Watershed Group that the Rattlesnake Creek is a watershed and the Missoula Valley is a basin. At the time we submitted this application the foliage intermingles between the trees and it was impossible to tell which specific trees were impinging on the 500 foot sideline and so it was our intention, and we scouted this in the field, it was our intention to essentially look on the line of sight from where a bus would be stopped from 50-15 feet away from the tracks to set a stake-out on the nearest tracks and then when we could see that sight line that's when we would stop cutting the foliage that's hindering the line of sight. Trimming back these trees will give more light and give the foliage a chance to thrive and grow. I would like to see more comments and information on the Bull Trout issue.

Executive Session

Michele Landquist: Monday I went on a field trip to Potomac with Greg Robertson, our Public Works Director. On the way back I asked him if we could swing by this area so we could look at the trees and the railroad site and so we did. Greg commented that he would not recommend putting a mirror at this site to mitigate for safety. I am commenting for both myself and Greg since he is not here. I have to respect Lab Notech, the fishery's biologist who signed off on this because I know he's really into the stream health and the bull trout biologist expert in this area. Safety of the kids on the bus is paramount to me, I'm not willing to put them at risk in crossing that...what I think might be in order for us to do, is to go ahead and approve this request this time around. That would give Bob and the Watershed Group folks and others time to look at what was put down, what sight visibilities are needed to keep that safe, watch the vegetation as it grows back and maybe come up with a game plan to mitigate it differently, if you think something else could be put in play. I don't think we have time to play around. Also duly noted, the leaves are off the trees right now so if we were going to

have a problem or a better chance of seeing the visibility with the leaves off the trees, this would have been a good time for it. Even with the leaves off, it impedes the visibility of trains coming. So in my view and I appreciate all the emails and the people that weighted in on this, I'm ready to take action on this.

Bill Carey: Bob has raised legitimate points and concerns but I have to agree with Commissioner Landquist, we need to act on this, we're talking about the safety not only of the students on the buses but also the general public. If we were to leave those trees up and have an accident it would be horrible.

Commissioner Landquist made motion that the Board of County Commissioners approve the MRL 310 permit with the recommended findings in place. Leaving the roots in the ground on the North side of the track as recommended by Fish, Wildlife & Parks. Commissioner Carey seconded the motion. The motion carried a vote of 3-0.

b. Examination of Proposed Redrawn Commissioner Districts

Vickie Zeier read a portion of the staff report.

Dave Dewing, GIS analysis with OPG: Showed a PPT presentation on the 2010 census data and areas.

Chair Curtiss: I think one other factor that came in to why we didn't use the 2000 census data, that would have been available in 2003, was that the local government study commission at that time was considering whether or not to do more commissioner districts and such so we thought it was best to just delay it at that time.

In order to run for County Commissioner you have to live in one of the three districts, whichever one is up. 2012 will be district 3, you have to live in that district for 2 years prior to when you put your name in for election. Then you're elected by the whole of the County.

Public Comment: None

Executive Session

Commissioner Carey made motion that the Board of County Commissioners approve the redistricting map presented to us today. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

7. OTHER BUSINESS

Jeanette Zentgraff: Lolo resident. The last time we were here, we mentioned what we thought would encounter what was what I think an unfair blow from the U.S. 10th Circuit Court, what was to take land that was never intended for complete wilderness and just through a court action designated 6.4 million acres of inventoried road less lands to be in that category of wilderness. Handouts. I would like to request that we be a slot, so to speak, on your agenda so that we would have the time to share what we have and have you ask us questions and know where we're coming from and allow us to ask you questions and know that we're here for one reason, we have confidence in you. We believe some mistakes have been made regarding jobs, we are absolutely convinced that the worst thing that can happen is for our economy to proceed as it has been going, it's just too one sided as far as wilderness. I'm speaking for the advocates for our republic.

Patricia Lamb: I'm concerned about jobs, the economy, and our kids being able to stay here, taxes rising until we're being taxed out of our homes. I brought up the subject of ICLEI and was told we're not part of it and we don't pay dues – that's not true, Missoula County and Missoula City are part of ICLEI and we do pay dues. I would ask maybe that the Commissioners would do a little bit of research and find out about it. It's basically a National Sustainability Organization that wants to have more and more open land. I would suggest that you go to Agenda 21 and look at some of the maps. I ask that you look into ICLEI, it's something that's going on and something that's happening here, we've seen jobs going away ever since we came here in 1958. Missoula County has been very active in destroying a lot of good paying jobs and about all we have left is Government but we can't all work for the Government. I think your job is to help us bring in jobs that are going to be in the private sector, that are going to be paying taxes – not that people who work for the Government don't pay taxes, because I know you do, but the whole situation economically.

Then you answered one of my questions – I was going to ask how, do we have a dialog with you all rather than me speak and you listening or vise-a-versa.

One more question that's probably not going to be popular, the Occupy people are going away and I know they have a right to speak and I do too, that's why I'm here. As I understand it they don't have a right to setup housekeeping on County property, I'm wondering, in this case, who makes the decision what people have to obey the laws and what people do not have to obey the laws. I know we were trying to help and I know that the County went out of their way to accommodate these people and fortunately nothing happened, like what happened in other places. I have kids and I have grandkids and the question is – who has to obey the law? Who makes exceptions? If this were a group of ranchers, a group of loggers, a group of miners, or a group of young republicans would they be allowed to do that? I don't know, but I think we should address that kind of thing so that the law is the law for all of us, not for just some of us.

Commissioner Carey: Ms. Lamb do you have documentation for the county making this payment to ICLEI? I'm unaware of it.

Mrs. Lamb: I have an email from one of their offices in California that I sent after you all told me you weren't part of it. I still have that email at home. He answered me twice that both Missoula City and Missoula County are part of it and then you can go to another page to see what the dues are and how they're based on population. So Missoula County & Missoula City combined population is 1200 a year; I don't how that's proportioned out but...it's fairly easy to get on-line to find that.

Curtiss Longo: Resident of Missoula. Since day one Occupy Missoula has cooperated with every request to the County Commissioners and Courthouse Staff. In fact, members of the movement have bent over backwards to accommodate the respectful guidelines and requests. I have had the opportunity to communicate all involved and have maintained that open line of communication. Unfortunately, we have come to a crossroads at which the previously stated support for our constitutionally activities has come into serious question. I would like to highlight there are several individuals of the street community, of the drug and alcohol abused, of the houseless and homeless that have now taken a different direction in their lives because of Occupy Missoula. The posting of a tent is not to disgust the public, it's not even necessarily for a warm place to stay, the posting of a tent is an expression of the dichotomy between individuals in this country who do not have a home, which I think we can all agree is an exponentially growing number of individuals and citizens. This is an expression, it's a freedom of speech, and this is constitutionally mandated and protected. These tents are not posted to create dissention; we did not step on that Courthouse lawn with any intentions of having any negative feelings towards the Courthouse, the Commissioners, the staff and the community at large. But it seems that since we are being asked to suppress our freedom of speech and our freedom of expression, then maybe we are on the right property to express our free speech. We have service members and I am a veteran. I feel disgusted that we have been asked to suppress our free speech. The goal of Occupy all around the World is to change society for the better. We will continue to cooperate with Courthouse staff, the Courthouse County Commissioners and we hope that we have regained the support of the individuals who are responsible for this Community and this City and this County to freely express ourselves under our constitutional rights.

8. **RECESS**: There being no further business to come before the board, the Commissioners were in recess at 2:30.

THURSDAY, NOVEMBER 17, 2011

BCC met in regular session; all three present.

ADMINISTRATIVE MEETING

Contract – BCC signed, dated November 17, 2011. Between County and Spooner Construction, Inc. for removal of dead and infested trees at Donovan Park, located between frontage road/Slide Rock road near Clinton. Amount/\$1,150. Term/November 22, 2011-December 31, 2011. One original to L. Moisey/Parks.

Agreement – JC signed, dated November 17, 2011. Between County and John Carlson for Caretaker/Tenant services at MDP LaLonde Ranch. Mr. Carlson will perform general maintenance/repairs in lieu of rent/utilities. Term/begins November 17, 2011; ends at termination of Agreement. One original to Barb Martens/Projects.

Grant Contract – JC signed. Between City-County Health Dept. and March of Dimes Vitamin Supplement Promotion Project for pregnant women enrolled in Missoula WIC. Amount/\$1,000. Term/January-December 2011. Two originals to Julie Mohr/Health Dept.

Request – BCC approved Larchmont Golf Course and Caddy Shack 2012 Budgets. Budgets available for review in BCC Office. Original to Larchmont.

Contract – JC signed. #12-331-74068-0 between County and MT DPHHS to implement Strategic Crisis Intervention Plan for HB 130 Bill funding for 1) crisis mental health services, 2) training for involved agencies/law enforcement, and 3) detention center diversion for those with acute mental illness. Amount/\$169,593. Term/August 4, 2011-June 30, 2011. Two originals to K. Campbell/OPG.

Letter – BCC signed, dated November 17, 2011. To Mike Kuntz/Area Supervisor, Yellowstone Pipeline ("YP"), Missoula, stating concern over vulnerability of YP's river crossing upstream of Milltown, and asking them to prioritize replacement of pipeline cross/installation of motorized block valve and check valve. BCC also concerned about pipeline crossing Flint Creek near Drummond..

Letter – BCC signed, dated November 17, 2011. To C. Hoidal/US DOT Pipeline/Hazardous Materials Safety Admin., Lakewood, CO, relating BCC's concern about safety of Yellowstone Pipeline River Crossing upstream of Milltown. Failure of pipeline at this location could cause significant damage. BCC requests US DOT provide Yellowstone Pipeline with compliance order. [BCC also attached their letter to Mike Kuntz; see previous letter journal entry].

Letter – BCC signed, dated November 17, 2011. To Eran Fowler Pehan, Poverello Center (the "Pov"), Missoula, thanking the Board/staff of the Pov for helping the community address the needs of its homeless population. BCC congratulated them on commitment to acquire its new location, and also explained why County could not sell certain property to the Pov at this time.

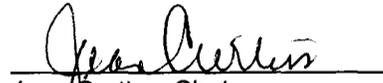
Letter – BCC signed, dated November 16, 2011. To Whom It May Concern, fully supporting Seeley-Swan Hospital District's proposal to HRSA (Health Resources and services Administration) for Rural Health Care Services Outreach Grant funding.

Additional discussion item(s) Pipeline Safety Council

FRIDAY, NOVEMBER 18, 2011

BCC did not meet in regular session. JC in Hamilton at Mental Health Board/CDC Meeting most of day. ML out of office all day. Afternoon: BC attended Press Event for Poverello Center.


Vickie M. Zeier
Clerk & Recorder


Jean Curtiss, Chair
BCC

MONDAY, NOVEMBER 21, 2011

BCC met in regular session; all three present. Afternoon: BCC attended Chamber's Governmental Affairs Bi-Annual Review, held at Chamber Office. BCC also attended Rural Land Managers Meeting, held in Room 201/Courthouse Annex. Evening: BC attended East Missoula Community Council Meeting, held at East Missoula Community Center.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) OPG Director's update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Stewardship Award Presentation briefing; 3) Communications; 4) Director's update.

TUESDAY, NOVEMBER 22, 2011

BCC met in regular session; all three present. Afternoon: BCC traveled to Ninemile to present the Land Stewardship Award.

ADMINISTRATIVE MEETING

Resolution No. 2011-123 – BCC signed, dated November 22, 2011. Budget Amendment for Seeley Sewer Special Revenue Fund showing \$15,000 Cash revenue and expenditure of same for Sewer engineering. For total disclosure, expenditures included in formal FY12 Operating Budget/Revenue Estimates for County. [This Resolution replaces retracted Resolution No. 2011-112 due to TSEP rejection; road funds were referenced as funding source].

Resolution No. 2011-124 – BCC signed, dated November 22, 2011. Budget Amendment for Public Works showing Cash Reserve revenue/expenditure of \$100,000; adding surplus asphalt/tack oil funds to FY12 budget and accounting for paving projects completed in Seeley Lake and Potomac. For total disclosure, expenditures included in formal FY12 Operating Budget/Revenue Estimates for County.

Amendment – JC signed. Amendment #2 to Agreement between County and MT DNRC (RRGL Grant #RRG-10-1389) for RSID 8496 Lewis & Clark Water System Rehab Project. Extends term of agreement until December 31, 2012. Two originals to G. Robertson/PW for further signatures/handling.

Contract – BCC signed, dated November 22, 2011 between County and Loken Builders for LaLonde Ranch house attic/roof upgrades (subject to Risk Manager's approval of auto insurance). Amount/up to \$16,034.45. Term/November 22-December 20, 2011. One original to Barb Martens/Projects.

Services Agreement/Resolution – JC signed. Between County and Smart911 for RAVE Mobile Safety software. Amount/\$20,000 (transfer from 911 Trust). Effective Date: December 12, 2011. Two originals to Chris Lounsbury/DES. Resolution No. 2011-125 – BCC signed, dated November 22, 2011. Budget Amendment in amount of \$21,000 for 9-1-1 relating to Smart 9-1-1 ANI/ALI Enhancement set forth above. For total disclosure, expenditures included in formal FY12 Operating Budget/Revenue Estimates for County.

Agreement – BCC signed, dated November 22, 2011. Between County and PHC for PHC to assist in tasks for purpose of PHC programs in County (patient flow/gather relevant data/provide reports). Amount/\$237,000 (CBO funding) for FY12. Two originals to PHC.

Change Order/Resolutions – BCC signed Change Order to contract between County and A&E Architects for Courthouse/Annex Renovation Project. Late design development changes in Justice Court schematic design add \$38,900 to contract; Change Order represents approx.. 50% of additional hours incurred by A&E. Original to Barb Martens/Projects. Resolution No. 2011-121 – BCC signed, dated November 22, 2011. Relating to financing of Change Order with A&E set forth above, in amount of \$38,900, and establishing compliance with Reimbursement Bond Regulations under Internal Revenue Code. Resolution No. 2011-122 – BCC signed, dated November 22, 2011. Budget Amendment for CIP, noting revenue from Bond Proceeds and expenditure of \$38,900 for Change Order with A&E.

Resolution No. 2011-126 – BCC signed, dated November 22, 2011. Budget Amendment for PHC reflecting grant/contracts/insurance/donations received and corresponding expenditures. For total disclosure, expenditures included in formal FY11 Operating Budget/Revenue Estimates for County. Resolution available for review in Office of County Commissioners.

Letter – BCC signed, dated November 22, 2011. To Shane Stack, MDT, Missoula, stating BCC has reviewed Highway 83 Seeley North Speed Study and believes report is thorough and accurately reflects current conditions. BCC concurs with its findings/recommendations.

Contract – BCC signed [approved November 2, 2011]. Between County and UrbanTrans Consultants, Inc. dba UrbanTrans North America to develop an Evaluation/Strategic Plan for Missoula In Motion. Completion of this is a condition of the MIM Congestion mitigation Air Quality grant with MT DOT. Amount/\$29,163. Term/October 28, 2011-January 27, 2012. One original to A. Stokman/OPG.

Additional discussion item(s): 1) County Logo; 2) Christmas cards.

WEDNESDAY, NOVEMBER 23, 2011

BCC met in regular session; all three present.

CAO MEETING

Amendment and Resolution – JC signed Amendment (dated 11/23/11) to Agreement between County and PCI (12/16/10) for design/construction of Airway/Expressway Roundabout and Median Landscaping. Amount increased by \$11,500 (due to changes to water well system), for total contract amount of \$128,800. Resolution No. 2011-127 – BCC signed, dated November 23, 2011. Budget Amendment for Capital Improvement Program showing Cash Revenue of \$270,000 and Expenditures of same for above-mentioned Roundabout/Landscaping. For total disclosure, expenditures included in formal FY12 Operating Budget/Revenue Estimates for County.

Agreement – BCC signed, dated November 23, 2011. Between County and Spectrum Medical Services for primary health care services at County Detention Center. Amount/\$268,662.50. Term/January 1, 2012-June 30, 2012. One original to D. Seaton/Sheriff's Office.

Amendment – JC signed. #1 to Task Order #12-07-1-01-018-0 to City-County Health Dept. Master Contract for period July 1, 2005-June 30, 2012 between MCCHD and MT DPHHS for Public Health Home Visiting. MCCHD to receive total of \$84,824 for SFY2012 (July 1, 2011- June 30, 2012). Two originals to Julie Mohr/MCCHD.

Certification Letter – BCC signed, dated November 23, 2011, to G. Gifford/Project Manager, Federal Highway Administration, Vancouver, WA. Right-of-way certification for option 2 for Petty Creek Road Project #MT PFH 71-1(1).

Board Appointments – BCC reappointed current Members Juanita Vero and Carolyn Demin to new 3-year terms (12/1/11-11/30/14) on the Open Lands Citizens Advisory Committee.

Form – JC signed two (2) MT DOC HOME Program Annual Certifications for Rental Housing for Local Government as of October 1, 2010 for following: 1) Opportunity Resources 1999 Project/Pioneer I group home residents, and 2) Opportunity Resources 2004 Project/Pioneer II group home residents. Originals to Jean Harte/OPG.

Contract – BCC signed, dated November 23, 2011. Between County and CASA (Court Appointed Special Advocates) of Missoula for FY2012 CBO Funding in amount of \$8,000. One original to Peggy Seel/OPG.

Contract – BCC signed, dated November 17, 2011. Between County and Missoula Indian Center for misc. services including, increasing number of clients (and assessing/referring same); providing MIP classes; providing educational drug/alcohol awareness, etc. Amount/\$5,111. Term/July 1 - December 31, 2012. One original to Peggy Seel/OPG.

Agreement – BCC signed two (2) agreements; between County and 1) West Valley Community Council; and 2) Lolo Community Council for FY2012 CBO Funding to promote interests/welfare of residents of their respective communities. Amount/\$1,000 to each Council. One original to Jean Harte/OPG.

Additional discussion item(s): Accela.

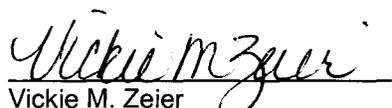
NO PUBLIC MEETING HELD THIS DATE

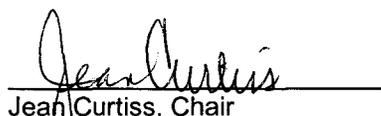
THURSDAY, NOVEMBER 24, 2011

COURTHOUSE WAS CLOSED FOR THE THANKSGIVING DAY HOLIDAY

FRIDAY, NOVEMBER 25, 2011

BCC did not meet in regular session; quorum unavailable.


Vickie M. Zeier
Clerk & Recorder


Jean Curtiss, Chair
BCC

MONDAY, NOVEMBER 28, 2011

BCC met in regular session; all three present.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) County application to EPA Brownfields program (*action*); 3) OPG Director's update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Boyer 2 Open Space Bond Project info; 3) Communications; 4) Director's update.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated November 18, 2011. Amount/\$21,364.55. To County Auditor.

TUESDAY, NOVEMBER 29, 2011

BCC met in regular session; all three present.

ADMINISTRATIVE MEETING

County Payroll Transmittal Sheet – BCC signed. Pay Period: 22/CY2011 - Pay Date/November 4, 2011. Total Payroll/\$1,274,847.65. To County Auditor.

Guaranty Documents – BCC/JC signed following documents between County, MonTEC, First Security Bank to continue MonTEC loan guaranty of \$877,928: 1) Guaranty; 2) Compliance Agreement; 3) Governmental Certificate; and 4) Continuation of Deed of Trust. Note changed from line of credit to traditional mortgage with regular principal/interest payment expiring on 10/10/2021. One original to First Security Bank.

Certificate – JC signed ARRA Certificate and Request between County and MT DNRC for SRF Loans on RSID 8496 (Lewis & Clark Water System Rehab Project) acknowledging receipt of funding in total amount of \$487,679. One original to G. Robertson/PW.

Resolution No. 2011-128 – BCC signed, dated November 29, 2011. Budget Amendment for Elections showing Revenue from Tech Fund Cash for purchase of iClicker2 Training/Presentation Tool in amount of \$3,667. For total disclosure, expenditures included in formal FY12 Operating Budget/Revenue Estimates for County.

Agreement – BCC signed, dated November 29, 2011. Between County and Missoula AIDS Council for FY 2012 CBO Funding (to assist with Housing/Emergency Needs Program and Personal Needs Pantry). Amount/\$4,250. One original to OPG.

Contract – JC signed. Between County and Black Box Network Services to upgrade/migrate County Telephone System up to current technology standards. Amount/\$255,720.70. Term/December 15, 2011-January 20, 2012. Two originals to T. Emery/IS Dept.

Certifications – JC signed Annual 2011 State HOME Certification paperwork for homebuyer assistance programs (by OPG and HRC) and rental housing programs (by Carole Graham House). Original to M. Gordon/OPG.

Additional discussion item(s): Mahlum Meadows Sewer Connection Fees.

WEDNESDAY, NOVEMBER 30, 2011

BCC met in regular session; all three present. Morning: BC attended State of the Community Planning Meeting, held at Mayor's Office. Afternoon: ML attended 2012 Long Range Transportation Plan Update/Consultant Proposal Review, held at Reidy Conference Room. Early evening: BCC attended MEP Annual Meeting, held at UofM/UC Ballroom.

Replacement Warrant - JC signed. Media Management/Magnetics, WI, Principal for Bonner School District #14 Warrant #14877, issued September 9, 2011 on Claims Fund. Amount/\$1,658.37 (for supplies). Not received in mail; no bond of indemnity required.

Replacement Warrant - JC signed. Handley Transportation, Clinton, MT, Principal for Clinton School District #32 Warrant #19009252, issued June 8, 2011 on General Trans. Fund. Amount/\$2,449.03 (for transportation). Not received in mail; no bond of indemnity required.

CAO MEETING

County Payroll Transmittal Sheet – BCC signed. Pay Period: 23/CY2011 - Pay Date/November 18, 2011. Total Payroll/\$1,289,124.15. To County Auditor.

Contract – BCC signed, dated November 4, 2011. Between County (Weed District and Extension Office) and Irestone Web Design LLC to re-design the Missoulaeduplace.org website. Amount/\$3,000. Term/July 1, 2011-June 30, 2012. One original to Jerry Marks.

Request/Transfer – BCC approved County Parks Board recommendation to award \$4,000 in Fall FY12 Capital Matching Funds Grant (to Seeley Lake Park for improved non-motorized and ADA access to park) and \$1,080.49 in Maintenance Grants Funds (to Hellgate Lions Club for pump/furnace repair/sprinkler system winterization). Grants expire Fall of 2013. Budget Transfer/Control #12-002 – BCC signed, dated November 30, 2011. For County Parks Dept. in amount of \$5,080.49 to provide unique project codes for matching grants set forth above.

Easements – BCC signed following permanent road easements/temporary construction easements for Petty Creek Road Project #MT PFH 71-1(1):

- 1) Parcel 084 – Sharon Grindell (\$4,100).
- 2) Parcel 083 – Amanda/Jeffrey Gabster (\$17,350).

Originals to Steve Niday/Surveyors.

Letter – BCC signed, dated December 1, 2011. To Shane Stack, MT DOT, supporting safety project proposed for portion of Highway 12/West of Lolo; providing improved signage to upcoming “S-curves” is an important project.

Additional discussion item(s): 1) County logo; 2) Christmas cards; BCC will not send this year.

NO PUBLIC MEETING HELD THIS DATE

MISSOULA COUNTY COMMISSIONERS' JOURNAL: DECEMBER, 2011

BCC = BOARD OF COUNTY COMMISSIONERS

JC = Commissioner Jean Curtiss, Chair

BC = Commissioner Bill Carey

ML = Commissioner Michele Landquist

The following Claims Lists were signed during the month of DECEMBER 2011:

Date Signed	Claims List Date	Who signed	Amount
December 1, 2011	November 30, 2011	BCC	\$23.99
			\$65.00
			\$104.98
			\$40.00
			\$95,119.41
			\$55.52
			\$1,440.00
			\$128,476.86
December 6, 2011	December 5, 2011	BCC	\$28,743.44
			\$140,599.40
			\$241,344.85
			\$6,442.72
			\$85,178.76
			\$8,801.08
			\$15,614.13
December 7, 2011	December 5, 2011	BCC	\$6,241.90
			\$3,856.53
			\$2,798.67
December 7, 2011	December 6, 2011	BCC	\$11,903.03
			\$2,425.00
December 8, 2011	November 29, 2011	BCC	\$1,474.82
December 8, 2011	December 6, 2011	BCC	\$139,622.39
			\$2,975.75
			\$282,515.60
December 8, 2011	December 7, 2011	BCC	\$59,227.15
			\$10,052.67
			\$459.51
			\$10,505.57
			\$1,228.95
December 9, 2011	December 7, 2011	BCC	\$4,523.33
			\$18,487.62
			\$2,700.63
			\$7,027.00
			\$5,782.65
			\$4,506.90
			\$581,378.48
December 12, 2011	December 9, 2011	BCC	\$3,401.56
December 12, 2011	December 12, 2011	BCC	\$65,079.87
December 13, 2011	December 7, 2011	BCC	\$15,092.34
December 13, 2011	December 12, 2011	BCC	\$41,925.87
			\$8,890.65
			\$1,559.45
December 14, 2011	December 12, 2011	BCC	\$32,320.58
December 14, 2011	December 13, 2011	BCC	\$1,934.48
			\$120.00
			\$669.13
			\$1,203.02
			\$7,149.33
			\$19,121.33
			\$4,969.06
			\$2,949.00
			\$2,697.78

			\$182.42
December 14, 2011	December 13, 2011	BCC	\$15,392.82
			\$120.00
			\$63.83
			\$615.41
			\$504.00
December 15, 2011	December 13, 2011	BCC	\$9,135.50
December 15, 2011	December 14, 2011	BCC	\$25,189.35
December 15, 2011	December 15, 2011	BCC	\$2,889.09
			\$4,038.43
			\$787.50
			\$9,612.84
			\$8,110.51
December 19, 2011	December 15, 2011	BC, ML	\$3,984.47
			\$899,668.22
December 19, 2011	December 16, 2011	BC, ML	\$896.00
December 20, 2011	December 15, 2011	BC, ML	\$7,501.30
December 20, 2011	December 19, 2011	BC, ML	\$45,382.09
			\$12,190.58
			\$3,837.48
			\$957.06
			\$10,348.38
			\$5,463.00
			\$100.00
			\$79,639.46
			\$910.45
December 21, 2011	December 20, 2011	JC, BC	\$195.90
			\$8,351.77
			\$31,679.17
			\$19,288.95
			\$62,727.90
			\$52,673.85
			\$1,016.50
			\$1,423.21
			\$11,168.55
			\$4,861.65
			\$1,329.87
			\$9,391.08
			\$1,247.15
			\$1,094.31
			\$2,707.34
December 22, 2011	December 21, 2011	BC, ML	\$1,501.78
			\$932.30
			\$4,661.89
			\$10,366.49
			\$22,691.61
			\$48,109.30
			\$35,765.14
			\$7,278.51
			\$140,786.01
			\$2,204.54
December 27, 2011	December 22, 2011	BC, ML	\$7,679.47
			\$20,766.06
			\$11,109.41
			\$155.00
			\$43,323.00
			\$5,125.17
			\$81,076.16
			\$6,475.76
			\$32,281.07
December 28, 2011	December 23, 2011	BCC	\$25,460.94
			\$12,358.69

			\$49,539.53
			\$11,749.92
December 28, 2011	December 27, 2011	BCC	\$59,175.37
			\$1,000.00
			\$1,870.50
			\$16,481.92
			\$11,173.86
December 29, 2011	December 28, 2011	BCC	\$7,976.50
			\$730.96
			\$246.04
			\$322.00
			\$2,659.01
			\$41,334.44
			\$4,929.95

All Claims Lists were returned to the Accounting Department.

THURSDAY, DECEMBER 1, 2011

BCC met in regular session; all three present. Afternoon: BCC accompanied RI staff on site visit to location of Boyer II Open Space Project (Huson area).

ADMINISTRATIVE MEETING

Agreement – JC signed DOJ/Dept. of Treasury Equitable Sharing Agreement and Certification (2011 Federal Annual Report) on behalf of Sheriff's Office (in order to receive federal awards). Original to Dawn Seaton/Sheriff's Office.

Request – BCC approved/signed request from auditor to approve variance to Purchasing/Contracts Policy bid requirements for maintenance contract on County elevators. Otis Elevator Co. has submitted a proposal to roll all existing contracts into one and add new Admin Building (for a reduction in costs). Original to Barb Berens/Auditor.

Resolution No. 2011-130 – JC signed, dated December 1, 2011. Qualifying purchase of conservation easement (expenditure of up to \$198,000 in 2006 Open Space bond funds) for land owned by Joe Boyer in Frenchtown area (Boyer Open Space Bond Project) and establishing compliance with Reimbursement Bond Regulations under the Internal Revenue Code.

Contract – BCC signed, dated December 1, 2011. Between County (MCCHD) and Pruyn Veterinary Hospital, PLLC, for primary vet services to Missoula City-County Animal Control. Compensation for varied services set forth therein. Term/July 1, 2011-June 30, 2012. Two originals to Julie Mohr/Health Dept.

Contract – BCC signed, dated December 1, 2011. Between County (MCCHD) and Schumann Veterinary Services Inc. to provide surgical sterilization for Missoula City-County Animal Control shelter animals, as well as animals owned by citizens who participate in low income spay/neuter program. Compensation for varied services set forth therein. Term/July 1, 2011-June 30, 2012. Two originals to Julie Mohr/Health Dept.

Resolution No. 2011-129 – BCC signed, dated December 1, 2011. Budget Amendment for Public Works. [Correcting Coding on Resolution No. 2011-117 to reflect transfer out/in. This does not change \$60,000 to be spent and the funds still come from RSID Admin Cash Reserve].

Letter – BCC approved (signed/mailed December 6th), dated December 1, 2011. To Shane Stack, MT DOT, Missoula, supporting safety project proposed for portion of Highway 12, west of Lolo, MT. Improved signage for "S-Curves" is an important project.

Additional discussion item(s): None.

FRIDAY, DECEMBER 2, 2011

BCC met in regular session; quorum present. Afternoon: JC attended meeting at Aging Services with Senator Tester. ML out of office all day.


 Vickie M. Zeier
 Clerk & Recorder


 Jean Curtiss, Chair
 BCC

MONDAY, DECEMBER 5, 2011

BCC met in regular session; quorum present. JC in Helena all day at MACO Board Meeting.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) Alexandra Estates Subdivision; 3) OPG Director's update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Request for comments/USFS; 3) Seeley Lake Downtown Meeting; 4) Planning Projects update; 5) Communications; 6) RI Director's update.

TUESDAY, DECEMBER 6, 2011

BCC met in regular session; all three present. Afternoon: BC attended Missoula Food Bank Press Conference, held at Food Bank.

Monthly Report - JC examined/approved/ordered filed the Monthly Reconciliation Report for Justice Court 1, John E. Odlin, Justice of the Peace, for month ending November 30, 2011.

Monthly Report - JC examined/approved/ordered filed Monthly Reconciliation Report for Clerk of District Court, Shirley E. Faust, for month ending November 30, 2011.

ADMINISTRATIVE MEETING

Agreement – BCC signed. Between County and Bonner-Milltown Community Council for FY2012 CBO Funding to promote interests/welfare of residents of Bonner-Milltown communities. Amount/\$1,000 to each Council. One original to Jean Harte/OPG.

Agreement – JC signed, dated December 6, 2011. Between County and Patterson Enterprises, Inc. (lowest bidder) for Lolo 901 District Pressure Reducing Vault (PRV) Project. Amount/\$99,817.29. Four originals to G. Robertson/PW. [See, also: Resolution No. 2011-119/Budget Amendment].

Certification Letter – BCC signed, dated December 6, 2011, to G. Gifford/Project Manager, Federal Highway Administration, Vancouver, WA. Right-of-way certification for Option 3 Schedule for Petty Creek Road Project #MT PFH 71-1(1).

Additional discussion item(s): None.

WEDNESDAY, DECEMBER 7, 2011

BCC met in regular session; all three present.

CAO MEETING

Public Comment – Bert Linder commented on Ashby Creek Rd. He supports preserving recreational public access to state lands in Potomac.

Award/Agreement – JC signed Policies/Procedures Agreement and Homeland Security/MT DES Grant Award for County Sheriff's Office EOD Team Training. Amount/\$24,000. Term/ November 16, 2011-May 31, 2013. One original to OPG.

Board Appointments – BCC appointed following:

- 1) To Airport Authority: a) reappointed Barb Berens to new 5-year term to 12/31/16; b) appointed Steve Powell Regular Member to new 5-year term to 12/31/16; c) appointed Larry Anderson 1st alternate to 12/31/15; d) appointed Jeff Roth 2nd alternate to 12/31/15.
- 2) To Florence-Carlton Cemetery: Reappointed Jeff Crews to new 3-year term to 12/31/14.
- 3) To Greenough-Potomac Fire Service Area: Appointed Bryan Runnion until Special District Election in May 2012.
- 4) To Health Board: Reappointed Garon Smith to new 3-year term to 12/31/14.
- 5) To Historical Museum Board: Reappointed Mike Fussell to new 3-year term to 12/31/14.
- 6) To Library Board: Appointed Kathi Doney to fill unexpired term to 6/30/12.
- 7) To Lolo Mosquito Control Board: Reappointed John Fuchs to new 3-year term to 12/31/14.
- 8) To Planning & Zoning Board: Reappointed Sylvia Weisenburger to new 2-year term to 12/31/13.
- 9) To Tax Appeal Board: Reappointed Russ Lockner to new 3-year term to 12/31/14.
- 10) To Lolo Community Council: Appointed Scott Laird until Special District Election in May 2014.

Additional discussion item(s): None

PUBLIC MEETING – December 7, 2011

1. CALL TO ORDER

Commissioners Present: Commissioner (Chair) Jean Curtiss, Commissioner Bill Carey, Commissioner Michele Landquist

Staff Present: James McCubbin, Deputy County Attorney, Greg Robertson, Director Public Works, Tim Worley, OPG, Steve Niday, Surveyor, Kim Cox, Clerk & Records Office

2. PLEDGE OF ALLEGIANCE

3. PUBLIC ANNOUNCEMENTS: 70th Anniversary of Pearl Harbor

4. PUBLIC COMMENT
5. ROUTINE ADMINISTRATIVE ACTIONS
Weekly Claims List (\$1,808,234.14)

Executive Session

Commissioner Carey made motion that the Board of County Commissioners approve the weekly claims list in the amount of \$1,808,234.14. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

6. DECISION (from November 9, 2011 Hearing)
Petition to Establish a County Road (East Fork of Ashby Creek Road)

Greg Robertson read the staff report. This is a decision day for a petition to establish the East Fork of Ashby Creek Road as a County Road. At November 14th at approximately 2:00pm both Commissioner Landquist and I, as the designated viewers, paid a visit to the site and drove it as far as we could get before it got too snowy. We had a chance to evaluate and discuss it. Attached to your packet is our Viewers Reports, our recommendation after consideration of public testimony and viewing the road is to recommend to the County Commissioners that this petition be denied. Our basis for the recommendation is as follows: Stated purpose of the petition is to resolve legal access questions between the State of Montana and Private Landowners. Testimony provided by the Department of Natural Resource Conservation representatives indicated that there was an alternative process, one that we would have to follow also even if granting the petition that would address the legal access issue issues through some sort of receptacle easement agreement, so there is an alternate process contained in State Law that would solve that particular problem. The Ashby Creek Road segment that we looked at was essentially a one lane road bounded on one side by a fairly steep slope and on the other side by Ashby Creek. It would be very difficult, not to mention expensive to both permit and construct Ashby Creek Road to a full County standard width. There are no plans at this time by anybody to make improvements to Ashby Creek Road and we also believe in terms of public access to State Lands that it is not very good policy based on our experience elsewhere in Missoula Area to encourage public access to lands without appropriate infrastructure to support that. Our basis for that is our experience in the McClay Bridge area, the canyon River Area, Juniper Driver and the list goes on...O'Brien Creek, where there is public access available and it's been a constant battle to balance the concerns of the property owners that have to live along the route versus recreation rights.

Chair Curtiss: So Greg what you're saying is that there's a way to make sure that there's public legal as well as physical access without it becoming a county road and adding the responsibility to the county?

Greg Robertson: Yes

James read an email received this morning for public comment.

Chair Curtiss: James could you address a little bit the public legal access that could happen on that 500 feet?

James McCubbin: I believe from the record that we've received previously (inaudible) in this matter that there is a public prescriptive easement. The issue with prescriptive easements is that it's hard to rely on that in a property transaction or something like that without having a court order confirming it. In terms of the property owners and the State confirming or establishing that there's a public road both legal access as well as physical road, there's a couple routes that can be taken or at least three that I can think of. One would be pursuing a court order to confirm that there's a public right-of-way that exists. Another would be to establish a county road, which has been asked here but then I think probably the simplest way, the quickest and easiest way would be simply a grant of public easement from private property owners to the State or to the public and anybody can dedicate a public right-of-way on their property. That doesn't require any government approval; it's just allowing members of the public to have a right to cross that section of an established road.

Chair Curtiss: Then it would be filed with the Clerk and Recorder so it's on record.

James McCubbin: Presumably, that's not even actually necessary but yes to make it a record that's what they need to do.

Public Comment

Jeanette Ailport: Owns property that that road does go through. When you're talking public access, are you talking of just the people that need to get to their property or do you mean hunters or others, which do not have an easement through our property?

Chair Curtiss: I think what James was saying is that you and others who own property through there could grant a public easement for all of public for recreation and hunting.

Jeanette Ailport: But we need an easement yet from the State to go through to even get to our property, which we didn't need before but now all of a sudden we do.

Chair Curtiss: Because it was Plum Creek.

Jeanette Ailport: I don't know if the State is still going to give you a free easement, I don't know if that includes us.

James McCubbin: The testimony we received at the first part of the meeting was that would be a free easement to the property, was my recollection.

Dana Bouch, DNRC: The main fork of Ashby comes down through section 3 and that has been acknowledged as being a county road. There's a fork there where the East Fork comes off and the main fork turns in the West Fork and that is also recognized as county road. From that point of junction in section 3, that's not considered a county road that would be a private road. That is State land. The State does have a reserved easement through the private property owners; it's not a right for the public to travel on.

Chair Curtiss: My question is would the State be willing to grant a public...

Dana Bouch: I can't speak for the Land Board who's the only entity that can approve that. We are working on a policy regarding these pre-existing roads and what payment if any would be required. We are willing at our land office to recommend approval for the access for these private individuals. What we don't get out of the situation is what we would get with the county road, would be the public access to about 2300 acres of land that is used for recreation; snowmobiling, skiing, hunting, everything else. The public road that I reference in the letter to Michele this morning the GLO Road that was surveyed onto the original 904-901 government land office map, stops short of what was...I'm not sure of that ownership but if Davis sold his property in 11, that road on the original GLO map stops short of that private property line. While a claim could be made and it's always up to the courts to do that and it is very expensive to make that public claim of a prescriptive right. There's nothing other than a prescriptive right, that's the only thing that can be claimed on that 500 feet. In my experience it is a prescriptive rights crap-shoot, it's expensive and it's a 50/50 proposition, depends on which judge you get and what-not.

Chair Curtiss: And that 500 feet is in section 3?

Dana Bouch: The 500 feet is in Section 11, just short of the southwest quarter...Mr. Davis either owns or used to own the west half of the southwest quarter of section 11 and so the GLO Road stops short of that eastern property boundary line about 500 feet. When the original petition request came in it did not include, it stopped in the middle of what was Jim Davis' property in that west half of the southwest quarter. The State said that we would support the petition providing that it extended to the property boundary line, therefore, ensuring public access for recreation into that...we estimate to be about 2300 acres that would be accessed via that road through that drainage.

Chair Curtiss: It's my understanding we cannot add onto a petition, we can subtract from a petition...

Dana Bouch: We added on to the petition so the petition was modified before submitted.

Chair Curtiss: So I think what we're trying to say is that the same thing can be accomplished by the State lands and the private land owners granting public easements through their property that could be used for recreational hunting and private property access without it being a county road. We have plenty of county roads to maintain, I understand that they aren't asking us to maintain but the law also says that if there's a bridge or a culvert it ends up being our responsibility even if you didn't ask us to do it, if it's a county road.

Dana Bouch: In the past just for the matter...we have worked with other counties in the past when we are in that area. Certainly we have a large amount of timber access in that area so we'll be using that, that would be a main haul route so that would be used a lot. We have worked with counties, Powell County is one. Mainly we worked with them to rebuild a road they provided some materials, some assistance but we did most of the road work. We've also done that in down in Deerlodge County, we in fact...we did a significant amount of work. The work that we're doing on the main fork of Ashby that we're relocating nearly a mile of road, that's a \$100,000 project or more.

Jeannette Ailport: Making it a county road it's not any worse than the West Fork of Ashby Creek if you've ever driven all the way over there. We're talking a drop off on the steep banks of maybe 20 feet, when you go over the West Fork of Ashby Creek you're talking about dropping off 500 feet, that road is way steeper and it's a county road. The road is still passable and a lot of people use that road besides the land owners.

Chair Curtiss: Since there's not on a timeline that says we have to make a decision today, can we recess the hearing again and try to facilitate putting a proposal forth to the Land Board and helping folks kind of work out getting that public easement established?

James McCubbin: That's correct there's no...I think anytime you have a petition that calls for you to act upon it, you have to act in a reasonable time. So what is that under the circumstances? If you're still working on alternatives I think that would be acceptable.

Chair Curtiss: I understand that we need to get access to that public land and it's gonna take some work because we've got some several pieces of private property that goes through, the Land Board has to make decisions based on this.

James McCubbin: In order for it to become a county road the property owners have to all agree...either the county has to purchase the right-of-way through eminent domain or the property owners have to grant it to the public. The same would be the situation for an easement to the State, there's no difference there. The property owners are willing to grant a public easement, they're willing to grant it, I don't think there's any proposal in this petition for the county to pursue eminent domain to acquire a right-of-way. I'm not really seeing a distinction there. The private property owners could

just grant individual easements to each other as well. Really I think the bottom line is that everybody has basically acknowledged that there is a public road through there, there's a public prescriptive easement as we've heard today, people have been maintaining it. That indicates prescriptive use. I really don't think there's a whole lot of question about the status of the road, as a public road, we just don't have a particular document to point to.

Chair Curtiss: I think the public needs to understand that we also have a policy that we... as you know, some of you have driven on roads like West Fork of Ashby Creek that are kind of a scary road. We don't accept roads anymore that aren't built to county standard because of the liability and the maintenance that's required so it kind of changes the picture. We don't just take the old cattle trail roads anymore. I think that the same folks who signed this petition could put something forth and present it to the Land Board right? And we're willing to grant this easement, if you're willing to grant this easement.

James McCubbin: Yes. In my opinion they don't need to acquire an easement from the State because they already have access before the State acquired the property. The State acquired the property subject to any existing easements. There was a pre-existing public prescriptive easement there and I guess...parts of it, the GLO easements that's been acknowledged. If the Land Board declined that I think the State would be putting itself in an interesting situation.

Executive Session

Commissioner Landquist made motion that the Board of County Commissioner deny the request to create and establish a non-maintained county road to Ashby Creek Road. Commissioner Carey seconded the motion. The motion carried a vote of 3-0.

7. HEARINGS

a. Petition to Abandon a Portion of West Twin Creek Road

Kim Cox, Clerk & Records Office verified the petition has the appropriate signatures.

Lori Woods, Plum Creek: This started with a request from the County; Plum Creek did not start the process, the County did. I was notified this was a county road based on research that was done.

Chair Curtiss: We have to do a visit before we can go forward. Steve did you have anything you'd like to add.

Steve Niday: No. I did the survey work and worked with Lori on this, I would be certainly willing to be a viewer and I'm familiar with the area.

James McCubbin: This came up, there was an inquiry about the status of the road because of parking issues and some access issues and so as we do on questions like that, Steve looked into it. We determined that basically this is a county road that nobody really realized was a county road, it hasn't been used as a county road, and it doesn't access public property. This does not go through to public property so that's how we came up with the idea to talk to Plum Creek about would they like to seek abandonment's. I think it's been a calmativ effort to try to do some cleanup of right-of-way issues.

Chair Curtiss: We all know that Plum Creek land has been used like public land for many years so it looks like this has a gate though? This is an area that has a gate to limit access.

James McCubbin: Yes and that is the other issue. If this were not abandoned, we'd have to deal with the gate issue.

Recessed Hearing to January 11th. *Note: Chair Curtiss states that we will recess to January 12th, which is a Thursday ~ Wednesday, January 11th is the correct date.

A time will be set to view the site with Commissioner Carey, Steve Niday and Lori Woods.

b. Alexandra Estates (23 lots on 116.27 acres) West Side of Highway 93, Bird Lane/Valley Grove Drive Vicinity 2:05:23 PM

Tim Worley read the staff report – ppt presentation

Nick Kaufman, WGM Group: representing owner of the property, Ken Allen. Ken could not be here today due to a death in the family.

ppt presentation
Dick Rossignol Letter

Jeff Smith, WGM Group: ppt presentation

Chair Curtiss: Because this room is full and because I know that we've probably received comments from lots of you, Commission doesn't usually limit comment but I'm going to limit comment today to 3 minutes. If you are just reiterating what somebody ahead of you said, please just say I agree with that person. The reason I'm doing that is because we've sat through meetings before that have been 8 hours long and it's hard to make good decisions when you sit too long, and I think that we understand most of the issues. I think there's another group of folks here today, however, that we probably haven't heard from, so we'll learn some new things. If you could please limit your comments, don't point fingers, talk about facts, I'd appreciate it. Thanks.

Public Comment (postcards received)

Betsy Hanson: Executive Director of the Montana Smart Growth Coalition. I came here to testify today because Montana Smart Growth played the key role in the past legislative session opposing a tax on the Montana's long standing statute 76.3.608, that specifically requires subdivision review for impacts on agriculture, wildlife, wildlife habitat and public health and safety. **We support the denial of this application.**

Ron Halls: 7575 Moe Road, my property adjoins this property so I have an invested interest in this subdivision and what happens to this property has a direct effect on me. I want to make it clear that I am not pro or against this particular subdivision. Although I would just like to state that I have been over the past several years...I've lived here for 18 years, I've been to most of these meetings in regard to this particular piece of property. I would like to commend Ken Allen and WGM Group because I think they have listened to the land owners out there. We've made it pretty clear over the past several years that we do not want clustered housing in this area, it is rural in nature, we live there because it's rural in nature and we would like to see it stay rural in nature. I would love to have it stay as a 113 acre farm, that would be wonderful, is it a reality? I don't know but being an adjacent land owner I think they've listened to us. **This is actually the best proposal for a subdivision out there that we have seen at this point and time.**

Jay Getz: 2204 River Road. I also think the way the last gentleman does, I think given the situation and what was presented earlier, that they've listened. I think that it's important that we don't completely stop subdivision because I think that everybody's going to have to have a spot to live in. I live right now on 5 acres, I can tell you that we've raised crops on there for years and years and years and you can do it on 5 acres, you don't make any money at it. **It's time that we start getting a balance between what...no development and reasonable development and I think this development is certainly reasonable and I would ask the Commissioners to please support it.**

Roger & Janet Hinthner: 3840 Spurgin Road in Target Range. My wife and I have 5 acres on Spurgin Road and in Target Range, we have been following the newspaper on the subdivision for the 5 acres lots North of Lolo. We were surprised to hear people testifying against the feasibility of haying on five acres. We have hayed our property for 25 years, putting up 8,495 bails during this time; this was only on the first cutting as we graze our horses on the second crop. Twice we have had our hay certified by County Weed Supervisor Bill Otten, we irrigate our crop from the irrigation ditch. In 1986 we moved in almost all 5 acre properties for putting up hay including Dick Huss, Floyd Clark, Ben Loamen, Greg Roberts, Mike Myler-Dryavich, Bill Holson, The Maynards and Bob Carter. The Polson's have since retired and moved to be with family in Utah, the property has been sub-divided as Chilcote Lane Court. The Carter property is now Pony Place, a seven home subdivision that grows kids and noise. It's interesting to know, that a friend of ours on a single lot on Sun Rose Drive, produces enough vegetables to sell them at the Target Range Market. **We support this subdivision, obviously.**

Colin Bangs: 4607 North Ave West. I was born and raised on a wheat and cattle ranch 20 miles North of Inverness Montana, and if any of you have been to Inverness you know that in reality we were 20 miles from nowhere. We were born and raised in a place that was homesteaded in 1910 by my Grandfather, my Grandmother and my Great Grandfather. My youngest brother and his son still farm the place away and know a little bit about big agriculture in Montana. 35 years ago we bought 5 acres out in Target Range and started raising a few cows, horses, kids, dogs, cats, chickens, organic gardening, orchards, etc. Even tried a little bit at the farmer's market ~ two things we discovered there was #1, cute kids and bib overalls can sell anything and I didn't make much money selling vegetables. It was a wonderful life and things have changed now, there's not a lot of opportunities for people to do organic gardening on parcels like that and do it very well. I have come to appreciate locally grown organic food and I value it very much. The last 40 years I've also been in real estate, the last 15 or 20 in development and had concentrated on entry level housing, affordable housing for first time home buyers, working class people. I'm now getting some understanding of the real struggle we're going to have in providing housing for people of all different incomes. If there's going to be a crisis in the Missoula area between lack of locally grown food and lack of housing for all of our people, I'm sure lack of housing is going to be a bigger concern. Only because it's a lot easier to truck melons from Dixon in the fall then it would be for me to build 100 homes up there and have all those people on the Highway commuting back and forth every day. **I'm really here today to talk about preserving agriculture land and I think that this proposal is the best way to preserve that land in a way that it could be and hopefully will be used for local agriculture.**

Corey Ash: Local farmer in Target Range. On behalf of Josh Longett I'm going to read a letter to you all, Josh couldn't be here today so he asked me to read it. I encourage the Commissioners to think towards the future, Alexandria Estates could produce food, money and jobs in a future when all those may be in short supply or Alexandria can sprout suburbs. Agriculture should be an essential piece of a vibrant economy for years to come. **I encourage you to reject this subdivision proposal.**

Stan Hendrickson: Long-time Lolo Resident, in fact before the Rossignals. I'm not talking the Rossignals that had it previously but Dick Rossignal that had the logging company. My dad negotiated with Sam McClay to buy this property and every time we would go by there I remember my dad saying, "Oh I'm glad we didn't buy that place". Now those of you that know anything about farming, know that this land...just from going by there, have you ever seen tomatoes grow there? Potatoes? Carrots? No, it's been hay land and pasture and we've got hay land up at Moiese and pasture up there. Let those people raise that. Let the little farm who can grow compost heaps, they can take 5 acres of ground and take a corner of it and by making compost heaps and everything, they can nurture that grow to where it will produce something. **So I'm in favor of this proposal the way it is and I feel sorry for anybody that tries to farm it other than just a little compost heap in the corner where they can really nurture it. I'm also in favor of the economy of Lolo, I would like to see more businesses out there and more people to support the businesses and I think this would support the economy of Missoula and Lolo.**

Dick Rossignol: I'm the former owner of the...how do you guys put it? Prime farm ground...Nick almost made me feel guilty for selling it, it sounded like it's such a good deal around here anymore as he said, the whole reason that I had that place for all those years had nothing to do with the economics of that farm being profitable. I kind of calculated things out as I was coming in today, just thinking about the 20 years I spent trying to make a living on that place. It adds up to about \$25,000 a year, as far as what it took me. Now that's just general expenses, that's not including my labor, I threw that in for nothing ~ thousands and thousands of hours spent changing sprinkler pipes and hauling hay bales to the neighbors and Nick Kaufman. This whole idea that that piece of ground, at that size could be a profitable enterprise is a bit of a joke. I think there are people that are in the area now that do have these smaller operations going, that can maybe make a profit on it. Mr. Bangs talked about trying to do it at the farmers market. What it really boils down to is how big your pocket book is. As Nick said...my dad warned me when I took that place that it's a darn fun hobby if you've got a really good job. Well the bigger that chunk of ground is the better job you need, that's just what it amounts to. If it's in a 5 acre piece, there's a heck of a lot more people that can afford to subsidize a 5 acre farm. I can never afford to, I tried everything I could plus work side jobs, finally got in the construction business to make any money. Everything I ever made was thrown back at that place, the only reason I was ever able to maintain an operation there that looked so pretty for everybody driving by for all those years was selling that peace mill, I sold 10 acres. **I'd like you to weigh the facts a little bit here, think about the economics, think about how people like to live in Montana ~ whether they want to live in a cluster over on one side or whether they want to have their own little piece of ground that they can play with and subsidize, raise whatever they want to raise. As far as that being economical at a 116 acre piece, you gotta have a pretty darn good job to make that work. Thank you.**

Jill Clapperton: Resident South of Lolo. I'm an international expert on soil health and I don't say that to brag. I manage internationally over 5 million acres of farm land or participate in that management. This property, I think we need to look at it historically and if people can farm land, they do farm it. Grazing? Yes from an agriculture perspective grazing would be perfectly acceptable use of that land. Whether you could make enough money is another question and I'm not an economist. Can people support local food and local food markets? On 5 acres ~ yes they can, absolutely they can. Local foods are mostly supplied by small farms internationally. **I think it's important that if people want to buy 5 acres to be a farmer, that they be allowed to buy 5 acres to be a farmer, if they choose not to, that's okay too.**

Dr. Neava Hassanein: Professor of Environmental Studies at the University of Montana. I'm here to say to you...I urge you strongly to oppose this subdivision until we really have a comprehensive mitigation policy in Missoula County. As Doctor Clapperton just mentioned soil is...people can produce food and other agriculture products on a variety of sizes of property. However, soil left in larger partials such as this could be much more productive and much more viable as an economic unit. Soil is an intergenerational resource, it's a form of natural capital that we can conserve or we can conclude. We've heard a lot today about balance; let's think about balance historically here in Missoula County. In the last 20 years we've lost nearly 29,000 acres of agricultural land to development and other uses. Where's the balance? In 2008/2009 there were 13 subdivisions that were reviewed that had a significant impact to agriculture, the decision outcomes were to approve all of those subdivisions. As a result, we had 349 acres for houses and 59 acres for agriculture land, where is that balance? I'm not the best mathematician but that doesn't sound very balanced to me. By 2050 we will have 9 billion people on this planet. This is a resource that we need in order to feed ourselves in the future. Mr. Kaufman and the developers want us to believe that if we carve up this land into 5 acre lots we will be mitigating for the impact to agriculture and yet it seems to me if we buy his argument...we need to ask questions about how they will protect the soil resource in the process of actually building this place out. The trucks that drive on it, the wells that are dug, the houses that are built, the septic systems that are put in, the roads that are put in, the sidewalks, fences all of that will reduce the quality of the soil through compaction and this is something Dr. Clapperton would agree with. I feel like there's a double speak going on here, on the one hand the land is too fragmented, too poor to farm right now and on the other hand, if we carve it up into 5 acre lots we'll all be producing much more foods. It doesn't quite make sense, it's sort of Orwellian. We need a sound mitigation policy, I know you've taken steps in that direction, don't add to that legacy of farm land lost that we've over the last 20-30 years in the county. **Actually think about the future, this is an intergenerational resource, it's a responsibility. You have a responsibility not just to the law but to the future. Thank you.**

Doug Stewart: 6116 Linda Vista Blvd. Basically I'm here to stand up for Mr. Allen's individual rights as a land owner and his pursuit of the living and in that process of creating some jobs, a lot of work for a lot of people in Missoula and helping our economy. I guess if somebody had come along and made an investment in this land that could keep it as farm land, grazing land that would be fine. But he didn't and I'm sure when he purchased the land he had thought that he was gonna...been led to feel that he could develop this land in some way. I have some real strong feelings about any organization, any group, and any person that would come along and try to infringe on somebody else's rights. Yes, all the rules and regulations need to be met, there's no question about that but I've been in Missoula since 1964, in Montana for 69 years and Missoula's made a lot of progress in trying to develop and control growth and all of that type of things. I don't see anything wrong with this development, it appears to me from watching on the sidelines that he's tried extremely, extremely hard to make this work for all parties involved. There were a couple letters...don't get me wrong, I know Ken Allen, I haven't probably talked to him for 5 or 10 years but this is what really set me off...the couple letters in the Missoulian on December 2nd seemed to portray Ken Allen almost as raping or infringing on their land and he had to be stopped at all costs. One of those letters insults Mr. Allen as having a land owners ethic that is beyond commendable ~ these both were parties that were mentioned also the Food Coalition in their letters assumed they were part of that organization and stuff and I think that's totally wrong and I think they owe him an apology because his ethics, near as I can tell, he's done a

very, very commendable job with trying to develop this property and work with all parties involved. Are they saying you can't even grow crops without our approval on this property? I think any one of us that has been a Montanan for very long really would object to somebody throwing every obstacle as possible in your way to keep you from pursuing a living. That's what he is, he's a developer. **I support what he's done and there are things that he very definitely still has to meet to make this work but I hope that you'll do the right and honorable thing and encourage him to pursue his development to the best of everybody involved.**

Cedar Brant: Target Range Orchard Homes Resident. I grew up in the Flathead Valley and I've worked throughout the West with farmers and ranchers doing land management and ranch management work. I really feel strongly about farming and ranching as a part of Montana heritage, as I think everyone does in this room. I believe in growth but we also really need to think about our growth. I live on a 5 acre parcel, I think they're wonderful and I think hobby farming is great but I think it's one thing to hobby farm on any old place. Another thing, when you have really good soils and I think we have the opportunity here to think about developing in a way that allows us to preserve a resource that we could actually pass on to future generations.

Bonnie Buckingham: Executive Director of the Community Food and Agriculture Coalition. I help to start CFAC nearly seven years ago and have worked throughout my career to ensure food security within Missoula. I'm here to request your denial of Alexandria Estates. CFAC is a grass roots membership organization that has been working on issues of access to healthy, local food for low income people, developing new markets for farmers, insuring our farmland is kept as farmland for the next generations and linking aspiring farmers to the available land. Our members have worked tenaciously as I'm sure you, for many years to develop a robust local food and Ag system and our membership continues to grow. We currently have approximately 200 members from across the county who really do care about conserving farmland, realizing its value as a foundation of a secure food system. This past weekend CFAC convened a summit where over 50 farmers, business owners and food system advocates met up in Arlee to strategize how better to work together to build a regional food and Ag network that will increase the number of successful businesses in Western Montana. **Alexandria Estates threatens to remove one of the few large tracts still intact in this valley and I urge you to deny this subdivision and help secure our food future.**

Paul Hubbard: I'm also on behalf of the community food and agriculture coalition. Of the 30 subdivisions that CFAC has reviewed over the last 4 years, this is by far the most irresponsible subdivision when it comes to the agriculture resources at stake. As you saw in the slides of the 116 acres, 104 acres are considered important farmland by the NRCS. We actually appreciate the on-site soil analysis that the developer has conducted, revealing that 24 of those acres are big arm gravely loams and while they are important agriculture soils, they're not as productive as the grants loams and the Alberton loams which total 75 acres. So 75 acres of these 2-5 feet of topsoil, there's not dispute about the productive value of that or the fine amount of that resource we have in Missoula County, well less than 2% especially when you look at what's already been developed. I would like to point out there is this double speak as Dr. Neava pointed out...this farmlands not worth much as 116 acres but it's going to be worth so much more as 5 acres, in terms of agriculture. I would just like to point out the developer in the proposal kind of has a bit of a self-defecting argument, which I think needs to be entered into the record because it does not comply with our definition of agriculture. The definition of agriculture as he showed on the screen earlier is about working farms and ranches, not residential lots with home gardens. In the proposal the developer writes; the lots would also serve as a home site, the use of the property for agriculture will not require making a living from the land as a farmer or rancher, as a farmer or rancher for the property in its current configuration. It's a very clever argument to pretend as if we're going to enhance the agriculture value of this property by creating all these small farms that are going to sell their product at the farmers market but in fact, that's not the case. It's taking a resource to create residential lots, not agriculture...not farms. Nobody on the Planning Board has bought the clever argument that dividing all of the land into residential lots was an impact to agriculture, and I don't think you do either. But if you approve the subdivision, then in fact you essentially are stating that mitigation has taken place...the mitigation to agriculture is reasonable. We're really excited for the work that you all are doing right now. The Open Lands Committee is doing excellent work on getting a predictable policy moving forward and we're excited to continue to work with you on that but you already have the tools. By State Law, Subdivision Regulations, the Growth Policy that encourages us protecting our agriculture resources and mitigation is possible, it's just not in front of you right now.

Jennifer Taylor: Missoula property owner, also a Montana resident for 20 years, also a Realtor at the Organization of Realtors. Diane Beck was here earlier. There was a letter that our Board had drafted to you, I believe all of you had an opportunity to read it and she had to leave so she asked me to step forward and recognize that the letter be re-read. My position on this is that while I find the passion wonderful and I think organic gardening if fabulous, I do enjoy the benefits of it as well. I have a really hard time when someone has tried to follow the rules that have been laid forth and then we have Government Regulation that they've laid forward and they've come back repeatedly and we're looking at telling someone who owns property how they're going to do it and the tax basis is a consideration. I think you guys have a big, tough job in front of you.

Sara MacMillan: I'm here on behalf of the Missoula Community Food and Agricultural Coalition. I have submitted comments and so I will limit my comments here today. **I just wanted to reaffirm something that I believe you understand which, is that you have the authority to deny this subdivision.** The Subdivision Plat Act, your own regulations, the definition of agriculture and I think importantly the Lolo Land Use Plan, while it was emphasized that this was zoned...was identified for residential use and zoned for one acre lots. I think it's important that we understand the Lolo Land Use Plan, it states as a whole that the County will preserve importantly agriculture soils for agricultural use, and it further provides an implementation strategy which is that the County shall direct

development away from areas with important agriculture soils that are suitable for agriculture use and design develop that protects agricultural soils and allows agricultural use. It further says that it encourages developers to cluster residential uses and maximize open space and agriculture land. I don't think anybody wants to deny that you can produce great produce from 5 acres; we cannot produce everything that we eat. We cannot produce wheat; you're not going to have a dairy life line. I know another person is going to speak about how many 3-7 acre lots we have in the county and one of the things Nick said was, "we don't have enough 5 acre lots". Turns out we have a whole lot of 3-7 acre lots, which was sort of the lesser fine tool that we were able to find. The vast majority of those are not used for agricultural use, so the fact that there are 5 acres ~ there are lots of them, there are very few larger chunks of land. I think that is very important to keep in mind. **The last thing I wanted to say is just that CFAC is going to stand behind you guys; if you make a good decision here, protecting agricultural farmland from this kind of development, we'll stand by you.**

Ross Proseri: Montana Conservation Voters, here in Missoula. Montana Conservation Voters is a State Wide Membership Organization that serves as a voice of the conservation environmental community. 2007 was when we established the Missoula Chapter and three years ago we started a conservation roundtable meeting where we meet monthly. They decided loss of agricultural land to development was among the top issues of concern. At the beginning of the week our chapter rep, Robin Saha, submitted a letter to you basically making sure that you're aware that our members in the larger conservation environmental community oppose the proposal for reasons that yes you have heard already, I don't need to restate into law the definition of agriculture. There's no mitigation to the loss of the agricultural land as it is defined to the day. It also represents the largest loss of prime agricultural field of prime soils in this subdivision for many years now. **This subdivision carves up every single square inch of 104 acres of agriculture, so with that I ask you to deny Alexandria Estates.**

Paul Rossignol: Lolo resident. I listened to the arguments back and forth and something I kind of came away with is that I believe what's happening here; this really isn't about saving agricultural land, this is just a tool that they put in front of you to stop the boat. This land is unfeasible for agriculture and it's just a tool, they don't want development so this is something they are using to stop development. There's no way anybody could take that acreage and make a buck off of it. I've seen it tired and tried and tried and it's just not happening. **The best thing would be to have some homes and possibly small gardens for people, you know I like that, maybe that'll work but it's not going to work as one piece.** It's just not built for it, it was part of the ranch which had a lot more acres than that originally and it just didn't work. We had a lot more resources then and it still didn't work. There was another quick thing ~ the wildlife issue; there hasn't been wildlife down there basically since the hay field went away but the animals...I have a subdivision right in Lolo, right North of the Town Pump, last winter three times the elk came down through all the houses in the subdivision, mine is tighter it's about 1 acre average or 2/3 average lot size. It came down through the houses, grazing on peoples lawn ~ what my park is, is right behind the Town Pump. Scrape all the snow off of my lawn because they like the grass I planted in there, they'd rather be in a subdivision then up in the mountains with the wolves right now, to tell you the truth. A subdivision is a fine place for wildlife, they do just fine.

Mike Canetta: Graduate student at the University of Montana. I would like to start off by saying I absolutely stand behind the previous statements of my colleagues and friends in this room, who have laid it out for you how important this land is for the local food system. I'm actually here to talk about something I've been doing research on for the past 3 ½ months. I've spent countless hours looking over hundreds of reports and studies on the eco system services and ecological services provided to this community and by the farmland this year. The first one I'd like to talk about is wildlife because it has been brought up numerous times and I'm not going to deny that elk can absolutely winter and feed in a subdivision, but what I would like to bring light to is the fact that these subdivisions highly increase the mortality to ungallant species and other small mammals. They absolutely do not provide any habitat for raptor species to winter and grassland bird species which happen to be the most endangered class of birds in the Country, in North America for that matter. If this were left as one open lot it could do a lot of those things. Another valuable ecological service that it provides to Missoula that is probably not even really noticed and taken for granted, is the fact that as open land it sequesters thousands of tons of air pollutants each year. I would like to highlight carbon dioxide because I actually did a calculation and Missoula's farmland is literally taking up enough carbon dioxide to just take the equivalent of thousands of cars off the road each year. Think about the bigger picture, this lot is a very intergrowth part of the 112,000 acres of farmland in Missoula County. Last thing, which I think is probably most important to this community, is value of these lands in agriculture have to be preserving the watershed that we depend on for pretty much everything, whether it be food or drinking water. Farmland soaks up water after rain and undoubtedly sequesters it during spring melts and regulates flows and stream temperatures, which is absolutely critical for aquatic communities and in particular the species of trout that we love. Subdivision is just going to increase pollution in these streams and most detrimentally to aquatic communities, increase in water temperatures as runoff comes right off sidewalks and roads through storm water sheds. **I'd like you to consider those things in the bigger picture when you consider this subdivision. I would definitely recommend that you don't approve it.**

Amy Fisher: I'm here on behalf of the Missoula Organization of Realtors. I know that you received our letter and I just wanted to highlight a few of those points. We showed up today to show you our support because we want you to know that we do support you upholding growth policies. We believe there should be consistency for property owners when they put forth up proposal that if it follows the guidelines, that there should be a reasonable expectation that it would be approved. This is an instance where policy and process didn't match, OPG agreed and offered their suggestion to approve this and then Planning Board denied it. We've done this study ~ you put considerable resources into

a scientific based study, we have attempted to work with CFAC on some mitigation principles and they did not want to work with us. **The last point that I'm sure isn't lost on you is that this is not a farm now and denying this subdivision isn't going to make it a farm.**

Stephanie LaPort: 2009 South 8th Street W. **I just wish to express my opposition to the Alexandria Estates Subdivision as a Missoula County Resident...**a young Missoula County Resident and as someone who's interested in having my elected official uphold the laws the State gives them to uphold. The right and the duty that you have to mitigate or require...to require mitigation or to deny for effects to agriculture at subdivision review was granted in 1975 by the State Legislature, it's not a new law. I'm really interested in looking back at history and things so I read the Place to Grow Report which was just discussed, that report argues that the denial of a subdivision for impacts to agriculture shouldn't include agricultural land. That's not really what the original intent of the law was, so I read that and I said; I'm gonna go see for myself, so I went to the State Law Library in Helena. I read through the entire meeting minutes of the entire 1975 enactment of the Law. I found that it states very clearly that the intent was to protect agricultural land and agricultural soils. I just want to read one quote from the meeting minutes, from Representative Vincent who was the Chief Sponsor of the Amendment, this is a direct quote from the minutes ~ he stated that, he was a proponent for this piece of legislation primarily because of the tragic intrusion onto the agricultural land base of Montana. He said that this was especially brought home to him where in his home County of Gallatin one had to drive but a short distance to see some of the best agricultural land covered by houses and subdivisions. This isn't a new problem; we've been trying to deal with this since 1975. I have a personal stake in this matter too; my husband grew up on one of those subdivided lots, the 10 acre lot in Gallatin County in the Madison Valley. We can say these lots will be used for agriculture but 25 years later, after that lot was subdivided, his family is one of the only three families in that subdivision actually using their land for production of food. And his family is actually the only one that sells food off of their land. So when we divide these things into 5 acre lots and expect people to continue with them in farming, perpetually it's really sort of a....doesn't really seem sensible. I totally agree with the point that we need to think about everyone in our community, we need to think about low income people, we need to think about providing housing for low income people. **I'm not really sure how 23 five acre lots with no public transportation to access and no close access to a grocery store really does anything to help the low income housing community solution in Missoula.**

Cassie Herran: Resident of Missoula and also an intern at the Community Food & Agricultural Coalition. I did a little digging around with some geo-facial information and data from the Department of Revenue and in referencing the spatial data from Missoula County there are currently 3,880 parcels between 3-7 acres here in Missoula County and from past land use patterns that we've seen, we know that most of these parcels are located on farmland. However, in overlaying this information with tax records from the Montana Department of Revenue, out of these nearly 4,000 parcels there are currently only 210 actually classified as agriculture ~ this is only 5%. It is important to remember that for tax purposes the classification of agriculture is based on generating only \$1,500.00 in sales of agricultural products, not the profits from those sales. The developer would like you to believe that the current design of Alexandria Estates mitigates for the loss of agricultural land because, as he believes, 3-7 acre parcels are a more optimal size for agricultural production than small lots. Potential here is not the argument, dozens of folks have already stated their use of smaller lots and the potential but as we see here, potential is not reality. If we follow the current pattern and percentages that we see right now in Missoula with the use of 3-7 acre lots for agriculture, we would be lucky if just one parcel at Alexandria Estates actually sold a minimum of \$1,500.00 in agricultural products, which is the requirement to be considered Ag land. **So as the County Commissioners you already have the tools to deny Alexandria Estates but we need the policies to show leadership in terms of land use planning. I urge you to set an example for the rest of the State and pave a better way to plan to plan for our working farms and ranches.**

Blakely Brown: I live in Missoula; I'm an Associate Professor in Nutrition and Community Health in the Department of Health and Human Performance. I've lived in Missoula all my life, I was born and raised here and I'm a second generation Montana. My Mom was Margarie Hunter Brown and her family came from the Libby area, where they homestead a sizable piece of agriculture up there in the late 1800's, early 1900's. Across the Country and here in Missoula the gap between the rich and the poor, the "haves" and the "have-nots" is rapidly growing. 22% of the children in the U.S. live in poverty and about 17% of Missoula children here live in poverty as well. Living in poverty is strongly associated with having moderate and severe hunger. Every day children and their families who live in poverty do not have enough food to eat and have low or no access to healthy, nutritious foods. Just last week we learned that three Missoula elementary schools lost their Title 1 designation, not because there are less kids on the Federal free and reduced lunch programs at these schools but because the school district was forced to reallocate this fixed pool of federal money to schools with the highest need, where poverty and homelessness is huge and 80% or more of the kids in those schools use the free and reduced lunch program. Study show that moderate and severe child hunger is significantly associated with higher rates of homelessness, traumatic life events, poor mental health, chronic disease, chronic illnesses and lower academic achievement than children without hunger. We need to preserve the 8% of prime soils and farmland that includes Alexandria Estates that are left in Missoula County and use these areas, not for new subdivision developments, but for the continued development of a local food system that decreases hunger and increases food security and access to nutritious foods for all of the citizens living here. As economies across the world collapse, there is a strong sense of urgency to create a local food system that relies less and less on the federal government for food subsidies and feeding our most vulnerable people, such as children living in hunger and their families and invest in and build a strong local food system for people living in Western Montana. **I strongly urge you to support this local food system and deny the Alexandria Estates Subdivision.**

Jim Cusker: I live at the upper part of Grass Valley on the family ranch that my father purchased in 1938, he moved us over here from Wolfe Point. During that time between '38 and now lots of changes have occurred out there. At this point of the afternoon, I see the Commissioners wrestling with two decisions to make. The first would be; has the developer provided adequate mitigation for the loss of farmland by proposing that the 5 acre lots will allow adequate productivity, at least the same as it was before or perhaps even more? Previous testimony just a moment ago seemed to indicate that in most cases of 5 acres lots, here in Missoula County, that's not happening, not as far as the definition of agriculture is concerned as interpreted by the Department of Revenue. But even if, even if, all 23 of those 5 acre lots in the proposed subdivision were as successful in producing agricultural products, as are the ones that Mr. Kaufman mentioned earlier, the problem still remains, this is a large, large chunk of farmland. Ag land that's left in Missoula County simply does not occur in parcels this size, in any great quantity any longer. It's estimated that there are only 100 such parcels, 40 acres or more, remaining ~ 4/10 of the land that covers Missoula County. The second problem is this; it was mentioned that there are some agriculture activities that simply cannot be sustained by small acreages. Does this proposal mitigate for the loss of these large chunks? I think perhaps, if you will indulge me, let's take a step back in time, let's go back to the 1940's...in to the 1950's. Let's start at Mullan Road and go western, as we do so one of the first things that you encounter is Albers Dairy, just before the intersection of the Milwaukee Railroad Track. Go down Mullan Road much further, several miles further and there's the Dussault Dairy and there's the Sull Dairy, between the three of them they produced most of the milk that was consumed by the City of Missoula, at that time. All of these require large acreages. At the present time each one of the sites of those dairies are now subdivided, some in very small acreage, some in larger acreages, but none of them would allow for a self-sustained dairy operation. Let's look across the road from Albers Dairy, there's the Historic Flynn Ranch, a profitable beef, cow, calf operation. Then let's continue west because that ranch was contiguous with four different ranches owned by Deschamps. Up over Maclay Hill down in the grass valley all of these ranches, at the present time, have been once again subdivided. In no way, again this land can support a self-sufficient cow, calf operation. Let's go a bit further down Mullan Road very close to what is known as the Pulp Mill site, there is the historic Cramer Ranch, their specialty was growing sugar beets. They did a great job, highly profitable crop and they sustain themselves on approximately 100 acres. Once again this property is subdivided in smaller acreage lots, unfortunately so. Let's jump across the river to the Big Flat, 600-900 acres at that period of time in wheat production. Prime soil, irrigated land, the grain that was produced from that wheat went directly to the _____ flour mills in Missoula where it was processed. The flour was sold in large part to Eddy's Bakery and all the loaves of bread that the City of Missoula ate was grown right here in the valley. As long as we're on the Big Flat Road let's continue on down to Blue Mountain, but before we go there, let's look over and see the historic Maclay garden site. The large truck farm between Maclay gardens and Hughes gardens in East Missoula, practically all of the produce that was found on the shelves, in all of the grocery stores in Missoula were grown here. In fact, it was estimated at that time that up to 70% or 80% of the food consumed by the population of Missoula was grown here but all of these enterprises require large acreage, not small acreage, but large acreage. Now let's continue down the road and we'll go to _____, we'll go to Highway 93 toward Lolo and we'll take a look at Alexandria Estates, 116 acres. It has been noted that the land was of low productivity, you have to realize that this land was almost assuredly continuous farmed since 1870 and land in order to remain productive you have to take care of it; you have practice crop rotation, etc, etc. You get a few owners in there who will have _____ cultures year after year after year; productivity is going to go down. The present proposal most certainly does not mitigate for the loss of the large chunk of land, not in its present form, not in the present proposal. It divides it up into 5 acre lots that will exclude then the possibility of some of the agricultural enterprises that are so essential for the future food security here in Missoula County. I know the Commission has a responsibility of evaluating all of these projects. In the interest of the public and in the past all of these other subdivisions, which none of you were responsible for doing, so you're off the hook, but here's an opportunity to say enough is enough. **There are so few of these large chunks of agricultural land left that the present proposal does not mitigate for the loss of such large chunks. I hope you'll consider that and deny the project.**

Kate Sheridan: I'm speaking as a farmer here in Missoula, I work on two farms, one here Missoula and one north of town. Alexandria Estates is a situation that's eerily close to home for me. Growing up I saw a subdivision much like it, built literally in my back yard. It ate up a beautiful piece of farmland not to mention a host of other issues due to natural resource degradation. Now as an aspiring farmer, as Bonnie mentioned, this issue is even more personal to me. A subdivision like Alexandria Estates threatens what I want to do and that threatens my application to provide a source of local produce and animals for my community. Just because a place like Alexandria Estate historically hasn't worked in the past doesn't mean that the land should be condemned to subdivision. I own a farm; I'm not going to do it on 5 acre lots in suburbia. I really love Montana, I hope to be able to farm and have land here someday. I think Montana has an incredible opportunity with its wealth of land and with that comes the responsibility to ensure that there's productive land for future generation.

Ruth Link: I'm standing up here as a Missoula land owner and friend and colleague Ken Allen. He's own this property for a few years and made attempts to use it in various ways. **I think that the proposal that he has before you today is very respectful of both the community's goals, his neighbor's goals and his own interests and I really urge you to support it.** Like Amy Jo said earlier, denying this subdivision isn't going to make the farm a viable agricultural operation. Another person mentioned that there's a miss-speak between the people who are saying the land isn't necessarily agriculturally viable and those that are saying that with 5 acres it will be. I think one of the other folks that testified said it perfectly, that the 5 acre tracts make it manageable for somebody to do it, that's where it becomes a viable operation. We talk about affordable housing and making sure that people can live in our community and denying subdivisions based on the request of one small special interests ~ a very, very small segment of the population doesn't really have respect for the property rights that Montana was founded on. I'm a property owner in Missoula County and I want to make

sure that I can do with my land what I want to do with it, within the guidelines that you have set forth. **That's what this proposal does so I strongly encourage you to listen to your own planning staff and support this subdivision.**

Drake Lemm: It's been an interesting conversation, I came here with some certain things I was interested in commenting on and now I have several. One issue that I thought might come up, maybe it's not much of a concern to the audience; the traffic situation I thought was a priority concerning this subdivision and I drive up and down that road several times a days. I've lived a few miles from the subdivision for over 30 years now. Bird Lane and Valley Grove that intersects Hwy 93, I drive by it and I'm just trying to think, as we we're sitting here, if I've ever seen a problem with traffic coming from those two roads onto Hwy 93 and I can't recall it. I'm not quite senile yet so I suspect if there was an incident I would have recalled it. The jug handle option seems like a workable option, I was kind of concerned a little bit when it was going to be a more dense subdivision and thought we were really going to have to look at a traffic signal but that jug handle solution, I think is workable and I could live with. But like I said, I haven't seen a problem previously with the traffic that's coming out on there now and 23 additional lots isn't going to impact that a whole lot. As I was listening to the property right issues and the concerns with agriculture, what weights on my mind most is Ken Allen's personal property rights, I guess. It seems like...I know agriculture farmland is important but apparently it's more important to a lot of other people, more so then it is to me. I've got a strong heritage in agriculture also, it's beside the point, but everyone else has pointed it out so...my great-grandfather homesteaded in Moscow, Idaho in the late 1800's, turn of the century. My grandparents took over the farm, my parents took over that farm and I still have several in-laws down in the valley that farm, so I've been around farming most of my life. What concerns me the most; are we trumping Ken Allen's personal property rights within this case? Pretty much what has been for quite a few years now is horse pasture. I thought if there was a use for this ground, other than horse pasture and it has been hay and wheat in the past, I thought it would have been more prevalent than it is now but it's been a horse pasture for a long time. I'm not really sure...the evidence has been presented from the people that have hands-on information about this parcel of ground is that it probably won't be anything but horse pasture. The potential for raising what I actually would consider food and what I consider food isn't pasture land, apparently seems to be not that great, I don't know that for sure but the evidence that has been presented today, I don't really see any strong evidence that's it's going to be anything other than horse pasture. I was involved in a little project this year, like I have been for several years with the pumpkin patch, I go to the Alliance Church and we raise pumpkins. We have several small parcels around the Target Ranch and Big Flat areas on less than 5 acres where we raise pumpkins. This year I was a party to a one acre parcel out off Spurgin Road, where we brought in over 20,000 pounds of pumpkins on approximately one acre or probably a little less than one acre of ground. I thought that was a really good use for that little parcel of ground ~ 20,000 pounds of pumpkins and that was just on one of the parcels that we used, but we used several. My point being is those 5 acre parcels that are proposed on this subdivision near Lolo, we don't know this for sure but I suspect the actual food that you're going to get off those 23 five acre parcels is a whole lot more significant than it's going to be if it's left as horse pasture. It doesn't always have to be left a horse pasture but no one's said anything to convince me that that's probably not what it's going to be left at. I've heard other people talk about the loss of agricultural land and you know the loss of agricultural land is a concern but I also want to point out that...a couple things. If it is just 2% of the land that's left in my County that is agriculture, I don't really think losing...even if we did lose the additional 2%, it's not going to affect my quality of life. I don't have a problem getting my strawberries and my tomatoes from Mexico, I just don't, it just won't affect my quality of life, I know it won't. I think of the amount of agricultural land that's available in this country, you're always hearing about how we're losing it and we are to a certain extent, but our population is increasing about two million people a year and you've got to put them some place. If you look at all the corn for example, that's being produced right now for ethanol, half of our corn crop in our country goes to the production of ethanol and the other half goes for food. If we can produce half of the corn in this country and half of the corn in this country is probably 100's of 1,000's of acres. Ethanol is a dirty fuel, takes a massive amount of water to produce, it's not cost effective and if we can use half of our corn land for ethanol...my point is, we have a lot of land that's not being used for food. I'll finish with one point I made earlier which is, with two million people per year and you know, we need to put these people somewhere; we don't want to put them on our hillsides. We've got open space bonds that buy up hillsides in Missoula County, so we don't want them on our hillsides. We don't want them on the interface with forest land because we're concerned of fire dangers and habitat for animals that would be impacted. We don't want to put it on the valley floor, our expansion because the valley floor...you're going to have in many cases, they're going to be in flood plains or they're going to be mitigating or they're going to be rather impacting farmland. We gotta put these people somewhere and like I say our population is increasing two million people a year and that's just the reality.

Steve Maur: Firm believer in full disclosure so it's nice to meet you guys at the Chamber Offices. I am an employee of the Chamber and I came in here today wearing my chamber coat but they only employee me ¾ of the time, the other ¼ of the time I'm a CPA. Taking off my chamber coat and speaking as a CPA. Brief background on me; 23 years I've been in the investment business. Steve's hypothesis about investment is it's driven purely by emotion. Wall Street is a pretty creative place and they've learned to quantify emotion with dollars. As I stood over here and listened to some cogent arguments, I was inspired with this thought; If the emotional value of this piece of property is as significant as portrayed for the purpose of farmland, then the rational mind would propose a dollar value on it later than propose subdivision value and would be purchased, then taken out of subdivision production, I'll call it. My family has a farm and we've farmed for over 30 years in Minnesota and so it's not lost on me the value of growing things. I like green stuff, lots of the things I eat are green stuff, I eat green stuff it's important to me. Dollars are green, I wonder if there's a coincidence there? If there's a value to this land greater than that of a subdivision seems reasonable to me that then, that would be determined by the fair market and it would be acquired by interested parties within, taking it out of subdivision production. I haven't heard any proposals to that...to address that, so I'll just leave that thought hanging and those interested in supporting my theory then buy the land.

Reed Williams: I own one of the properties in Lolo at the east end of this property at 9801 Valley Grove Drive. I can tell that everyone is really very passionate about the farm ground. My wife's family owns a 6,000 acre wheat ranch is north central Montana and she's not nearly as passionate about farming as they are. I want you to digress a little bit and the Commissioners understand this but most people in this room don't. We, Mr. Allen went through quite a process wanting to develop that ground and it was turned down by the Commission...planning and zoning commission, whatever it was, and he then had the option to turn it into a gravel pit. As I remember, not one of these people stood up to want this property when he was trying to turn it into a gravel pit, we fought, Dr. Buehler and I fought night and day, seven days a week for almost two years. We finally got the point and we went through another year long process to get all that zoning cleared and everything and it looked like it was all over with and then for whatever reason, something happened and we are now waiting for a lawsuit that will make a decision, or if we hadn't filed it I think by now we probably would have had a gravel pit there now. I think people have to understand that he's made a genuine effort with Mr. Kaufman and the WGM Group to develop the property in a much more efficient way then he offered to us first. In fact, I think as you said he was given the right to do, was it two dwellings per acre or one per acre? Either two or one per acre. He's only doing one every five acres. I think he's made a genuine...Nick's been out in our area two or three times, everyone in that Valley Grove area is, I believe, 100% behind this. **I would hope that you would consider all of that and vote for this development. We really think everybody out in that area really feels like it would be an addition to our community.**

Chair Curtiss: Mr. Kaufman would you like to make some closing statements?

Nick Kaufman: Just a couple of things. Remember the slide I showed you where the parcel is divided into six pieces? Not one of those pieces is larger than 40 acres, which is the threshold parcel size for what Mr. Cusker was talking about in terms of larger, independent parcels of agricultural land. Mr. Allen did not subdivide that piece; first it was the farmer that divided that piece. In all the examples that Mr. Cusker gave, it was the farmer that sold the land, it was the farmer that sold the land. So if we want to keep agricultural land, I think Steve makes a good point, we need to somehow ~ put that burden and responsibility on the whole community, not the people who may own those agricultural parcels and say, no you can't develop, you can't develop unless you do that or this or the other thing. So I think that is really important. And as far as the cleverness of our proposal, I think if you look in the packet my language is very clear. When I went through the _____ proposal, I learned firsthand from Josh Slotnick, who in his letter that you heard talks about the productivity of Clark Fork and the Peace Garden in terms of \$10's of thousands of dollars. I showed you a slide, it shows some of Clark Fork organics on a 10 acre piece which is not ____ but he's farming it sort of right in the middle of that. The cleverness is that I know how much horse manure I haul onto my piece of property to make that corn grow. I know how much intense in agriculture I put on there with my labor and the subsidy because my home is there and I also have a job and I make it work and I make it work better than the Deschamps who owned that piece before me, believe me. But it was the Deschamps that sold that property. So if we're going to preserve agricultural land let's get the farmers not to sell their property but if we're going to get the farmers not to sell their property by forums like this where we say you really can't develop according to the growth policy and you really don't get the density you wanted. Remember Blue Herron? 100% density plus 10%, it got to cluster, I can't do that here. You have to understand that. We would have done it but we can't. What we've given you is the best possibility to mitigate the impact on agricultural land in combination with the public health, safety and welfare issues. I think that's all I'll address.

Commissioner Carey: Nick, in your presentation you mentioned something about the possibility of doing one lot per acre up to...I think you said 73...and you would undergo subdivision if you did that? Could you speak to that?

Nick Kaufman: Excuse me Bill; I didn't understand your question.

Commissioner Carey: Well, I don't quite understand what I'm trying to get at other than I think you said something in your presentation about being able to do many more lots if you did one per acre?

Nick Kaufman: Correct.

Commissioner Carey: And that you wouldn't have to undergo subdivision review somehow?

Nick Kaufman: No, I said I would have to undergo subdivision review with those one acre tracts, Bill ~ absolutely. What I said that was really important, that I hope you heard is that a single regulation that I find relative to the development of property that allows you to mitigate or ask for mitigation and choice what is mitigation and balance that is the Subdivision and Platting Act. The eight parcels that are there, that range from a small size, I don't have it in front of me, up to 32 acres, I don't believe those went through subdivision review, Bill. And we didn't get to address the impacts on agriculture. So what's before you is a proposal that has mitigate and the mitigate comes in a form of a 1/3 less lots then we could legitimately bring forward in one acre tracts, through this subdivision process. That's our mitigation, that's the prime mitigation. Then the ability to more intensively farm and fertilize and work that ground because your home is there and you subsidize with your other income because that's what you love to do. That's the cleverness of my proposal.

Chair Curtiss: So what you're saying is you have a 1/3 less lots than you could have done if you went just plat with the zoning?

Nick Kaufman: Correct. And the example that's given to you is Blue Herron. That developer got a 100% of his density. 5 divided by 75 = 15 lots plus one more, of course he can cluster ~ I can't. Minimum lot size per zoning and per DEQ, please understand those constraints. It's not just the

constraints and the education in agriculture, it's the constraints associated with minimum lot sizes at DEQ, 1/3 of the zoning on the property. Everybody talks about how great planning is, you just updated your growth policy and zoned it, that's planning, that's what we're doing.

Chair Curtiss: Tim, can you remind me where Blue Herron is?

Tim Worley: It's off Mullan Road, I think it's off Lavoie Lane.

Chair Curtiss: Does it have sewer?

Tim Worley: No

Paul Hubbard: I just want an opportunity to respond to some of Nick's comments. To characterize the opposition of this subdivision as if anyone here is telling the landowner that they can't develop at all is simply...I haven't heard that from anybody. The question is can the development happen in a way that does correspond to the existing planning...the multiple planning frame works you have? One of them being the subdivision review criteria and the other being the Lolo regional plan that states the priority of directing development away from farmland, of designing cluster developments, PUD's and keeping that farmland intact. And so to pretend as if mitigation happens by doing low density residential over all of the farmland as opposed to slightly higher residential density is simply not mitigation by anyone's definition, including what you've been advised on by OPG. There was another point in there but if I remember.

Commissioner Carey: Paul, would you tell me how if this proposal's denied how does that 70 acres become a working, productive farm?

Paul Hubbard: Thank you for that question because I remembered what I was going to say. Mr. Kaufman is suggesting as if, if he can't do 23 five acre lots he has to build at the one dwelling unit per acre on the land. It's really not clear why...if you imagine 23 one acre lots then you could protect that best farmland. In fact, you could do significantly more lots, it still would be in character with the neighborhood but you could keep that 70 acres in one piece. That's really the opportunity here is to go back to the drawing board, the developer can do some residential lots while protecting that best farmland in one piece. Once it's in one piece, then it's here for future generations, it's here for the current generation and would support a variety of agricultural activities that you simply can't do in 5 acre lots. To address that exact change of hands, I think there are two different questions, one is; at this point of subdivision in front of us today is how do we design for agriculture because just like the residential lots, you can't control who's going to own the residential lot, but what you can do is what you design for. To respond to that moment of land changing hands is the reason why we've created the land link Montana program, to link landowners with beginning farmers. We know that as we continue to build...all of it is part a bunch of ongoing work. Most of the time, frankly this is fighting subdivision is the least enjoyable part of our work. Most of time we're working to rebuild the local food economy, we're trying to build markets for local farms and the more we do that and the more link beginning farmers to land is this kind of growing the entire capacity of our regional food system. That makes the land that much more viable to be an agriculture but without the farmland we've got nothing.

Chair Curtiss: And you have somebody lined up that wants to buy 70 acres of farmland?

Paul Hubbard: We have three beginning farmers looking for land for every single land owner looking for a farmer in our system. I could go back to my database and I could probably come up with ten beginning farmers that would love to be on Alexandria Estates.

Chair Curtiss: And could they get it? Do they have money?

Paul Hubbard: Some of them do, some of them don't. But again, I think the question is not just...you're making a decision that is going to live with Missoula with Missoula County forever, so you need to keep that in mind when you make your decision and that's really what's in front us, is when you're looking at a resource as precious as this piece of ground...you've got to take long view in mind. And we will keep working our tails off to ensure that a beginning farmer gets on that land but it might not happen overnight. I certainly cannot promise that it's going to happen overnight, but I can tell you that the interest is already there and we'll keep working on building the tools to make it happen.

Commissioner Carey: Paul, one of the things you should know and probably do is when we make a decision we run the risk of being sued, having the opposing party win and having to pay a sum amount of money for all the trouble and possibly get a bad precedent. So we're looking at that possibility in this case, a judge could well believe that heck they've reduced it by 2/3, they've mitigated the impacts and a judge could...believe me could make the ruling.

Paul Hubbard: I'd love to invite Sara up here but we are very sympathetic to that and it's the reason why we've never yet...we've reviewed 30 subdivisions on farmland in the last four years. We've become very tuned into the State laws, the local laws, the local planning frameworks; we're very sensitive to landowner rights and wanting a predicable policy for them. **We've never said this before but we are willing to provide...we believe this is such a slam dunk we're willing to provide legal assistance in supporting a decision of denial** because we think that the precedent needs to be set the other way and we believe this is that case to do it. Sara I think can expand on the liberal...do you want to elaborate on that at all?

Commissioner Landquist: I want to get on being able to ask questions about the subdivision and changes and odds and ends like that.

Chair Curtiss: I think the problem is we don't have a policy.

Paul Hubbard: Agreed but you do have the...the State law is not meaningless. The question is, is this mitigation? And you have the liberal ability to determine that as long as it's based on the facts. As long as you have the findings in front you and that's why we've tried to empower you with all the facts imaginable to make a good decision.

Reed Williams: I want to make sure I made my point clear, I didn't think from what this gentleman said that I made that point clear. I'm not trying to make Ken Allen out to be a bad guy here. He had the right and when he could not develop previously...two or three years ago and this gentleman said they've been doing this for four years, not one person stepped up to help us stop that gravel pit...not one. It would have destroyed mine and Dr. Buehler's property ~ destroyed it, you know that and I know that. We were lucky enough to go through this process but if...law is law, the case that is in the Montana Supreme Court should we not win it, we could very well have gravel pits on that property. Now he doesn't have to talk to these people, he owns the ground. The State also has a law, a permitting law that he can mine that ground so farm grounds won't mean anything. He's made a genuine effort to improve the property, which is going to help everybody there, we have 5 people employed there, we won't be able to live there...the silt in the air, the gravel and dirt and stuff. Dr. Buehler has cancer, he'll die there. He lost the deal on selling the property because they found out it was going to be a gravel pit ~ lost the deal and he's sick! Nobody stepped up to help him. I just wanted to make that point clear.

Executive Session

Commissioner Landquist: I have some questions regarding Public Works. Section 5, page 7, in the covenant part but it's the landscaping plan, last sentence where it says landscaping and irrigation required for primarily travel quarters shall be installed prior to building permit approval, subject to review and approval by County Public Works. Does County Public Works know this is in here? I guess after seeing what happen with another subdivision that recently ended up costing a little bit of money after the fact, I was particularly in tuned to things that said 'OPG needed to review' and then something said Public Works needed to review, prior to final plat, so my eyes found some of those things. Is that problematic or do you know about it or what?

Greg Robertson: I personally think it's problematic, we as a general course in our review we don't pay attention to what covenants are because they are really are a contract between land owners and don't involve us. If this is a requirement that should be made a condition of approval of a subdivision and not a finding requirement.

Commissioner Landquist: Then I would make sure that prior to this being approved, if that's the way this Commission goes, that this gets looked at by...much more closely by staff, by legal and by Public Works and OPG to make sure all those reviews and check offs are being done by the appropriate entity. I found a number of them. Then it talked about each business being limited ~ this is on the next page, page 8, to one wall sign. I know when the zoning was done there; there was some neighborhood businesses allowed so I take it that within this subdivision there'd be some businesses allowed?

Nick Kaufman: No businesses that wouldn't otherwise be allowed by the zoning, it would have to be things that are associated with agricultural productivity and home occupations.

Commissioner Landquist: Okay, I just didn't want to see a bunch of businesses crop up. Next thing ~ I'm in the very back looking at the FWP's letter from Mack Long dated July 22, 2011. He noticed and I noticed the same thing; that it doesn't seem as though there's any Homeowners Association associated with this. There're covenants, but no Homeowners Association. I find it problematic and I know he found it problematic because although you have covenants and you suggest that they employ living with wildlife plans, regulations and have their other little odd and ends; fencing their yards and then the living with wildlife says if you're doing things like an orchard or garden, you have to fence that. All the different things to keep it critter proof because Ag and wildlife often times have conflicts or create conflicts and to avoid those. Covenants, unless you want to sue your neighbors, makes for great neighbor relationships without a Homeowners Association to work on that and I find it would be problematic with creating an irrigation district according to what was listed here too. I just think it's a lot easier in this day and age to have that...make sure that you're going to create that homeowners association to facilitate the best communication as possible between neighbors and to make sure that the neighbors are getting the appropriate health and or education they need from the conservation district or any others and to enforce the weeds.

Nick Kaufman: Great observation. We wouldn't be opposed to a condition requiring a formation of a Homeowners Association.

Commissioner Landquist: That makes me feel a whole lot better.

Tim Worley: I was going to comment on the concern that Commissioner Landquist had regarding the County Public Works language on page 7 of the covenants. We're actually recommending if you look at page 30, in the staff report, I know that's pretty far back in that fairly thick stack behind the RCA. We're recommending striking County Public Works and inserting OPG instead because that's probably more our purview. So I think that's addressed in condition #23, page 30 of the staff report.

Commissioner Landquist: And then I noticed, I think it was Lot 6 that's going to have the pond on it, it was an irrigation thing? It looked like that was going to be left, again FWP's found that to be possible problematic and I concur with that. Do you want to speak to that?

Chair Curtiss: Do you want to outline what your problems are?

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Commissioner Landquist: The fact that it makes it attractive for wildlife, a natural resource for wildlife to go to. You have other Ag operations and traffic that you're trying to mitigate and this watering hole right there in the middle of things and it sort of takes up a lot of the piece of property that's being part of this proposal that's being sold to us as Ag land. Seems to me it's going to be a pretty decide land with a pond on it and a house and drain field and septic.

Nick Kaufman: To respond, I have one of those pretty pieces of land with a pond on it that I irrigate out of. This one unfortunately was created as an irrigation sump so that groundwater could be taken to run the wheel lines so it's very steep sided. I think a condition that says that the treatment of the pond area be reviewed and approved by the Office of Planning and Grant because I kind of want to keep it, but I want to flatten the sides and make it an amenity but still be able to pull water out of it, instead of having to drill a well. I really don't want to put a stand pipe in that, fill it up with a bunch of large rock and then put soil over it. That may be the solution, Michele, to keep using that for a source of irrigation water so I can put in sump rock and still pull water out of it or I can make it more of an amenity for the lot and keep the easement for irrigation water.

Chair Curtiss: And it is in the no-build zone for that lot, right?

Nick Kaufman: It is.

Commissioner Landquist: And again, FWP on that same letter dated July 22 offer suggestions for the development of that pond as well, so I would want that put in to the condition of approval for that lot, if it's not already.

Tim Worley: Yes, we passed along their recommendation and it's, I think, on the bottom of Page 28 of our staff report. I think FWP's concern was that that could be developed as a pond and you could introduce non-native fish into that pond, so they just recommended some language about if you're going to develop it as a pond you'll have to pull certain permits to do that, etc.

James McCubbin: So Tim question...Tim and Nick; is there any language regarding the proposed no-build, no-alterations that would allow for landscaping or developing of that pond? Because that's certainly alterations, no building but its landscape alterations, so just need to check to make sure that's addressed.

Tim Worley: Yes, I think the exceptions to what you can do in the no-alterations zones are actually on the face of the plat. I'd have to check them for sure but Jeff Smith and I work through that fairly early on, we didn't want the no-alternations zone to preclude certain things that you could naturally do. One of the difficulties would be making the primary travel corridor work and putting in the irrigation pipe is one example. So I think we have language that works on that front, I'd have to...maybe what I should do is double check that over the next few minutes, if I see any red flags I'll raise them.

Chair Curtiss: #21 talks about the primary travel corridor.

Nick Kaufman: Same analogy Tim had, James, is we do have to do the construction of the walkway and the landscaping, so that's certainly covered. I don't want the pond to be a wildlife issue or hindrance so if Tim's got it covered great, if not, we're not opposed to a condition that says; develop a mitigation plan to be approved by OPG and FWP. We're good with that; they know what they're doing over there.

James McCubbin: The plat language does include that no-build zone, (inaudible) prohibited. It does include language utilities installation and putting irrigation pipes associated with trenching, in fact I would probably (un auditable).

Commissioner Landquist: So you guys would be agreeable to having a Homeowners Association? So if any of it needs conditions to the weeds it would be addressed through the homeowners association, they would be able to address living with wildlife and all these things to help make this a much warmer, fuzzier thing. When we met during the briefing thing on Monday and we were looking at the paving for traffic mitigation; were you able to talk with Ken to see if he was agreeable to moving the phasing plan up so that the traffic thing would happen at the beginning at the North end there with one and move up the jug handle thing? It just seems still really spooky to me to be adding more people there in an area...traffic danger zone and trucks and trailers and such.

Nick Kaufman: If everyone looks at the phasing plan where phase 1 starts down towards Valley Grove towards Lolo and you proceed down. Because it was a public meeting, those of you that weren't present, Commissioner Landquist had a concern and her concern was; I really want that jug handle to be on-line when the first home comes open, so what she suggested is that we switch the phases, so everything comes on-line with the jug handle. Jeff had a long conversation with Ken Allen and our preference, which isn't quite that, would be...we really want to do this as phase 1 (looking at the map). Your question was ~ what was the developers preference following the meeting.

Commissioner Landquist: Well, was he agreeable or...

Jeff Smith: As Nick said, the developers preference is this is Phase 1 and with Phase 1, he's agreeable to constructing the jug handle as a Phase 1 improvement and then revising the phases so that 2 accesses Bird Lane, 3 & 4 subsequently to the South from there.

Chair Curtiss: So what that means is that the folks that live on Valley Grove, in Phase 1 wouldn't have access to the jug handle until the road is connected.

Jeff Smith: Not until Phase 4 was complete.

Commissioner Landquist: There is going to be some mitigation there at Valley Grove, some angle changes or something, right?

Commissioner Curtiss: Any discussion amongst the Commission as to our authority, I guess? We have lots of opinions as to how much authority we have, we also know that we don't have a mitigation policy adopted yet but it's still working its way through the public process.

Commissioner Landquist: Can I address one more thing? This is a letter from the Community Council that we hadn't discussed yet regarding the bike path and the lighting. The council said that they would like to make sure that in addition...and they thank you for your presentation and the opportunity as well. They would like to recommend that the development specifically require that low impact lighting be utilized for any lighting installed within the development, to not affect peoples wanting to star gaze, I imagine that's what that's for.

Nick Kaufman: We're good with that Michele and we've actually got some language to put with that so there's no direct glare, everything indirect, we don't want yard lights.

Commissioner Landquist: And they also preferred the bike path, they don't have a problem with the bike path in the subdivision but they also prefer to have that bike path alignment along the highway because it will eventually connect with Lolo. There have been so many plans in the works for a pathway from Missoula to Lolo.

Nick Kaufman: While we requested that walkway be able to be moved interior that was for conversation purposes. We found at the neighborhood meetings we had opinions both ways. We came to the Lolo Community Council and they were solid that they wanted a commuter bike trail and it belonged next to the highway and the subdivision needed to have a walkway. With that, we're not going to stand up and pound for the variance we requested before we concede; we'll meet the (unauditable) 10 foot to a 5 foot interior.

James McCubbin: So we have a clear record ~ are you withdrawing that variance request then?

Nick Kaufman: If that's what we need to do, James, yes, I withdraw that variance request. It's something I'm not going to argue. The Commissioners can deny the variance and I won't argue against that ~ let's do it that way. I would like to put on the record that we propose a 5 foot walkway interior.

Commissioner Landquist: I'd like to thank the developer and WGM for listening to the neighborhood and the folks out in Lolo; they've had to endure a lot with this piece of property. The owner has had to endure a lot, seems like everything he's tried to do has been shot down. Do I like this subdivision? No. Am I willing to tolerate it, best case scenario given the tools that we have to work for under the circumstances right now? Yes, I guess. It's going to be very painful for me. I don't want this to be used for any type of precedence of what mitigating Ag will look like in the future because it's sort of like a question of 'what comes first, the chicken or the egg?' And it's real unfortunate that we were dealing with one plan after another that this developer proposed that got lots of public involvement and got shot down and ended up in the court and then interim zoning and then that got extended, and then we had to move and get some zoning in place. At the time we were doing that zoning that we were dealing with, the information we had at the time and trying to make it conform to the neighborhood characteristics, which was predominately like 1 acre lots all the way around it. In keeping with the neighborhood characteristics nobody was coming up and talking about the Ag land and the importance of it there so we were dealing with the information we had at the time when we implemented that zoning and that's what gives developers and land owners that predictability that they need to do something with their land. And it sort of kind of ties us legally. I think it's wonderful that all of you from CFAC are offering to go to bat with us and help us legally, but you know we don't like making decisions based on...were going to go to court and we have people to help us. It's really not how we make our decisions and it's really unfortunate that it was some months after that zoning took place that the county finished the Conservation Resource Atlas and the Place Project and stuff ~ that's what I mean by, 'what came first, the chicken or the egg?' If this had been done first, maybe that zoning would have ended up looking a little different. I was hoping after that zoning took place that the owner would of maybe used those densities that were allocated to that property because I know I gave them plenty of information and I know other citizens were working with them too to try to put it in conservation easement and so you have this density now according to zoning now. Maybe that was the tools that developer needed to get help buying those development rights off of there so that could be preserved. He didn't go that route, you can lead a horse to water but you can't make them drink. I know, I'm a small farmer too, Nick. I wish that that had some different sizes attached to it; I looked and looked at it. I said to myself; I wished this was a 10 acre piece here; I don't like the carving up of some of the urban interface stuff with the pine trees up there. I wish those were more contiguous because I think some of the pieces of land will be a lot easier to manage in one chunk then in the several chunks that they are. So I'm going to put my faith in the fact that the willingness is there to have the Homeowners Association for this chunk of land and to make sure that this covenants and these other protections become implemented, that's what I'm going to be counting on.

Commissioner Carey: I don't suppose there's any possibility that folks could meet again on this and try to work a better deal out for both sides, are we at the end of the line here?

Tim Worley: We're at the 60 day deadline today.

Commissioner Carey: Well this is the toughest decision to make, that I can recall, because I profoundly respect people on both sides of the issue. My gut tells me this isn't the place to make a

stand. The piece...the chunk of land, it's just not liable, its good solid Ag as it should be, I'm not so sure we need to work with people who buy 5 acres lots maybe they should sign something saying they will produce \$1500 worth of farming receipts and if they have to hire a gardener or farmer to do that, maybe our tax policies need to change to encourage this sort of thing.

Chair Curtiss: I think the unfortunate thing is that we don't have a policy done yet. I know that there are plenty of things out there. I think one of the big things we face is that for the last several years the Commission has told folks, as we go through land use planning, that our goal is to follow them up with zoning to implement. In Lolo we follow up to implement and folks didn't want a gravel pit there, they didn't want condo's there. We zoned it residential, part of that was to keep out the gravel pit but we just did that a year and a half ago. To me, if we...we have to, I think, have some consistency in how we apply our regulations and while we are working on developing some sort of Ag mitigation policy and I know other places have them but they also have money to go with them. I just think that this developer has taken our rules and regulations and our guidelines and things that we have in place in Missoula County and if you read the stuff that was done by the land use clinic at the Law School it talks about that we can implement that plan through regulation we don't have...we have stuff in there about mitigation but we don't have some of the tools we're talking about. We just zoned it one for one, this is 1/3 of that so I just can't see how it would stand up to do anything different. I also think that there just aren't people that can afford to buy 116 acres. It's sad that we don't have any dairies left in the area, I don't even know where we get our milk from now and I don't even think the dairy in Kalispell is there anymore. It all comes in on a truck, go to store, you get it out of a jug...no cows attached anymore in our county. People that want a farm might be able to afford 5 acres. There's been other proposals in the county as was said today, that CFAC commented on that have said 3 acres and 5 acres are viable and I know that we're talking about a bigger piece of land and how that's a little bit different. I know, I have a 5 acre piece of land too, it's not Ag land, its timber land, but it takes a lot of work to take care of 5 acres, I don't even know if this is the right market as was stated today there's a lot of 3-7 acre parcels of land in the county. That's the risk the developers taken. Unfortunately there are young farmers that would like to farm but they can't afford the land and then the people that seem to have the land, their kids don't want to farm. Tim, do you have any suggested changes for low impact lights in that area?

Tim Worley: I don't have the language right now but I can get to work on that for sure. Jeff, do you happen to have the language for the phasing change? That's something that we have discussed and I'm not sure what the board has arrived at for the phasing.

Jeff Smith: I did email Tim some language but unfortunately I didn't print that out.

James McCubbin: I think if you just make a clear record of what you're approving unconditional approve. So what I'm hearing is that condition would be, that the phasing plan be changed so that what's currently proposed as Phase III would become Phase II, Phase IV would become Phase III and Phase II would become Phase IV and the jug handle would be constructed prior to final plat for phase II. Tim may change that language a bit when he actually writes it up.

Executive Session:

New Motion: Commissioner Landquist made a motion that the Board of County Commissioners accept the new phasing changes. Commissioner Carey seconded the motion. The motion carried a vote of 3-0.

Chair Curtiss: Would you like to make a motion regarding the homeowners association?

Commissioner Landquist: I guess with an Association there are dues associated with that? I guess one of the other things I...well what?

Nick Kaufman: Piece of information that Tim is likely aware of and James is likely aware of is that when a Homeowners Association is proposed or required, the subdivision regulation outlines the collection of fees, etc, etc. James will look at when we bring the covenant to the final plat, so those are all in place in the subdivision regulations. You can certainly reiterate them but...

Commissioner Landquist: That's what I was going to ask, somehow that has to get created.

Chair Curtiss: So this ends up being additional language in the covenants.

Commissioner Landquist: One of the other things that I find reassuring about the homeowners association is because I noticed somewhere in here that it talks about tree buffer along Hwy 93, eventually that would be responsible to be put in. It didn't say anywhere who would put that in so now I think with the Homeowners Association that will be clear that that's something they will have to deal with.

James McCubbin: The corridor improvements will be required to be in before that phasing final plat...

Commissioner Landquist: Something the developer is responsible for? ...that's even better.

Executive Session

New Motion: Commissioner Landquist made a motion that the developer be responsible for the creation of the Homeowners Association for the purpose of implementing or enforcing the covenants. Language to be approved by the County Attorney and OPG. Commissioner Carey seconded the motion. The motion carried a vote of 3-0.

Nick Kaufman: This is really important for the record ~ what we'll do is we'll create a Homeowners Association with all the appropriate criteria as if we had a common area we're maintaining. So that's

where all the dues and all the other things are. I just want to be really clear on what I told you and have it part of the record.

Chair Curtiss: The pond. Working in that no-build zone...things I wrote here that was to deal with placing irrigation for the primary travel corridor, building a path for dealing with the pond as per FWP's and others input. There needs to be some language as to activity that could happen in the no-build zone. There's going to have to be maintenance of that...

Commissioner Landquist: Jeff's Smith's pointing something out as well as Tim here.

Tim Worley: I actually think the no-improvement zone definition on the plat does the job for everything else except for perhaps the pond, I don't know James, you might disagree.

James McCubbin: Yes, the only thing it wouldn't cover is if the pond is developed into something more or different than the facility it's serving, the irrigation. If it was greatly expanded to be a boating pond or fishing pond or something, that would be prohibited currently under the no-alterations. I think some expansion of the pond and landscaping on the sides but needed in a safe manner for irrigation that would be permitted.

Tim Worley: I was just wondering if the language that FWP recommended might do the trick for the most part, as far as development of the pond. This is on the bottom of page 28 of the staff report. We're just forwarding FWP's recommendation in that underlined recommend where it says; if at any time the pond on lot 6 is proposed to be a recreational wildlife or fishing pond, please note regardless of how the pond was created the pond owner must have a water right if the water is to be beneficially used for fish, wildlife and/or recreation. MCA 85-2-122, 46-18-212; please contact the Montana Department of Natural Resources and Conservation which has the authority to issue water use permits for beneficial uses of water under 85-2-302 MCA. Then one of their other concerns was outlined in the final bullet and that is that they didn't want goldfish and that sort of thing being introduced into this pond. So they say the purchase of fish from a certified Aqua culturist in Montana requires that a fish pond license in the name of the current pond owner be provided at the time of purchase, such a license also requires a valid water right for fish. A permit to transport live fish in the State of Montana may be obtained from Montana Fish, Wildlife and Parks, such a transport is otherwise strictly prohibited by law.

James McCubbin: That language all it addresses really is the use of the pond particularly. I don't know if it's misleading to have that there with the language of the plat but basically the pond could not be expanded under the no-alterations. They could change the use of it (un auditable).

Chair Curtiss: Is there a spot where we should add the low impact lighting?

Tim Worley: We will have a Homeowners Association. It's a little more difficult in the county because the city actually has a dark skies ordinance and in the past that's what we referenced, we can't do that in the county.

Nick Kaufman: It might suffice to require the developer to add in the covenants a section on low-impact lighting to be reviewed and approved by the Office of Planning and Grants. We have such language, we can incorporate it.

James McCubbin: I think if you did that and maybe specified that that language would be consistent or similar to the City's ordinance.

Executive Session

Commissioner Landquist made motion to add appropriate language regarding low-impact lighting similar to what the City has in their ordinance to the covenant. Commissioner Carey seconded the motion. The motion carried a vote of 3-0.

Chair Curtiss: And then the variance. Well we just say 'deny', that is all when we get there, right?

Tim Worley: If I could refer the Board to something that might help on this front, it's that little packet entitled Motions additional recommended conditions and MDT comment letter because it has also, in addition to the Motions, the new MDT condition which is just a tighter form of really what MDT already recommended.

Chair Curtiss: So just a question that I wrote to myself earlier on; if they aren't successful in getting an easement from MRL ~ therefore they can't build a jug handle and then they can't go along with the phases, right?

James McCubbin: That would be correct. It would end it after phase 1, if they couldn't get the jug handle. Before you really jump into the full motions I ask whether you feel the need to amend any of the findings because you did receive a substantial amount of testimony. I don't know that it necessarily changed anything that...well particularly the conclusions and the staff report although that's obviously your discretion to find. It may be appropriate to note that there was significant public testimony where that (un auditable) for the different findings, I'm not talking about a lot of language. You've obviously recognized the receipt of testimony today in your decision but it might be appropriate to reflect that in your findings as well. I'm certainly not suggesting that you go through and say...Mr. So and So testified that whatever but just to say that you've received public testimony to this effect, you received public testimony to this effect, this is what you found to be more critical. Note which testimony is more appropriate, that kind of thing to add on to the appropriate claiming.

Chair Curtiss: Well for sure on the pedestrian facilities I think we could add, if they're not in here, I forget if they are from the Lolo Community Council about the walkway along the Highway. The conclusion here is that the subdivision needs regulations with the denial of the walkway and bike variances.

James McCubbin: Right, if you're going to go with conditional approval that was recommended by staff, I don't think any of the conclusions will probably change, more just talking about supplementing the findings to reflect the receipt of more testimony. Rather than taking the time to look through everything here today maybe if you just want to summarize what you think you here in the testimony and what you would like to be reflected in the findings that Tim...Tim obviously has to amend the language before you can put a signature on it. You can just add that in and point out to where (un auditable). You need to summarize in discussion, Tim we would like you to add into the findings that we heard this in testimony, we heard this in testimony.

Chair Curtiss: So I think most of it would end up being in the section on agriculture and agricultural water user facilities. Are there points that were made today that you would like added to the findings and facts?

Commissioner Landquist: Basically the points that people made today regarding agriculture just leads me to believe that this is one more reason why Missoula County has to have...nothing for or against the subdivision, it's more the reason why Missoula County needs to get the tools to use in our toolbox for dealing with future developments and being more predictable. None of them see this as proper mitigation and I myself am chocked up still about thinking as this as proper mitigation but it's still within the law so maybe I'm the wrong one to ask to do that with what CFAC had to say. I can say that with what some of the locals in Lolo said, it definitely led me to go with this subdivision because the locals are the ones that live there that have their property values at stake with whatever Ken may decide to do or not to do. There are a whole lot of other people and their property values to understand and respect here, not just the developers. That probably didn't help a bit.

James McCubbin: No I think that does, maybe...actually if we're looking mostly at this one section, I guess I note...

Commissioner Landquist: Which section?

James McCubbin: Page 5 of the staff report, primary criteria effects on agriculture. I guess for example, proposed findings #7 reads; the applicant states that subdivision of the property would not remove the land from agriculture. Lot sizes averaging 5 acres would allow for some degree of ongoing agricultural use that could include grazing crops and truck (inaudible). The proposed findings then refers to basically the factual sources as project summaries page 6, that seems like one where you could also site to public testimony. Similarly...I'm not necessarily intentionally skipping over the intervening ones but I just noticed in proposed finding #10; the community food and agricultural coalition commented on the proposed subdivision. CFAC noted the significant percentage of farmland soils, wheel line irrigation with available water, stored agricultural uses as potential yields of above (un auditable) above the site. Sites to CFAC letter July 7th, in addition to that you could note that CFAC and members of the public...that's just more reflecting that you did receive that testimony it wasn't just from the letters that were sited at the time. Staff Report was prepared prior to here; do you see what I'm saying? So updating more the sources of the information because I don't really think we have contradictory information but just more sources. So I don't know if there are others that you want to look at. That's what I was getting at is to make the findings reflect that you did receive considerable testimony; I think it's clear in the record at this point.

Chair Curtiss: A couple that I think are important; I think that we could just **add another bullet** if we wanted to, to say CFAC and members of the public made comments that Missoula County needs to develop more tools to protect and mitigate Ag land. But the other is that Missoula County has lost much large acreage that provided food to our county; dairy, sugar beets, vegetables...I was looking for the number where Mr. Custer said that we used to provide 70-80% of our food for our County, I think that's just an interesting piece of information to add. The other was also wheat.

James McCubbin: Finding #8 is similar to #7, you had numerous members of the public also testify on that, this is again, 5 acres can be used for agriculture. I guess I would suggest that you reference that you got testimony on that as well.

Chair Curtiss: So #7 you'd just put behind it ~ public testimony?

James McCubbin: Right, so I guess 7, 8, 9, 10. Those seem to be the main ones, actually I would just...how significant is it versus mitigation you did receive public testimony of those.

Chair Curtiss: I think the other piece that might be interesting to put here is the public comment that was received from people who have farmed this particular piece of land and said what a struggle it's been, that is part of what's making our decision.

Commissioner Landquist: Yes, I think that was an important consideration actually and my decision because I've driven by that for 30 years and I've seen...there's no doubt he was able to grow really lush crops of alfalfa and timothy and everything else but he was pouring the water to it. He was always out there, he worked it hard and I have heard from others that worked it in the past. I'm surprised that some of the Ag soils showed up on surveys as good as they did because that soil has been pushed around and that pond from one side that it's on now used to be on the other side.

James McCubbin: So it sounds like maybe adding a sentence about Mr. Rossignol's testimony on proposed finding #6 and then reference that he gave that testimony, does that seem appropriate?

Chair Curtiss: Rossignol and others.

Commissioner Landquist: And Stan actually gave some good testimony about what his dad had to say.

Chair Curtiss: So we'll make those changes to the findings.

Commissioner Landquist: As long as we're looking at findings, I just want to go back and make sure because I'm reading that the roads and findings and facts...with the change that we made in the phasing plans with the Valley Grove one, with the jug handle coming in and the renumbering, all that changing...but the widening of the shoulder of Valley Grove proposed (un auditable) the 20 foot (un auditable) drivable width, so that will be happening then with the first phase, right??

Tim Worley: Yes, I don't think that changes.

Commissioner Landquist: Those improvements will be happening with that...just because God forbid, in case they don't get the rest of them sold or whatever or stuff, at least those improvements to Valley Grove will be done to serve those that are coming in that phase.

James McCubbin: The idea with the requirements for phasing is we want the infrastructure to match up with...be done before the phase that is concerned.

Chair Curtiss: Okay we can go to the one that Tim handed us today; we need to add the other additional conditional that might not be #23 but it could be regarding MDOT's comments.

Executive Session

New Condition: Commissioner Landquist made motion that the above subdivision shall complete the Montana Department of Transportation guidelines for systems and packed action review process for all access planned onto Highway 93 and shall comply with all regulations and MDOT required mitigation including but not limited to drainage and hydraulics, floodplain, regulation compliance, appropriate jug handle, ingress and egress and legal access and landscaping, seeding plans for MDOT right-a-way areas, subject to review and approval by MDOT and County Public Works prior to final plat approval of the appropriate phases.

.....Need References.....

Motions 1-6:

Commissioner Carey made motion that the variance request to subdivision regulation section 3.2.3, paragraph 3 which requires installation of pedestrian walkways along Highway 93 be denied based on the findings of fact and subject to the recommended condition of approval. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

James McCubbin: If I could interject, I just want to make sure we have a clear record on this. My understanding from the developers representative today is that they based on the denial of that variance they have amended their application so that the pathway on the interior of the subdivision will be 5 feet as instructed, not 10 feet.

Commissioner Carey: That's my understanding, yes.

James McCubbin: So that's the application now that you're proceeding.

Commissioner Carey made motion that the variance request to subdivision regulation Section 3.2.3, sub 3 requiring installation of pedestrian walkways along Bird Lane be conditionally approved based on the findings of fact and subject to the recommended condition of approval. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

Commissioner Carey made motion that the variance request to subdivision regulation Section 3.2.3 sub 3 requiring installation of pedestrian walkways along Valley Grove Drive be conditionally approved based on the findings of fact and subject to the recommended condition of approval. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

Commissioner Carey made motion that the variance request to Subdivision Regulation Section 3.2.3 sub 6 requiring installation of bike lanes along Highway 93 adjacent to the subdivision be denied based on the findings of fact and subject to the recommended condition of approval. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

Commissioner Carey made motion that the variance request to Subdivision Regulation Section 3.3.1 sub 5 which prohibits through lots be approved based on the findings of fact. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

Commissioner Carey made motion that Alexandra Estates be approved based on the findings of fact and subject to the recommended conditions of approval as amended.

James McCubbin: Both the findings and the additional conditions that you discussed today, I assume when you say amended?

Commissioner: Yes.

Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

Statements:

Chair Curtiss: I hope people understand that sometimes even though we want to do something we feel like we also have to follow our own regulations and the predictability that we hope we give to people with our regulations. So we'll go forward and try to improve those to add the Ag Policy, we hope to do that sometime after the first of the year. It will go to Planning Board first and then to us. We appreciate all the input and the patience that all of you have and hopefully together we can all figure ways to help mitigate loss of Ag land.

8. OTHER BUSINESS

None

9. RECESS

There being no further business to come before the Board, the Commissioners were in recess at 5:56.

THURSDAY, DECEMBER 8, 2011

BCC met in regular session; quorum present. ML out of office all day at Mountain Line Street Car Study Meeting, held at Holiday Inn. Early evening: BC/ML attended Missoula Downtown Association's Annual Christmas Party, held at Holiday Inn. JC attended meeting of West Valley Community Council, held at Frenchtown Fire Station.

Monthly Report - JC examined/approved/ordered filed the Monthly Reconciliation Report for Justice Court 2, Karen A. Orzech, Justice of the Peace, for month ending November 30, 2011.

ADMINISTRATIVE MEETING

Contract - JC signed. Between City-County Health Dept. and Logistics Health, Inc. to provide immunizations/travel consultation services through MCCHD's Out-Patient Clinic to County military reservists being deployed overseas. Two originals to Julie Mohr/MCCHD.

MOU - JC signed. Between MCCHD and Child Care Resources for day care/child care consulting services by providing RN and Administrative Assistant. Amount to MCCHD/\$25,396.80. Term/July 1, 2011-June 30, 2012. Two originals to Julie Mohr/MCCHD.

Task Order - JC signed. #12-07-4-31-031-0 to City-County Unified Gov't Master Contract for period July 1, 2005-June 30, 2012 between MCCHD and MT DPHHS (Immunization Program). Annual renewal. Amount/\$18,560 for 1st half of calendar year 2012 only. Three originals to Julie Mohr/MCCHD.

Addendum - BCC signed. Between County and Pimlico Studios, Inc.. Extends Option Agreement (dated 12/16/10) an additional six months for Lots 1-6, Missoula Development Park-Phase 5C. Option to Purchase valid until June 30, 2012.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated December 6, 2011. Amount/\$22,662.87. To County Auditor.

Letter - BCC e-mailed letter, dated December 8, 2011 to Occupy Missoula Participants, respectfully requesting them to re-shape the physical presence of its movement to address numerous concerns. BCC asked for a response by Monday, December 12th.

Resolution No. 2011-131 - BCC signed, dated December 7, 2011. To apply Canyon Gate Apartments Planned Variation (shown in Exhibits #1 and #2), to the C-R3 (Residential) Zoning District on the Canyon Gate apartments Development, located on Minnesota and Michigan Streets just South of Highway 200 East in East Missoula.

Letter - BCC signed, dated December 1, 2011 to Mark Olson/Tri-East, Inc., Missoula, approving Canyon Gate Apartments' Rezoning/Planned Variation subject to conditions (set forth therein).

Additional discussion item(s): None.

FRIDAY, DECEMBER 9, 2011

BCC met in regular session; all three present.


Vickie M. Zeier
Clerk & Recorder


Jean Curtiss, Chair
BCC

MONDAY, DECEMBER 12, 2011

BCC met in regular session; all three present. Afternoon: JC/ML attended Missoula Veterans' Court Christmas Party, held in the Courthouse.

Plat - BCC signed. Owners/Gary & Donna Bakke. Meadowlark Terrace, a two-lot subdivision of the E½ of Lot 42, Dinsmore's Orchard Homes Addition No. 4, located in the NE¼ of Section 30, T 13 N, R 19 W, PMM, Missoula County. Total area/2.36 acres (net lotted area).

Letter – BCC signed, dated December 12, 2011 to District Court Judges Deschamps, McLean, Larson and Townsend, regarding reapportionment of County's three commissioner districts, and attaching map showing current and proposed boundaries, as well as current and proposed population in each district. Hearing was held and BCC approved plan on November 16, 2011. [Judges approved/signed boundaries statement, dated December 12, 2011].

TUESDAY, DECEMBER 13, 2011

BCC met in regular session; all three present. Afternoon: BCC attended Annual Meeting of Airport Authority.

Replacement Warrant - JC signed. Vida Long, Missoula, Principal for Elections Warrant #30213721, issued November 17, 2011 on 1000-144 Fund. Amount/\$180 (for election judge). Not received in mail; no bond of indemnity required.

ADMINISTRATIVE MEETING

Grant Agreement & Resolution – BCC signed. Between City-County Health Dept. and Chippewa Cree Tribe of the Rocky Boy's Reservation to provide registered dietician for high risk WIC clients. Amount/\$3,600. Term/December 1, 2011-September 30, 2012. Three originals to Julie/MCCHD BCC also signed Resolution No. 2011-132 dated December 13, 2011. Budget Amendment for Health Dept. indicating Revenue/Expenditures in amount of \$3,600 for above agreement. For total disclosure, expenditures included in formal FY12 Operating Budget/Revenue Estimates for County.

Request – BCC approved revisions to County Vehicles/Motor Pool Policy (#2007-05 – replaces Policies 2000-01, 2006-03 and as adopted September 20, 2007. Amended is addition of last sentence to the policy's purpose: "Furthermore, while acting under the direction of the Missoula County Sheriff, reserve deputies, members of the County and Seeley Lake search and rescue units, and the sheriff's chaplain are also considered employees for purposes of this policy." Original to Barb Berens/Auditor.

Letter – BCC signed, dated December 12, 2011 to Patti Larson/USPS, Dakotas District, Sioux Falls, SD, opposing closure of Customer Service Mail Processing Center in Missoula. Copy sent to Montana's Congressional Delegation.

Additional discussion item(s): None.

WEDNESDAY, DECEMBER 14, 2011

BCC met in regular session; all three present.

CAO MEETING

Agreement – BC signed. STEP Agreement (#105984) between County and MT DOT/State Highway Traffic Safety office for grant funds to pay Sheriff Dept. deputy overtime/fringe benefit costs. Term/ October 1, 2011-September 30, 2012. Two originals to Brad Giffin/SO.

Board Appointments – BCC appointed following:

- 1) To Larchmont Board: a) reappointed Max Good to new 3-year term to 12/31/14; b) reappointed Peter Tucker to new 3-year term to 12/31/14; c) appointed Brent Harschburger to new 3-year term to 12/31/14;.
- 2) To MUTD: Appointed Andrea Davis to new 4-year term to 12/31/15.
- 3) To Zoning Board of Adjustment: a) reappointed Jerry Ford to new 3-year term to 12/31/14; b) appointed Larry Reichelt as Regular Member to new 3-year term to 12/31/14; c) appointed Mark Kobos as 1st Alternate to fill unexpired term to 12/31/12.
- 4) To Weed Board: a) reappointed Robin Innes to new 3-year term to 12/31/14; b) reappointed Bryan Deschamps to new 3-year term to 12/31/14; c) appointed Joan Wallenburn to new 3-year term to 12/31/14; d) appointed Paul Heihn to fulfill unexpired term to 12/31/13; e) appointed Jim Olivarez as 1st Alternate to fill unexpired term to 12/31/13.

Letter – BCC signed, dated December 15, 2011. To U.S. Representative Denny Rehberg, Helena District Office, supporting Forest Jobs and Recreation Act (S. 268), as it reflects a growing interest in western Montana for a collaborative resolution of multiple-use conflicts on public lands.

Additional discussion item(s): None.

Tax Abatement Requests – At meeting with Clerk & Recorder, BCC approved following letters dated December 17, 2011:

- 1) Approving request from Mark Sheets, Thompson Falls, for refund of Seeley Lake Refuse fees charged in error for Taxpayer ID #5822948.
- 2) Approving request from Gary Gosselin, Missoula, for refund of motor vehicle taxes/fees paid on Vehicle #2449797 (contingent on proof of sale).
- 3) Denying request from Dennis Round, Missoula, for refund of motor vehicle taxes/fees paid on Vehicle #AA0996685. Claim to insurance company can include registration/titling fees paid.

- 4) Approving request from Robert/Peggy Howard, Missoula, for refund of Seeley Lake Refuse fees charged in error for Taxpayer ID #978006.
- 5) Denying request from Christine Smith, Missoula, to refund penalty/interest for Taxpayer ID #533753.
- 6) Denying request from Brittany Day, Missoula, for refund of motor vehicle taxes/fees paid on Vehicle #3N1CB61E07L701853.
- 7) Approving request from Ashley Svihl, Missoula, for refund of motor vehicle taxes/fees paid on Vehicle #1840844 (contingent on proof of sale).
- 8) Approving request from Loren Johnson, Missoula, for refund of motor vehicle taxes/fees paid on Vehicle #1125838 (contingent on proof of sale).
- 9) Approving request from Kristi Lawrence, Missoula, to waive penalty/interest for Taxpayer IDs #2010041204, 1591006, 2010041205, 2010041206, 1590908, 1375855, 4283286, 90255805, 1589103, 1787101, since payment was made at Downtown Post Office on 11/30/11.
- 10) Approving request from Tom Hilley/Bigfork Garden Corp dba Sean Kelly's., Missoula, to write off Personal Property business taxes for Taxpayer ID #80805325.
- 11) Approving request from Linda/Larry Manchester, Missoula, to waive penalty/interest for Taxpayer ID #3522405, since payment was made at neighborhood POB on 11/30/11.

NO PUBLIC MEETING HELD THIS DATE**THURSDAY, DECEMBER 15, 2011**

BCC met in regular session; all three present. Late morning: ML/BC attended 2011 Transportation Best Practices Award Ceremony, held at Florence Hotel. Evening: ML attended Fair Planning Committee meeting, held at Fairgrounds.

ADMINISTRATIVE MEETING

Agreement – BCC signed. Between County Weed District and Blackfoot Challenge to support weed mapping along Blackfoot and Clearwater Rivers, as well as on MT Legacy Lands near Potomac. Amount/\$5,000. Term/May 1 – December 31, 2011. One original to J. Marks/Weed District.

Contracts – JC signed. Two (2) contracts between County and Otis Elevator Company for following:

- 1) maintenance of elevator in County Administration Building. Amount/\$2,328.93 per year.
- 2) maintenance of elevators at Health Department, PHC, Courthouse and Annex. Amount/\$5,579.52 per year (for five years).

Two originals to L. Farnes/Facilities Maintenance.

Additional discussion item(s): 1) Hazard Mitigation Grant Program; 2) Pimlico Studios.

FRIDAY, DECEMBER 16, 2011

BCC met in regular session; all three present. Morning: BCC held Press Conference on-site with new owners of Stimson, Western MT Development.


Vickie M. Zeier
Clerk & Recorder


Jean Curtiss, Chair
BCC

MONDAY, DECEMBER 19, 2011

BCC met in regular session; quorum present. JC ill/out of office through Tuesday.

TUESDAY, DECEMBER 20, 2011

BCC met in regular session; quorum present. JC ill/out of office through Tuesday.

ADMINISTRATIVE MEETING

No agenda items

Discussion item(s) None

WEDNESDAY, DECEMBER 21, 2011

BCC met in regular session; all three present. Morning: BCC toured new County Records Center.

Indemnity Bond – BC signed. Staci Skaw, Hamilton, Principal for Clerk of Court Warrant #37337, issued December 2, 2011 on Clerk of Court Trust Fund. Amount/\$492 (for child support/12-2011). Warrant lost.

Indemnity Bond – BC signed. Missoula Parks & Recreation, Principal for MCPS A/P Warrant #238427, issued October 12, 2011 on Federal (15) Fund. Amount/\$70 (for shelter rental). Warrant lost.

CAO MEETING

Counter Offer – BCC signed Counter Offer to Sun Mountain Sports' Buy-Sell Agreement to purchase portion (+/- 73,000 sq. ft.) of Park 9, Missoula Development Park – Phase 2 (per Addendums A&B). Purchase Price/\$189,000. Closing on April 1, 2012. Originals to Barb Martens/Projects.

OPG Form and Letter – BC signed Application for a County Variance on behalf of EWR, LLC's (Sun Mountain Sports) offer to purchase +/- 73,000 sq. ft. of Park 9, MDP-Phase 2. EWR wishes to proceed with a height variance request prior to purchasing property. BCC signed Letter (as Owner of property) to OPG/County Board of Adjustment supporting same. Originals to Barb Martens/Projects.

Contract – BCC signed. Between County and Missoula Economic Partnership (MEP) for provision of economic development services and additional County match for rural focused businesses. Amount/\$50,000-\$60,000 from MDP land sale account. Term/September 1 – August 31, 2012. One original to MEP.

Additional discussion item(s): None.

PUBLIC MEETING – December 21, 2011

1. CALL TO ORDER

Commissioners Present: Commissioner (Chair) Jean Curtiss, Commissioner Bill Carey, Commissioner Michele Landquist

Staff Present: James McCubbin, Deputy County Attorney, Marnie McClain, Deputy County Attorney, Aaron Wilson, OPG, Jennie Dixon, OPG, Nancy Heil, Rural Initiatives, Mary McCrea, OPG

2. PLEDGE OF ALLEGIANCE

3. PUBLIC ANNOUNCEMENTS

WOW Bus – MPL Mobile Branch traveling around the County

4. PUBLIC COMMENT

Occupy Missoula – Commissioners Statement

5. ROUTINE ADMINISTRATIVE ACTIONS

Weekly Claims List (\$2,516,297.79)

Executive Session

Commissioner Landquist made a motion that the Board of County Commissioners approve the weekly Claims List in the amount of \$2,516,297.79. Commissioner Carey seconded the motion. The motion carried a vote of 3-0.

6. HEARING (Certificate of Survey)

Wilson (Kim) Family Transfer

Jennie Dixon read the staff report and asked Ms. Kim Wilson the standard Family Transfer questions.

Chair Curtiss: So in the end there will be two lots in the two kids' names, even though you live there?

Kim Wilson: Yes, each child will have a lot entrusted to them in the trust.

Jennie Dixon: I don't believe that Ms. Wilson resides there, is that correct?

Kim Wilson: I don't.

Commissioner Landquist: It was explained to us in a briefing meeting that originally all three of these tracts were one piece of land and at some point a parent of yours, or something, had done a family transfer but never filed it or something?

Kim Wilson: I had applied for a family transfer and originally had planned to put the boys names on the different lots and then I had gone through a divorce in 2008 and that's when it became a judicial subdivision and to do some family planning I sold two of the lots and now I'm left with the one piece. So I'm continuing my family planning or financial family planning.

Chair Curtiss: Staff recommendations also suggests for easements for the shared well and the shared driveway, so that would be something that would be reflected on the plat by the surveyor.

Jennie Dixon: Is that a recommendation from staff?

Commissioner Landquist: So how does sanitary review apply to this parcel then?

Jennie Dixon: My understanding is that they need to go through sanitary review for filing the COS for the two different tracts to get approval on those two tracts.

Commissioner Landquist: So at that time that's when things will be added, the language will be added to the plat probably, according to what sanitary review decides.

Jennie Dixon: Yes, when they file the COS for the two tracts that's where the language would...well the language and also depicting any easements that we recommended; the driveway and the well easements. Which is certainly to the benefit of her two children to have easements for mutual use.

Executive Session

Commissioner Carey made a motion that the Board of County Commissioners approve the request to create one additional parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

7. HEARINGS

a. Boyer II Open Space Bond Project

Nancy Heil read the staff report

Kayla Pelahoyt, Five Valleys Land Trust: Read proposal and showed PPT presentation. Land is owned by Joe Boyer, who is here with us today. The County request would be matched by Federal Farm and Ranch Land Protection Funds, Land owner donation and funds from Five Valleys Land Trust and the local chapter of the Audubon Society.

Joe Boyer: Thank you very much for your consideration in preserving this. It's real important to me and the ancestors all gone past. You never know when something might happen to you and I think it's my obligation through your help to let her set, whoever gets it, whatever you people put in the situation they have to be farmers and ranchers and honor the land and the people of the past. I really appreciate what you folks are doing. Thank you.

Chair Curtiss: Thank you Mr. Boyer. Thank you for your stewardship of the land all these years; you and your family.

Public Comment

Juanita Vero, Missoula Open Lands Committee: Our committee enthusiastically supported this project. The ranch is authentic, it's Five (5) generations working cattle ranch, this isn't a hobby farm, it's not a gentlemen's ranch, it's the real deal. There's a kaleidoscope of birds species here that depend on this property.

Commissioner Landquist: I not only want to thank all the people involved in helping make this come through but I also want to thank Joe for being such a good steward of the land. It is a working landscape, productive and the living with wildlife that you employed there. It's wonderful to have something like this in Missoula County, yet another wonderful project and another wonderful example of what the Open Space Bond money is getting used for ~ true blue working landscapes. Thank you Joe and everyone that helped make this possible and including the voters and taxpayers out there that for many future generations, not just here and now.

Commissioner Carey: I'll second those thoughts.

Executive Session

Commissioner Landquist made a motion that the Board of County Commissioners approve the expenditure of 49.5% of the appraised easement value in an amount not to exceed \$198,000 in Open Space Bonds funds via the attached resolution, for the purchase of a conservation easement for the Boyer II-III project, based on findings that the project qualifies for funding, recommendations of the Open Lands Citizen Advisory Committee, public hearing comments, and staff's analysis. Commissioner Carey seconded the motion. The motion carried a vote of 3-0.

b. Missoula Irrigation District 310 Permit (Log Grate) near Van Buren Pedestrian Footbridge

Marnie McClain read the staff report.

Molly Skorp, Morrison & Maierle: Representing Missoula Irrigation District. I work with a lot of Irrigation Districts and most districts have provisions in place to prevent debris from entering their systems. Missoula Irrigation District didn't have that mechanism because we had Milltown Dam here for the last 100 years to help prevent debris from going down stream. With the removal of the dam there was significant incidences that caused the District to contact the EPA to get involved. The EPA solicited Morrison & Maierle's help to do it and let's see what can be done here. The findings of that report were to put a grate right in front of the structure. The EPA assisted the District with participating in the funding for this project. Here we are seeking a permit. Essentially we'll put a grate attached to the existing structure and crossing the channel and what will happen is logs will float down that channel there and hit the grate and then ricochet in high water over that concrete diversion. In low water, the plan is that the District...the waters too low to spill over the spillway so the District will need to come in there with a piece of equipment, not in the channel but off to the side of the channel on top of the structure...reach in, pick up logs and push them over the diversion. FWP was in support of keeping debris in the river for fishery reasons. We would like to go to construction this spring before high water. The one discrepancy we had from the comments from the County Public Works is that the contractor thinks it will take about three weeks to get in there to appropriately dewater, setup forms for the footings, tie rebar and pour concrete and let that cure. Another clarification in the permit request is for the District to have the right to go in there and maintain that structure without having to go back to you for a permit every time they clean off debris.

Chair Curtiss: So you're saying that you have spoken with someone who's experienced in doing this kind of work and they feel three weeks is what they need?

Molly Skorp: Correct. The project did go out to bid, we have not awarded the project and we're seeking some...well it's finalizing the permits and wrapping up the funds as well but we did get input from the apparent low bidder and they do think it will take about three weeks. The actual structure is comprised with steel beams and then concrete piers to hold up the beams so they'll be about 80 feet across because it's at an angle and it warrants that length. There'll be an OSHA compliant walkway over the structure to allow the District to walk along above it and collect debris that's collected on the grates.

Marnie McClain: I have a question about the operational aspect of it; In terms of getting in to take things out, is the idea that equipment would be put into the stream or would it be removed from above?

Molly: The idea is that it will be removed from above. It would be very difficult to get equipment in the stream there; it's a deeper channel in that area. The plan is to stay either on the trail side or roll across the intact onto the other side and reach over with an excavator and pick off debris and flip it over that diversion into the river.

Marnie McClain: So I don't think that meets the definition of a project and wouldn't require a permit. That's something you can do as maintenance. Given there's no equipment in the stream.

Public Comment

None

Chair Curtiss: We talked about this a little bit this morning when we met with the Attorneys and would suggest that we have Public Works inspect the finalized project and report back to us how they think it's built.

Commissioner Landquist: I have a couple questions about the Missoula Irrigation District and this head gate. Do they have other head gates throughout Missoula Area or is this one of their primary ones or what?

Molly Skorp: This head gate feeds there entire system.

Commissioner Landquist: I've noticed from the pictures that there's no fish screens on this are there?

Molly Skorp: No, there are no fish screens on this.

Commissioner Landquist: Missoula Irrigation District seems to be a pretty large district in Missoula County and seems to be as a result of its size and irrigators that belong to it sort of seems lucrative to others. Have they ever come to you or come to conservation district to talk about fish screens for their Irrigation District?

Molly Skorp: What Missoula Irrigation starting doing and this is an excellent opportunity for them is they're starting to get in the cycle to get grants from the DNRC renewable resource grant and loan program. So they just recently within the last couple months that have (un auditable) a grant, a small grant to take a look at their entire system and prioritize which projects are most important in their system. So right now we're working with the District to catalog their entire systems, part of that will be looking at the intake structure and what improvements are needed there. We're already in the back of our minds looking at what sort of fish screening could be appropriate at this site. So upon completion of this capital improvements plan the District will have that tool to look at priority in their systems and what project should be worked on next. The other grant they just received this year is looking at a canal lining project in a different portion of their system. These grants that come up through the DNRC are available every two years and it's my understanding that their intent is to capitalize on this grant program and now they'll have a capital improvements plan that will help them get through that process. I do know for a separate District in a different county, I'm working on a similarly sized canal and that District is putting in a fish screen now for this flow which is similar to what they have. That fish screen costs about \$300,000, so they're not cheap. For that project we obtained a couple different grants. What the District could do after they finish this project they are working on now, is look to the future and see, is the fish screen the most important project in the system or other projects that may affect public health and safety important projects? So it would be a matter of balancing out those priorities and obtaining grants. So I know they are committed to continual improvements to their system and I would certainly like to explore opportunities down the road to get grants to help fund these projects.

Commissioner Landquist: I just wonder, maybe our County Attorneys can give me some advice on this; would it be out of line for us if we go ahead and approve this and give the one condition that we already talked about such as having it inspected when the work is done that we add the caveat to that to ask the Missoula Irrigation District to continue to pursue future improvements that would benefit the overall health of the stream and the fisheries or would that be out of line?

Marnie McClain: I think it's not a condition that you can attach to this permit but you certainly could add it separate from the permit.

Commissioner Landquist: Well then I'm doing that now and exercising my right to make that recommendation to you in a free spirited way to recommend that the District do look at things that they can do in the future that would protect and benefit the fisheries and the health and welfare that you talked about. I understand how important irrigation is so I'm not trying to throw any obstacles out there to anybody that's going to hinder people being able to utilize that water for irrigation purposes but by the same token I know how many fish and other biologicals are lost every year to the irrigation ditches and I find that sort of tragic.

Molly Skorp: Thanks and if I may just request one more item from the board; is that when we're applying for these grants whether it's through the State or FWP, it certainly helps the grant application if we have letters of support from the Commissioners so when a project comes up we'll probably send you a letter asking for your input and it would help us if you could write back.

Executive Session

Commissioner Carey made a motion that the Board of County Commissioners approve the Districts 310 application to install a log grate for the existing Missoula Irrigation District (MID) canal control structure with modifications to allow three weeks to work on the dryland project and subject to the Public Works inspecting the final project. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

Chair Curtiss: Based on the comment from the Engineer, the three weeks is needed so under Greg's recommendation to try and make that as short as possible and I'm sure they would like to make it as short as possible. We don't want to keep them from getting the work done in time.

Marnie McClain: And I'll write a decision letter for you.

c. JTL Special Zoning District Amendment (South of I-90, ¼ mile West of Reserve)

Aaron Wilson read the staff report – ppt

Commissioner Carey: You've capitalized Public Works in one place but not in a couple other places; are we talking about the County Public Works Department?

Aaron Wilson: I would include in that City Public Works, County Public Works, MDT, public agencies that require these night time construction projects, the Airport would be included, they're a big user of night time construction.

Elaine Hawk with pLAND Use Consulting representing Knife River: Would like to thank OPG planners Janet Rhoades and Aaron Wilson for their assistance with processing this request. We've worked closely with them to address the needs of Knife River, the various public agencies and as well as to balance the communities concerns and provide mitigation for potential negative impacts to the joining neighbors. It is our intent that the proposal before you adequately addresses three important considerations of the request, and these are; 1) addressing important community needs, namely the ability to provide infrastructure on services that are cost effective in a manner that is safe for the traveling public. 2) Also protecting the ability of Knife River to operate on an equal playing field in competitive market. 3) Insuring minimal negative impacts to nearby residents of the Knife River facility. As Aaron stated the original approval of the JTL district was received in September 1998 and was subject to 13 conditions. And I did prepare a little bit more on addressing the community needs as reflected in growth policy but I feel like Aaron did a pretty thorough job of going through that so in the interest of brevity I'll skip ahead but just know if you have any questions on any growth policy related items, I'm happy to go back to that. We do agree with the public agency comment asserting that there is a direct community cost savings when competitive bids can be secured locally. Market competition and its influence on supply and demand is a pretty economic principal. The restriction or inability of a given company to engage in work that is permitted by others in the community restricts the supply of service. And when a portion of supply is restricted there continues to be demand, and there continues to be demand for those services it is reasonable to conclude there would be increases in cost. Particularly in this situation where there's only one other game in town. However, we would also like to add that in addition to the community costs of a less competitive market the inability for Knife River to compete on Public Works night time projects also hinders their ability to provide for their local work force, this in turn compounds negative impacts to the community and the local economy. Knife River employs roughly 150 people at the North side pit, paying an average salary of \$18.00 an hour, plus \$8.00 an hour equivalent for health insurance and retirement benefits. This is roughly 8 million dollars of locally earned wages and benefits that the Knife River work force brings to our economy. There have been significant shifts in the market since the creation of the original JTL district back in 1998. In previous years as reflected by the absence of any requests prior to 2008, there existed enough service demand that Knife River could operate while adhering to restrictions without any threats to their labor force. However, we know that today there are significantly work requests in what has then become a much more competitive market. Under these conditions the inability for Knife River to equally participate in bidding for night time projects has meant a loss in potential revenue opportunity for Knife River and if Knife River continues to lose revenue to other unrestricted companies their ability to support their work force is being impacted. In regards to addressing potential negative impacts, as a private land use planner my client's needs are very important to me but they are not the only consideration when I review a project and its context. It is important to me to look as well at the environmental contexts in which it exists. As Aaron indicated there are residential areas in close proximity to the site. Over the course of the past variance request and through this process there has been some feedback from the adjoining property owners and in the packet this is attachment 13 and 16, pages 8-10 and then since the packet was been submitted there has also been 3 additional letters which are included in your OPG Staff Report. Generally the concerned identified were noise associated with the extension of the operations on site, such as the back-up beepers, sleep disturbance caused by night lighting, dust and fear that the night time operations would be similar in impact to those of day time operations. In response to those comments I would like to

address the following issues; As far as noise, the backup alarms on the trucks used for the night time operations will be switched from backup beepers to strobe lights, to mitigate the potential noise disturbance. No noise will be admitted from the strobe lights; warning is indicated, of course, officially by flashing lights on the trucks. The switch to the backup beepers will (in auditable) at various times of the day, depending on the time of the year, of course because of OSHA's standards they can't switch until people can see the light and it's actually dark out. But in those situations, in winter months, when it becomes dark early, when people are still up and it might be disturbing, they will switch to what's called a white noise beeper and it's not a traditional beeping sound, it's kind of a broken up sound and it doesn't travel the same way as the loud beep would do. In regards to lighting, there is currently no plan to install additional lighting fixtures to the facility for the night time operations. There is a landscape berm inclosing the majority of the facility and the operations floor is in access of 20 feet below...lower than the surrounding properties in the berm and you can see that in the photo gallery that attached to your packet and you saw it in the photo's presented by Aaron. All operational lighting does sit well below the direct visual exposure and all existing lights within the operation area are currently down-lit to minimize light exposure to the night sky and subject to the OPG condition of approval, if any new lighting is installed it will also be down-lit. The landscaping and berming combined with the lower elevation of the operational area will mean that the strobe lights on the trucks used to mitigate the noise will not create a visual disturbance outside of the operational area. In regards to similarity to daytime operations, truck travel and the number of employees present for night time operations will be significantly less, roughly 20% of daytime operation work load. There will be considerably less impact by truck travel and employee movement as a result. And also where you saw the star on Aaron's exhibit, you'll notice that was placed in the location to minimize the impact to that adjoining neighborhood, it's at the very bottom. Over the past projects where they have operated at night due to the...with the authority of the variance request, there only operated for a number of days, just a hand-full of days, of course there could be projects that would require them to operate for longer than that, it would just vary on the project need. In any situation what they try to do and I'll explain this in a little bit more detail once I move on here but they do have storage tanks that they use and they would keep those as full as possible during the day and use what they have in storage, it's only in the situations that they run out of the stored material that they would then need to trigger use of the asphalt batch plant. Finally the request does not pertain to any crushing or grinding of materials, only to the batch plant operations and I'll explain that in a bit more detail here shortly as well. In regards to air quality, the Knife River facility is regulated by the DEQ through the Missoula City-County Health Department for air quality issues, such as dust. The pit currently exceeds air quality standards and night time air quality operations will continue to be enforced by the Health Department. Additionally, Knife River is required to notify the Health Department of changes in operations for each instance that there is an occurrence of a night time project. The Health Department did not express any concerns over the night time operations during the past two BOA variance requests processes and the Health Department has not sited Knife River for air quality violations during either of those two instances. Knife River will continue to meet and or exceed air quality standards as set by the DEQ and enforced by the City-County Health Department. In May 2011, this is attached 22 in your packets, there was a letter from then Mayor Kadas to JTL, now Knife River and it heartily commended them for the cleanup and landscaping and berming work that they did to what was once in his words, "a blight to the entrance of Missoula." Knife River has every intent of maintaining those landscaping and berms, their high quality air standards, utilizing technology that reduces sight and sound of operations and in short making every effort to ensure neighbors are minimally impacted. To further explore the issue of impacts to neighbors I would like to shift now to addressing the Planning Boards recommended condition to require Knife River to install a berm or other blockade wall to the perimeter of the property along the ____ Road frontage. So know I'll ask Aaron to start that first slide.

Showing PPT Presentation

So in conclusion of this issue of the berm, in response to the night time operations that have occurred through the variance authority no known complaints to Knife River have been received over the past two years and even before this condition from OPG, Knife River has been informing and notifying the residents of the adjacent residential areas, no one has commented. Only one letter in response to the current request directly mentions operation sounds and public agencies the other comments, everything was really focused on the truck and employee noise and again, that's where we focused as well prior to Planning Board. And no public attended the Planning Board Hearing despite two years of the occasional operations happening over the course of the past two years with those variance requests. And as you guys are aware particularly with gravel operations, I feel like that's fairly significant. The potential increase and impact of the sound of the asphalt batch plant, during these occasional night operations is relatively minor and we believe is mitigated by the topography, the distance of the equipment being over 500 feet away, the stock piles put in place and that other landscaping and buffering. We believe that Planning Board and again, this is...we take responsibility for this, didn't have as much of the information, therefore their perception was a bit skewed about what the sound was and wasn't necessarily based on reality of the sound but kind of a general perception of it and industrial noise. And many Missoula residences live happily near railroad lines and again these folks live by the interstate and other sounds as well. The way that Planning Board talked about it is that it would be very disruptive and we really...it won't be. Planning board recommended condition to berm the frontage of Wilby Road is not concurrent with the character of the area because it is a transitional zone and it's not concurrent to the burdens that have been placed on other users in the area, for instance MDT or the other commercial and industrial companies. The Planning Board recommended condition does not seem proportional to the relatively minor change in the zoning. Implications to the physical layout, the existing infrastructure, the cost of installations and long term maintenance far exceed the potential for increased noise disturbance at night, due to the operation of the asphalt batch plant and the condition didn't seem to recognize the existing mitigation efforts. Findings of Fact conclude that mitigation proposed through minimum building setbacks maximum building heights, landscaping and buffering of the original districts did mitigate any potential negative impacts and those are in your Staff Report as finding #7 on Page 8. The condition also did not appear to weight the public benefit reported by many County, State and Federal agencies with that of the

mitigated and contextually minimal nuisance that would potentially result if the zoning amendment is approved. Again, there were minimal letters of opposition to request and no public attended to oppose the project as well. Finally, if Planning Board did not offer any newer supporting findings to justify the requests and we believe that the OPG Staff Report did offer support that we were mitigating appropriately. So, in conclusion overall a detailed review of the County zoning criteria was provided to you within the submittal packet as well as a project summary detailing the history of the site, the past request, the intent of this request and the comments received. After review of these materials OPG has prepared a very supportive Staff Report outlining conditions and findings that support the conclusion of law that this rezoning request meets the zoning criteria and should be approved. I encourage you to consider all that has been presented by staff, as well as by planned and hope that you too will find good cause for approvals. I look forward to your discussion and invite any questions for clarification or additional information that you may have and of course Knife River Staff are here as well if you have anything a little bit more specific that they can help with. Thank you for your time and consideration.

Chair Curtiss: Elaine, do we know how many decibels we're talking about?

Elaine Hawk: We do not and between Planning Board and this meeting, that was my first question, is can we get that information to you guys. Unfortunately, they cannot operate the batch plant right now so we would have to wait until spring to get that information to you.

Chair Curtiss: There's not an industry standard or...?

Elaine Hawk: No, and the last time that they measured it was decade ago and we couldn't find the records.

Chair Curtiss: So the previous approval of temporary night time operations went through the Board of Adjustment because it's zoned and this is asking for us to give you that permanent ability to that but only on jobs that require night time work.

Elaine Hawk: Only on jobs that are Public Work projects and that require that within the bid specifications and yes, they did vary through BOA because it was a variance from the zoning and this would be a permanent change to that.

Chair Curtiss: And this would not allow them to work all night to fill up the silos so they'd be ready for morning, it would be for those specific jobs.

Elaine Hawk: Absolutely, it would be for those specific jobs. And they would be required to notify Health Department and OPG when those activities would happen, as well as the residence of the area neighborhoods.

Commissioner Landquist: How do other companies that are gravel pit companies that bid on projects that are done at night operate? Are some of them located in areas where operating at night is not a problem?

Elaine Hawk: They're located within base zoning districts so they have no special district standards. This is a special district so it has significant amount of additional controls, pages and pages compared to one page zoning district.

Commissioner Landquist: So then if a project is going out for bid and they want to bid on it and they don't have this in place, then for each one they would have to go through a separate process, if they were awarded the bid to get a special variance and that's, I imagine, takes time and money which drives the project up compared to just having, sort of the opportunity to freely bid on projects that might require night time work, knowing that if we were awarded the bid we can operate at night, make the notices known to the neighbors and so that between these dates were going to be working at night. It gives them, JTL (Knife River) the clear concise to spend the man hours to put out a bid if they don't have these extra hurdles of financial obstacles.

Elaine Hawk: And that's part of it, essentially you would be preemptively permitting that so that they wouldn't have to go through that process every time. And not only is there a cost associated with going through that and just kind of the trouble while on top of trying to get a bid put together. It can be something that they can't do, as you know, these processes take time preparing the application, getting to the Board of Adjustment Meeting. They've often had these come up and they just don't even have the time to process the variance request so that can be a problem in itself.

Commissioner Curtiss: Currently they can haul gravel on jobs at night; they just can't operate the batch plant.

Elaine Hawk: Yes, they cannot crush gravel at night but they can haul.

Commissioner Landquist: The road network that this is in the truck will most likely not be traveling fast enough to end up needed to use air brakes, which can be noisy as well, right?

Elaine Hawk: Can you throw up that aerial, Aaron? Yes, the location of the exit is in a fairly tight spot, there's not really enough time to get up speed. They don't have enough time to pick up high speeds around that corner, nor should they be driving in high speeds anyway.

Public Comment

Commissioner Carey: Questions for James. James, if for whatever reason this wasn't working out over time would we be able to change it back to the current? I mean, how easy is it to undue this if it isn't working?

James McCubbin: It would be difficult to undue. It's technically possible to amend zoning but it would be difficult, it's not unsurpassable ~ any time you change zoning regulations you raise the possibility of saying that you're pursuing regulatory takings, basically. This change could raise that issue with the neighbors if their property values diminish, that's a regulatory taking. There's always a negative impact of any regulation on somebody because it restricts something, or enables something else. So if this site was allowed to have increased night operations and later on you decided that's really not working out while they're restricted again. You could do it but obviously you're going to have a negative impact on their business so you're going to have friction on doing that at that time.

Commissioner Landquist: So you can't make it like a hunting license and say we'll give you two years and look at it and review it again in two years' time?

James McCubbin: Never specifically looked at a temporary zoning change, my instincts are that's problematic.

Commissioner Landquist: I try to think outside the box.

James McCubbin: If you really want it to be a temporary thing, continuing on the way we are with basically a variance process, is what that is. But that is obviously less efficient for Knife River.

Commissioner Landquist: I'm trying to find the middle ground here because I did read some of the public comments, letters that were submitted and understand that people bought houses in that area knowing there's a gravel pit there but these are their hours. By the same token I understand that sometimes road construction job take place at night because it's a benefit to the public because you're not interrupted when you're commuting going from point A to point B. So we all have to try to find that middle ground and that happy place to operate under. And of course, Public Works projects really are taxpayer dollars paying for these Public Works projects so whether its Federal, State or Local, of course, we want the best bang for the money and want those projects to take place cost effectively and if it's a little sacrifice on the folks living nearby to have to put up with noise periodically to make those things happen, then I'm okay with that. But I guess I'm trying to find, like Bill was saying, is there some way if it wasn't working out if it became overly problematic that we could revisit it somehow so that's why I thought of maybe there's some way of trying it out for...like a hunting license or other licenses. Try it for two years and give them that leeway and let's see if it works out for folks because this is just for temporary...occasional projects.

James McCubbin: I'm really not thinking of a way to do that because what's been asked is to change the zoning regulations. You're essentially talking about interim zoning but interim zoning can only be done to address some kind of emergency, there's none here.

Aaron Wilson: One suggestion that was made that you could potentially limit the number of days consecutively that you could operate at night. So say you could only do 5 days in a row or however many days you think is reasonable or set a total limit of say 30 days between April and November of any given year, I don't know if that would decrease the impact or if that's something you could...

James McCubbin: Along those lines, specifying the number of days is probably difficult because we don't know what the projects would be but instead of making it just a permitted use here, right now it requires a variance. What if we put it in as a conditional use for the district?

Aaron Wilson: So they would have to go through the conditional use permit?

James McCubbin: You would but that's a lot easier than a variance. That's an administrative review, if it's not a variance so it's not permanent blanket permission but we'd have to have parameters for the condition of the use.

Commissioner Landquist: A use gets approved by whom?

Commissioner Curtiss: Usually the Planning Office if it meets the parameters. That we don't have defined yet.

Elaine Hawk: Just a couple comments; I failed to mention that the Health Department also does regulate for sound, so the sound would have to be within those regulations and could not exceed that. As far as a trial period, in a sense the past two years with the variance request has been something of a trial period and I would just note that.

Commissioner Curtiss: Do you know if anyone complained during those two times?

Elaine Hawk: No complaints and again it was notified every time so people knew it was happening and folks that were aware or hyper aware certainly if they had complaints probably would have made them. In another just consideration with this area, with all due respect to those residences, I'm certainly sensitive to the situation but a consideration that they made when they looked at purchasing their properties and at a lower prices, that's part of the trade off when you purchase in an area like that. I personally like being closer to commercial and industrial properties and every time I'm looking there also cheaper, so it's kind of nice. That is a conscious choice that they made and again this will be a very minimal change and we're very conscious of impacts and minimizing those and of course would like to keep it as simple as possible so that they are able to get their projects submitted.

Commissioner Curtiss: So these two letters that are attachment B to Planning Boards Staff Report, they came in after the Planning Board Hearing?

Aaron Wilson: No, they came in before the Planning Board Hearing.

Elaine Hawk: But after the submittal.

Commissioner Curtiss: I'd be interested in having someone from JTL answer this question. My question would just be would some sort of limitation of days be acceptable to you?

Allred Hail, Manager for Knife River: The only problem with the limited number days is not knowing what's coming to bid. The problem we have is we don't know what project is going to come up to bid and if it...in all that time that I've been around here the night time work has been very, very limited of what had to happen, it's typically only a few days here and there. But, there's always a possibility that an Interstate 90 project could come through to overlay Interstate 90 that might take 30 or 45 nights to do. I haven't seen that happen but it could happen and I'd sure hate to be sitting in our position right here in our community with the gravel source and hot plant and have someone from out of the area come in and do that project because we had to go through the board of adjustments and ask for an extension for more days. Not to get off track here but the timeframe is really critical to us. Anymore with MDOT project you usually have about a two week notice that the jobs going to come to bid and then you bid the project and then the notification or the board usually comes within about a month timeframe. The risk of bidding a project without knowing if you're going be allowed to actually work at night, we couldn't take that risk. This whole thing started back last March with the Lolo...there was a little project in Lolo that took about 3 or 4 nights to pave and we couldn't bid it out of our normal plant here and we looked into the variance and we ended up being...the proper channels at that time were to go back through the board of adjustments. We couldn't bid it that way, there wasn't enough time we bid it at that time to bring a portable asphalt plant that we owned, not from here, set it up at Target Range, haul the aggregates from this pit down to the Target Range facility and that's how we bid the project. We weren't successful; we lost it by about \$6,000 was all. In the interim we were setup to go see the board of adjustments and we were granted a one year, or till next March I can't remember exactly when it was, my point being...we lost that work and it was only a matter of a few days and someone else got it. We could have had that. So limiting us to a number of days for a year, to me would be really, for us not very favorable. I can't stress enough that it doesn't happen very often. I hope I answered your question.

Chair Curtiss: Yes, you did. Mary, I have a question for you. If we went along with James thought about a conditional use permit, tell me what the process and timeline would be there. Would they be guaranteed a quick answer or would it depend on how busy you were, or how would it work?

James McCubbin: And maybe, what would the difference be between that and what's been suggested or I haven't thought about what you (in auditable) might be.

Mary McCrea: Conditional use permits are processed through the permit section, I can't really say because I'm not one of the ones that manages that staff that processes those. I'm guessing it would be probably a couple weeks; it would depend on if what they submitted was adequate for us to process or if we had to wait for additional information to be provided.

Commissioner Curtiss: Because what this is, is a conditional use as allowed by the zoning so we'd have to put parameters

Mary McCrea: Correct.

James McCubbin: Which would probably relate to the number of days so you could suspect that same problem.

Mary McCrea: That was the next step, I was trying to think of what sort of parameters you would put and I guess, you know, it's a balance between how many nights someone in adjacent residential neighbor might have to put up with the noise and what is reasonable. And maybe how many times over length of time frame that they'd have to think about whether they want to take vacation for that week or whatever, when that was going to happen if they wanted to avoid it.

James McCubbin: Here's a thought; the berm is something that would address some sound and site, whatever but it does seem spendy for what is being specifically proposed for a limited number of days it's not worth doing, if this were running every night all through the season, it would seem a berm would be more justified. What you could do is say that ~ zoning is limited to night time operations up to a certain number of days per year unless or until a berm is installed.

Mary McCrea: We did consider whether or not we should require a berm because now with this change, there is residential adjacent. It was a difficult decision, we had to look at the past record of only two variance applications have come in and those only ran for a number of days. The residential development was aware of this operation before they came in; they had an option to do some of the berming themselves. What we do a lot in zoning is try to balance...the growth policy talks about having industrial use where existing industrial is so you're not eating up additional Greenfield's. Looking at it, we balanced all those things, knew it was for only Public Works Projects and limited time and thought the cost of a berm, a berm too we couldn't say 'it's going to reduce the sound by this many decimals'. I think sometimes, I think an acoustical engineer...someone would have to take a look at it and show us what height and what amount of vegetation or maybe it's a wall or some other element would really limit the sound because a berm I think is very good for the perception of nuisance because you don't have to see it. But at night when you're thinking or looking at just noise,

is really going to be the disruption. We couldn't come up with a measurement that this was actually going to reduce the sound by an amount that would be worth the cost of it.

Commissioner Landquist: Some of the other obstacles that the other consultant pointed out to us were the utilities and then I think also during Admin she mentioned, when the subject came up, that originally there was a berm...a longer stretch of berm and the developer of the residential property took part of that down on their property.

Commissioner Curtiss: That was further down.

Aaron Wilson: On Wheeler Drive. I was also going to add on to what Mary said; we had also discussed additional land...possibility of additional landscaping or some other kind of feature along that but it comes back to the decibel levels and the actual noise. Those kind of things are good for improving the visual aspect of that.

James McCubbin: We heard in the presentations to the Commissioners, there's been presentations about sound like along the Highway here so that'd be up the Rattlesnake and it's only a wall or a cinderblock wall or a berm that blocks noise ~ trees don't block noise.

Commissioner Landquist: There are some really good arguments both ways, I wish there was some way we could conditionally approve it until we could measure those decibels maybe this summer? But, I don't know.

Commissioner Curtiss: But if they don't have anything happening at night and we know that it depends on what's happening because at the fairgrounds we might get a complaint from up on the hill and we might get it from the neighbors next door. So you don't know. The concert that was in the neighborhood, I think most of the people that called us lived out Mullan Road so you don't know where sounds going to go.

James McCubbin: Mary mentioned a wall ~ has a wall been considered by OPG? It takes a lot less space obviously.

Aaron Wilson: Yes, I think it Planning Board also considered and their recommendation was for a berm or some other physical wall and it was to get options but my understanding is that concrete walls are pretty expensive as well so the cost aspect of that might be another...

Commissioner Curtiss: Along Russell Street where they built those new houses they built the straw bale wall. I don't know if it helped or not, it's nice looking.

Elaine Hawk: I have a question for James, why would it be difficult or is there something we could do to make it easier for Commissioners to have a check-in period in a few years?

James McCubbin: I just don't see how we can change the zoning but have it be for only a period of time without having to come back and go through a full zoning amendment process anyway.

Elaine Hawk: Could it be written into the approval that it's for a 3 year period only? No, you can't do that.

James McCubbin: See that's what I'm not thinking of a way to really do that. I think the options are approve as proposed, approve with Planning Boards condition. You could approve it for up to an operation of so many nights per year and then if that didn't turn out to be enough nights we could have another zoning change for that or there could be variances to go beyond that number of nights. Again, that gets into the problems of what if you have that...that business is going to take two days longer than whatever number we come up with. So any of them are difficult but I think any of those options are within your discretion based on the record we've got or denial is an option as well. If you just determined it's not acceptable to put more burden, even if it's marginal to put more burden on decent residential neighborhood. I think you have really the full range of options here.

Elaine Hawk: And along those same lines maybe something that could work is giving them a fairly lengthy...I don't know what the day would be but some kind of number of days and then after that amount of days they would have to come and get a conditional use permit since it is fairly rare that that happens. So they would be permitted to operate with a little bit more leeway, I'm not sure, just a thought.

Aaron Wilson: I just want to point out really quick that I think the Staff Report had the wrong JTL language attached; it has the Planning Board recommended changes attached so I have the actual original staff report. It includes languages for a berm and...

Executive Session

Chair Curtiss: So what has come to us though is Planning Board's recommendation so that what we either decide to accept or modify their recommendation, right?

James McCubbin: Yea I suppose. The important thing is just to make it clear whatever your decision is.

Chair Curtiss: And it looks like they made two suggestions. One is some notification language and then the other is the berm.

Commissioner Landquist: So one of their recommendations was the berm but...

James McCubbin: You're not limited to what they came up with if you have some other mitigating condition. You choose to pursue.

Commissioner Landquist: Well, I think though that Elaine Hawk, JTL's Consultant explained to us that some of the information wasn't available, or wasn't made as clear to the Planning Board as it was made to us with the extra expense of doing that berm. Give me a signal if I'm getting some of this right or wrong Elaine; the expense of the berm, the utilities, the parking lot and stuff that that might be more trouble.

James McCubbin: Similar to a Subdivision process where you have additional public comment after Planning Board or additional presentation information from the developer, you certainly take that into account and if that addresses something that Planning board didn't address, that's absolutely appropriate for you to take into account.

Chair Curtiss: I don't see anything in the noise section that you just handed Aaron that refers to what she was calling a 'white light'. Can we add that somewhere? Sounded like from 6-dark or whatever that there was another option besides the regular beep, beep, beep noise.

Aaron Wilson: Right and I think that came up after the Staff Report was written. It actually came up at Planning Board so we could add that language in.

Chair Curtiss: Elaine, could you tell us about the other thing? You said there was some other kind of sound beeper that wasn't as obnoxious.

Elaine Hawk: I thought that was in my submittal to you, the original submittal. It's called a white noise beeper, I don't know if that's a technical term.

James McCubbin: The language as propose in I think both versions of the zoning amendment calls for strobbing lights after 6:00 pm, does not refer to darkness. It's 6:00pm to 7:00am, so if that doesn't work or it that wouldn't meet OSHA we can do that change.

Commissioner Landquist: I think you explained the other day, Elaine, that 'white noise' is part of OSHA's requirements?

Elaine Hawk: Yea and I think that would probably be the safest thing, if you add that into that language, is that between those hours it has to be something that's OSHA compliant.

James McCubbin: Well it does say utilize strobbing light warnings rather than back-up beepers but...

Chair Curtiss: But that's just during hours of darkness.

Elaine Hawk: Right, so those hours that are not dark but, wait...

James McCubbin: You're right it says during hours of operation when during hours of darkness ~ maybe if you just took out 'during hours of darkness'.

Chair Curtiss: The strobe lights only work then.

James McCubbin: White lights would work ~ you could take out the word 'strobbing'. So during those hours all vehicles shall utilize light warnings rather than back-up beepers.

Chair Curtiss: The other ones not a light, it's a noise.

Aaron Wilson: White noise.

James McCubbin: Oh, I thought it was like a bright white light.

Elaine Hawk: It's like a broken sound.

Commissioner Landquist: So operate according to OSHA requirements, wouldn't that just...

Chair Curtiss: Well then they could use that noise all night. I mean that isn't what they plan to do but...

Commissioner Landquist: So they use quiet noise.

Bob Berland, Knife River: I can probably clear up the backup alarm. These white noise backup alarms were developed for just this very reason because all across the United States gravel operations have to co-exist with neighborhoods next door. Obviously we've all heard the backup alarms that are even on the City trucks and I from talking to Brian Hensel he has the same problem that people complain about his backup alarms when they try to sleep at night. These are instead of a beeping noise, it's a scratching noise ~ if it's pointed right at you, you really hear it. When a loader or whatever is turned a little bit to the side, you can still kind of hear it but it's really not obnoxious, the backup beepers, the traditional beepers, they'll carry for miles and miles. If it's a quiet night you'd hear them clear across town. The strobe light issue, once if become ½ after darkness or after sunset, which is the same thing as your hunting laws, then OSHA and MSHA allows you to switch from a traditional noise alarm to a strobing light to let anybody know that that piece of equipment is in reverse and it's coming at you. Of course we focus those lights towards anybody that may be on the ground so they are adequately warned for it. Hopefully that cures up that a little bit for you.

Chair Curtiss: So Bob do you have some suggested language then? All vehicles shall use...is it called the white noise backup indicator, would that cover it?

Bob Berland: I would probably say that that should be put in between the 6:00 and dark period. At which time strobing lights that comply with OSHA/MSHA be utilized.

James McCubbin: But those sounds are not approved for all day?

Bob Berland: Yes they are, in fact, we have them on. We have a few trucks that run around with the traditional on but I switched the loaders and bob cats that work in the pit all the time, we switched them years ago to the white noise ones just to be less obnoxious. They bother me too ~ these don't.

Chair Curtiss: During hours of operation after 6:00pm and before 7:00am all vehicles shall use white noise backup indicators rather than backup beepers until dark at which time they switch to the strobbing light warnings, meeting OSHA requirements.

Chair Curtiss: Discussion about the berm?

Commissioner Carey: I think it's excessive.

Commissioner Landquist: I do too.

Chair Curtiss: I also think that in reality the...even trying to come up with some number of days is going to be hard because you never know what the bids are going to be and it puts them in an unfair position of not being able to bid. When you think about the fact that they use their Target Range pit, which they can for a while longer, or some other location that they have that they're actually hauling gravel because this is really good quality gravel, it's kind of silly to think about the amount of diesel and fumes we're putting in the air to do that. I happen to live about three blocks from the switching yards of the train and I know that when I have visitors sometimes, they jump right off the couch and ask me what the heck that was, but you know those things when you buy. Yet I understand that these folks sleep was probably disturbed because it always happens when it's 100 degrees outside and you have to have your windows open to get some air, that's the nights I don't sleep. It's a good night to clean house I guess.

Commissioner Landquist: I agree I was just trying to find some middle ground. I agree with everything you just said Jean.

Chair Curtiss: Okay so now we need ~ should we have our motions reflect what we said? Do we want to work from Planning Board's or do we want to just work from Staff's report?

Commissioner Carey: The only difference is there are two conditions, right? The Planning Boards?

Aaron Wilson: And you want to modify the language too, I think, because the language was different between the two. We changed the JTL language in the zoning standard to reflect the Planning Board discussion. You may want to go back the Staff Report.

James McCubbin: There are two areas of changes from Planning Board; there's the berm and there's notification thing. So if we're not going with the berm, it might be cleaner to go back to the Staff original language. You can add in the notification and the language in Section 6.

Chair Curtiss: So we should be using the one that has Request for Commissioner Action ~ take off the...

James McCubbin: That's the one from Planning Board.

Aaron Wilson: So you could just substitute the Attachment A that I passed out today and make the changes.

Chair Curtiss: So if we use this one from Planning Board we could just take out Attachment one (1) and go with the executive summary with this substitution.

Commissioner Landquist: So we're still basically conditionally approving it just...

Chair Curtiss: So we would take out pages 11, 12 & 13. We're still calling it JTL because that's what it was called when it was formed.

Commissioner Carey: So we're taking the Attachment A that came with the packet out?

Chair Curtiss: Yes, although it has attachments behind it.

Commissioner Landquist: So we would say as shown on Attachment A minus pages 11, 12 & 13 as substitute in Staff's Report?

Chair Curtiss: Right and then under noise in the one that he just gave us today we'll address that white noise backup indicator.

James McCubbin: Do you have any thoughts about Planning Boards proposed notification language? If you're not going with the berm then that reference would need to come out but what about notification to the home owners and so forth?

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Commissioner Carey: I like that, yes.

James McCubbin: So what we're really looking at sounds like is; Staff original attachment but adding in the paragraph from Planning Board about notification at the end of paragraph 7, amended to eliminate the reference to a new berm and also amending section 6 that Commissioner Curtiss had stated regarding the white noise. And given that are there any changes needed to the proposed Finding of Conclusions. I'm thinking not.

Aaron Wilson: No

Commissioner Landquist made motion, Commissioner Carey seconded. The motion carried a vote of 3-0.

8. OTHER BUSINESS

Happy Holidays to all our MCAT viewers and all of our staff.

9. RECESS

There being no further business to come before the Board, the Commissioners were in recess at 3:43.

Following Public Meeting, BCC re-signed/re-named Resolution No. 2011-133, dated December 21, 2011 (which was inadvertently numbered 2011-134). This Resolution expends up to \$198,000/2006 Open Space Bond Proceeds for purchase of conservation easement for Boyer II – III Open Space Project.

Resolution No. 2011-134 – BCC signed, dated December 21, 2011. Resolution of Intent to amend JTL Special District Zoning for property legally described as all of Tract 1-A, COS 4971, located in Section 6 of T 13 N, R 19 W, PMM, to amend hours of operation to allow for limited nighttime operations for Public Works projects.

THURSDAY, DECEMBER 22, 2011

BCC met in regular session; quorum present. JC out of office through Tuesday, December 27th.

ADMINISTRATIVE MEETING

County Payroll Transmittal Sheet – BCC signed. Pay Period: 24/CY2011 - Pay Date/December 2, 2011. Total Payroll/\$1,268,534.96. To County Auditor.

County Payroll Transmittal Sheet – BCC signed. Pay Period: 25/CY2011 - Pay Date/December 16, 2011. Total Payroll/\$1,260,333.49. To County Auditor.

Grant Agreement – BC signed. #MT-TSEP-PE-12-684 Between County and MT Dept. of Commerce for infrastructure planning grant to study wastewater system for Seeley Lake Sewer District. Amount/\$30,000 (\$15,000 from TSEP Grant; \$15,000 from County). Two originals to Greg Robertson/Public Works.

Modification – BC signed. #5 to Contract 510040 between City-County Health Dept. and MT DEQ for 2nd half of FY compensation for public water supply inspections in County. 1) Extends duration of contract to 6/30/2012; 2) DEQ to pay up to additional \$5,100 to County; 3) Change re: PA Form (set forth therein); and 4) Training reimbursement set forth therein. Two originals to Julie Mohr/MCCHD.

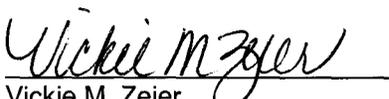
Contract & Budget Amendment – BC signed. #212041 between City-County Health Dept. and MT DEQ for reimbursement for activities related to radon education/public outreach. Amount/up to \$5,000. Term/January 3-June 30, 2012. Resolution No. 2011-135 – BCC signed, dated December 22, 2011. Budget Amendment for MCCHD showing Revenue from Radon Contract #212041/Expenditures for ads/legal publications/printing in amount of \$2,775. For total disclosure, expenditures included in formal FY12 Operating Budget/Revenue Estimates for County.

Letter – BCC signed, dated December 22, 2011. To Judy McKay/Principal, Frenchtown School District #40, supporting efforts of District #40 to secure a *Safe Routes to School* Grant to connect Frenchtown Elementary School property to planned Mullan Road bike/ped path.

Additional discussion item(s): None.

FRIDAY, DECEMBER 23, 2011

BCC did not meet in regular session. ML out of office all day; JC out of office through Tuesday, December 27th.


Vickie M. Zeier
Clerk & Recorder


Jean Curtiss, Chair
BCC

MONDAY, DECEMBER 26, 2011

COURTHOUSE CLOSED IN OBSERVANCE OF THE CHRISTMAS DAY HOLIDAY

TUESDAY, DECEMBER 27, 2011

BCC met in regular session; all three present. JC out of office through this date.

Planning Status Meeting – BCC/OPG Staff. No Agenda Items (**CANCELED**)

ADMINISTRATIVE MEETING

Public Comment – Charles Martin on Occupy Missoula
Bruce Russell, Sr. on pathogens at St. Pat's and Willard School

Bylaws – BCC approved/signed amended Bylaws submitted by the Board of Trustees of the Historical Museum, dated December 27, 2011 (approved November 21, 2011). Amended is group's decision to meet every other month on odd numbered months instead of meeting monthly. Two originals to Bob Brown/Historical Museum.

Grant Agreement – BC signed. 2011 MACI (MT Air & Congestion Initiative) Equipment Grant between County (Public Works) and MDT to acquire a new flush truck/mechanical sweeper/1800 gallon de-icer unit to reduce PM-10 particulate matter. Total cost/\$392,730 (\$340,034 paid by MDT and \$52,705 paid by County-to be budgeted in 2013 budget cycle). Term/October 1, 2011-September 30, 2012. Three originals to Jeff Seaton/PW.

Agreement – BC signed. Annual Cooperative Law Enforcement Agreement and Five Year Agreement between County (Sheriff's Dept.) and USDA, Forest Service (Lolo National Forest). FY2012 Operating Plan total/\$21,000. Originals to Dawn Seaton/Sheriff's Dept.

Amendment – BC signed. #A (Transaction Fund Work Order) between County (MCCHD) and State of MT/Montana Interactive (software enhancements) for online permitting system for outdoor burning. Total enhancements covered by amendment/\$7,500. Original to Jim Carlson/MCCHD.

County Transportation Ballot – JC voted, dated October 24, 2011, FOR approval of the following route changes/additions (as set forth therein): Routes 10SF, 10SP, 11SP, 12SP, 13BA, 13SP, 15SCEF, 18SP, 19HBF, 1SP, 20SP, 23SP, 24SP, 26SP, 31SP, 32SP, 5SP, 7SPC, SE51, SE52, SE54, SE55, 12SF, 33SP, 4HA. Returned to Superintendent of Schools.

Letter – BCC signed, dated December 22, 2011. To Alex Burkhalter/Sparrow Group, Missoula, supporting their application to MT Board of Housing for Low Income Housing Tax Credits (LIHTC) for Aspen Place, which would be an asset in County.

Letter of support: Aspen Place application to MT Board of Housing for LIHTC

Additional discussion item(s)

WEDNESDAY, DECEMBER 28, 2011

BCC met in regular session; all three present. Early morning: JC attended MEP Board Meeting, held at St. Pat's Hospital.

CAO MEETING

Cooperative (Mutual Aide) Agreement – BCC signed. Renewal between County (Fire Warden) and MT DNRC (Forestry Division) ensuring continuation of support and update of County Cooperative Fire Management Plan. Two originals to DNRC.

Section 5303 Contract – BCC signed. #106090 between Missoula Office of Planning/Grants, MT DOT and Mountain line to conduct transit-related planning activities in the MPO area. Total Cost/\$138,606.25; Federal Share/80%, Local Share/20%. Term/October 1, 2011-September 30, 2012. Two originals to Ann Cundy/OPG for further signatures/handling.

Request – BCC approved/initialed request from CFO for staff to begin process of refunding Series 2012 remaining 2005 Detention Center General Obligation Bonds. Fiscal impact/Net present value savings of \$546,701 or approx. \$80,000 annually in debt service savings. Parties involved: CFO, DA Davidson, Dorsey Whitney. Original to Andrew Czorny/CFO.

Contract – JC signed, dated July 1, 2011. Between County and Western MT Addiction Services for underage substance abuse prevention activities through Missoula Forum for Children/Youth. Amount/\$30,000. Term/July 1, 2011-June 30, 2012. Two originals to Peggy Seel/OPG for further signatures/handling.

BCC Chair for 2012 – BCC approved and distributed a memorandum stating Bill Carey has been selected Chair of the BCC for Calendar Year 2012.

Contract – BCC signed, dated December 28, 2011. Between County and Lindsey Hollern, DDS, to serve as Dentist at PHC. Amount/\$100,000 annually for 1.0 FTE. Term/April 2, 2012-June 30, 2013. Three originals to Kim Mansch/PHC for further signatures/handling.

Contract – BCC signed, dated December 28, 2011. Between County and Patrick Heaphy, DMD, to serve as Dentist at PHC. Amount/\$105,000 annually for 1.0 FTE. Term/January 16, 2012-June 30, 2013. Three originals to Kim Mansch/PHC for further signatures/handling.

201111 PAGE 0549

Letter – BCC signed, dated December 27, 2011. To A. Townsends-Hudders/Big Sky Economic Development Trust Fund (“BSEDTF”), MT DOC/Helena, supporting BREDD’s application for a BSEDTF Category II Planning grant for The Legal Atlas. This will provide Legal Atlas with tools needed to secure significant public/private investment in their business.

Additional discussion item(s): Marnie Russ contract.

NO PUBLIC MEETING HELD THIS DATE

THURSDAY, DECEMBER 29, 2011

BCC met in regular session; quorum present in morning. Afternoon: BC/ML attended retirement party for Brenda Lynch, held at PHC. ML also attended 2012 LRTP BAFO meeting, held at OPG offices. JC out of office all day.

ADMINISTRATIVE MEETING

No Agenda items Meeting Canceled

FRIDAY, DECEMBER 30, 2011

BCC met in regular session; quorum present. JC out of office all day.



Vickie M. Zeier
Clerk & Recorder



Jean Curtiss, Chair
BCC

MISSOULA COUNTY COMMISSIONERS' JOURNAL: JANUARY, 2012

BCC = BOARD OF COUNTY COMMISSIONERS

BC = Commissioner Bill Carey, Chair
 ML = Commissioner Michele Landquist
 JC = Commissioner Jean Curtiss

The following Claims Lists were signed during the month of JANUARY 2012:

Date Signed	Claims List Date	Who signed	Amount
January 4, 2012	December 29, 2011	BCC	\$5,891.68
January 4, 2012	January 3, 2012	BCC	\$42,317.79
			\$68,224.14
			\$5,018.40
			\$1,706.22
			\$4,177.96
			\$2,515.21
			\$435.54
			\$2,012.57
January 4, 2012	January 3, 2012	BCC	\$13,311.58
			\$1,068.00
			\$128.92
			\$46.72
			\$278.99
			\$918.80
			\$418.43
January 5, 2012	January 4, 2012	BCC	\$120.63
January 5, 2012	January 5, 2012	BCC	\$11,754.45
			\$8,078.26
January 6, 2012	January 5, 2012	BCC	\$2,118.34
			\$15,687.66
			\$19,465.19
			\$855.93
January 6, 2012	January 6, 2012	JC, ML	\$14,237.48
			\$3,186.07
			\$17,551.92
			\$1,823.55
			\$37,539.57
January 9, 2012	January 9, 2012	JC, ML	\$8,349.44
			\$17,707.11
			\$8,354.36
			\$8,004.10
			\$20,401.95
January 10, 2012	January 5, 2012	JC, ML	\$1,885.71
January 10, 2012	January 10, 2012	JC, ML	\$1,609.90
			\$2,682.91
			\$1,765.69
			\$5,221.34
			\$17,787.21
			\$3,295.03
			\$79.84
January 11, 2012	January 10, 2012	BCC	\$3,723.86
January 11, 2012	January 11, 2012	BCC	\$70,082.00
			\$4,838.82
			\$13,606.12
January 12, 2012	January 10, 2012	BCC	\$4,677.34
January 12, 2012	January 11, 2012	BCC	\$43,259.19
			\$33,082.00
			\$293.25

January 13, 2012	January 12, 2012	BCC	\$92,645.13
			\$1,289.66
			\$50,733.92
			\$40,293.83
			\$15,109.20
January 17, 2012	January 13, 2012	BCC	\$12,420.35
			\$7,531.79
			\$44,182.58
January 18, 2012	January 17, 2012	BCC	\$2,500.00
			\$43,618.19
			\$13,163.36
			\$2,445.00
			\$915.47
			\$11,131.28
			\$28,514.33
			\$2,694.10
January 18, 2012	January 18, 2012	BCC	\$851,243.53
January 18, 2012	January 18, 2012	BC, ML	\$1,215.26
			\$1,013.64
January 19, 2012	January 18, 2012	BCC	\$268.00
			\$3,698.72
			\$39,173.98
January 19, 2012	January 17, 2012	BC, ML	\$58,533.31
January 19, 2012	January 18, 2012	BC, ML	\$1,410.80
			\$3,560.83
January 19, 2012	January 19, 2012	BC, ML	\$10,000.00
January 23, 2012	January 18, 2012	BCC	\$7,045.32
January 23, 2012	January 19, 2012	BCC	\$262,852.21
January 23, 2012	January 20, 2012	BCC	\$105,112.32
			\$3,458.06
January 23, 2012	January 23, 2012	BC, JC	\$62,415.62
January 24, 2012	January 17, 2012	BC, ML	\$464.80
January 24, 2012	January 23, 2012	BC, ML	\$8,076.06
			\$25,855.25
			\$12,088.72
January 24, 2012	January 24, 2012	BC, ML	\$7,961.56
January 25, 2012	January 18, 2012	BCC	\$10,386.18
January 25, 2012	January 24, 2012	BCC	\$12.25
			\$199.96
			\$4,224.73
			\$36,529.94
			\$1,882.50
			\$8,143.74
			\$4,858.06
			\$689.75
			\$2,716.81
			\$2,090.54
			\$5,017.36
			\$437.74
			\$575.00
			\$1,845.25
			\$9,187.26
January 26, 2012	January 25, 2012	BCC	\$1,850.03
			\$65.70
			\$1,605.00
			\$5,376.75
			\$22,122.50
			\$12,763.52
			\$3,000.00
			\$8,128.44
			\$771.75

January 27, 2012	January 25, 2012	BCC	\$278.79
			\$439.37
			\$3,876.67
			\$724.92
			\$154.22
January 27, 2012	January 26, 2012	BCC	\$5,899.02
			\$124.58
			\$3,104.06
			\$2,737.79
			\$111,439.50
			\$648.65
			\$6,281.81
			\$90.00
			\$362.91
			\$750.00
January 27, 2012	January 27, 2012	ML, BC	\$375.00
January 30, 2012	January 30, 2012	BCC	\$26,237.37
			\$54,156.26

All Claims Lists were returned to the Accounting Department.

MONDAY, JANUARY 2, 2012

COURTHOUSE CLOSED FOR OBSERVED NEW YEAR'S HOLIDAY

TUESDAY, JANUARY 3, 2012

BCC met in regular session; all three present. BCC held meeting in afternoon to address Occupy Missoula event.

Planning Status Meeting – BCC/OPG Staff. *CANCELED* – no Agenda items.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Communications; 6) RI Director's update.

ADMINISTRATIVE MEETING

Suspension of Time Contract – BCC signed, dated December 21, 2011. Due to inclement weather, suspending contract time for contract between County and Knife River for construction of Airway-Expressway roundabout. Certificate of Substantial Completion issued November 11, 2011. Work will resume April 6, 2012 and be completed by May 1, 2012. Original to Barb Martens/Projects.

MT State DEQ Form – BC signed Motor Vehicle Recycling/Disposal Claim Form for allocation of FY2012 Junk Vehicle Program funds in amount of \$149,922. To Jim Carlson/Health Dept.

Resolution No. 2012-001 – BC signed, dated January 3, 2012. Relating to RSID #8496 (Lewis & Clark Water System Rehabilitation); Preliminary Levy of Special Assessments on property within District for purpose of financing cost (\$165,000) of certain local improvements. Public Hearing set for January 25, 2012. Four originals to Amy Rose/Public Works.

Contract – BCC signed. Between County and Rocky Mountain Capitol Consulting, LLC (Marnie Russ) for consulting services for four projects: 1) RSID 901 Wastewater Treatment Plant Expansion/Upgrade; 2) East Missoula complete Streetscape; 3) Lolo to Missoula Trail; and 4) Seeley Lake Sewer District. Amount/\$7,500. Term/January 1 – June 30, 2012. One original to Greg Robertson/Public Works. [See January 10th Journal entry. Amendment to this contract signed by BCC.]

Road Inventory Forms – BCC signed following forms for completed subdivision improvements: 1) #2011-05: Kiley Lane (Hogan Acres Subdivision); 2) #2011-06: Rawhide Road (Howard Addition); 3) #2011-07: Hawks Peak Drive (Red Quill Ranch subdivision); 4) #2011-08: Sage Riders Road (Red Quill Ranch subdivision); 5) #2011-09: Prairies End Trail (Red Quill Ranch subdivision); 6) #2011-10: Sapphire Run (Red Quill Ranch subdivision); 7) #2011-1: Pontrelli Place (Pontrelli Addition). Originals to Greg Robertson/Public Works.

Additional discussion item(s): 1) Sheriff's Dept. Grant received; 2) Admin Building Open House

WEDNESDAY, JANUARY 4, 2012

BCC met in regular session; all three present.

CAO MEETING

Memorandum of Understanding – BC signed. Between County and VA Montana Healthcare System, City of Missoula, and MT State Fourth Judicial District to establish the Veterans Track of Missoula Co-Occurring Court. Potential Veteran participants will be eligible for treatment court in lieu of incarceration. Amount to

SPH/\$29,876. No funding involved. Project begins June 13, 2011, and is ongoing. Original to Brenda Desmond/District Court.

Letter – BCC signed, dated January 4, 2012. To Phil Tillman/Sheriff's Office, congratulating him on his retirement/thanking him for his many years of service to Missoula County. BCC also enclosed a framed pen/ink drawing of the Courthouse.

Additional discussion item(s): Indian Center.

SPECIAL PUBLIC MEETING – January 4, 2012

1. CALL TO ORDER

Commissioners Present: Commissioner (Chair) Bill Carey, Commissioner Michele Landquist, Commissioner Jean Curtiss

Staff Present: James McCubbin, Deputy County Attorney, Marnie McClain, Deputy County Attorney, Dale Bickell, Chief Administrative Officer, Anne Hughes, Communications & Project Manager, Andrew Czorny, Chief Financial Officer, Jim Carlson, Director Environmental Health

2. PLEDGE OF ALLEGIANCE

3. PUBLIC ANNOUNCEMENTS

None

4. PUBLIC COMMENT

None

5. ROUTINE ADMINISTRATIVE ACTIONS

Weekly Claims List (\$1,216,446.90)

Commissioner Landquist made a motion to the Board of County Commissioners to approve the weekly Claims List in the amount of \$1,216,446.90. Commissioner Curtiss seconded the motion. The motion carried a vote of 3-0.

HEARING

Adoption of Resolution Prohibiting Camping and Structures on County Property without a Permit.

Dale Bickell read the staff report

Chair Carey read the Resolution

Public Comment:

Jim Carlson, Environmental Health Director

Mike Chessin

Brook Kittelson

Robert Oscar Walker

Curtis Longo

Ben Kinder

Casey Lewis

Jeremy Coleman

Bob Campbell

Starla Gade

Tammy Williams

Linda Frey

Robert Anderson

Betty Suehans

Jerome Williams

Bruce Russell, Sr.

Rocky Stenert

Marsha Frey

Laura Jensen

Melissa Rocek

Claire Coleman

Crystal

Robert Oscar Walker

Charles Martin

Mick Harsell

Dawn

Raymond Armstrong

Jeffrey James

Dan Norman

Bryan Black

Michael Phelps

Gloria Roark

Rebecca Titus

Curtis Longo

John Wolverton

Chair Carey: As a point of information, I asked the staff to take a look at how the county spent its 'Poor Fund'. The county has many funds in its budget that public works, public safety and we have a poor fund, we try to help organizations that are helping people in need. In the past 10 years the county spent

7,774,801.00 in helping local organizations. Partnership Health Center alone got over two million dollars. Organizations that directly serve the homeless like Salvation Army, Poverello and so on, in the last ten years the county spent 3,210,000.00. Missoula County's been here a long time, it was here a long time before I got here and it'll be here a long time after; but my hope is that the County continues to try and pay people a decent wage, to provide good benefits and be a good place to work and to be a public servant. That's what we're about. We make decision hopefully based on what is good, what is best for Missoula County now and in the future. We take very seriously our stewardship role in the County.

Commissioner Curtiss: We've heard numerous comments today and in comments that we've received by phone and email that displacing homeless people from the Courthouse lawn will create more problems for those members of our community. We believe that allowing people to camp at a site without proper facilities is not a responsible action and is not a solution to homelessness. Finding solutions to homelessness is a conversation that is already happening in our community with non-profits, individuals, the City and the County and we do have a Committee in place that's been looking at that. We've been looking at models from other communities; I've seen some of you folks at community conversations where we'll have the public come give us comments. So we continue to work with issues related to homelessness the best we can but we also recognize this is a national issue. We encourage members of the community to join in that conversation, support organizations to work towards the solution. As Commissioner Carey just said, we put money towards that, we put money to the food bank, we put money to the Poverello but money doesn't solve problems, there are a lot of other issues as you folks well know. I also want to point out that this Resolution applies to county owned land and we don't own riverbeds for one thing, so we don't own a lot of the land that people are camping on across the State so I just wanted to be clear about that.

Commissioner Landquist: I don't know where to start because I'm afraid I'll cry. I didn't expect for some old, old memories to be triggered here today. 38 years ago I showed up here with nothing but a backpack on my back; I was determined I wanted to live here. That was MY choice. I want to thank people for taking the time to come here today and share your perspectives with us and your point of view. I think you bring up some valid concerns about a 24 hour bathroom but I also know that when our facilities manager some time ago tried to offer a bathroom beside the Courthouse prior, way prior to the Occupy Movement, somebody chose to live in it and he was inspecting it and they came out with a knife at him. So that didn't work but that is something maybe between the City and the County we can revisit that and see about some 24 hour bathrooms here and there around the City, where they would be well used and scrutinized and taken care of. With that said, I do want to let people know that we've heard your numerous comments that this resolution is restrictive of free of speech; however what we are trying to do here has everything to do with the responsible management of the county property that protects and promotes the use of the property for free speech and public protest for the entire community and we don't think it's responsible to provide the people that are houseless with a place to live that doesn't have the proper facilities. There are proper facilities; I put some handouts at the end of the table here for 2-1-1, help is just a call away. Aging Services, there's all kinds of places people can put their efforts to volunteer to help other people. Missoula Veterans Treatment Court information just came to me today; they have opportunities to volunteer.

Commissioner Curtiss: We've received lots of comments by phone and email that wasn't necessarily represented in this room today. Sometimes we have to make votes on what's the best decision for the whole of the County, not necessarily only the people that are standing in the room or banging their fists on the counter. It's for the good of the whole. This resolution does allow people to continue to use County property or to assemble or freedom of speech; it just requires a permit.

Executive Session

Commissioner Curtiss made a motion that the Board of County Commissioner adopt the Resolution to Prohibit Camping and Structures on County Property without a Permit, as amended with the bolded language effective today. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

6. **OTHER BUSINESS:** None

7. **RECESS**

There being no further business to come before the Board, the Commissioners were in recess at 3:46.

Following Public Meeting - BCC signed Resolution No. 2012-002, dated January 4, 2012. Prohibiting camping and structures on County property without a permit.

THURSDAY, JANUARY 5, 2012

BCC met in regular session; all three present.

ADMINISTRATIVE MEETING

Request – BCC reviewed request from Steve Johnson/HR and approved pay adjustment for Greg Robertson, Director/Public Works, from \$48.81 to \$50.60 hourly, retroactive to June 26, 2011. Original to Steve Johnson/HR

Certificate of Substantial Completion – BC signed. For contract with County, PCI and Knife River for Airway/Expressway Roundabout and median landscaping. Total contract amount/\$839,160.50. Contractor has 25 days to complete punchlist/achieve final completion: Term/April 6, 2012-May 1, 2012. Originals to Barb Martens/Projects.

Additional discussion item(s): None.

FRIDAY, JANUARY 6, 2012

BCC met in regular session; all three present.

Monthly Report - JC examined/approved/ordered filed the Monthly Reconciliation Report for Justice Court 1, John E. Odlin, Justice of the Peace, for month ending December 31, 2011.

Monthly Report - JC examined/approved/ordered filed the Monthly Reconciliation Report for Justice Court 2, Karen A. Orzech, Justice of the Peace, for month ending December 31, 2011.

County Payroll Transmittal Sheet – BCC signed. Pay Period: 26/CY2011 - Pay Date/December 30, 2011. Total Payroll/\$1,252,772.65. To County Auditor.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated January 4, 2012. Amount/\$9,479.11. To County Auditor.

Letter – BCC signed, dated January 6, 2012 to Occupy Missoula Participants, denying application for permit to camp on Courthouse lawn, as Resolution adopted January 4, 2012 restricts unpermitted camping and unauthorized structures on County property.

Letter – ML signed, dated January 6, 2012 to Pat Byrne/Clinton Irrigation District, Clinton, stating County cannot accept CID's offer to be involved with Schoolhouse Lateral Pipeline Project. Assistance to irrigation districts is mandated by Attorney General Opinion (38 A.G. Op. 39 (1979), MCA 7-14-2204.



Vickie M. Zeier
Clerk & Recorder



Bill Carey, Chair
BCC

MONDAY, JANUARY 9, 2012

BCC met in regular session; all three present.

Monthly Report - JC examined/approved/ordered filed Monthly Reconciliation Report for Clerk of District Court, Shirley E. Faust, for month ending December 31, 2011.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) Wye Commercial Subdivision Phasing Plan Creation (*action*).

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Local Government Dialogue; 3) Communications; 4) RI Director's update.

Letter – BCC signed, dated January 17, 2012. To Ken Williams/John Johnson, Missoula, conditionally approving Phasing Plan for Wye Commercial Subdivision. Final plat submittal deadline for Phase 1 extended to March 31, 2012, subject to approval of Weed Management Plan in Condition #20. #20 requires recording of Plan by April 30, 2012. Final plat submittal deadlines are: Phase 1 – 12/17/2013; Phase 2 – 12/17/2015; Phase 3 – 12/17/2017; Phase 4 – 12/17/2019;

TUESDAY, JANUARY 10, 2012

BCC met in regular session; all three present.

ADMINISTRATIVE MEETING

Application – BC signed MT DEQ Water Protection Bureau application for RSID 901-Lolo Wastewater Treatment Plant Discharge Permit Renewal (MPDES Permit #MT0020168). Current permit expires July 31, 2013, and is required for continued discharge of treated plant effluent to state surface waters (Bitterroot River). Renewal fee/\$1,500. Original to Greg Robertson/PW.

Certificate – BC signed, dated January 10, 2012. ARRA/SRF Completion Certificate for RSID 8496 Lewis & Clark Water System Rehabilitation Project for MT DNRC Revolving Loan Funds (total of \$487,679) as administered for the American Recovery/Reinvestment Act. Original to Greg Robertson/PW.

Amendment – BCC signed, dated January 10, 2012. To contract between County and Rocky Mountain Capitol Consulting, LLC (Marnie Russ) for assistance in obtaining federal funding for four Public Works related projects. Amendment allows for standard 5% overhead fee (inadvertently omitted from original contract signed on January 3, 2012). All other contract terms remain unchanged. Original to Greg Robertson/PW.

Amendment – BCC signed. To contract between County and Loken Builders for LaLonde Ranch House attic/roof upgrades. Amendment covers cost of permit (inadvertently omitted in estimate), as well as shower drain leak repair. Amount/\$470.35; revised contract amount/\$16,504.80. One original to Barb Martens/Projects.

Letter – BCC signed, dated January 10, 2012. To MT Worksite Health Promotion Coalition/DPHHS, Helena, in support of the MC Health Advantage Wellness Program and its mission to empower benefit plan members to take proactive approach to health/well-being.

Letter – BCC signed, dated January 11, 2012. To DEQ Opencut Mining Program, Helena, regarding Riverside Contracting, Inc.'s application to expand their gravel pit (at Reibein Site/Huson). Due to complaints from residents, BCC requests conditions be attached to permit to provide restrictions moderating traffic, suitable monitoring by DEQ, and a method of recourse for upset property owners/motorists.

Additional discussion item(s): Parking issues.

WEDNESDAY, JANUARY 11, 2012

BCC met in regular session; all three present.

CAO MEETING

Contract – BCC did NOT sign CDBG-EDPG11-01 Contract on behalf of The Emergent Access (which was contingent on Missoula business residency and current on loan payments).

Additional discussion item(s): 1) I-2 Marijuana Committee; 2) BCC representation on various Boards, etc.; 3) Space needs finance update.

Tax Abatement Requests – At meeting with Clerk & Recorder, BCC approved following letters dated January 13, 2012:

- 1) Approving request from Kit HomeBuilders West, LLC, Caldwell, ID, to waive penalty/interest on 1st half of 2011 for Taxpayer IDs #5825275, 5825306, 5825280.
- 2) Denying request from Mary Robins, Missoula, to waive penalty/interest for Taxpayer ID #1933908 (due to delinquency of payment).
- 3) Discussion: Request from John Edwards asking for 5 years to be abated due to incorrect assessment for Taxpayer ID #546956 on Blackfoot River. C&R will first speak to Wes Redden, then write letter indicating County can't credit future tax payments.
- 4) Discussion: Request from Jenny Rohrer & Gary Lazarowski for refund/overpayment of taxes. BCC asked to wait until Vickie Zeier returned from out of town to discuss further.
- 5) Approving request from Karen/Towne Mailer, Inc., Missoula, to refund motor vehicle taxes/fees paid in error for Vehicle #2625007.
- 6) Denying request from Tom Carr/Industrial Services, Frenchtown, to waive penalty/interest for Taxpayer IDs #2256709, 4627147, 4627253 (due to delinquency of payment).
- 7) Approving request from Seferino Chavez, Missoula, to refund motor vehicle taxes/fees paid in error for Vehicle #1455647.

PUBLIC MEETING – January 11, 2012

1. CALL TO ORDER

Commissioners Present: Commissioner (Chair) Bill Carey, Commissioner Jean Curtiss, Commissioner Michele Landquist

Staff Present: Marnie McClain, Deputy County Attorney, Chris Lounsbury, 9-1-1, Steve Smith, Surveyor

3. PLEDGE OF ALLEGIANCE

3. PUBLIC ANNOUNCEMENTS

None

4. PUBLIC COMMENT

Mary Elise Overaker: Helping with the Occupy Missoula Movement, although I have not camped with them. I've done security with them but was told I was too old to do security. Yesterday I heard that James Leon Ferguson was in a bad way, he's the fellow you see in a wheel chair. He was refused treatment at the Poverello and was not able to access help at the Salvation Army. I was told that the hang-up was with the Major at the Salvation Army, that we needed to talk to Larry and get him to be allowed to go in and clean up because they had said that he couldn't go there. I did find out later that it had been taken care of and eventually took him in and cleaned him up. They are now taking care of him in the green tent. The nurse at Partnership when Jimmy Lee needed to be cleaned up, she would not do anything. Remarks that were made about Jimmy Lee at the Poverello have caused me not to go back there again and I need to report this to you. I think the hot team is a good idea, I think Travis needs to be replaced. The services for Jimmy Lee need to be done as far as the adult protective services; he has at one time requested that protective services be contacted on his behalf. Jimmy Lee

got his check and has been in and out of the hospital. He sees the doctor every 48 hours in the green tent; they are taking care of him. Jimmy Lee is a vet, he was a sergeant and he's not used to being treated with disrespect. I've seen him being treated with disrespect at the Poverello.

Gary Matson: I live in West Riverside and a member of the Bonner/Milltown Community Council. I'm just here to nudge the Commissioners a little about our parking issue that you're well aware of at the hairpin under I-90. In the summertime when people are using that as access for the river and all of us are glad that people are using the river but Mary Grouse(?) showed a DVD at our meeting the other night and I was quite shocked actually at how serious the problem is right there at that particular time. Chris Newman from the Fire District went out and measured and when there's cars on both sides it doesn't meet the fire code, they can get their trucks through but it doesn't meet fire code when there's cars on both sides. I know that it's going to be mitigated when the park gets its parking facilities in there when the state park is complete but it may or may not be this summer for tubing season. It seems like if there was a way to address that, at least to some extent to at least partially mitigate that problem, it would be a really good thing because it's really dangerous and it does restrict...and it happens right at the time of fire season so it's likely we would need to get trucks in there at some point. I know that it's not legal to exclude use of parking on that road because it's State Road but possibly there could be a no parking area established to mitigate that problem. I'd appreciate whatever you can do.

Commissioner Landquist: Is that actually County land, County ground?

Commissioner Curtiss: It's State and that's what Gary just said.

Chuck Erickson: I'm also on the council with Gary. It's a State Highway but there was some kind of agreement to where the County is in charge of it. We had the MDOT people out at the meeting the other night and he said that's County. It's a State Highway but we did a trade of control of that somehow or another, I don't really understand too much but it had something to do with Reserve Street. The State Highway took over Reserve Street or something and County took charge of this?

Marnie McClain: Who came out to your meeting from the MDOT? It might be easier for one of us to have a conversation with whoever you spoke to.

Gary Matson: Shane Stack.

Commissioner Curtiss: Just so you know Greg has met with Shane and they're talking about it. We've had the same kind of agreement with Frenchtown Frontage Road and there's some trigger to when they take the responsibility back. So we're working on it and we're also working with the Parks and with the Sheriff. It would be helpful to see the DVD, it would be helpful to the Sheriff.

Commissioner Landquist: I like to bring up a couple points for anybody watching at home regarding what Mary Elise said, in case they don't understand what the 'hot team' is. It stands for Homeless Outreach Team. It breaks my heart that Jimmy Lee is a Sergeant and has been 86'd from a number of places, retired Sergeant or a veteran. I did hear that he's been 86'd from a lot of places because of his behavior and stuff so he's contributed to his own reality that he's dealing with right now and I'm glad there's some people out there that have decided to step up and help supervisor in getting him some of the care and services that he can avail himself hereof.

Mary Elise Overaker: We have talked to Adult Protective Services, we have the Veterans. A couple years ago Jimmy said he didn't want to deal with the paperwork and that he didn't want to talk with them because apparently he has been treated with disrespect, he felt disrespect. I have seen him at the Poverello getting ready to have lunch being hounded, disrespected when he had just gone in there quietly to get a meal and he was being harassed. He didn't do anything the time I was there observing, he said he was a Sergeant and could handle it but after a while it builds up and there will be a reaction. Jimmy Lee did get his money and he did get access to services that he was entitled to and that he should have and what he has done is take care of the people on the street, with his money. Most of the people take care back but then they don't have a place to stay. And the people that were just taking advantage of, I will say that I did put out the comment to the street and on the streets that stinks. If they are going to be on the streets and being taken care of then they do need to help take care of Jimmy Lee and most of them do, the few that don't ~ got the message. This is something that is the community.

5. ROUTINE ADMINISTRATIVE ACTIONS

Weekly Claims List (\$245,735.08)

Executive Session

Commissioner Curtiss made motion that the Board of County Commissioners approve the weekly claims list in the amount of \$245,735.08. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

8. PRESENTATION

Secure Rural Schools and Community Self-Determination Act of 2000: Title III Funding Plan & Opening of Public Comment Period.

Chris Lounsbury read the staff report. This year we received requests in the amount of \$243,250.00, we only get in about \$65,000 a year from Secure Rural Schools now that as you'll remember is a fund that every year the amount goes down. For the legal ad, there's authorization in there for the legal ad to run this Thursday and next Thursday as well in the Missoula Independent. The breakdown is in the legal ad as well as on the DES website.

Executive Session

Commissioner Curtiss made motion that the Board of County Commissioners open a public comment period to begin January 11, 2012 and run to February 24, 2012 for a total of 45 days as required by the Secure Rural Schools Act. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

For the folks that are watching the break down as proposed in this Resolution for Missoula Rural Fire district to get \$25,000 to partner with folks to do fuel mitigation in Frenchtown. \$25,000 Seeley Lake Rural, \$25,000 Swan Eco System Center, \$20,000 Missoula City Fire. For those that don't realize it I think everything in the middle of the City is actually considered part of the Urban Wildland with an interface so it's a good idea to do this.

- 7. **DECISION** (from December 7, 2011 Hearing)
Petition to Abandon a Portion of Twin Creek Road

There has not been a site visit yet. Chair Carey and Steve Niday will do a site visit January 24th leaving the Commissioners' Office at 1:00pm.

Executive Session

Commissioner Curtiss made motion that the Board of County Commissioners delay the decision to January 24th. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

- 8. **OTHER BUSINESS:** None

- 9. **RECESS**

There being no further business before the Board, the Commissioners were in recess at 1:53 pm.

THURSDAY, JANUARY 12, 2012

BCC met in regular session; all three present.

ADMINISTRATIVE MEETING

Service Provider Designation Form – BCC signed. MT State form to allow BCC to designate State Approved Chemical Dependency Service Providers to receive earmarked alcohol monies for treatment/intervention/prevention services. Western MT Addiction Services will receive \$6,927.96 (100%) of funds for period January 1–June 30, 2012. [Note: Missoula Indian Center previously received 11% of funding, but failed to submit documentation in a timely manner]. Originals to Peggy Seel/OPG.

Authorization Agreement – BC signed. Between County and MT DPHHS to provide county funding for enhanced Medicaid reimbursement for mental health center services (at the Stephens House and for Crisis Intervention Team of WMMHC), conditioned upon transfer of County funds directly to DPHHS in amount of \$165,000. [Note: BCC approved \$185,000 for funding; remaining \$20,000 will be sent directly to WMMHC.] Term/July 1, 2011-June 31, 2012 (12th year of such use for funds). Two originals to Peggy Seel/OPG for further signatures/handling.

Contract – BCC signed, dated January 11, 2012. Between BCC and City-County Health Dept. to assist Missoula Foster Child Health Program with coordination of health care services to at least 93 high-risk foster children. Amount/\$46,132. Term/July 1, 2011-June 30, 2012. One original to Julie Mohr/MCCHD.

Contract – BCC signed, dated January 11, 2012. Between BCC and City-County Health Dept. to assist Vaccine for Children Program with recommended vaccinations to children whose families are low-income. Amount/\$28,329. Term/July 1, 2011-June 30, 2012. One original to Julie Mohr/MCCHD.

Resolution No. 2012-003 – BCC signed, dated January 12, 2012. Approving Missoula County as a "Let's Move County", committing the County to do all it can to address the issue of overweight/obese children ages 2 to 19.

Letter – BCC signed, dated January 12, 2012 to Steve Grover/Grover Development Group, Missoula, thanking him for pertinent information, and supporting the Haven Homes Project and its goal to provide affordable housing in Missoula County.

Additional discussion item(s): None.

FRIDAY, JANUARY 13, 2012

BCC met in regular session; all three present. Morning: BCC held meeting with Sheriff, etc. re: Occupy Missoula event.

Indemnity Bond – BC signed. Jennifer Straughan, Missoula, Principal for Clerk of Court Warrant #37434, issued January 4, 2012. Amount/\$500 (for child support). Warrant lost.

Indemnity Bond – BC signed. Virginia Charlo, Glendive, MT Principal for Sheriff/Detention Warrant #60-033450, issued November 21, 2011 on Inmate Commissary Fund. Amount/\$22.28 (for commissary funds upon release). Warrant lost.

Vickie M. Zeiler
Vickie M. Zeiler
Clerk & Recorder
Chief Deputy

Bill Carey
Bill Carey, Chair
BCC

MONDAY, JANUARY 16, 2012

COURTHOUSE WAS CLOSED FOR MARTIN LUTHER KING, JR. HOLIDAY

TUESDAY, JANUARY 17, 2012

BCC met in regular session; all three present.

ADMINISTRATIVE MEETING

Interlocal Agreement – BCC signed. Between County and MT DOT (Federal Aid Project No. UPP 8199(99) for pavement preservation work (chipseal, etc.) proposed for Clements Road and 3rd Street. Project funded by MDT/no local funds to be expended. Two originals to Greg Robertson/PW for further signatures/handling.

Memorandum – BCC signed Memo to County Employee denying her grievance of November 7, 2011. BCC sees nothing to indicate there is any error of fact in the written warning given to her.

Request – BCC approved request by Missoula Conservation District for a floodplain permit fee waiver to remove barbs and utilize instream rock to re-stabilize bank on Karl Tyler/Fred Stout property downstream of Kona Bridge. Floodplain Administrator favors granting fee waiver. Original to Todd Kletz/OPG.

Additional discussion item(s): None.

WEDNESDAY, JANUARY 18, 2012

BCC met in regular session; all three present. Noon: BCC attended *State of Missoula* Luncheon, held at DoubleTree hotel. Afternoon: JC participated in Fire Panel Discussion (Firefighters ICS400 Workshop), held at Northern Rockies Training Center.

CAO MEETING

County Payroll Transmittal Sheet – BCC signed. Pay Period: 01/CY2012 - Pay Date/January 13, 2012. Total Payroll/\$1,289,141.88. To County Auditor.

Additional discussion item(s): 1) Road/Trails; 2) Ground water monitoring; 3) Public Works update.

NO PUBLIC MEETING HELD THIS DATE

THURSDAY, JANUARY 19, 2012

BCC met in regular session; all three present.

ADMINISTRATIVE MEETING

Contract – BCC signed, dated November 18, 2011. Between County and Colleen Harrison, MD for physician clinical care services at PHC. Amount/\$145,000 yearly. Term/September 17, 2012-June 30, 2014. Two originals to PHC.

Contract – BCC signed, dated January 4, 2012. Between County and Anders Olson, RN-BSN for Director of Nursing services at PHC. Amount/\$50,000 yearly. Term/December 19, 2011-June 30, 2013. Two originals to PHC.

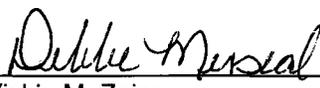
Contract – BCC signed, dated November 18, 2011. Between County and Patterson Dental for provision/installation of digital x-ray equipment for PHC Dental Clinic. Amount/\$65,193. Term/December 23, 2011-March 31, 2012. Two originals to PHC.

Agreement – BCC signed, dated January 10, 2012. Between County (PHC - Phase 3) and Western Interstate, Inc. for tenant improvements of approx. 4,900 s.f. of medical office space/pharmacy at Creamery Building. Amount/\$904,000. Term/begins date of Agreement commencement; completion

Additional discussion item(s): None.

FRIDAY, JANUARY 20, 2012

BCC did not meet in regular session; all three Commissioners out of the office all day. Afternoon: JC and ML attended Sammons Trucking 50th Anniversary Open House, held at 3665 W. Broadway.


Vickie M. Zeier
Clerk & Recorder

Chief Deputy


Bill Carey, Chair
BCC

MONDAY, JANUARY 23, 2012

BCC met in regular session; all three present.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) German Addition Subdivision; 3) Maricelli Fee Waiver request; 4) OPG Director's update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Open Space Bond update; 3) Travelers Rest Open Space Bond Application; 4) Communications; 5) RI Director's update.

TUESDAY, JANUARY 24, 2012

BCC met in regular session; all three present.

ADMINISTRATIVE MEETING

Contract – BCC signed, dated January 4, 2012. Between County and LSA Associates to assist County staff with update of Missoula Metropolitan Planning Organization's Long Range Transportation Plan. Amount/up to \$100,000. Term/January 24-December 31, 2012. Two originals to Ann Cundy/OPG.

Bid Award – BCC awarded Contractor Agreement to JD Russell Excavating for Public Works On Site Pressure Sewer Project. Bid amount/\$51,046.41 for project construction/complete sewer connection. To Greg Robertson/Public Works.

Interlocal Agreement – BC signed. Between County and agencies (City of Missoula, Air Pollution Control Board, Dept. of Natural Resources, Rural and Fire Districts/Departments, USFS, and FPA) involved in the regulation of outdoor burning in Missoula County to cooperate in outdoor burning permit issuance and enforcement. Updates legal citations and ability to proceed with web-based permits. Original to Jim Carlson/MCCHD for further signatures/handling.

Agreement – BCC signed, dated January 24, 2012. Between County and Local Unit Number One of the Montana Public Employees Association from July 1, 2011 – June 30, 2013. To Jean Shannon/HR.

Letter – BCC signed, dated January 24, 2012. To Jeanette Zentgraf, Lolo, thanking her for her presentation on behalf of Advocates for Our Republic, and BCC's requested response re: 1) bill before Congress (HR 1581) and its potential for passage/opportunities for job creation (BCC continues to support the Forest Jobs and Recreation Act); and 2) possible future court actions re: BLM Wilderness Study Areas and Forest Service Inventoried Roadless Areas. BCC agrees with past decision of both 9th and 10th Circuit Courts.

Letter – BCC signed, dated January 24, 2012. To OPG, Missoula, supporting Sun Mountain Sports height and front yard variance requests for building they wish to build in the Western-most portion of Park 9, MDP - Phase 2 (if purchased by Sun Mountain). To OPG.

Letter – BCC signed, dated January 24, 2012. To Big Read Selection Committee/Arts Midwest, Minneapolis, MN supporting the Missoula Public Library's National Endowment for the Arts grant for a Community Read Project, which will enhance the Library's programs.

Additional discussion item(s): 1) Building Codes Program update; 2) Comments on Rock Picking proposal.

WEDNESDAY, JANUARY 25, 2012

BCC met in regular session; all three present.

Replacement Warrant - BC signed. Providence Physicians Services, Spokane, Principal for County Attorney Warrant #30215694, issued January 5, 2012 on 1000 Fund. Amount/\$285 (for Pretrial Conference). Not received in mail; no bond of indemnity required.

Replacement Warrant - BC signed. Virginia Tynan/Professional Development Center, Helena, Principal for OPG Warrant #30211401, issued October 6, 2011. Amount/\$93 (for registration). Not received in mail; no bond of indemnity required.

CAO MEETING

Request – BCC approved County Parks Board recommendation to award up to \$2,000 in a Direct Grant as a match to the Eagle Scout Interpretative Sign Project at Rattlesnake Bridge. Project begin/Spring 2012; project end/Spring 2013. To Lisa Moisey/County Parks.

Grant – BC signed. Subaward Agreement between County (MCCHD) and National Association of County and City Health Officials ("NACCHO) in amount of \$25,398 to expend on completing pre-requisites for an accreditation application to be filed by May 31, 2012. Grant covers ½ of filing fees and additional staff. Term/November 15, 2011-May 31, 2012. Two originals to Julie Mohr/MCCHD for further signatures/handling.

Additional discussion item(s): None.

PUBLIC MEETING – January 25, 2012**1. CALL TO ORDER**

Commissioners Present: Commissioner (Chair) Bill Carey, Commissioner Jean Curtiss, Commissioner Michele Landquist

Staff Present: Greg Robertson, Director Public Works, Jennie Dixon, OPG, Aaron Wilson, OPG

2. PLEDGE OF ALLEGIANCE**3. PUBLIC ANNOUNCEMENTS**

Missoula Aging Services
Fairgrounds – Winterfest February 18th & 19th

4. PUBLIC COMMENT

None

5. ROUTINE ADMINISTRATIVE ACTIONS

Weekly Claims List (\$2,008,198.76)

Executive Session

Commissioner Landquist made motion that the Board of County Commissioners approve the Weekly Claims List in the amount of \$2,008,198.76. Commissioner Curtiss seconded the motion. The motion carried a vote of 3-0.

6. DECISION (from December 7, 2011 and January 11, 2012)**POSTPONED DUE TO WEATHER – DATE TO BE ANNOUNCED**

Petition to Abandon a Portion of West Twin Creek Road – East of Bonner.

7. HEARING (Certificate of Survey)

Bailey (Keith) Family Transfer

Jennie Dixon read the staff report.

Jennie Dixon asked Keith Bailey the standard Family Transfer questions.

Commissioner Curtiss: Since there are already two homes on the property, I see that you have a shared well; do you also share a septic system?

Keith Bailey: No, we have separate septic systems.

Commissioner Landquist: I guess I'm concerned that the recipient isn't going to be living there, so is it going to just be sitting vacant until she can occupy?

Keith Bailey: I rent it and that's the only reason why I still have it there. When I lost my job, I had to retire.

Commissioner Curtiss: So it'll be in your daughter's name and if and when she decides to move back here she'll have a place to live.

Keith Bailey: Yes, true. It'll eventually be there's anyway.

Public Comment:

None

Executive Session:

Commissioner Curtiss made motion that the Board of County Commissioners approve the request to create one additional parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

8. HEARING

Adopt Resolution to Levy Special Assessment on Property within RSID 8496 (Lewis & Clark)

2011 111 PAGE 0562

Greg Robertson read the staff report. The assessments have not changed, they were fixed some time ago and this just formalizes it.

No written protests received.

Commissioner Curtiss: Is the \$111.61 per month or per year?

Greg Robertson: Semi-annual assessments. It's about \$222 per parcel annually

Commissioner Curtiss: That's for their sewer and their water?

Greg Robertson: This is for the water part.

Commissioner Landquist: So is that added to their tax bill or something? Is that how that's collected?

Greg Robertson: Yes, that's correct

Public Comment:

None

Commissioner Curtiss: This is a great project and the AREA money really helped these folks. This is a subdivision out in Clinton, it's mostly modular homes and their system leaked enough...what was it Greg? How much did it leak?

Greg Robertson: We had calculated that the average monthly usage for the entire subdivision was in the 150,000 gallon range and we were pumping monthly close to two million gallons. We were burning up pumps. The system now functions correctly, it does not leak and for the first time in a long time people don't have debris in their water.

Executive Session

Commissioner Curtiss made motion that the Board of County Commissioners adopt the Resolution for Special Improvement District 8406 and the Assessments as shown. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

9. CONSIDERATION

German Addition (2-lot Minor Subdivision) – 5577 Expedition Drive, Lolo

Aaron Wilson read the staff report. Cross walk across Expedition Drive to the Common Area would be painted (strips). A condition of approval for the Orchard Parks Subdivision. Sidewalk is only required for Lot 1 to the crosswalk.

Commissioner Landquist: If that lot wasn't going to be split, then would the sidewalk be recommended to go all the way to the property boundary?

Aaron Wilson: If it wasn't going to be split, I'm not sure it would ever come up as an improvement. I'm not sure why in the original subdivision they only required it to mid-point of that lot, I'm assuming to provide this connection to the common area for these homes.

A brief note about agriculture; there really isn't a whole lot of agricultural value that's being lost in this subdivision, it's in an area that's already urbanizing, it's a small lot to begin with. There are some prime farm land soils but again that's in the northern portion of the lot that's surrounded by residential development, previous use of this lot has mostly remained vacant and covered in weeds. In addition, the property owners are proposing to use and keep this southern portion in some limited agricultural use, although I think agricultural in that instance is used somewhat loosely, I don't know how much of a commercial agricultural operation would be possible on this small of a lot. So, we determined that there was no adverse impact to agriculture required mitigation.

There is identified floodplain on this lot. The 2010 DFIRM map identifies it as zone a.e. floodplain for portions you can see here, which is the southern 2/3 of the property. In addition, the submitted primary plat includes a surveyed elevation for a hundred year flood hazard. Given that floodplain, there's several conditions recommended by the floodplain administrator; One is to designate the areas in floodplain, so below the 100 hundred year flood hazard elevation identified on the preliminary plat that should be designated No-Build/No-Alteration Zone on the plat and included in the development covenants as a Floodplain No-Build/No-Alteration Zone that prohibits all residence structures and driveways. Clarification on that, it would prohibit all structures, including shops and barns. The reason for that is because there are alternative building sites on the lot that those should be where the structures are installed. This is in lieu of doing a complete floodplain study including the hydrologic...I'm not familiar with those engineering studies but there would be a full study required to put structures on those lots in the floodplain, if they were to apply for a permit. So this No-Build Alternative is in lieu of that and really to notify future property owners that it is a severely restricted area for development.

In addition to the No-Build/No-Alteration Zone, I've included a condition requiring a section on basements in the development covenants to limit the minimum basement elevation to be two feet above the floodplain elevation. And finally the third condition is to include the FEMA designated floodplain boundary on the face of the plat. At this point they are adopting the floodplain boundaries based on the 1988 maps and it's just south of the property but if for whatever reason they adopt the DFIRM maps...at least that's the way it's been explained to me, then they would have to show that on their preliminary plat for their file plat for insurance purposes. Just to notify future property owners that it is in the FEMA identified floodplain.

JAN 11 2012 05:33

Commissioner Curtiss: So that would mean if that happens before the plat was filed?

Aaron Wilson: Correct. At this point the official FEMA floodplain boundary is just to the south so it wouldn't show up on their file plat.

Staff's recommendation is approval of the variance subject to the condition to install a no access strip...or place a no access strip on the plat. And approval of the subdivision subject to the conditions contained in the Staff Report.

Margaret Maier: Concerned about access to the back portion of the lot.

Aaron Wilson: On the south end of that lot where that red dash line is on the map ~ that's going to be a no access so they won't be able to access from Terry Lane.

Margaret Maier: That's still in the floodplain also. That blue area is in the floodplain and it cannot be built on.

Aaron Wilson: Correct.

Dale McCormick, Developer (PCI): I want to thank Aaron for all the work on the Staff Report and the process, this has been one of the more expedited subdivision reviews I think we've done in a while. It's been a good team effort that way. I think Aaron did a fine job describing how this basically three (3) acre partial is going to be split into...is being proposed to be split into two roughly 1½ acre parcels. Tim German is the homeowner of the home on the west lot that is complete now and his brother Mike Wornath will...the hope is to construct a house of that lot to the East and it's also very helpful that OPG...sometimes it's difficult when there's a construction process taking place while a subdivision process is underway and we're able to navigate through that and I appreciate that. We're going to be connecting to water and sewer and there's a fire hydrant right across the street on Expedition so as far as access and public health and safety I think all of those issues are covered well. The south portion of the property prior to them seeding it this fall was covered in a whole variety of weeds and it's exciting that they're going to, I think be much better stewards of the property than it has been historically and they have a vision for what they want to do with the land and this is part of that process. So we're in agreement with most of the conditions recommended by staff with a few exceptions and I'll go through those with you. I passed out this green set of conditions which is basically the set of conditions from the Staff Report that have been modified as per our preference in underline, ~~strikeout~~. The first ones that we feel are inappropriate regard the walkway and crossing on Exhibition Drive. Typically in my experience when a Subdivision receives preliminary plat approval the conditions of approval need to be met in order for that final plat to be filed and when there are improvements that need to be installed, the two paths to getting the final plat filed are that either that those improvements are physically installed, verify that they're in place or there is money set aside as a security that those improvements should they not have been installed, that there's money set aside to install those improvements and that money is a security through a letter of credit or a bond or something. So in this case, neither of those things occurred and those conditions #4 & #5 are putting the burden of that on our client and that to me doesn't seem appropriate. The cost of those improvements would be upwards to \$3,000, just so you understand the impact of that. Like I said, historically in my experience, you don't really have a choice to not install it, you either install it or you set money aside and it gets installed by the County. So those we would request that they be stricken from the required conditions. The next condition that we wanted to address is condition #7f, this has to do with the designation of the 100 year floodplain, no-build, not alteration zone. As I said before, they're hope is to use this for agricultural purposes and they've already seeded it with grasses and are ready to start that next season and sometimes having a shed or a pull barn or some structure for agricultural purposes would be appropriate in that location. So what we would like to add to that condition is to say that no residences structures or driveways except for agricultural purposes, unless permitted by the Floodplain Administrator are to be constructed in the Floodplain, No-Build/No-Alterations Zone. So at least it leaves the possibility that it is acceptable to the floodplain administrator that that could occur and so that is another requested amendment to the conditions. The last amendments to the conditions that we're proposing are on the back page on condition #8 and #9. During the course of this process we identified what amounted to four different floodplain boundaries, one that was the official 88 FEMA paper boundary that is the that Aaron described is basically off of the south of Terry Lane, off of the property. Another is the DFIRM which isn't the regulatory floodplain of which that we found that there were two variations on the DFIRM and then the one that Todd Kleitz, the Floodplain Administrator felt was the appropriate one to use for the conditions regarding basements or flood hazards was the one we actually went to the site and surveyed based on a hydrological analysis of where the floodplain would be based on a physical elevation and so just to clarify which 100 year floodplain elevation gets put on the final plat we're proposing the language that it did say above the 100 year flood hazard limit by elevation as indicated on the preliminary plat. Which is the one that is shown right there (looking at map) and labeled as the 100 year flood hazard limit by elevation, so that's just a point of clarification. Other than that we are in support of the conditions and would ask for your support in approving this subdivision.

Public Comment

Tim German: Land Owner, here to answer any questions about our intentions or what we're doing. We plan to live there a long time and we just wanted to have access of the south in case we ever wanted to have a cow or to plant hay or to have a garden now there, we just wanted that ability.

Commissioner Curtiss: I wanted to clarify with Greg; if we put the one foot, no access strip except for agricultural use, as they requested, they would be able to go in and out, you just wouldn't give them an approach permit? How would that work?

Greg Robertson: We wouldn't give them an approach permit anyway. If the no access strip is put in, then no permit would be allowed. I think it's still at the discretion of the county to still restrict access to Expedition Drive if for so inclined. The cleanest way would be just to establish that as a no access strip, if that's the desire.

Commissioner Curtiss: We say in the conditions that they wouldn't be able to have a driveway to their house and all of those things there but I do agree when you have a piece of property like this, especially...the map doesn't show it really well but there's some elevation from the front to the back. If they want to get back there to take care of their property, they should be able to. So would they need an approach permit?

Greg Robertson: Yes they would.

Commissioner Curtiss: Okay so do we want a one foot access strip or should we put an opening in that in the middle?

Greg Robertson: Yes, I think that's really to your discretion. I'm not really a believer on no access strips anyway because they're difficult to enforce.

Commissioner Curtiss: Another thing if you look at the preliminary plat, we're asking them for a 30 foot easement so Terry Lane could be increased in the future and if we put one foot access back here and then drive a road over the top of it, it doesn't even work. So I think that if we somehow state that they cannot put a driveway to access the houses, whatever to the back...I don't think we want that one there.

Commissioner Landquist: I don't think it's any different then somebody that has access to their property from a front street or an alley. The typography is such that they're not going to be accessing their house via a vehicle...they might be four-wheeling it or something to access the house but realistically they need to have some access to the back of their property from Terry Lane for the purpose of maintaining it and they are giving us that other easement. I don't have a problem with them having an access to the back of their property and I just assume it would be one for each of those two parcels because if they do ever change hands and aren't owned by two friendly brothers or the two friendly brothers end up in a feud, they can still both access their properties. So I don't have a problem with that part of it.

Commissioner Curtiss: Which condition was that one?

Aaron Wilson: The condition for the no access strip is condition #1.

Commissioner Curtiss: So we can still make the notation on the plat that access to Lots 1 & 2 is limited for agricultural purposes and just take the one foot strip off?

Greg Robertson: The issuance of the permit under Montana Law properties are entitled to access that front on a public road or right-of-way. It's the Governments role to determine how that access is to look and you're not guaranteed to have full access, just reasonable access. The only concern I would have with something like that would be if there was potential for connection to make it basically a through route for people to cut through. If typography limits that and I believe it does in this particular case because a grade separation, there's really no big concern. They're going to access their houses from the Expedition Drive, which is closest, it's paved. Terry Drive is much lower standard and terms of width condition.

Dale McCormick: There is about a 20 foot grade change from Expedition Drive down to Terry Lane and basically the floodplain pretty much demarcates where that slope rate is and then it's flat. So I would ask that either that condition be eliminated or if not eliminated that there at least be a 20 foot access break for each lot so that there was the potential to connect but it probably makes more sense for it to just not be there, for the reasons that Greg was talking about.

Chair Carey: So could we just strike the first sentence in Condition #1 and get it done that way?

Aaron Wilson: Yea I suppose you could, I'm just not sure what weight just noting on the plat ~ if you crafted a section in the covenants that might be more restrictive, I suppose. I think for all intents and purposes the limits from the Floodplain Department, they can't put a driveway through there anyways and the current Orchard Parks covenants also limits putting in driveway or compacting or filling in the floodplain, I suppose that alone would prevent a lot of the access or putting in a driveway to these lots. I think the concern with having the one foot, no access strip was when Terry Lane is widened in the future and improved maybe that's 10 or 20 years down the road or maybe it never happens but there is that potential they're granting an additional 30 foot easement so it could be improved and widen in the future. It would just be a question of how that impacts future access from the south on these lots.

Commissioner Curtiss: So in the covenants #7f as they're proposing on the green sheet, 3rd page where the 100 year floodplain is bolded, says no residence structures or driveways except for agricultural purposes unless permitted by the floodplain administrator are to be constructed. I think that keeps it from being a road.

Chair Carey: Could add that language and strike Condition #1?

Aaron Wilson: Actually I have some alternative language that might be clearer for enforcement, except for agricultural purposes, maybe at least from an enforcement perspective, harder to interpret. You could instead of that say something like; no residences, no other structures that have not been properly permitted by the Missoula County Floodplain Administrator and no driveways are to be

constructed in the floodplain. That way, no residences could be built and then any additional structures would have to be permitted, if it's permitted by...or approved by the floodplain administrator and properly permitted then they could move forward, which is essentially what they're doing. I think in their changes I think we would be removing it...

Commissioner Curtiss: Although we probably have some experience with the floodplain administrator that you don't because he's not allowed to permit an agricultural building in the floodplain if there's somewhere else on the property you can put it. It has to be appealed to use and so in my mind, we are us now so if we think that an agricultural building and I mean, we can limit the size or something if we wanted to but if we think it's appropriate rather than make them put it up by the house, I didn't look at how long this lot is but it's long, 545 feet or something. I grew up on a farm, I know how far it is from the chicken coop to the house and you don't always want that. I think we can be clearer, so that your enforcement would be easier; but if the Commission thinks it's okay at this point, there's no sense in them having to go to Todd and have to appeal to us, in my mind.

Commissioner Landquist: Makes sense to me too.

Commissioner Curtiss: There's nothing against Todd, he's doing what the regulations say and he doesn't have administrative rights to approve if there's another spot to put it.

Chair Carey: So did you want to go with the proposed language here, or...?

Commissioner Curtiss: Well we could tighten it up if you wanted.

Chair Carey: Do you want Aaron to read his verbiage back?

Commissioner Curtiss: He was saying that the permitted by the Floodplain Administrator is all. This one says agricultural buildings and the rest would of them...anything else would have to be approved by the floodplain administrator.

Aaron Wilson: I guess my concern with the way the developers proposed language goes, except for agricultural purposes, it seems like you could read that those are just permitted and I don't know if you'd want...I don't know if they are and maybe that's a clarification. My thought was that even if it was an agricultural building, in the floodplain you still need a permit for that and we don't want to give the impression in the covenants that you can build a shed without going through any kind of permitting so maybe some statement that says that you can't build any residences or structures unless approved or properly permitted or some language along those lines.

Commissioner Landquist: That's true; didn't we even have to permit that one even on the McClay Ranch a couple years ago that was for hay storage and stuff in the floodplain?

Commissioner Curtiss: That was an appeal to us. And maybe that's the way we need to do it, I don't know.

Tim German: May I speak to that? The exact situation you're talking about, what I was trying to go around, no matter what structure I build there would need to be permitted but in the building permit process it stops at floodplain because it says, look you have room between your house and Exhibition Drive, you can put it up there so I can't give you permission. Where if it was stated this way, I could say look it gives me permission, the Commissioners have given me permission for a building permit. I still have to get a building permit so I'd still have to adhere to all...

Commissioner Curtiss: No, for Ag you don't get a building permit. But you do sign an affidavit saying it's an agricultural building, I believe. So, Mr. German do you have an idea of size? Could we be more restrictive? Are you thinking pole barn or are you thinking shed to put the tractor in?

Tim German: Well, pole barn to put the tractor in and put those things in. We haven't thought about design, it's a year or two down the road, we just wanted to make sure that...I was just trying to save having to come back and say hey guys, can I build a pole barn now? That was the intent. That's why I was requesting the language like it was.

Commissioner Curtiss: I understand why you're doing it because we have had these before us.

Aaron Wilson: It's not clear to me that putting something in the covenants effectively by-passes the Floodplain Regulations. The covenant is binding on the landowner not necessarily the County so you can say in here except for agricultural purposes but that's not giving your approval, in my mind, to any agricultural structures, they would still have to go through the Floodplain Regulations and get that approval and make the appeal, if that's the appropriate process to move forward. At least that would be my understanding, I'm not sure you would be and maybe that would be a legal opinion that James would be better able to answer but I would be uncomfortable, I guess, saying that by making this change to the covenants you're effectively giving approval to bypass the floodplain regulations.

Commissioner Curtiss: You're probably right. Like we can't say they can put a septic there and we can't say they can build a garage there.

Aaron Wilson: What I think you would be doing is maybe making it less clear for future land owners what they have to get permits for. I think that's my concern, is making sure that it's clear in the covenants that yes, you have to get floodplain approval for any structures if you were to build them and if you don't they're prohibited in the No-Build/No Alterations Zone.

Commissioner Curtiss: So can you read you're language again?

Commissioner Landquist: Why do we even have to say No-Build/No-Alterations, etc.? Why do we have to start there with the 'no's' instead of saying, buildings in this area will require a special permit?

Commissioner Curtiss: We do that all the time though on riparian areas and floodplains. It's just because it's clearer. If you buy the property and you have this here and it says a No-Build zone, it makes you think you have to go through some process.

Chair Carey: Do you want to give us your language again?

Aaron Wilson: I don't know if my language is the absolute right way to do it but I would take out the 'except for agricultural purposes' or clarify to say that 'buildings for agricultural purposes still require permitting by the Floodplain Administrator'. Or to say that...the language that I had mentioned before was 'no residences, no other structures that have not been properly permitted by the Missoula County Floodplain Administrator and no driveways are to be constructed in the Floodplain No-Build/No-Alterations Zone on Lots 1 & 2'. So those other structures will just have to go through the appropriate permitting process.

Dale McCormick: In terms of the comment, Michele that you had about the plat, I neglected to mention on condition #9 what we wanted to add. There was a requirement that on the plat it be noted as a No-Build/No-Alterations Zone, we wanted to add to the language as defined in the German addition covenants so that it links the plat...so like what you're saying if somebody looks at the plat, they say, 'oh this is a No-Build Zone' but it says as per the covenants. So then they refer back to the covenants so that's why this getting the language that you're working on now would be actually what would find could be built on that portion of the property.

Commissioner Curtiss: Although covenants can be changed.

Dale McCormick: Well what we're required is that portion cannot be changed.

Commissioner Curtiss: Here's another way to maybe do it; now I'm looking back at the white sheet that we had, where it says 100 year floodplain. Is to say, no residences, strike the words...I guess you could leave structures there because that could be lots of things, or driveways are to be constructed in the Floodplain, No-Build/No-Alterations Zone on Lots 1 & 2. Then have another sentence that says; 'Agricultural buildings would have to be approved ~ could be approved or would have to be approved, something, by the Floodplain Administrator. So it's saying that you can have residences and just build a driveway and a bunch of stuff but...so maybe you should strike structures and then just say 'agricultural structures could be approved by the Floodplain Administrator' or must be...or something.

Tim German: It's back to...well, when you say 'maybe approved by Floodplain Administrator', he'll look at it and say well you have room on Exhibition Drive to build that so I can't approve that because you have some place else...

Commissioner Curtiss: You're right, he can't approve it but the Commission could. I think that he's right though that I don't know that covenants have strength in law to go against whatever the floodplain regulations are, without going through the process.

Greg Robertson: I think if James were here, I think he would advise that there is currently an existing resolution in process already established that regulates floodplain and by doing this you're circumventing that process. The discretion is still yours through the appellate portion of those regulations to allow those uses upon appeal, my recommendation would be to keep the two separate.

Commissioner Curtiss: You could say, 'agricultural buildings may be approved through the floodplain regulation process.' And you always have the option of getting a copy of the minutes from this so that in the future the Floodplain Administrator can see that the Commission recognized that some agricultural buildings would be appropriate on this property. The Floodplain Administrator won't be able to say yes because that's what our... unless we change our regulations, when there's another place to do it. But it can be appealed to us and we have in the past approved agricultural buildings, even though there was another spot but it didn't make sense.

Tim German: What becomes apparent and what's the easiest thing to do is to take what you're saying but even though I don't have to build it next year, come back soon with an application to build a pole barn and go through the process while it's still fresh in everybody's mind.

Commissioner Curtiss: So mine was then agricultural buildings may be approved through the floodplain regulation process. So if we look at the 100 year floodplain, the stuff that's in bold on the white sheet under f; no residences ~ do we leave structures or not?

Aaron Wilson: I would recommend leaving structures just because it's clear. If you're going to allow for...or you could take structures out and instead of saying agricultural buildings, just say; all other structures must be approved through the floodplain regulations. That way you capture all structures and I think just makes it's clearer.

Commissioner Curtiss: But we really don't want a bunch of structures down there, like a garage.

Aaron Wilson: And I don't know that you would be able to anyways since it's not an agricultural structure. Or I guess the other way you could do it is to leave structures in and then refer to agricultural buildings. I don't know if that creates a little bit of a conflict there but I think you're exempting the agricultural buildings from outright prohibition and as long as they are properly permitted they would be allowed.

Executive Session

Commissioner Curtiss: So I think it should read; 'No residences, structures or driveways are to be constructed in the Floodplain No-Build/No-Alterations, Lots 1 & 2. Agricultural buildings may be approved through the floodplain regulation process.' We are part of that process. I think that way we've recognized that they might come back and have an Ag building and it's stronger than being in covenants.

Commissioner Curtiss made motion to make the above change. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

Commissioner Curtiss: Do we need to anything in #9? It refers to floodplain too. If we have the no build over here then it means the same thing in #9, right?

Aaron Wilson: Right. I would be fine with...I think Dale makes a good point of clarifying in their proposed changes on condition 9, that it be referred to as...I think you can do that one of two ways; you can either include the full definition on the face of the plat or you could refer them to the covenants, I think either way.

Commissioner Curtiss: #8 basements (on the green sheet), the language there that clarifies which floodplain land we're talking about.

I would move that #8 and #9 be amended to reflect what's written on the green sheet with the hazard limit by elevation. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

Commissioner Curtiss: I would move that on condition #1. I still don't think it hurts to have it on the plat saying...even though it's hard to enforce, I think that if we just strike the first sentence and leave the notation on the plat that it's for agricultural use even though we know that this is agricultural use is a pretty loose definition here. On the green sheet ~ #1, I strike the first sentence.

Commissioner Landquist: The 1-foot "No Access Strip"?

Commissioner Curtiss: Yes.

Commissioner Curtiss: So it would begin with the word 'Notation'.

Aaron Wilson: So it's essentially the same as the condition as recommended in the staff report, just without the first sentence?

Commissioner Curtiss: Yes.

Dale McCormick: So it will read notation shall be made on the final plats stating that access to Lots 1 & 2 from Terry Lane shall be limited for agricultural purposes, subject to review and approval by County Public Works and OPG prior to final plat approval and the approved language shall be included in the section of the development covenants.

Commissioner Curtiss made motion. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

Commissioner Curtiss: Now the sidewalk issue. Michele has driven out there a couple times to view.

Commissioner Landquist: I've driven out there a couple times; I really wanted to see what it looked like after the plows had a chance to go through and after peopled shoveled. In my mind, I think that is one of the nicest, newest subdivisions Lolo has. I would really like to see a sidewalk go across both lots and the painted line; I don't know why Public Works couldn't do something like that if they felt the need to. It's a nice walkable community; it's got a beautiful common space area. If both of these lots constructed the sidewalk across the front, it leaves 4 houses there at the end that won't have a sidewalk and someday they'll probably end up building one but at least they'll have easier access the street through the berms. I think it really looks incomplete not having the sidewalks there. There's going to be more traffic created from both those lots and I think that's all the more reason that for mitigating traffic concerns, I would like to see the sidewalk the full length of both lots. I don't care much about the pedestrian crossing painted across the road there; Public Works can splash a little paint on there. I'm more concerned about the completed streets. This is an opportune time while the City is talking about sidewalks and ways to pay for them. This is developer driven in splitting this lot and building this lot.

Dale McCormick: Just wanted to emphasize that condition #3 requires waiving the right to protest and RSID and the requirement to install the sidewalk on proposed Lot 1 was an oversight in the platting of the Orchards Park Subdivision and I'd still be curious to know if there was money set aside in a letter of credit that went into some fund that never got spent. We couldn't find the answer to that question but I guess I don't disagree that a sidewalk along the south side of Exhibition Drive, along all of those lots probably makes sense but doing it as part of a comprehensive project and the fact that we're waiving our right to protest such a project would be another way to accomplish that goal.

Commissioner Landquist: I can appreciate that Dale. I don't know what happened in the way back machine there, this was signed off by Commissioners I don't know, we didn't have a Public Works Director and trying to figure out what went wrong back then is, I agree, problematic but I don't see where...I was taught two wrongs don't make a right so I'm having trouble buying into that one. I might add that #3 for the future to waiver your rights for the RSID is also for the benefit of upgrading and or maintaining the road but not limited (whatever) to paving curves, letters and non-motorized...not just sidewalks. I just don't see why we should limit ourselves at this juncture.

Tim German: That's one I had real mixed emotions on because talking with Mike we thought the side walk on half, my lot, finishes out the sidewalk plan because if you curve the sidewalk to go across the street and have a ramp, then the sidewalk never ends, it gets plowed and it goes across the street. Where the houses on the south side of Exhibition from that point on don't have sidewalks and it's always going to end somewhere. In reality for me to make sense to build the sidewalk ~ go down the frontage of Lot 1 until it meets the sidewalk across the street and just curve it so that it doesn't just end. In reality if anything's going to get used that would be the part that gets used. They do have a sidewalk on the north side of Exhibition South and the likelihood of getting all of the homeowners to agree to build a sidewalk ~ they probably wouldn't want to do it, but it would look completed then.

Commissioner Curtiss: Mr. German, are the houses on down Exhibition where the sidewalk doesn't go - are they part of this same subdivision, would they have the waivers?

Tim German: No. Lot 21 was part of the subdivision and for whatever reason it didn't get built. It's a wrong, we can't fix a wrong.

Commissioner Curtiss: So a compromise might be to build the sidewalk, let it curve to...instead of going to the last 30 feet or whatever.

Tim German: And then I might ask to let the County paint the crosswalk.

Greg Robertson: I don't know that we want to paint the crosswalk. Generally you put crosswalks in, they're implied at intersections anyway especially if you have ramps associated with it and normally crosswalks of this nature, especially painted ones or annunciated ones are on higher volume, higher speed roads where motorists need to be drawn to their attention. This is simply a residential neighborhood with really no warrants for or need for that.

Aaron Wilson: I just want to clarify the point that came up about the lots to the east being on the south side of Exhibition Drive there was an RSID waiver on the original Orchard Park Subdivision that included those lots with the intend expressed intention written on the plat for that sidewalk when it was developed further to the east. I think there's potential for development where Terry Lane comes back up to the east. There was a third phase to the Orchard Park Subdivision that I don't believe was ever filed or developed. There is that RSID waiver on the Orchard Park plat that applies to those homes.

Commissioner Curtiss: It does apply?

Aaron Wilson: Yes.

Dale McCormick: Thanks Aaron, I was just going to point that out. Lots 17-21, it's in the submittal packet.

Commissioner Carey: It seems as though there's kind of a fairness issue here too, whether or not it's appropriate for this developer to have to put in a sidewalk.

Commissioner Curtiss: It's likely that the other houses where the sidewalk was built that it was figured in their purchase price and maybe his wasn't ~ who knows? But if he's willing to compromise and build just so that it can make that last connection and maybe have the ramp down to the street, then in the future we can look at the RSID for sidewalks.

Greg Robertson: I tried to go back and look at the file to see what happen. We do have a record but it's...whatever happened here is a mystery. It was before my time so I don't have the institutional knowledge, the one that would have it at the time was Horace Brown and he may have had reasons to eliminate that particular segment, I don't know. It's anybody's guess.

Commissioner Curtiss: Actually if you read #4 from the staff report, it says that it would go to the intersection of Explorer and Exhibition, so it doesn't say clear to the edge of Lot 1. Well it says, from the western boundary to the intersection so it says what we just said. And then if we don't care about painting the crosswalk we just strike 5?

Greg Robertson: That's the other thing; we could probably eliminate the requirement for engineered plans for it since it was already contemplated in a previous set, we can just work off those, off the original Orchard Park Development. It's been designed once already, no sense in doing it again.

Commissioner Curtiss: So how would we word that?

Aaron Wilson: I think you can just talk off plans for and...

Commissioner Curtiss: ...installation of a five foot sidewalk, 7 foot Boulevard along Exhibition Drive from the western boundary of Lot 1 to the intersection of Explorer Drive and Exhibition Drive. Do you still want to review and approve it?

Greg Robertson: Yes, it will have to be part of a right-of-way permit, those are real simple.

Commissioner Curtiss made motion to strike 'plans for and' ~ and to begin with the sentence with 'Installation' on #4. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

Commissioner Curtiss made motion to strike Condition #5, a painted crosswalk doesn't seem necessary in this area. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

Tim German: Commissioner may I ask one more question? Is it possible to make that sidewalk tied to the occupancy permit of the second building? We'll be applying right away but it we...the issue is, if we could do it in the summer when we're doing all the other concrete it makes sense but we'd like to record the plat right away so is there a way around having to bond the plat or bond that work if we can tie it to a building permit?

Greg Robertson: We don't generally do that and it's kind of clunky to do it that way but what we can do if desired since it's a reasonable small amount of...just hold the cash, check, something along those lines and then you just go ahead and record it, you don't have to bond for it in the standard sense and we'll just return it to you when it's completed. We will work with the developer to let them do their concrete work all at once.

Commissioner Curtiss made motion that the request to vary from Subdivision Regulations Article 3.3.1(5), which prohibits through-lots to allow Lots 1 & 2 to but both Expedition Drive and Terry Lane be conditionally approved. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

Commissioner Curtiss made motion that the German Addition Subdivision be approved based on the findings of fact in the staff report and subject to the recommended conditions as amended in the staff report and the green sheet. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

10. OTHER BUSINESS: None

11. RECESS

There being no further business to come before the Board, the Commissioner were in recess at 2:55.

Following Public Meeting - BC signed Resolution No. 2012-004, dated January 25, 2012. Relating to RSID #8496 (Lewis and Clark Subdivision); final levy (B Bond/\$165,000) of special assessments on property within the District for the purpose of financing the cost of certain local improvements.

THURSDAY, JANUARY 26, 2012

BCC did not meet in regular session. BCC participated in County Mediation (Richards) on and off all day.

ADMINISTRATIVE MEETING – CANCELED

FRIDAY, JANUARY 27, 2012

BCC did not meet in regular session. BCC Economic Outlook Seminar, held at Hilton Garden Inn. Afternoon: BCC attended Retirement Celebration for Dave McGinnis, held in Room 201.

Letter – BCC signed, dated January 27, 2012. To Rich/Jen Maricelli, Florence, denying their request to waive Subdivision for Lease or Rent application fee.

Replacement Warrant - BC signed. Fraser Horton, Missoula, Principal for MCPS Warrant #28215089, issued November 18, 2011 on MCPS Payroll Fund. Amount/\$385.99 (for wages). Not received in mail; no bond of indemnity required.

Requests for Records Disposal/Transfer Authorization – BC signed five (5) requests:

1. From Sheriff. 6 boxes: Jail Rosters (1984-1990).
2. From Judge Henson. 1 box: Court Notes (3/2001-9/2001). To be destroyed.
3. From Sheriff/Detention. Juvenile Arrests Sealed/DOB 1983 or prior. To be destroyed.
4. From Sheriff/Detention. Payroll Timesheets (1/2007-12/2007). To be destroyed.
5. From Sheriff/Detention. Paper copies/Booking Records (arrests prior to 12/31/2001); and Inmate Medical/Dental Records (arrests prior to 12-31-2001). To be destroyed.

Vickie M. Zeier
 Vickie M. Zeier
 Clerk & Recorder

Bill Carey
 Bill Carey, Chair
 BCC

111-0370

MONDAY, JANUARY 30, 2012

BCC met in regular session; quorum present. Late morning: BCC participated in listening session with MDR Government Affairs Committee, and MDR Members. ML ill and out of the office all afternoon.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) Knife River Administrative Correction Request; 3) MCPB Attendance; 4) OPG Director's update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Communications; 3) RI Director's update.

County Payroll Transmittal Sheet – BCC signed. Pay Period: 02/CY2012 - Pay Date/January 27, 2012. Total Payroll/\$1,292,934.56. To County Auditor.

TUESDAY, JANUARY 31, 2012

BCC met in regular session; all three present.

ADMINISTRATIVE MEETING

Agreement – BCC signed, dated January 24, 2012. Between County and Monte Dolack Gallery to create original artwork using theme "Ropin', Ridin' and Rememberin'" for 2012 Western MT Fair to celebrate 100 years of 4-H in Montana. Amount/\$9,000. Term/January 31-June 15, 2012. One original to S. Earle/Fair.

Counter Offer – BCC signed Counter Offer/Addendums A & B to RJH Properties', LLC (Office City) Buy-Sell Agreement to purchase Lot 4, MDP-Phase 3C. Counter Offer/\$124,136. Closing on/around April 30, 2012. Original to Barb Martens/Projects.

Claim – BCC authorized, and CAO Dale Bickell completed forms on behalf of County Detention Facility to file a claim with MT DOR for unclaimed property held by State of Montana. Total revenue/\$222.80.

Letter – BCC signed, dated January 31, 2012. To Dana Boruch/MT DNRC, Missoula, supporting replacement in late February of Yellowstone Pipeline crossing of the Clark Fork River downstream of Turah. BCC also supports issuance of short term license for pipeline replacement using directional drilling.

Letter – BCC signed, dated January 31, 2012. To Jim Morton/HRC, Missoula, supporting HRC's application to become qualified provider of homebuyer assistance services in Ravalli, Missoula and Mineral counties through the MT DOC HOME Program Single-Family Allocation program. County will continue to certify environmental review records for the homes of participants in Missoula County.

Additional discussion item(s): Proposed changes to Milltown State Park Grant.

MISSOULA COUNTY COMMISSIONERS' JOURNAL: FEBRUARY, 2012

BCC = BOARD OF COUNTY COMMISSIONERS

BC = Commissioner Bill Carey, Chair

ML = Commissioner Michele Landquist

JC = Commissioner Jean Curtiss

The following Claims Lists were signed during the month of FEBRUARY 2012:

Date Signed	Claims List Date	Who signed	Amount
February 1, 2012	January 30, 2012	BCC	\$18,488.22
			\$653.38
			\$5,630.74
			\$2,444.52
February 1, 2012	January 31, 2012	BCC	\$1,464.60
			\$5,765.47
			\$11,859.02
February 1, 2012	January 31, 2012	BCC	\$215.00
			\$239.70
			\$1,118.53
			\$585.00
			\$1,304.67
			\$186.01
			\$28.89
			\$268.49
			\$5,330.44
February 2, 2012	January 31, 2012	BCC	\$424.00
			\$903.00
February 2, 2012	February 1, 2012	BCC	\$26,538.62
			\$295.41
			\$8,672.07
			\$242.60
			\$1,365.97
			\$37,335.47
			\$725.00
			\$506.15
\$46,967.25			
February 2, 2012	February 2, 2012	BCC	\$5,982.65
			\$21,758.34
			\$5,207.17
February 3, 2012	February 2, 2012	BCC	\$28,889.22
			\$90,303.31
			\$17,922.75
February 3, 2012	February 3, 2012	JC, BC	\$133,679.48
			\$23,865.03
			\$46,555.76
			\$25,633.76
February 7, 2012	February 6, 2012	BCC	\$1,570.00
			\$3,334.03
			\$17,992.35
			\$5,426.93
			\$336,032.32
			\$7,446.12
February 8, 2012	February 7, 2012	BCC	\$1,085.27
			\$8,932.97
			\$53,759.68
			\$14,127.45
			\$43,227.68
			\$11,988.74
			\$9,384.10

February 8, 2012	February 8, 2012	BCC	\$2,276.71
			\$25.00
			\$5,967.13
			\$2,385.91
			\$10,995.04
			\$2,168.69
February 9, 2012	February 8, 2012	BCC	\$10,968.32
			\$48,338.61
			\$22,116.88
			\$2,924.87
			\$182.14
February 10, 2012	February 8, 2012	BC, JC	\$11,514.83
			\$3,940.59
February 10, 2012	February 9, 2012	BC, JC	\$4,056.71
			\$3,996.00
			\$32,173.92
February 10, 2012	February 10, 2012	JC, BC	\$2,946.98
February 13, 2012	February 13, 2012	BCC	\$1,084,796.22
			\$58,730.84
February 15, 2012	February 10, 2012	BCC	\$1,739.97
			\$249,501.69
February 15, 2012	February 14, 2012	BCC	\$25,542.89
			\$2,395.57
			\$2,060.34
			\$10,492.72
			\$153,432.42
			\$820.50
			\$3,099.05
			\$240,515.04
February 16, 2012	February 14, 2012	BCC	\$9,816.53
February 16, 2012	February 15, 2012	BCC	\$794.97
			\$594.45
			\$243.77
			\$2,235.95
			\$2,344.28
			\$1,128.23
			\$22,094.08
February 17, 2012	February 14, 2012	BCC	\$14,348.00
February 17, 2012	February 15, 2012	BCC	\$1,289.36
			\$595.25
			\$365.00
			\$9,926.26
			\$1,031.26
February 17, 2012	February 16, 2012	BCC	\$75,475.60
			\$31,959.02
			\$19,579.32
			\$49,626.73
			\$3,945.86
			\$2,100.00
			\$72,744.39
February 21, 2012	February 16, 2012	BCC	\$3,025.55
			\$8,943.67
February 21, 2012	February 21, 2012	BCC	\$2,322.47
February 22, 2012	February 21, 2012	BCC	\$24,441.83
			\$42,987.74
			\$25,951.16
			\$2,493.93
February 23, 2012	February 15, 2012	BCC	\$8,966.97
February 23, 2012	February 16, 2012	BCC	\$2,767.83

February 23, 2012	February 22, 2012	BCC	\$7,241.90
			\$3,342.24
			\$41.17
			\$896.23
			\$9,778.47
			\$2,024.00
February 24, 2012	February 22, 2012	BC, ML	\$50,944.08
			\$19,714.31
			\$8,847.65
			\$8,492.78
February 27, 2012	February 24, 2012	BCC	\$17,000.00
February 27, 2012	February 27, 2012	JC, ML	\$3,468.72
February 28, 2012	February 27, 2012	BCC	\$38,498.71
February 29, 2012	February 28, 2012	BC, JC	\$165,055.90
February 29, 2012	February 29, 2012	BC, JC	\$15,148.00

All Claims Lists were returned to the Accounting Department.

WEDNESDAY, FEBRUARY 1, 2012

BCC met in regular session; all three present.

CAO MEETING

Request – BCC approved request from Rural Initiatives to grant authority to RI Director Pat O’Herren, to sign seven (7) certain Trout Limited/DNRC Reclamation and Development Grants Program project contracts/ agreements administered by RI through February 1, 2012. Original to Pat O’Herren/RI.

Requests for Records Disposal/Transfer Authorization – BC signed five (5) requests:

1. From Cerese Parker. 2 boxes: Court Notes (5/7/2001-11/28/2001). To be destroyed.
2. From Justice Court 2. 1 box: Month End Reports (1/1/2003-12/31/2003). To be destroyed.
3. From Human Resources. a) 12 boxes: Recruitment Files (1/4/2008-12/26/2008); and b) 4 boxes: Terminated Personnel (1/1/2001-12/31/2001). To be destroyed.

Letter – BCC signed, dated January 31, 2012. To Nikki Rogers, Missoula, re: her letter addressing snow removal on Clements Road pathway. Unfortunately, funds used to construct trails do not include maintenance, nor does County staff have equipment/manpower/budget to maintain them.

Additional discussion item(s): Courthouse/Annex finishes.

SPECIAL PUBLIC MEETING – FEBRUARY 1, 2012

1. CALL TO ORDER

Commissioners Present: Commissioner Chair Bill Carey, Commissioner Jean Curtiss, Commissioner Michele Landquist

Staff Present: Marnie McClain, Deputy County Attorney, Todd Klietz, Floodplain Administrator

2. PLEDGE OF ALLEGIANCE

3. PUBLIC ANNOUNCEMENTS

None

4. PUBLIC COMMENT

Charles Martin: Missoula Resident and Photographer I’m here regarding Jimmy Lee’s death just outside the Courthouse.

5. ROUTINE ADMINISTRATIVE ACTIONS

Weekly Claims List (\$408,467.63)

Executive Session

Commissioner Landquist made motion that the Board of County Commissioner approve the weekly claims list in the amount of \$408,467.63. Commissioner Curtiss seconded the motion. The motion carried a vote of 3-0.

6. HEARING

Appeal of Floodplain Permit Denial (Ted Meinzen, Jr.) Lolo Creek

Todd Klietz read the Staff Report with ppt presentation

Several years ago there was a proposal for a subdivision in Lolo called Willow Brook Meadows. That particular subdivision was proposed I believe in 2003/2004, for the most part that subdivision is not shown within the Floodplain but there was some work that needed to be accomplished there in the Floodplain as mapped by FEMA and I asked the County Attorney at that time whether or not a new

State Law which was MCA 76-1-605 if that new State Law that had been enacted by the Legislature if that had impacted how the Missoula County Floodplain Regulations regulated Floodplain Development. The reason why I ask that is that among all the different things that Floodplain Regulations cover, they also cover compliance with comprehensive plans and whether or not there's access to a given property during a 100 year flood. At that point and time, the County Attorney's Office replied back indicating that the new State Law negated the portion of the Floodplain Regs that required compliance with the comprehensive plan. Based on that, I issued the permits for Willow Brook Meadows to do some work within the Floodplain. There were 30 some lots.

Commissioner Curtiss: The houses were not in the Floodplain, but the work they needed to do was.

Todd Klietz: Right. Most of Willow Brook Meadows is not in the 100 year Floodplain as mapped by FEMA. The reason why that's important is that it's in the same regional plan as the Meinzen's parcels. The Lolo original plan that was approved. Again all the lots were out of the FEMA Map Floodplain. There was some work that was done that was within the FEMA Map Floodplain and that's what prompted the question to the County Attorney whether or not that work had to be issued in compliance with the Comprehensive Plan. The response back was 'no the Comprehensive Plan does not apply for Floodplain Regulation.' May 5, 2004. So again to follow-up, that's what prompted in how the Floodplain Permit for Willow Brook Meadows was issued.

There's another portion of the Missoula County Floodplain Regulations that requires access to lots be considered prior to development. That was one of the items that was taken into consideration when a sewer line was extended down into these properties just north of the Meinzen Lots. At that time, which was a couple years later, that was in 2005, I approach then Sheriff Mike McMeekin to comment as to running sewer line down to provide new development of lots that are in Floodplain and whether or not he had concerns about providing access to those properties during flood. Sheriff McMeekin had indicated that during the flood of 1997 he stood on dike down in Lolo Creek and witnessed how high the water had come during that flood event and indicated that he would provide...essentially he had no issues with providing service to lots down in the Floodplain and to not let access be an issue...prohibiting me from issuing permits for those areas.

In May of 2010, Mr. Meinzen contacted me about what he would need to do to begin developing lots, his lots, I believe he was thinking about purchasing the lots, I don't know if they were his at the time or not, but about these particular lots down in the Floodplain. I responded in an email that essentially if you could get access to the Lolo Sewer Treatment Plant, he could then apply for a Floodplain Permit for those properties. The Lolo Sewer Treatment Plant...the sewer line that was run in 2005 by Merv Selly and Richard Foster and I believe Dewayne Roy was a part of that ends just north Ted Meinzen, Sr. property right here in the middle of that particular road, the name escapes me right now. That's where the sewer service ends and my response in May 2010 was if he could get access to the Lolo Sewer Treatment Plant he could then apply for a Floodplain Permit to start developing these properties. In December 2010 I was informed by the County Attorney's Office of a new ruling by the Montana Supreme Court that essentially reversed the County Attorney's previous opinion that said that comprehensive plans were null and void for Floodplain Regulatory purposes. That happened in December of 2010, that particular case was Flathead Citizens for Quality Growth Inc. vs. Flathead County Board of Adjustment. Based on that Supreme Court case the County Attorney reversed that previous opinion and indicated that Floodplain Permits had to be...the Comprehensive Plans had to be considered regulatory for issuing Floodplain Permits. On September 9, 2011, Ted Meinzen represented by Ron Murra, Engineer out of Hamilton from Ram Engineering applied for a Floodplain Permit to run a sewer line extending it from this particular road through his father's agricultural partials here to service these five lots here (looking at map). That permit was submitted on September 9, 2011, went out for public comment, notice was placed in the Missoulian. I talked to the County Attorney's Office based on the new ruling of the Comprehensive Plan how that had to be utilized, I also met with Sheriff Carl Ibsen because the previous Sheriff had indicated that he did not personally have concerns with running a sewer and extended residential construction down there. Sheriff Ibsen, who had just witnessed the 2011 flooding that we had on Tower Street had a different perspective than Sheriff McMeekin and indicated that he was generally not supportive of new development down in the Floodplain that of course they would provide service to residences that live in the Floodplain but that he was not supportive of putting in more development down in the 100 Year Floodplain.

Commissioner Landquist: Can you give me that date again, that the sewer was extended?

Todd Klietz: The Floodplain Permit for that was Permit #05-2010 that was issued on May 13, 2005.

Commissioner Curtiss: So it was the Permit, the work wasn't done, right?

Todd Klietz: The permit was issued on May 13, 2005; it took them probably less than a year I think to complete the sewer line installation. And that's the sewer main, it's not individual sewer lines going from individual tracks to the sewer main, it's the sewer main itself.

Fast forward to the Meinzen application: During the application process I talked with the Planners, who I work with in the Planning Department, I'm the Floodplain Administrator, they're the Planners, I asked them to review the Lolo Comprehensive Plan as it applies to these particular parcels. The way that I interrupted it was that it was identified as open resource but I didn't want to making the call since I'm also the Floodplain Administrator as to how that applied in the issuance of the Permit. I received a review of the Lolo Plan from Tim Worley, a Planner with the Office of Planning & Grants on October 7, 2011 and based on his review whether or not new structures in these areas would be in accordance with the Comprehensive Plan and based on the conversation I had with Sheriff Ibsen, I denied the Floodplain Permit on October 13, 2011. The primary reasons for denial again were lack of access during a 100 Year Flood as identified on the Floodplain Maps, these 2010 maps are a lot more

accurate than the FEMA in 1988 maps, they're based on actual typography, one that was taken by aerial means vs. a survey that was done every half mile. When you drop Lewis & Clark Drive, you actually drop down into the 100 Year Floodplain, as identified on that typography these roads are not high enough to be able to provide safe, dry access during a 100 Year Flood, it will be inundated with flood waters, as shown on the FEMA maps. That was one of the reasons why the Permit was denied, is that there is not safe and dry access during the 100 Year Flood Event and the other reason again was based on the Comprehensive Plan that identifies a series of open resource.

On November 14, 2011 Allan McCormick, an Attorney for Ted Meinzen submitted an appeal to the County Commissioners to appeal that decision, that permitting decision and as we've gone through the process, that's what has lead us here today. I have copies of the original application; this is the application that was submitted by Ted Meinzen, Jr. through Ron Rumarra. The description of this proposal was to connect to an existing 2-inch force main on Jeffery Lane and extend down to Lewis & Clark Drive to serve five lots owned by Ted Meinzen, Jr. Included in the application was the design drawing by Ram Engineering, which shows that end of the existing sewer at Jeffery Lane extending on the north side of this particular parcel owned by Ted Meinzen, Sr. in between the two parcels down to Lewis & Clark Drive to serve these five parcels owned by Ted Meinzen, Jr.

Commissioner Landquist: Are those all five acre parcels? The ones owned by Ted Meinzen, Jr.

Todd Klietz: 10 acre tracts.

The planning staff memo for compliance with the Comprehensive Plan, I believe you have that in your file but basically it says all of these designations generally preclude property from developing for residential purposes. It's shown not only as open space and resource but also as being in an area significant flood hazard area, again that's just because obviously it's in the Floodplain. The conclusion of Mr. Worley's assessment includes; Planning Staff recommends against new residential development on a parcel in question. The lands are completely surrounded by land in the 100 Year Floodplain, not accessible by road during a 100 Year Flood and potentially subject to erosion to by changes in Lolo Creek's channel. The request to extend sewer into these parcels for residential development is not compatible with the flood hazard designation of the Plan, meaning the Lolo Regional Plan. That plan was first identified in 1978 by Missoula County, showing two maps that show the Meinzen parcel. In the 1978 plans this was shown as Parks & Open Space the 1978 Plan was amended and superseded by the current Lolo Regional Plan that was adopted in the early 2000's and went through a hearing to be amended, I believe in 2010 and that's what Mr. Worley based his Comprehensive Plan issue on is the current Lolo Plan not the 1978 Plan. The only reason why I show that is that it does show that this for a long time has been designated as either Parks & Open Space or as Open & Resource. The photos that we have of this area are taken during various floods. The earliest photo that we have, an aerial photo, this is a photo of the flooding in 1974; these roads were over top in 1974. Flood waters are shown as would be expected during flood to be on the land. Another photo in 1997, again flooding from Lolo Creek extending here (looking at map) back water from Bitterroot River also flooding onto these properties, overland flooding from the Bitterroot River flooding onto these properties. Bitterroot River flooding here (looking at map) again overtopping Lewis & Clark Drive. Photo from 2008 showing flood waters here and the surface of the ground here, this would probably be 2 of the tracts in question. Last year was not a significant flood event on Lolo Creek of the Bitterroot. As far as the different flood events that we've had, again we have two flood sources down there; the Bitterroot River Floodplain and the Lolo Creek Floodplain. The Bitterroot River has been gauged for several years and the only gauge in Missoula County on the Bitterroot River is near Missoula so that takes into consideration Lolo Creek flooding as well. Print out of the peak stream flows that have been recorded by the USGS. A 50 year flood event is 29,000 and 100 year flood event is 31,000. One of the photos that I have shown is from 2008 on the Bitterroot the CFS at that point was 19,600 CFS, so not quite a 10 year flood event on the Bitterroot River and last year's photo 18,600, again not a 10 year event on the Bitterroot. I showed photos from 1974 and as you'll see there's not gauge, the gauge was not operating in Missoula in 1974, however the gauge was operating in Ravalli County and in Ravalli County in 1974 was about a 50 year flood event. As you come to Missoula County you have quite a few other drainages, drainages don't always flood at the same time. I can't really tell you what the flood event was on the Bitterroot River in 1974 because we don't have the gauge data here but again, we know that Ravalli County it was a 50 year flood event. The other flood source that we have there is Lolo Creek. Lolo Creek has had a gauge but not nearly as many years of operation as the Bitterroot River. On Lolo Creek at Sleeman Gulch, which is up stream of the Bitterroot but it's perhaps maybe a mile upstream of Hwy 93, give or take. A 100 year flood event on Lolo Creek is 3,000 CFS the photo that we have from 1974 was 2,400 CFS, almost 2,700 CFS in 1972. We don't have a significant 100 year flood event recorded with gauge data for Lolo Creek. So to get to the appeal, the appeal was submitted by Alan McCormick on behalf of his client. It would be appropriate to have Mr. McCormick or Mr. Meinzen address the appeal at this point.

Alan McCormick (GLR) representing Ted Meinzen, Jr. I want to make sure you've received my follow-up letter from this morning. That follow-up letter included a number of photographs for houses that have recently been developed in this area to show you the extent of the fill that's been permitted within this exact same floodplain destination and the exact same area. I appreciate Todd's explanations for why some legal interpretations have changed over the years for considering or not considering the Comprehensive Plan and its effect on this. Actually it doesn't do you any favors to have that Comprehensive Plan be regulatory because if we strictly apply that Comprehensive Plan to Ted's parcel it draws an arbitrary line straight down Lewis & Clark Drive right there and eliminates any and all ability for Ted to use his property for anything other than agricultural uses. It doesn't do you any favors in this kind of a situation because it provides no out, there's no variance, there's not qualification and so strictly applying that to lots that were created prior to the enactment of the Lolo Regional Plan by a good 10 years, wipes out Ted's use of the property. The purpose of the appeal here is not to...we certainly acknowledge that the development occurs in the floodplain is not something we encourage on a standard basis but the purpose of the appeal here is based on information that Ted received that he

relied upon in buying these parcels, followed by analyzing the area to determine what else had been permitted and allowed to go into this area. Relying on the representation that the issue here was "can you get sewer to the parcel?" It wasn't about Comprehensive Plan compliance, wasn't about safe access, it was about can you get sewer to this property and if you can get sewer to the property you can apply for a Floodplain Permit. All Ted is seeking in this instance is to be treated in the same way that everyone else in the neighborhood has been treated. The only distinction between Ted and these other folks here, the only real distinction is that arbitrary line that runs down Lewis & Clark Drive. I asked Todd to put this drawing up because it's particularly telling. The entire neighborhood here with the exception of the white island that you see within it are the AE Floodplain and the bulk of it is not from the Bitterroot River, the bulk of it is from the Lolo Floodplain. So all of these properties, there is some variation in the elevation but they are all within the AE Floodplain, meaning they're all going to be at a similar depth and similar elevations for the flood waters in this area. And the photograph's that we gave you shows some recent house construction and development in this area that has been permitted by the County. What's curious about this and what's curious about the issues is there were two, only two reasons for denying this ~ one access and one Comprehensive Plan. Apparently when Sheriff McMeekin was in office this area was fine for access, only thing that changed is Sheriff Ibsen took over and suddenly this area is not fine for access. And that's based on what? I assume it's based on somewhat just a difference in philosophy. I assume part of it was also that Sheriff Ibsen participated in watching the flooding event that occurred around Tower Street. Sheriff Ibsen wasn't looking at this area, wasn't participating in this area, wasn't down here checking it out. As Todd acknowledged Sheriff McMeekin went down here, stood on a dike, looked at the area and said we can serve this area. So we've got nothing more than apparently a difference in philosophy as to whether access can be provided in here. What do we do about that? We talked with the Rural Fire Department, had the Fire Chief reserve this area, provide a letter to you. That letter is the only of the two or of any of the information submitted on access and actually analysis's the standard review. With all due respect to Mr. Worley, Mr. Worley's explanation that access is not available is based on the fact that the properties would be under water, under a 100 year floodplain. A letter from the fire chief is based on having personally visited this area, knowing this area, being familiar with it, taking a look at the standards that's applied for of what is reasonable access for the area, under the County's Floodplain Regulations. And the Fire Chief reached the conclusion that in fact there is reasonable access available to this area, which is consistent with what Sheriff McMeekin said when Sheriff McMeekin stood on the dike, looked at the area, analyzed it after a personal visit and came to the same conclusion. That leaves the only reason for denying this being the Comprehensive Plan and we've already touched on that issue and I've touched on it more in the letter here so I don't want to repeat all the points that I made in the documents that you have there. But there is nothing different between these properties and the other properties to the north. We want to talk about regulatory compliance or comprehensive plan it designates all those properties to the north there as one dwelling unit per five acres. My guess is that designation was made on floodplain consideration or floodplain mapping that is not as accurate as this. It's entirely possible that those designations were chosen when the floodplain was shown, not including a lot of these properties, I'm not sure but those properties are not five acres in size, most of them are significantly under, most of them about an acre in size. So the County has a history of...I appreciate that in 2005 in legal interpretation was that you had to ignore the comprehensive plan but never the less the County did ignore the comprehensive plan which said one dwelling unit per five acres. The Planning Department does not take issue with the density, Planning Department just take issue with the fact that that arbitrary line that's running along Lewis & Clark Drive is says that everything to the south is open and resource, used to be Parks & Recreation and everything to the north is one dwelling unit per acre. It's an arbitrary distinction that's not based on fact. If there were two different floodplains, one on one side of the road or the other or if Lewis & Clark Drive has a significant elevation where it in fact itself was acting as a dike and changed those floodplain designations, then the comprehensive plan designation might have some applicability but in this case it doesn't. There's no topographic floodplain designation or any other reason to distinguish between those two. I'd like for Ted to come up and speak with you about his sort of experiences and the conversations that he had with the County and deciding to research the property, ultimately purchase the property and then go through the process of doing the engineering for the sewer line and what's taken place since then.

Ted Meizen, Jr.: Property came for sale and at that time had a lease property for my horses. When the property came up for sale, I contacted the Floodplain Department about the possibility of developing it. I spoke with Todd Klietz on the phone and then he sent me a follow-up email basically with a quick summary of our conversation and what it would take to develop the properties and that conversation was if I could get the sewer to the property then I could apply for a floodplain permit. During our phone conversation I asked about that process and he said that would be required on any development that happened in the floodplain, you'd have to go through the permitting process. There had been some development going on in the area over the last few years so I assumed this was not a big task and that it was a possible outcome. My next step was to contact Jason Neese from the Lolo City Sewer to make sure that they had capacity and that there wouldn't be any issues as far as tying in to the City sewer and extending it for the five parcels. He did say that there was not a capacity issue and there wasn't any problem with that so with that being said by assumption was that if I could get sewer to the property that I could develop the parcels based upon my conversation with Todd. This is prior to even purchasing the property, after I had that information I contacted an engineer and got some ideas of what design cost and stuff like that would be. That was Ron Rummerra from Ram Engineering in Hamilton. After my conversation with him I went ahead and purchased the property and we started our planning stages. Over the next few months, I guess, we had gone through DEQ, we got approval from DEQ for the extension of the sewer system. Missoula Public Works had approved and there was some revisions, I guess, basically we made some revisions how we were going to do an easement or if we were going to run the sewer line down Lewis & Clark Drive or we had decided later to put an easement on the lots themselves and run them out of the road so we didn't have to tear up the road. As that process was going on, Ron had a couple conversations with Todd about our possible building sites, my wife and I our plan was to build our own home there for one. We were looking at

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possible building sites and talked about putting in a pond and a house and these sorts of things so there had been some conversations. Todd had given the Engineer some documents on what's required to construct a home in the floodplain, fill requirements and height requirements and how much fill you need and how high about the 100 year flood you had to be, basic information. That's why we had the idea of the pond, we'd dig a pond and maybe we could use some of that fill to elevate our ground. Of course, our plans had changed so we had three different ideas originally and finally settled on one. We were waiting because it's an area of high groundwater so we were waiting till the fall to actually start the trench for the project; we thought maybe we'd have a lower groundwater and fewer issues with trenching with high groundwater. We filed for the last remaining permit through the County for the floodplain development permit to actually start the construction of the sewer line and that's we ended up here.

Commissioner Landquist: Ted, when did you actually purchase the properties?

Ted Meizen, Jr.: 2010 ~ June or July

Marnie McClain: I just want to make sure I understood something you said in your introduction when you were talking about this property. Did you say that you were leasing it or it was being leased?

Ted Meizen, Jr.: I was leasing it yes; it was being leased for horse pasture.

Commissioner Landquist: Have you or your dad ever gotten any hay off it?

Ted Meizen, Jr.: This Spring or this last past year I did try to hay it. We did get some hay off it, not a real productive attempt but I did attempt it.

Todd Klietz: I would like to state one thing. I believe my first contact with Ron Rummera was when he called me to find out about how to build a house down in those properties in September 2011. I believe my first question to his was, 'how are you going to do that when you can't put a septic system down there?' That was when he said he had the permits to get the sewer line and I said, 'well you don't have a floodplain permit, you have to go through that permit first.' That's what started...and they were anxious to get started with that right-a-way so that's what prompted them to put in the floodplain permit for the sewer line separate and in advance of putting in floodplain development permits for the homes. In good conscious I could not grant Mr. Meizen an approval for sewer line which would generally have very minimal effect on the 100 year floodplain, knowing that under the comprehensive plan that the homes themselves would likely not be able to be approved. There's a comment in one of Allen's letters that indicates that there were several conversations in the interim after the conversations I had with Ted Meizen, Jr. but again the first conversation I had with Ron is September 2011.

Richard Foster: I'm the Excavation Contractor what put the force main in Lolo and there's a few things you should know about this system. It's designed for a specific number of pumps and I have a letter here that was written to Andy, Consulting Engineer for PCI, I'm going to read this to you. (letter) This system can handle up to 30 pumps, with 30 pumps it is likely that five pumps will be operating simultaneously. A two inch pipe can handle the flow produced by five pumps however, if you were to have 31-50 pumps it is probable that six will be operating simultaneously creating a flow that a two inch pipe cannot effectively handle, thus you would need to increase the pipe size. What I'm saying is by adding any more lots to this system; we are jeopardizing the integrity of it. That system was designed for those lots down there and we're looking at 35-40 lots that are capable of being hooked up to that system. If you look at that map and you look where that's run and count those, I think that you'll find that we're probably tapped out.

Commissioner Landquist: There's that many on there already?

Richard Foster: No, there's only a few houses that are there, we're not creating any anybody lots in that subdivision. I don't know if those lots over there are a part of the Peak Linda Vista Subdivision. This system is designed for that neighborhood.

Commissioner Curtiss: The smaller lots.

Richard Foster: The smaller lots are and there's a fewer bigger lots down there too.

Commissioner Landquist: So how many are on it right now, do you know?

Richard Foster: I don't know. I'm gonna say probably 7 or 8, something like that. I have some lots on there that I haven't built a house on and mine are on that too. I waiting to build, I'm waiting because the economy's crashed.

Commissioner Landquist: Do you have a copy of that letter?

Richard Foster: No I don't have a copy because I picked this up from PCI.

Commissioner Landquist: Could we make a copy for the record?

Richard Foster: Sure. Anyway that gives you an idea what that system can handle and really before you do anything you need to see if the system's going to handle it. Because where he's gonna tap into this line, it's only an inch and a half pipe, not two inch.

Commissioner Curtiss: Jeffrey Lane is an inch and a half?

Richard Foster: Yes, inch and a half. I believe if you talk to the designers of the E1 System, the system is capable of pumping sewage 2 1/2 miles low pressure, 160 foot head, that's the height which it will pump. I think you're going to be a capacity when you start looking at all the lines, from where we started I'm gonna say were a mile and a half from where we were at to where I'm at. And then we still have all these other little feeder lines that tie into that too. There needs to be more engineering research done on the capabilities of that system.

Commissioner Landquist: I don't know if you or someone else would know the answer to this but the proximity to where that sewer line runs and those lots with house on them now that are not connected to it, therefore they'd be on septic or cesspool.

Commissioner Curtiss: They just aren't developed.

Richard Foster: There are some houses that are developed.

Commissioner Landquist: There are some that are developed but they're not on there so I don't know in proximity what their proximity is to the sewer line and if their septic system failed if they would have to hook up or would they...

Richard Foster: More than likely they would have to hook up.

Commissioner Landquist: But doesn't distant, like 200 feet or something?

Richard Foster: I also think its 200 feet but I don't know if that has changed.

Commissioner Landquist: So it hasn't changed, so it's still 200 feet Marnie?

Marnie McClain: Yes

Richard Foster: But it's down there for their benefit too. But what I'm saying is that I personally don't think the system is going to handle anymore lots. If you hook up the lots that are there, I think you're done.

James Brager: I live down in that area. Handed out two pages, one of the big map. These pages show my original concerns when this sewer came down in 2005. My concerns haven't changed. My property sits directly to the east of these proposed five lots. On the second page in the hand-out there's a map with x's on some lots that are pretty low. Water does actually from Lolo Creek Floodplain cross that road and will flow directly north of my place. My concern is that if we allow houses on these 5 lots and you start effective diking along Lewis & Clark Road with houses, roadways, whatever, that actually forces water directly on my property and also my neighbor, McMann's. My concerns all relate to flood waters, I do have two existing houses on those two lots, they've been on there many, many years and I've lived there 40+ years. Some of the bad event years, one house in particular which would be on the southern end of that property where you see part of the floodway cuts across the southern edge, there is a house on that and on the worst year that I can remember, I was shy by about an inch and a half of water flooding through the house onto the floor. My concern is that over the years this creek has been more south, originally that creek drained to the north and the farther you restrict that water and push it south it goes directly onto me. If you restrict the flow of water across Lewis & Clark you put 100% of Lolo Creek mud water upon me, you can force it south but it also has to come north to go downstream. That my biggest concern. There have been two ice events, they weren't normal; I do remember early 70's and I believe it was on the highway bridge on 93 the ice jam may have been dynamited at that time. The ice and water pushed trees, branches and ice chunks as large as automobiles into those five pieces. I asked the incident commander please do not force ice onto my property and they stopped there. They had excavators in the creek at that time. It's not just normal flood we have to deal with not only Bitterroot River Floodway but we have to deal with the Lolo Creek Flood waters too, they don't happen at the same time. I have no concern necessarily putting in the sewer line to this property; it just tells me that you're going to build houses and houses down there are probably going to have to be on an 8 foot fill for all I know. There was a gravel operation down there too, on one of those lots marked with an x. There were some high spots left there that weren't supposed to be left there and there's also a county sand pile that's right in those low lots too, there are restrictions that I'd rather not see left.

Commissioner Landquist: Is the county still using those sand piles?

James Bragger: There was a sand pile there that was produced and I was under the impressions that once that sand pile was used up then it would be restored to its existing ground. It's low ground and there's actually cattails on that property. In the subsequent years they've been hauling sand in there and replenishing that pile, that piles never gonna go away. That's my concern; I just don't want flood water pushed on me.

Shane McMann: I own property adjoining Mr. Meizen's project on Lewis & Clark Lane. I have some concerns with all due respect to Mr. Meizen and his family's project here. I have a 50 year history of living in this area and if we look back at 1974 that entire field was covered with water, my mother and I had to kayak in and out of there. At that age it was an adventure. With respect to the fire chief coming down and looking at that, he wasn't a part of that, Mr. Meizen Jr. probably wasn't even born yet, I don't know. We've had subsequent high waters down there and as Mr. Kletz had mentioned, these aren't high flow, they're 10 year flows that we've seen pictures of there. If he's allowed to build there, I expect they will have to mound that up with gravel and so I agree with Mr. Bragger here in that if they build there and they build it up it will redirect this flow from Lolo Creek and put more impact on my property. As you've seen from the photographs we already have issues down there from time to time

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and we don't want to make it worse. If I could, I'd like to pass along the same picture that Mr. Bragger passed on, it explains where Lolo Creek is, what the problem is with the possible bank erosion that is happening on the corner by Lewis & Clark Drive already. That was corrected in 1974, I don't know that we have the ability to know that with environmental concerns and such, but if Lolo Creek does erode on that corner Mr. Meinzen's going to have some creek frontage either in front or behind of his house or houses that he builds in there. I just don't think its good common sense to take that chance unless Lolo Creek can be corrected on that corner. The biggest thing there is the way the water runs off now in high water seasons, it runs down the field and over Lewis & Clark or under through the culvert there. If he builds houses there they're probably going have to correct Lewis & Clark Lane and make it higher which would further restrict the water flow out of that field and indirect it to our property as well. I never like to use the work Lawsuit, I don't even ever want to be in one but if our dwellings are impacted by this, we're certainly going have to take a look at where the cause is and who's responsible for it. My family objected to the sewer being run into this property in '05 for these particular reasons once somebody gets their foot in the door and then somebody else wants to develop. I understand Mr. Meinzen wanting to do this but Mr. McCormick states that there's further development in the area, this is true but that's on the other side of Lewis & Clark Lane and that's not a direct path of the corridor of Lolo Creek. Letter from OPG dated 2005. I'll also give you a copy of 2005 my families concerns with develop and such, there's a couple things highlighted there, maybe somebody could take a look at that I won't read it to you know. When you look at this picture of 2008, that was up you see how much water was in that field and from the air it's hard to tell how deep that water can be. Along the road you see several pools of water and there's a tree there along my road that can be a little over a foot deep. I don't know how they're going to lay a sewer down there at 6 feet deep because if you dig in that area even in the summer at several feet, you get into water. It always bothered me that you'd have an inch and half or two inch plastic sewer line that in sub-irrigated ground so if there was some sort of incidence then we'd be polluting the water, I guess.

Larry Cope, Jr.: We own the land directly south of Mr. Meinzen. I don't think I have a lot more to add other than what Mr. McMann & Mr. Bragger's said here, I do respect Mr. Meinzen's project and what he's trying to do. We don't really have anything against people doing what they want to do on their land; however I think I was on that flood of '74 and I think I accessed our property in a canoe. I don't think our access being shared with Mr. McMann and Mr. Bragger how all of this will impact our access to our property as well as our property to the south. But, I share all of the exact same concern; my family does on what this project might do to our property.

Breanna Randall with Clark Fork Coalition: We are interested in this appeal of the floodplain permit denial because one we've received some calls from citizens in the area with concerns much like the gentleman who just spoke behind me, worrying about allowing continued development in this area impacting their property and other downstream properties, transferring the erosion and the flooding problems. Secondly, as you're probably aware, the Clark Fork Coalition's general position is that developing in the floodplain is a bad idea. It's expensive for the county, for the taxpayers and the landowners themselves when they have to fix the problems associated with the water on their land. Much like the Sheriff's letter said, one quote that he had was really pointing it for us; "The reality that there was already places built in the flood zones does not make it correct or logical to allow even more to be built." That really struck home and reminded me when I was listening to Mr. McCormick 'that change is good'. Even though we have in the past permitted these developments or not had permits for them at all, that doesn't mean it's a bad thing to look at the use of these properties and the resources that they're impacting. I would argue the point Mr. McCormick made that status quo from decades past is what you should rely on instead ask you to really uphold the valid and logical decision that the Floodplain Manager made by saying no to the sewer line which would bring development, because that's what sewer is for and really save the time and money from some of the impacts of building the homes that would follow the sewer. Also, Mr. McCormick mentioned that the arbitrary distinction of the line that defines the regional plans open in resource designation and I would say that isn't an arbitrary line and instead in the last 35-37 years of the regional plans different forms, the community has set that line and the people behind me and the people that live in the area have said they want that property to be open and resource and so it is a valid reason for denying the sewer permit in the floodplain. And lastly, just one interesting note, the Lolo Watershed Group has asked the Clark Fork Coalition in the last couple years if we would help raise money for channel migration zone maps in this area and I know you guys are aware of the one on the Clark Fork here, the pilot project that the Water Quality District put on. Something like that might be really helpful in this instance so we're going to try to help groups around here in this county and others get those channel migration zone maps, so they can clarify some of these historical photos and we don't have to pull up all 28 documents, like Mr. Klitz had to do today, we could have it in one map. Thank you and the Coalition does urge to uphold the denial of this permit.

Peter Nielsen, Water Quality, Missoula City-County Health Department: We support denial of this appeal and denial of the permit. We agree with what Mr. McCormick as a general policy, general rule we don't want to promote development within floodplains for a variety of reasons. Water Quality perspective we agree with that as well because Water Quality we propose the development of floodplains. As we learned last year in June 2011, areas within 100 year floodplains get inundated with water we saw that last year even in areas where the stream flows did not approach or exceed 100 year floods. In the Tower Street areas, many areas in Missoula County but in Tower Street/Schmidt Lane area last year we had areas impact where flood waters did impact residential areas. But to some people's surprise, homes that were not subjected to the direct to the direct stream flow impacts were also flooded. They were flooded by standing water or groundwater infiltrating their property and infiltrating their basements and their crawl spaces. Our staff, including myself served downstairs in the flood response call center last year and we field many calls from people in the Orchard Homes/Target Range areas who were experiencing these problems, their homes were damaged by water. This is something that Environmental Health Director, Jim Carlson has asked me to address in our testimony today. The problem with this is that people, understandably and naturally try to take steps to protect

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their property, in some cases they install pumps, sometimes several pumps in their basements, in their crawl spaces and in other parts of their homes to try to pump out the floodwater, to protect their home and limit the damage. And inevitably when there are sewer lines available, people pump water in the sewer from their homes. We saw many cases of that actually back in 1997 when we had flooding out along Mullan Road, in Mullan Trail Subdivision. Folks were pumping out their crawl spaces; folks were pumping out their basements. They didn't want to pump it on their property and have it flow back in, they didn't want to pump it on their neighbor's property so they pumped it into the sewer, and it really did quickly, hydraulically overloads your sewer system. In that case the sewer system didn't ultimately fail but it compromises the treatment capability of the system. It makes it so it doesn't work as well. So such pumping of flood waters into the sewer can really overload its capacity. The Lolo plant is not a large system, it's not a large sewer plant and it can easily be overwhelmed by pumping floodwaters during such an event, it can compromise it's treatment efficiency and cause water quality impacts on the receiving waters, which in this case is the Bitterroot River. So in the area that's served by this particular sewer main, a lift station would be required. Now in theory you could shut that lift station off during floods but that's going to shut sewer service off to everybody that's connected to that lift station, whether it's just these homes or others. Even if it's just one home that causing the problem that you want to shut off. Those homes, including others that may be affected become uninhabitable at that time, they don't have sewer service and any further use of sewer entering such an event is going to cause backups into the homes or surfacing sewage onto the ground which has a result in public health impacts. For these reasons we feel extending public sewer into the floodplain is not a good. Another thing I want to mention here is the issue of channel migration. We have seen and documented some cases here in the last couple of years of some pretty significant channel migration on the Clark Fork River up around Clinton and Turah area. Looking back at historical photo's 50 years, we can see things that don't immediately seem apparent to you but streams do move across their floodplains, so where that flood way is today along Lolo Creek isn't necessarily what's it's going to be 50 years from now, it may be on the other side. The streams channels move across the floodplain and there's nothing we can do about it and there's been some pretty dramatic movement along the Bitterroot, along the Clark Fork even along streams like Ninemile Creek that we've documented. So that can happen here and when that happens, homes that are built in this area potentially can be threatened and one that I guess I would disagree with Mr. McCormick on is that he said there's nothing different about these homes from those that are on the other side of the road that are already developed, well, there is, these are ones that are right next to the creek. These are the ones that have the stream side vegetation there, these are the ones that are going to be impacted by channel migration and there in the shallow groundwater area, very shallow. Development of properties in the floodplain also can result in increased sources of pollutants in runoff from those properties, pollutants such as sediments, coliform bacteria, pesticides, fertilizers, various contaminants in urban street runoff. All of those things can impact receiving waters including groundwater in the area but of course, Lolo Creek and the Bitterroot. Development can also result in the removal or the alteration of the vegetation along the streamside and the conditions there in that zone that effectively filter and remove pollutants in runoff, in surface water and in groundwater, again protecting Lolo Creek and the Bitterroot River. If the homes in that area are not going to receive water service along with the sewer service, wells that are installed in that area can be impacted by pollutants that are contained in flood water, bacteria and other contaminants being commonly documented impacting private wells in floods when they are inundated and that of course impacts public health. For all these reasons, we do urge denial of the appeal of this flood plain permit denial and as a general rule, as a policy to avoid further extensions of public sewer into floodplains in Missoula County.

Commissioner Landquist: I have a question about that area, Sewer was brought down there but that's just sewer only that's not the public water supply from RSID901, is that correct? That there's no public water?

Let the record show that all heads are nodding yes, there's no water, they're all on their own wells.

Dwayne Roy: I lived in that area since 1969. I might want to say in all fairness to Mr. Meinzen here, this last gentleman made it sound like it was Armageddon down there, it's not, it's a forced main, there's no lift stations, there's no provisions or anyway for water to back chuck out of this stuff. It's been thoroughly engineered, I know because we went through this process. There were four of us that own a certain amount of property in there. When I was digging the pond, there was 11.44 acres of ground I had down there that also is adjacent to the 4,000 yards of gravel that I give to Missoula County to Horace Brown so that when they chip sealed the Highway they would do our road for nothing, only he forgot me. We put that in on our nickel; we paid for engineering for two solid years. I have some ground, Merv had some ground, another party became involved in it by the name of Martin Doddy, he lived clear over by Lewis & Clark Drive on the corner. We put it in on our nickel and we had dedicated lots that we felt we could build one so it cost us almost \$200,000 to put this in ~ didn't cost the County a thing. There's a couple issues there that's kind of rubbing me a little raw and I'll briefing touch on that and then I'm going to leave this part of the issue because I don't want to dwell on it. We put the money on it; we went in and applied for floodplain permits and this is where I want the County Commissioners and Mr. Meinzen and everybody else to understand that this floodplain application that he's filing for is just the beginning of the fun. I don't want him to come back 3 or 4 or 5 years from now and say well you people told me I could put this in and I put it in and now you're telling me I can't use it and build on it. Any judge in the Country is going to say you guys let him do it, what are you trying to do to this poor young man? Ruin him financially? I think you better think about stopping this right now before he goes any further and spends any more money. He's hooked into a private system that we were under the impression that we could get \$4,000 to anybody that wanted to hook to us as a late comer's fee for existing homes when their sewer systems failed. And \$8,000 for somebody who wanted to take advantage of a bare acre that was in that RSID301 sewer district that we established with this main that we put in. A lot of effort, a lot on money went into it and right now I was able to use...I built on two of them, we had to go buy sewer permits and I'd like to ask Mr. Meinzen or maybe

he can tell you what he had to pay for his before he ever made an application. We had to buy them in advance, I bet you they didn't.

Commissioner Landquist: Even though you were the ones that put the system in, you still have to buy a permit?

Dwayne Roy: Absolutely we had to and we had to buy them before we put the system...and then we had to pay like everybody else to hook to our own system. And now Mr. Robinson and whoever runs that sewer department down there in Lolo is putting out some bad information. They never came to us and asked us whether we would object to whether he hooked to it, he's giving it away! We didn't put this thing in for somebody to go hook over the fence and say look at there, there's a sewer system, I'm Ted Meinzen, that land has never been built on forever, the road has never been brought up to County specs. That land that Rock had that he bought it from still has not given up any part of that road. That road is only 13 feet wide drivable. It's 27 feet fence-to-fence and that is on the plat map as it exists right now. That road, you can't get down it and it was under water last Thursday. Now, I'll get away from that. There may be issues, the day that they hooked onto this somebody in Missoula County may have their hands full on a total different issue and it may be wondering why you can give away our investment and ruin our integrity and take what we took at face value with Missoula County, the Floodplain Administration and everybody else involved, what give you the right to sell or give away our profit that we built to make...take land that was absolutely worthless, that was subdivision in 1964 and it got shutoff by FEMA, it got shutoff by the Health Department and finally the resolution and the opportunity came. I was digging that pond over there and giving the County gravel so we could get roads graveled out there first, instead of last, which is an asset. We took the rest of that and we were using it for fill and I bet if you drive a dump truck in there like I did 1,300 truckloads to fill that, to build on those sites. But they're not affected by the creek, which incidentally here's what you need to know; one thing, in 1952 you had to go across Lolo Creek 26 times to get to Lolo Hot Springs. In 1956 you only went across it once. Lolo Creek use to run by the Hayloft Bar, there was a bridge from the Hayloft Bar to the existing bridge on Hwy 93 South a ¼ mile long. Lolo Creek went through two channels, I own land on both channels. I built down there in 1969 in the old channel, alongside of it, I haven't had water through that channel for 42 years and I can't get a building permit in those areas because there floodway. When they straightened out the highway, they dumped all the water south to the existing Lolo Creek. I took my dozer down to the creek and I said I'm going to put that creek back to the way it was, I was in there about three days, here come the Army Corp of Engineers. They said to get out of there; you don't know what you're doing. They brought in seven great big green machines ~ dozers, all big monsters! They went back up to Lolo Creek at the highway and if you look it's all rip rapped all the way through there and they took that down another nine feet. They turned that corner on Lolo Creek and began slightly south and come through parts of that 50 acres and built a dike. In 1996 that was back up to within four feet and then it began to flood; they dumped some rip rap in there and saved it that time. In 2008 on Stan Hendrickson saved Lolo from an ice jam, the County brought him all that rip rap.

Chair Carey: Mr. Roy excuse me I'm not clear on whether you support denial of this appeal or oppose it, could you address your remarks to that please?

Dwayne Roy: I absolutely oppose it. And I'm getting to that reason right now. So eventually it's going to flood, it's going to flood, it's going to flood. It tried to in 2008, we rip-rapped it and saved it and sand bagged it. County went back there and fixed it, it ate up nine feet of that road. If you come around that corner now, that water still wants to go north on us, if they fix the road and make it back up to 54 feet, what it should be, they'll have to raise it. I oppose the fact that they think they're going to hook on to our sewer main with a two inch main and we dead-headed with an inch and a half and it goes back almost 800 feet back across my place to get it. It's better off to save Mr. Meinzen the money now because I assure you there's more permits and lots of them that have to follow this and if he puts it in and then tries to say, 'well you let me put it in', he has grounds to say he got blind-sided, so if you stop it now you save the poor man some money.

Al McCormick: I would like to address just a few of these comments. Looking at the 2008 map ~ if we look at the property to the east and the property to the south is within the flood way. When we hear of that area there along the tree line of where those houses are, Mr. Braggers is right on the edge but everything to the east of that is in the floodway. Everything that is in tree line on the south is floodway, that is a different floodplain designation then what is on Ted's property. Ted's is the AE Flood zone and so there are distinctions to be made when we're looking at these photographs and talking about waist deep water. There's distinctions in the flood zones, one being the floodway where development is flat out prohibited vs. portions on Ted's property which are not, in that section.

Todd Klietz: Looking at the map ~ the Meinzen's parcels are here and the pink is the 100 year flood fringe, both AE Floodplain.

Commissioner Landquist: AE stands for what?

Todd Klietz: All FEMA regulatory 100 year floodplain begins with A. What E means is that there are elevations associated with them.

A stands for floodplain ~ **E** stands for elevation.

Al McCormick: When you're in this red area, you're in the floodway and development is absolutely prohibited within those areas, even though as you can tell from the 2008 photographs there is development in that area and I presume that most of that occurred prior to any regulations going into effect. What Mr. Meinzen is looking to do is to construct houses within the floodplain regulations, within the AE zone that's on his property. That is the same AE zone that's across from him and not

within that floodway. I don't know what arrangements were made back when the original septic system or sewer system was put in place here, what I know is what's happening now and that is to hook onto that you have to get permission from the County and it's your County Public Works Department and there are RSID folks in like who are making those decisions. I can't speak to what happen in the past or what those expectations were, what I know is what you need to do now. I appreciate Mr. Foster's comments and I understand his interest and need to protect his own capacity having been part of this system. But the engineering is done, we're not sitting here guessing whether or not this can be designed to accommodate Mr. Meinzen's property, engineering's been done. It went through DEQ approved the engineering and the County Public Works Department approved the engineering and made several revisions as they went along. The determination of whether there's capacity here and whether this can be served and whether it can be approved by the County and the DEQ is already been done. That was all done because the County said you need to demonstrate that you can do that before you can apply for a floodplain permit. I appreciate Mr. Nielsen's comments; we all appreciate what happen on Tower Street. I don't know the answer to this question but I'll ask it to you. How many of those houses on Tower Street were designed with the current floodplain regulations? I didn't go out there during the flood but I've been out there since then and I had been out there quite a bit before both running around and driving and running on the roads. I don't remember seeing a single one of those houses built on fill in compliance with current floodplain regulations, I think there are a couple. For the most part I think they are down on the floodplain itself and so there obviously not protected, there obviously not constructed in compliance with the current regulations.

Commissioner Landquist: They were built way before that though, that's one of the reasons.

Al McCormick: Correct, I understood. Your floodplain regulations say that you get to build in the floodplain if you can meet these criteria and the like. And the criteria in this case say that depending on where you put the houses on these properties, you need to put in between I believe it's 1.5 and 4.5 of fill, some gentleman here referred to about 8 feet of fill or so and the actual numbers are 1.5 to 4.5 feet of fill in this area to comply with those regulations. Those are based on the FEMA floodplain maps and what the FEMA floodplain maps suggest would be the depth of water during a 100 year flood event. Apparently I've never seen that and all of the history suggest that maybe we never will see that because those floodplain designations may not be correct. To the end something I forgot to mention during my initial presentation was that we had Bruce Anderson, Senior Hydrologist with WGM analyze those floodplains to give us a feel for what the accuracy of those were and Bruce is here if you'd like to ask him any questions about that. The conclusion that he came to was that those depths, that 4.5 figure of the fill in conjunction with the depth of water you might expect from the floodplain on the FEMA maps are definitely worst case scenario and that its almost certain that an actual 100 year floodplain would be less...the depth of water on the property would be less than predicted by those FEMA maps. Now I'm not going to stand here and tell you that it is because you have to go through the whole letter of map amendment revision process and do new cross sections and a like but because there are very few cross sections across Lolo Creek in this area and the Bitterroot River that when you run the various modeling it appears that those FEMA designations are the worst case scenario. Any permit that would be associated with those would have to build in that worst case scenario but it at least provided us some comfort level and having modeled that area that the FEMA maps weren't over stating the situation and not understanding the situation.

James Bragger: One short comment, that picture of the 2008 flood ~ just keep in mind, that's not the worst you ever seen down there. As far as elevations it doesn't matter whether it's two feet or eight feet or six feet; I still have the same concerns; it still flows water to my place.
Public comment closed

Executive Session

Marnie McClain: A couple of comments. As I understand the basis of the appeal as was described to us today, we have been told that the basis for the appeal is that while development in the floodplain is not encouraged that information Ted relied on did not tie the comp plan to the floodplain regulations that he is seeking to be treated like everyone else but for the arbitrary line, which I believe confers to this line with the comp plan, that you should ignore the letter from Sheriff Ibsen. I guess if I can start with the last first; I don't think you can ignore the letter from Sheriff Ibsen. I think you have to consider all the information that was submitted to you and then decide what weight to attach to it and I think the information that you've heard today from longtime residents of the property actually supports the position that Sheriff Ibsen took concerning the risk that is associated with more development in this property. I disagree that you should consider the lines that have been existing with the comp plan are somehow arbitrary and as you consider an appeal of a floodplain denial can somehow simply disregard that. In making your decision what you have to do is look at the factors that are in the floodplain regulations in 4.01, in particular #12 says that you have to consider the relationship of the proposed use to the comp plan and otherwise explains what that means in this application. I don't think you have the ability to go back and revisit what FEMA said about worst case or something less in our area or what the comp plan says.

Commissioner Curtiss: I did not bring my copy of the floodplain regs with me but I believe that there's also something in there that talks about, this isn't to only protect new homes but also can't impact existing homes raising water more than so many inches on so much land, isn't that in there somewhere? That we are also supposed to weigh what the impact will be on the neighbors, for existing homes?

Todd Klietz: That's what was brought up by Mr. Bragger; the danger to life and property due to increased flood heights, increased flood velocities or alterations and pattern of flow caused by encroachments. That's also addition factors as the comprehensive plan. As Marnie said, this

particular permit application is for the main, the main itself unless they were crossing a channel. The main itself is not going to create that kind of issue, it's what the main will lead to that can potential create that issue.

Commissioner Landquist: Side note: Dwayne, I'd be happy to talk to you about this after the meeting. Ironically I had this conversation with our Public Works Director about that sewer down in that area when I first got wind of this appeal coming up and I said What's up with that? I thought there was supposed to be some sort of latecomers agreement? He told me he worked on that latecomers agreement and he did some changing of the language or whatever how lawyers and Public Works people put things. Sent it back to your attorneys and then never heard back so as far as he was concerned he had just never... it just never came back to him. So we can talk about that after the meeting; I don't want to take away from the process that we're in right now.

This is really painful for me because everyone has such really valid arguments here and I do know Lolo Creek and that area. I did some bagging down there during the ice jam of 96 around the bend in that road that you were talking about Dwayne but by the same token I know Ted Meinzen grew up in that area and is familiar with that area. He's a local businessman in Lolo and family values being what they are to be able to build a house for him and his wife and family and live down in the same area that he grew up in, next to his parents and the horses and stuff, it's very painful. But Ted I think you heard all the various reasons why at this juncture that's not a good idea. However, finding out that you do have five lots and they are 10 acres in size. I try to look for creative solutions and try to find that win-win situation and this still may not be that win-win situation because there's so many other things for us to look at as far as drainage plans and the effect on neighbors. As Dwayne said so many other permits you'd have to get and the road not being up to standards and stuff, so there's a whole lot more here. Migration channels, all these things have been brought up but as far as the comp plan goes, if you were to irrigate those lots and make 40 acres then you wouldn't have to look at changing the comp plan to build at least one house, I don't know if that would pencil out for you and your wife, and if it would still be worth it with all the other permits and the sewer and other obstacles that you would have to go through. But, I do see that as maybe some sort of compromise, it could be made. I really want to thank everyone who came here today and offered your testimony because I think everybody had a lot of really valid information to bring to the table and it shows me that you all understand the ebon flow of these waterways and what it's like to live in the floodplain and how small changes in the floodplain and the floodway can affect your neighbors. It reflects to what we didn't know back then and what we know now. Looking back at the floods of 2011 and the time that I spent down on Kerwald with all those neighbors down there, it was very painful for me and the whole time I was saying, 'who gave these people permits to live down?' There was all kinds of people pointing fingers back and forth, a lot of that was before there was ever a permit process and then people like yourself, Dwayne, that could offer history about, 'oh no, the river used to be over here and so and so took the dozer did this and created the dike'. That's all way before we had regulations in place for these things that helps safeguard us. I just want to really thank everyone here, there's a lot of good, valid information here that supports the denial of this permit. I have to say in my heart of hearts, it does make sense that we support the denial of the permit, however, maybe there's a compromise.

I want to talk one thing while Marnie's here. To talk about something that's in the letter that we received from Mr. McCormick. The denial eliminates substantially all economics value of the property despite reasonable alternatives such as mitigating conditions to ensure compliance with floodplain regulations. I think that substantially all economic value of the property that's a pretty large term when obviously there is some value to that property that you've got now as far as grazing horses on it, getting some hay, the scenic values. It's not like we're trying to take away some use that you've already got going on the property and prohibit that so I don't find that as a valid statement; but Marnie, perhaps you'd want to touch on that?

Marnie McClain: Well what I would say is that an argument that the decision somehow negatively impacts the value of the property actually isn't a consideration for you in this particular process.

Commissioner Landquist: I really appreciate all the comments that folks have made today also and I do have to disagree with the fire chief. One statement that he said, that flooding in this area was kind of predictable, I don't think flooding is ever really predictable. And while it's agreed that our fire folks, our Sheriff Department, would probably always go and try to save someone if they needed to be saved, that doesn't mean that property wouldn't be at risk. We all saw that last year with the flooding. We also heard from a lot of people ~ 'can't you just buy our house so we can get out of this darn flood plain?' And we weren't able to because there wasn't enough damage to qualify for some of the programs that might let us do that. I think that while this permit is just to extend the sewer line there's no need for a sewer line if there's not going to be houses built there so I will have to support the decision by the Floodplain Administrator. I think that we really do need to think about, I kind of relate it to 5th grade science in that if you have a bowl of water and you put some big rocks in it which would represent some raised up places to build houses, water has to go somewhere and it going to effect the neighbors in the end. It's probably going to wash out the road again and a few things. Unfortunately, in a lot of our valleys in this County we've built roads close to streams because that's often where the lower elevation is and it was easier to build then it was to cut that hill down next to it. Mr. Roy talked about how we basically channeled Lolo Creek to build a road so we had less bridges and I would hope that we have enough sense not to do that in the future. I agree with the Sheriff that just because we've done this before it's not a good reason to do it again. We shouldn't be building in floodplains.

Marnie McClain: I need to do some additional work on what we have offered as proposed findings and conclusions because there's some additional information today in the hearing that's not captured in this document. SO if you want to make a decision and then let me finish this so that it can say everything that was said today at the meeting that that's a direction you can get me to.

Commissioner Curtiss: So the motion should just be to affirm the decision by the Floodplain Administrator and add the additional information and findings in the hearing?

Marnie McClain: Yes.

Commissioner Curtiss: That will be my motion. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

7. OTHER BUSINESS

None

8. RECESS

There being no further business to come before the Board, the Commissioners were in recess at 3:29.

THURSDAY, FEBRUARY 2, 2012

BCC met in regular session; all three present. Early afternoon: JC attended *Reaching Home* Meeting (10-Year Plan to End Homelessness), held at 1st Interstate Bank. Late afternoon: ML/JC attended Grand Opening of the Solstice Apartments (1535 Liberty Lane). Early evening: ML attended Fair Planning Meeting, held at Fairgrounds.

Indemnity Bond – BC signed. Laura Michele, Milltown, MA Principal for Justice Court Warrant #30-212750, issued November 3, 2011 on County 1000.000.0002.410340394 Fund. Amount/\$19.77 (for jury duty). Warrant lost.

Indemnity Bond – BC signed. Advanced Toolware, Bonney Lake, WA Principal for Claims Warrant 25054498, issued October 25, 2011 on Frenchtown School Dist. #40 Fund. Amount/\$1,319.69 (for Annual Maintenance Contract Renewal/User Management). Warrant lost.

Replacement Warrant - BC signed. Merck & Co. Inc., Principal for Health Dept. Warrant #30212030, issued October 20, 2011 on County 2270 Fund. Amount/\$8,570.75 (for vaccines/prescriptions). Not received in mail; no bond of indemnity required.

Monthly Report - JC examined/approved/ordered filed the Monthly Reconciliation Report for Justice Court 1, John E. Odlin, Justice of the Peace, for month ending January 31, 2012.

Monthly Report - JC examined/approved/ordered filed the Monthly Reconciliation Report for Justice Court 2, Karen A. Orzech, Justice of the Peace, for month ending January 31, 2012.

ADMINISTRATIVE MEETING

Grant – BC signed. DUI Task Force Contract #CTS-105958 between MT DOT and County (MCCHD) in amount of \$44,000 for services outlined in Scope of Work, as well as supporting .5 FTE position for MCCHD employee, Lonie Hutchison. Term/October 1, 2011-September 30, 2012. Two originals to Julie Mohr/MCCHD for further signatures/ handling.

Counter Offer – BCC signed 3rd Counter Offer to EWR, LLC's (Sun Mountain Sports) offer to purchase 73,000/sq. ft of Park 9, MDP-Phase 2 @ \$3.00/sq. ft. (\$219,000), less \$35,000 credit towards Buyer's engineering costs, etc. for Offer of \$184,000. Closing on/around April 30, 2012. Original to Barb Martens/Projects.

Letter – BCC signed, dated February 2, 2012. To Members of the Missoula County Marijuana Oversight Committee, asking them to consider dissolving the Committee due to significant changes in landscape of laws related to marijuana.

Additional discussion item(s): None.

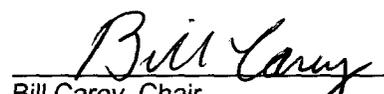
FRIDAY, FEBRUARY 3, 2012

BCC met in regular session; all three present. Afternoon: JC participated in MCCC/Aging Services conference call.

Monthly Report - BC examined/approved/ordered filed Monthly Reconciliation Report for Clerk of District Court, Shirley E. Faust, for month ending January 31, 2012.

Memorandum of Agreement – BC signed, dated December 9, 2011. Between County Parks Board and Seeley Lake Community Park @ Seeley Lake Elementary School for Capital Matching Fund Program/Fall FY11 grant money to improve non-motorized/ADA access to park by paving entrance. Amount/up to \$4,000. Funds must be spent by December 9, 2013. One original to Lisa Moisey/Parks.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chair
BCC

MONDAY, FEBRUARY 6, 2012

BCC met in regular session; all three present. Evening: JC attended meeting of Seeley Lake Community Council.

Plat – BCC signed. Owners/Kendall/Debbie Bissell. Bissell Acres, located in the SE¼ of Section 34, and the SW¼ of Section 35, T 12 N, R 17 W, PMM, Missoula County. Total area/5 acres).

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) Lemeza Ivashinko Family Transfer (*info*); 3) OPG Director's update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Communications; 3) Planning Projects update; 4) Director's update.

TUESDAY, FEBRUARY 7, 2012

BCC met in regular session; all three present. Afternoon: BCC participated in County Employee Service Awards Ceremony, held in the Courthouse.

ADMINISTRATIVE MEETING –

Amendments – BCC signed, dated February 7, 2012. Two (2) amendments to contracts between County and following for use of BNA Contingency Funds for months of November 2011 through April 2012:

1. Salvation Army/Winter Shelter Program to provide rental assistance to qualifying families, in amount of \$15,000;
2. WORD – for rental assistance/security deposits to qualifying families, in amount of \$8,000.

One original to Peggy Seel/OPG.

Grants – BC signed. Agreements between County (as sponsor of Montana Arts Council) and following for Cultural and Aesthetic Project pass-through grants funded by MT Cultural Trust Fund (as appropriated by 62nd Legislature), for the period July 1, 2011-June 30, 2013:

1. With Rocky Mountain Ballet Theatre, in amount of \$7,585;
2. With Upper Swan Valley Historical Society, in amount of \$4,440;
3. With MCT, Inc., in amount of \$7,110; and
4. With Zootown Arts, in amount of \$4,740;

One original to Jean Harte/OPG.

Agreement – BC signed, dated February 7, 2012. Request to Participating/Utility Billing Data Release between County and National Center for Appropriate Technology (provided by NorthWestern Energy) for Courthouse renovation rebates/incentives. Will allow County to identify/apply for max available/applicable rebates/incentives at no cost. To Chase Jones/OPG.

Contract – BCC signed, dated February 7, 2012. Between County (MCCHD) and Five Valley Veterinary Clinic for Animal Control services (spay/neuter program and misc. veterinary support). Term/July 1, 2011 – June 30, 2012. Compensation varies. To Ed Franceschina/Animal Control.

2012 Budget Amendment Request – BCC authorized. For County Attorney's Office to create two Attorney 1 positions to provide criminal prosecution services in Justice Court. Savings of \$6,974 (FY '12) and expenditure of \$26,499 (FY '13); new positions to replace existing legal interns. Original to Fred VanValkenburg/County Attorney.

Letter – BCC signed, dated February 6, 2012. To Mason Mikkola/Pacific Steel & Recycling re: his application for motor vehicle wrecking facility license for 9575 Futurity Drive, Missoula. A public hearing has been scheduled for February 22, 2012 at 1:30 pm. (Notice of Hearing, dated February 6, 2012, attached).

Letter – BCC signed, dated February 7, 2012. To County Board of Adjustment, c/o OPG, Missoula, re: 2001 JTL Allen (now owned by Knife River) Special Zoning District Variance Proposal (and citizens' concern about staging area for gravel extraction being close to homes). The Commission has no authority to revise/interpret the zoning requirements, but BCC encourages them to find that the variance request meets criteria. Preferred location (eastern edge of property) would protect public health/safety by mitigating adverse effects.

Additional discussion item(s): BCC approved request to hold Special Public Meeting on April 4, 2012.

WEDNESDAY, FEBRUARY 8, 2012

BCC met in regular session; all three present.

CAO MEETING

Requests for Records Disposal/Transfer Authorization – BC signed request from Justice Court 1: 5 boxes/Civil (5/14/2001-12/28/2001); and 2 boxes/Tickets (6/21/2001-12/24/2001). To be destroyed

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated February 7, 2012. Amount/\$37,136.56. To County Auditor.

Memorandum – BCC signed Memo to Jeff Howe, MPEA, denying grievance by two County Employees alleging violation of Article 8/Section 10 of collective bargaining agreement. BCC believes employees were not truly in an "on-call" capacity.

Additional discussion item(s): None.

PUBLIC MEETING – FEBRUARY 8, 2012

1. CALL TO ORDER

Commissioners Present: Commissioner (Chair) Bill Carey, Commissioner Jean Curtiss, Commissioner Michele Landquist

Staff Present: Marnie McClain, Deputy County Attorney, Jennie Dixon, OPG, John Adams, OPG

2. PLEDGE OF ALLEGIANCE

3. PUBLIC ANNOUNCEMENTS

Presentation and Recognition: Sheriff's Office Recruiting Video and Awards

4. PUBLIC COMMENT

None

5. ROUTINE ADMINISTRATIVE ACTIONS

Weekly Claims List (\$1,047,357.38)

Executive Session

Commissioner Curtiss made a motion that the Board of County Commissioners approve the Weekly Claims List in the amount of \$1,047,357.38. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

6. HEARING (Certificate of Survey)

Ivanshinko-Lemeza Family Transfer

Jennie Dixon read the Staff Report

Jennie asked Alex and Anna Ivanshinko the standard Family Transfer questions.

Public Comment

None

Executive Session

Commissioner Curtiss made motion that the Board of County Commissioners approve the request to create one additional parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review.

7. OPPORTUNITY TO COMMENT

EPA Brownfields Multi-Purpose Pilot Grant Application for Assessment and Clean-Up of Asbestos-Containing Materials

John Adams read the Staff Report

Public Comment

None

8. OTHER BUSINESS

None

9. RECESS: There being no further business to come before the Board, the Commissioners were in recess at 1:48 pm.

THURSDAY, FEBRUARY 9, 2012

BCC met in regular session; all three present.

ADMINISTRATIVE MEETING

Agreement – BCC signed, dated February 8, 2012. Between County and Collins Planning Associates, Inc. to finish Scope of Work for County Subdivision Regulations Reorganization Project (signed by BCC in June 2011 and since expired). Amount/\$5,837.50. Term/February 10, 2012-February 1, 2013. One original to Karen Hughes/RI.

Grants – BC signed. Two (2) Agreements between County (as sponsor of Montana Arts Council) and following for Cultural and Aesthetic Project pass-through grants funded by MT Cultural Trust fund, for the period July 1, 2011-June 30, 2013:

1. With Alpine Artisans, in amount of \$4,000; and
2. With Missoula Cultural Council, in amount of \$3,680.

One original to Jean Harte/OPG.

Agreement – BCC signed. Between County and MDT (use of FT 2011 Public Lands Highway Discretionary Funds) for Lolo to Missoula Trail Feasibility Study. Agreement valid through March 30, 2013. County to take lead in project/MDT to reimburse. Total study cost/\$120,000; County to provide \$20,000 in leveraged funds. Two originals to Greg Robertson/PW for further signatures/handling.

Letter – BCC signed, dated February 9, 2012. To Patty Lovaas, CPA, Missoula, in response to her questions re: financing of the WYE Sewer project, RSID 8489, and specifically as they relate to properties of her client, Daniel Jensen.

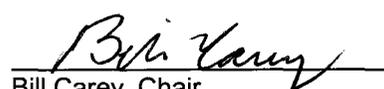
Additional discussion item(s): OPG reorganization.

FRIDAY, FEBRUARY 10, 2012

BCC met in regular session; quorum present. ML out of office all day. Late afternoon: JC attended Retirement Reception in honor of Mae Nan Ellingson, held at First Interstate Bank.

Letter – BCC signed, dated February 9, 2012. To City of Missoula Mayor John Engen & City Council Members, setting forth BCC's desired outcomes if Mayor and Council decide to dissolve Office of Planning and Grants as a consolidated office.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chair
BCC

MONDAY, FEBRUARY 13, 2012

BCC met in regular session; all three present.

Planning Status Meeting – BCC/OPG Staff. Agenda (*all action items*): 1) Public Comment; 2) Running W Ranch Subdivision Condition Amendment ("CA"); 3) Lolo East Subdivision CA; 4) Red Dog Ranch Subdivision CA; 5) Miner's Addition Subdivision CA; 6) Garnet View Lots Subdivision CA; 7) Clearwater Junction Subdivision CA; 8) OPG Director's Update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) MLIAC Grant application update; 3) Communications; 4) Land Use Clinic presentation; 5) Director's update.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated February 10, 2012. Amount/\$956.76. To County Auditor.

Letter – BCC signed, dated February 27, 2012. To D. Williams, c/o Missoula Cartage, Missoula, approving amendment (re: filing of Weed Management Plan) to Condition of Approval #48 for Running W Ranch Subdivision.

Letter – BCC signed, dated February 27, 2012. To Bitterroot Development Corp. c/o Darin Patzer, Hamilton, approving amendment (re: Weed Management Plan) to Condition of Approval #17 for Lolo East Subdivision.

Letter – BCC signed, dated February 27, 2012. To Robert Alexander, Frenchtown, approving amendment (re: filing of Weed Management Plan) to Condition of Approval #38 for Red Dog Ranch Subdivision.

Letter – BCC signed, dated February 27, 2012. To Northern Lights Development, LLC, c/o Professional Consultants, Inc. Missoula, approving amendment (re: filing of Weed Management Plan) to Condition of Approval #27 for Miners Addition Subdivision.

Letter – BCC signed, dated February 27, 2012. To Nathan Smith, Potomac, approving amendment (re: filing of Weed Management Plan) to Condition of Approval #15 for Garnet View Lots Subdivision.

Letter – BCC signed, dated February 27, 2012. To John Richards, Seeley Lake, approving amendment (re: filing of Weed Management Plan) to Condition of Approval #14 for Clearwater Junction Subdivision.

TUESDAY, FEBRUARY 14, 2012

BCC met in regular session; all three present. Afternoon: ML attended meeting of Larchmont Golf Course Board. Evening: ML attended meeting of Lolo Community Council.

ADMINISTRATIVE MEETING

Agreement – BCC signed. Annual Agreement between County (Extension Service) and Montana State University Extension for period July 1, 2011 through June 30, 2012. Budget amount/\$541,733.84. Two originals to Jerry Marks/Extension Service for further signatures/handling.

SOS Agreement – BC signed, dated January 27, 2012. Between County (Superintendent of Schools (“SOS”)) and Sanders County for services of Missoula County SOS at Trout Creek School. Term/One year, effective June 30, 2012. Original to Erin Lipkind/SOS.

Memorandum of Understanding – BC signed. With Energy Corps AmeriCorps (“ECA”) Program to establish basic guidelines, etc. for participation in National Center for Appropriate Technology’s ECA Program. Term/October 25, 2011-August 31, 2012. No budget impact. Two originals to Chase Jones/OPG for further signatures/handling.

Grant Application – BC signed signature page/BCC signed cover letter (dated February 14, 2012) for VOCA Grant Application (#12-03-V) to MT Board of Crime Control for funds for continued implementation of Missoula Crime Victim Advocate Program. State grant/\$198,442 (+ local 20% match/\$49,610). Originals to Shantelle/OPG for further signatures/handling.

Grant Application – BC signed signature page for Montana Land Information Act Grant Application to hire GIS consultant to complete process of Rural Initiatives’ PLACE (Practical Landscape Assessment for Conservation/Enhancement) Project into an interactive web-based mapping service. Requested amount/\$20,000. Term/July 1, 2012-June 30, 2013. Originals to Sarah and Nate/OPG.

Request – BCC recommended award of contract to Great West Engineering for TSEP Preliminary Engineering Report to assess need for replacement of bridge carrying Riverview Drive over the Clearwater River. Amount/\$15,000 from Bridge fund. [Six Statement of Qualifications were received.] Original to Erik Dickson/PW.

Agreement – BCC signed, dated February 14, 2012 (effective date). Between County and WGM Group, Inc. for Tiger IV Planning Grant Application for Missoula Airport Landside Infrastructure Project (Mullan Road/West Broadway road connection). Amount/\$20,000. One original to Greg Robertson/PW.

Agreement – BCC signed. Between County and JD Russell Excavating, Inc. for Public Works On Site Pressure Sewer Project (6089 Training Drive). Amount/\$51,046.41. Effective Date/February 6, 2012 – June 2012. Four originals to Greg Robertson/PW.

Resolution No. 2012-005 – BCC signed, dated February 14, 2012. Amending JTL Special District Zoning for Tract 1-A, COS 4971, located in T 13 N, R 19 W, PMM, Missoula, to amend gravel pit hours of operation to allow for limited nighttime operations for Public Works projects. Hearing held December 21, 2011.

Memorandum of Agreement – BC signed. Between County (Parks Board) and Hellgate Lions Club for Fall FY12 Capital Matching Funds Grant in amount of \$1,080.49 for pump/furnace repair/sprinkler system winterization/mower replacement. Funds must be spent by December 9, 2013. One original to Lisa Moisey/Parks.

Additional discussion item(s): 1) Rural Land Managers MOU Meeting Draft Agenda; 2) Building Codes; 3) Notification of Change of Shipping Address.

WEDNESDAY, FEBRUARY 15, 2012

BCC met in regular session; all three present. Morning: BCC met with Mayor John Engen and City Council, et al re: OPG Interlocal Agreement. Afternoon: BCC participated in Annual Detention Center Inspection.

CAO MEETING

Contract – BCC signed, dated February 13, 2012. Between County and Abatement Contractors of MT for a comprehensive lead paint analysis at LaLonde Ranch House. Amount/\$775.00. Term/week of February 13, 2012. One original to Contractor.

Notice – BCC signed Notice of Completion of Groundwater Development for the new well at Airway Boulevard and Expressway to provide irrigation for new roundabout/median landscaping at MDP. Fee of \$125 paid to DNRC. Original to Barb Martens for further signatures/handling.

Contract – BCC signed. Between County and Missoula County Deputy Sheriffs Association for period July 1, 2011 through June 30, 2013. Original to HR.

Board Appointment – BCC appointed Paul Forsting as 2nd Alternate on the Zoning Board of Adjustment to fill an unexpired term to December 31, 2012 (at which time he will eligible for a new 2-year term to 2014).

Additional discussion item(s): 1) OPG Interlocal; 2) Bill Carey will serve as BCC representative on CBO Review Team for FY2013.

NO PUBLIC MEETING WAS HELD THIS DATE

THURSDAY, FEBRUARY 16, 2012

BCC met in regular session; all three present. Morning: BCC, John Engen, Dale Bickell, Bruce Bender, et al attended meeting re: Monthly City-County Update. Afternoon: JC attended *Reaching Home* Meeting (10-Year Plan to End Homelessness), held at 1st Interstate Bank. Late afternoon: JC attended UM 2012 charter Day Ceremony & Reception, held in UC Ballroom. Evening: ML attended meeting of Open Lands Citizens Advisory Committee.

ADMINISTRATIVE MEETING

Contract – BCC signed, dated February 16, 2012. Between County and BREDD for CDBG Program Income RLF grant funding to determine need for a vaccine manufacturing facility in Missoula. MVP (Missoula Vaccine Partnership) will provide input/advice. County to contribute \$25,000 towards \$75,000 cost of study. Term/March 1-August 31, 2012. Copy to Cindy Wulfekuhle/OPG.

Grants – BC signed. Agreements between County (as sponsor of Montana Arts Council) and following for Cultural and Aesthetic Project pass-through grants funded by MT Cultural Trust Fund (as appropriated by 62nd Legislature), for the period July 1, 2011-June 30, 2013:

1. With String Orchestra of the Rockies, in amount of \$3,000;
2. With VSA (Very Special Arts) Montana, in amount of \$9,586.

One original to Jean Harte/OPG.

Satisfaction of Loan Program Agreement – BCC signed, dated February 16, 2012. Lolo Water/Sewer District (RSID 8901) Loan Agreement for property located at 202 Barclay, Lolo. Owners Thomas/Patti Wolf. Amount/\$2,680 – from Western Title Company (after sale of property). Copy to Jean Harte/OPG.

Budget Transfer – BCC signed, dated February 16, 2012. Control No. 12-003 for OPG. \$2,500 line item transfer from State Historic Preservation Office grant to City for intern to upgrade historicmissoula.org website.

Agreement and Resolution – BCC signed, dated February 15, 2012. Between County and Resource Data Inc. to implement Urban and Regional Information Systems Association addressing model for use in assigning/managing property addresses in county. Amount/not to exceed \$25,000. Term/February 27-August 27, 2012. Two originals to Andrew Czorny/CFO for further signatures/handling. Resolution No. 2012-006 – BCC signed, dated February 16, 2012. Budget Amendment for Tech Fund in amount of \$25,000 for consultants for GIS addressing. For total disclosure, expenditures included in formal FY12 Operating Budget/Revenue Estimates for County.

Letter – BCC signed, dated February 16, 2012. To Carol Fox/Natural Resource Damage Program, Helena, supporting proposed modifications to application on the 2009 NRDP grant for Milltown project. County is co-applicant with FWP and they also support modifications emphasizing public access.

Additional discussion item(s): None.

FRIDAY, FEBRUARY 17, 2012

BCC met in regular session; quorum present. ML out of office most of day.

Note: Pay period #3 (pay date 2/10/12) was inadvertently filed without signatures of Auditor or BCC. It will be signed and appear in July's journal.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chair
BCC

MONDAY, FEBRUARY 20, 2012

COURTHOUSE AND ADMIN BUILDING CLOSED FOR THE PRESIDENTS' DAY HOLIDAY

TUESDAY, FEBRUARY 21, 2012

BCC met in regular session; all three present in afternoon. Morning: JC attended Small Business Opportunity Workshop, held at UC Center. Late afternoon: BCC participated in LRTP Consultant Stakeholder Interview, held at 127 W. Spruce.

Planning Status Meeting – BCC/OPG Staff. Agenda (*all action items*): 1) Public Comment; 2) Saylor Family Transfer; 3) OPG Director's Update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Communications; 3) Planning Projects update; 4) Director's update.

ADMINISTRATIVE MEETING

Contract – BCC signed, dated February 9, 2012. Between County and Marty Davis/Bear Creek Productions for up to eight hours per day of musical entertainment at the Free Stage/Western MT Fair. Term/August 7-12, 2012. Amount/\$2,200. One original to Steve Earle/Fair.

Contract – BCC signed, dated February 6, 2012. Between County and Dock Dogs, Inc. for one Dock Dog competition show Wednesday through Saturday at 11:00am-12:00 pm (August 8-11, 2012) at the Western MT Fair. Amount/\$9,000. One original to Steve Earle/Fair.

Contract – BCC signed, dated February 15, 2012. Between County and Rocky Mountain Talent Professional Services for two shows by Copper Mountain Band on August 11, 2012 at the Free Stage/Western MT Fair. Showtimes: approx. 3:30pm-5:30pm and 9:00pm-11:00pm. Amount/\$2,750. One original to Steve Earle/Fair.

Letter – BCC signed, dated February 21, 2012. To M. Bair, Multifamily Program Officer, MT Board of Housing, Helena, with comments on Aspen Place Apartments and Haven Homes, two Missoula projects applying for Low Income Housing Tax Credits this spring. Missoula has a tight rental market, and a strong need for affordable housing.

Letter – BCC signed, dated April 19, 2012. To Shane Stack, MDOT, Missoula, commenting on proposed intersection improvements for entrance to Town Pump/Bonner. BCC supports construction of a roundabout which incorporates a gated wide load bypass.

Additional discussion item(s): Upcoming BCC Schedule decisions.

WEDNESDAY, FEBRUARY 22, 2012

BCC met in regular session; all three present.

CAO MEETING

Cooperative Agreement – BC signed. Between City-County Health Dept. ("MCCHD") and MT DPHHS to facilitate payment of county portion of state license fees for licensed establishments inspections (close to \$93,000 a calendar year). Term/January 1-December 31, 2012. Three originals to MCCHD for further signatures/handling.

Additional discussion item(s): Personnel grievance response [see 2-23-12].

PUBLIC MEETING – FEBRUARY 22, 2012

1. CALL TO ORDER

Commissioners Present: Commissioner (Chair) Bill Carey, Commissioner Michele Landquist, Commissioner Jean Curtiss

Staff Present: Dorie Brownlow, Sr. Attorney Civil, Greg Robertson, Director Public Works, Jennie Dixon, OPG

2. PLEDGE OF ALLEGIANCE

3. PUBLIC ANNOUNCEMENTS

Missoula County 4-H Ambassadors Winter Carnival (Lori Zeiser from Missoula Conservation District)
Smart 9-1-1 (presentation Postponed until March 14th)

4. PUBLIC COMMENT

5. ROUTINE ADMINISTRATIVE ACTIONS

Weekly Claims List (\$2,345,785.19)

Executive Session

Commissioner Curtiss made motion that the Board of County Commissioner approve the Weekly Claims List in the amount of \$2,345,785.19. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

6. PROCLAMATION

World Spay Day
Chair Carey read the Proclamation

7. CONSIDERATION

Adopt Resolution to Address Speed Study Requests
Greg Robertson read the staff report
Dori read the Resolution

Public Comment

None

Commissioner Curtiss: We periodically get requests from folks that are concerned about speed in their neighborhood or a corner that they think is not safe. After our Public Works Director reviews them, we know that they're not going to trigger any of the numbers that need to be hit, what we call warrants in the Uniform Manual so it seems like it's a waste of time, there are either not enough accidents or sometimes folks want us to reduce the speed past their house to 25 when the neighborhood speed is 45 and that...if you look at the statistics that really causes accidents so we were trying to reduce the work load required of Greg and the Highway Department if we really think it's not going to go anywhere. Now folks could appeal it to us and we could reconsider it. It seemed like it was good to have something in place so that folks knew what to expect if they asked us.

Commissioner Landquist: Should we add or work into some sort of appeal process if they don't like the findings, before we adopt this completely?

Commissioner Curtiss: It's not any appeal process that's in law or anything, so I think they can always ask us.

Commissioner Landquist: The way it works is that the County commissioners have to make that request to MDOT and then MDOT does studies. Most people think they need to go to MDOT first. We thought this was one avenue in which we could have it officially spelled out for everybody's understanding, both all of our citizens, Public Works and MDOT in knowing how we're going to work with one another.

Commissioner Curtiss: Bottom of the first page rewording ~ new sentence, we could just say the 'manual on uniform traffic control devices will be one of the resources that you use'.

Executive Session

Commissioner Curtiss made motion that the Board of County Commissioners approve the consideration with changes made today. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

8. HEARING (Certificate of Survey)

Saylor (Ken and Lauree) Family Transfer (28200 Highway 12)

Jennie Dixon read the staff report and asked Mr. Saylor the standard Family Transfer questions.

Public Comment

None

Executive Session

Commissioner Landquist made motion that the Board of County Commissioners approve the request to create one additional parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Curtiss seconded the motion. The motion carried a vote of 3-0.

9. HEARING

Application by Pacific Steel and Recycling (Mason Mikkola) for a Motor Vehicle Wrecking Facility License (9575 Futurity Drive)

Mason Mikkola, Manager of Pacific Recycling: We're in a buy sell agreement on some property at 9575 Futurity Drive. Intention is to relocate our heavy scrap metal facility out there, as well as the other recycling that we're doing out there right now. This property gives us a lot more room; we're pretty tight where we're at right now.

Jason White, Junk Vehicle Coordinator Missoula City-County Health Department: This is a great proposal; it's surrounded by 5 other licensed wrecking yards for the State of Montana. The application is through and professionally done. If it does get approved and you send a letter to the State saying it's approved they will put out an EPA and it will go out for a 30 day comment period. Handed out a map of the area.

Jim Carlson, Director Environmental Health: I have some general comments about the Missoula Industrial Park and that is that it's a very old industrial subdivision and the streets in that subdivision are still unpaved. We're getting increasing amounts of traffic out in that entire industrial park and the five streets that access old Hwy 10 directly and there's a large amount of carry-out from increasing traffic and certainly this move will greatly increase the traffic particularly coming out from this site. As the weather warms up and the materials from traffic, mud and such gets re-suspended we get excess emissions of PM10. Although most of these roads have a good amount of dust palliative in the summer it's still a problem for carry out onto the Highway so the County probably needs to work with the businesses in that area to create an SID or find some other type of solution for paving so that we don't have ongoing problems with unnecessary PM10 emissions.

Commissioner Curtiss: Are those private roads or old county roads?

Greg Robertson: Public roads. County maintained public roads.

Jim Carlson: We need to work with the landowners and create an RSID for the paving of the road to ensure that we don't have unnecessary emissions inside the air stagnation zone and this property is inside the air stagnation zone.

Commissioner Landquist: I'd be curious to hear what the representatives think about what you just said about the future proposal of an RSID.

Mason Mikkola: Certainly we would be on board with that. Our intention is to do a combination of pavement in our yard as well as maybe in the scrape processing area; it's really tough to maintain that pavement because you're punching holes in it so we'll probably do some kind of mill tailings or some other kind of road base there. We would certainly be for paving those roads out there and any RSIDs. One thing I wanted to mention might be a little preliminary but the only access to that property is Futurity Drive; part of my proposal is to put an access out to Inspiration Drive going north. Main reason is for customer access and then also it's very difficult for customer going out Futurity Drive out to the Hwy heading north, it's very dangerous. I'm not sure if there are any future plans to connect Futurity and Inspiration but we'd certainly entertain that too.

We meet with the railroad on getting rail access out there and that was one of the contingencies we had as well as this permitting process before we purchase the property. The railroad has assured us that they would service that area, that they would give us access.

Public Comment

Bob Zimmorino: I work for Lambros Real Estate. I represent Pacific Recycling and I also represent the seller, it's actually two different companies but one seller of the property. I would like to clarify at this point that it's Pacific Recycling not Pacific Steel; they're two separate companies under Pacific Hide and Fur. The seller at his own expense had the ground tested because there was a Penta spill back in the 80's on that property. We had the ground tested and sampled and all the sampling came back that there's no need for further remediation.

Travis Ross, WQ Department at the Health Department: As Bob mentioned back in the 90's some Penta issues were identified because of that it was listed as a medium priority superfund site with the State. We would like to see that worked to be resolved and officially removed off of that list through voluntary cleanup actions and submissions. We feel this is a great move for Pacific and a better situation for everybody.

Commissioner Curtiss: The testing that they've done is that probably the biggest steps that they've have to take towards getting that taken off of their title.

Travis Ross: Yes and working with DEQ to make sure that those grids were setup and the quantification of the results was a proper level and all that. There's a format that you have to go through, a formality to get that designation removed. We just think this is a great opportunity to start with a clean slate with a new owner.

Commissioner Curtiss: So well it's recommended, it's not required?

Travis Ross: Right.

Commissioner Landquist: Will at some point something they do trigger that requirement or should we ask the owner, Bob to address what you just said?

Travis Ross: You know it's a State program so the State at some point could issue order, it hasn't been done. They have a lot bigger fish to fry right now.

Bob Zimmorino: I went back to the original guy who had done the survey back in the 80's of the property and he told me that the State told him that this is so low priority they can't image they will ever get to it because they don't have the resources. Regardless of that, the seller working with the buyer, they've been on the same page through the whole process, we've hired Brian Douglas from Douglas Environmental and he went through and did a Phase one, following the Phase one he did the testing according to the guidelines. Everything that he has done has been above and beyond the guidelines that the State DEQ has set. They don't ever actually cut you loose from the deal, they give you a letter saying that they don't intend any further action because they don't ever want to be on the hook if down the road something was...but the property has been thoroughly tested, the environmental issues, I believe, will all be addressed in a report sometime fairly soon.

Commissioner Curtiss: Is our action just to say that we've held a hearing and we'll send a letter of support to DEQ, right?

Commissioner Landquist: We either approve or disapprove their proposal and notify DEQ of our decision.

Executive Session

Commissioner Landquist made motion that the Board of County Commissioners approve the Pacific Steel & Recycling's motor vehicle wrecking facility relocation based on the application information, and public comments and will notify DEQ of the decision. Commissioner Curtiss seconded the motion. The motion carried a vote of 3-0.

10. OTHER BUSINESS

None

11. RECESS:

There being no further business to come before the Board, the Commissioners were in recess at 2:21.

Resolution No. 2012-007 – Following the Public Meeting, BCC approved/signed, dated February 22, 2012. Adopting procedure to address citizen-requested public highway system studies. Procedure set forth therein.

THURSDAY, FEBRUARY 23, 2012

BCC met in regular session; all three present. Morning: BC and Dale Bickell attended meeting of Development Services Working Group, held at MRA Conference Room.

ADMINISTRATIVE MEETING

Contract – BCC signed, dated February 17, 2012. Between County and 168tickets, LLC for box office ticketing system for Western MT Fair. (Fair issued RFP June 2011; six responses were received.

Selection team chose to stay with current vendor). Term/October 1, 2011 – September 30, 2012. Amount/ max. total of \$11,100. One original to B. Berens/Auditor.

Letter – BCC signed, dated February 22, 2012. To E. Wood/Project Leader, West Riverside Tree Planting and Animal Damage Control Project, Missoula Ranger District, Missoula, in support of proposal to reforest land burned during West Riverside Fire. BCC heard from Bonner-Milltown Community Council that they would appreciate efforts aimed at reforestation of Woody Mountain.

Letter – BCC signed, dated February 23, 2012. To C. Fox/Natural Resource Damage Program, Helena, in support of recommendations received from Bonner-Milltown Community Council re: design modifications proposed by FWP for Gateway and Confluence areas of Milltown State Park.

Letter – BCC signed, dated February 22, 2012. To Captain Kowalski and Sergeant Evans, Missoula County Detention Center, stating that BCC's yearly inspection of the facility found that all aspects of the Detention Center are well planned and executed, as well as having the necessary procedures that pertain to the purpose/programs/services offered by the facility.

Letter – BCC signed, dated February 23, 2012. To A. Sorrell, Director, DPHHS, Helena, in support of Missoula County's (OPG) application for grant funds up to \$285,000 for a wood appliance change-out program for Seeley Lake. Grant funded by USFS and awarded/managed by Glacierland Resource Conservation and Development Council.

Memorandum – BCC signed Memo to County Employee denying his/her grievance of January 22, 2011. BCC sees nothing in bargaining agreement that *restricts* the County Detention Facility from establishing minimum staffing levels/denying leave when staffing is at or near those levels.

Additional discussion item(s): Miller Creek Trust Fund.

FRIDAY, FEBRUARY 24, 2012

BCC met in regular session; quorum present in morning. BC, et al met new Regional EPA Director. ML attended meeting of Mountain Line Long-Range Plan Steering Committee.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chair
BCC

MONDAY, FEBRUARY 27, 2012

BCC met in regular session; all three present. Afternoon: BC attended meeting of Investment Advisory Committee. BCC participated in meeting with Rural Land Managers, held in Admin 206.

Replacement Warrant - BC signed. Daniel Gundlach, Principal for Weed/Extension Warrant #30216626, issued January 26, 2012 on County 2140 Fund. Amount/\$91.39 (for travel reimbursements). Not received in mail; no bond of indemnity required.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) 1) Public Comment; 2) Glacier Creek Meadows Subdivision Phasing Plan Amendment (*action*); 3) Mountain Acres No. 2 Lot 8 Subdivision Final Plat Filing Extension (*action*); 4) DFIRM; 5) OPG Director's update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Cold Summit amicus brief discussion/decision; 3) Planning Projects update; 4) Communications; 5) Director's update.

Letter & Resolution – BCC signed, dated February 27, 2012. To Bruce Meyer, Motor Vehicle Recycling/ Disposal Program, DEQ, Helena, stating Public Meeting was held February 22nd re: Pacific Steel & Recycling's request for a motor vehicle wrecking facility license. BCC supports granting a license to PS&R, providing facility is in accordance with local government zoning and ordinances. Resolution No. 2012-008 – BCC signed, dated February 22, 2012. Supporting granting above-named license to PS&R, located at 9575 Futurity Drive, Missoula.

Letter – BCC signed, dated March 15, 2012. To Glacier Creek Meadows, LLC c/o John Keller, Seeley Lake, conditionally approving Phasing Plan Amendment for Glacier Creek Meadows Subdivision. Final plat submittal deadline for Phase 1 extended to April 27, 2014, subject to approval of Weed Management Plan in amended Condition #21. #20 requires Plan approval by May 15, 2012. Contingent upon review, final plat submittal deadlines are: Phase 1 – 4/27/2014; Phase 2 – 4/27/2017; Phase 3 – 4/27/2020; Phase 4 – 4/27/2022;

Letter – BCC signed, dated March 15, 2012. To Don Calder, Clinton, approving extension for Mountain Acres No. 2, Lot 8 final plat filing deadline. Date extended to July 3, 2012.

TUESDAY, FEBRUARY 28, 2012

BCC met in regular session; all three present. Afternoon: ML attended meeting of Built Environment Committee, held at Reidy Conference Room.

ADMINISTRATIVE MEETING

County Payroll Transmittal Sheet – BCC signed. Pay Period: 04/CY2012 - Pay Date/February 24, 2012. Total Payroll/\$1,270,056.09. To County Auditor.

Agreement – BCC signed, dated February 28, 2012. Between County (MCCHD) and Missoula Police Department. DUI Task Force contract for enforcement/education activities paid by funds from Driver's License Reinstatement Fees. Term/July 1, 2011-September 30, 2012. Two originals to Julie Mohr/MCCHD.

Memorandum of Understanding – BC signed, dated February 28, 2012. Between County and Missoula Redevelopment Agency documenting MRA's pledge to fund \$194,046 (TIF Revenue) of Records Center Renovation located at 2147 Ernst Street in URD III. Project begins June 13, 2011, and is ongoing. Original to Brenda Desmond/District Court.

Letter – BCC signed, dated February 28, 2012. To Orchard Homes Area Homeowners concerning FEMA Flooding Assistance. County has explored options to help fund 25% match for FEMA funds, and has concluded NOT to move forward with the FEMA programs because of the costs to the residents. Original to Chris Lounsbury/DES.

Additional discussion item(s): Zoning Amendment for Cell Tower use. [Rob Chaney and Kent Berington wanted it on the record that they consider the proposed road to be hazardous].

WEDNESDAY, FEBRUARY 29, 2012

BCC met in regular session; all three present. Morning: BCC had meeting with Todd Kliez, Cindy Johnson, et al re: Spring Flooding issues. Afternoon: JC participated in Public Health System Improvements Task Force conference call.

CAO MEETING – No Agenda Items.

Additional discussion item(s): None.

NO PUBLIC MEETING WAS HELD THIS DATE

MISSOULA COUNTY COMMISSIONERS' JOURNAL: MARCH, 2012

BCC = BOARD OF COUNTY COMMISSIONERS

BC = Commissioner Bill Carey, Chair
ML = Commissioner Michele Landquist
JC = Commissioner Jean Curtiss

The following Claims Lists were signed during the month of MARCH 2012:

Date Signed	Claims List Date	Who signed	Amount
March 1, 2012	February 22, 2012	BCC	\$132.59
March 1, 2012	February 23, 2012	BCC	\$77,639.95
March 1, 2012	February 29, 2012	BCC	\$2,848.16
			\$2,348.77
			\$9,875.53
			\$2,869.71
			\$7,608.90
March 2, 2012	February 29, 2012	BC, JC	\$4,366.87
March 2, 2012	March 1, 2012	BC, JC	\$333.33
			\$18,391.00
			\$110,365.27
			\$30,733.09
March 2, 2012	March 1, 2012	BC, JC	\$1,514.61
			\$60,254.51
			\$11,564.86
March 2, 2012	March 1, 2012	BC, JC	\$183.34
			\$45,873.65
			\$113.00
			\$212.86
March 5, 2012	March 2, 2012	BCC	\$4,960.21
			\$3,048.44
			\$1,884.76
			\$102,879.86
March 6, 2012	February 22, 2012	BCC	\$55,497.99
March 6, 2012	March 2, 2012	BCC	\$6,857.57
			\$1,068.72
			\$16,299.74
			\$3,143.59
March 6, 2012	March 5, 2012	BCC	\$13,046.08
			\$8,473.44
			\$503.81
			\$368.08
			\$693.74
			\$33,691.79
March 8, 2012	March 7, 2012	BC, JC	\$2,991.34
	March 2, 2012	BCC	\$7,543.20
March 8, 2012	March 6, 2012	BCC	\$3,028.68
			\$13,193.64
			\$1,159.14
			\$189.00
			\$7,731.62
			\$1,195.97
			\$511.87
			\$23,574.00
			\$1,958.75
			\$126,587.92
			\$2,295.60
\$14,286.58			
			\$1,316.10

March 8, 2012	March 7, 2012	BCC	\$56,068.86
			\$905.37
			\$12,684.85
			\$43,577.63
			\$801.45
			\$4,058.85
			\$311.00
March 8, 2012	March 8, 2012	BCC	\$1,908.48
			\$1,200.78
			\$830.00
			\$12,312.80
March 8, 2012	March 8, 2012	BC, JC	\$939,390.73
			\$24,008.58
			\$8,826.27
March 14, 2012	March 13, 2012	BCC	\$2,530.50
			\$1,530.67
			\$258,292.50
			\$2,530.93
March 14, 2012	March 13, 2012	BCC	\$5,658.01
			\$7,682.08
			\$147.50
			\$34,258.81
			\$35,244.24
			\$889.45
			\$997.32
\$47,293.75			
March 14, 2012	March 14, 2012	BCC	\$14.50
			\$9,049.46
			\$26,799.76
			\$2,571.36
			\$286.57
			\$13,887.29
			\$23,373.67
\$15,679.99			
March 15, 2012	March 13, 2012	BCC	\$7,037.25
March 15, 2012	March 14, 2012	BCC	\$2,442.38
			\$1,721.76
			\$771.02
			\$2,560.00
			\$500.00
			\$32.72
\$1,572.42			
March 15, 2012	March 15, 2012	JC, ML	\$8,843.13
			\$62,098.64
			\$27,959.75
			\$1,683.51
March 19, 2012	March 14, 2012	BCC	\$463.20
March 19, 2012	March 15, 2012	BCC	\$3,486.98
			\$28,995.07
			\$650.97
\$936.05			
March 19, 2012	March 19, 2012	BCC	\$5,419.60
			\$16,874.17
			\$147,484.29
			\$11,310.59
\$2,169.34			

March 20, 2012	March 19, 2012	BC, ML	\$942.50
			\$55.00
			\$5,483.81
			\$115.62
			\$1,403.31
			\$431.21
			\$570.34
			\$564.30
			\$2,644.26
			March 20, 2012
March 21, 2012	March 20, 2012	BC, ML	\$357.38
			\$6,987.05
			\$39,028.76
			\$812.76
			\$198.63
			\$2,016.16
			\$106.86
March 21, 2012	March 21, 2012	BC, ML	\$100.00
			\$1,107.59
			\$986.43
			\$20,020.01
			\$457.68
			\$118.23
			\$50,996.14
March 23, 2012	March 21, 2012	BCC	\$1,900.26
March 26, 2012	March 21, 2012	BCC	\$1,769.13
March 26, 2012	March 22, 2012	BCC	\$152.10
			\$110.00
			\$200.00
			\$308.95
			\$11,810.72
			\$4,360.77
			\$103.73
			\$42,022.40
			\$11,283.47
			\$40,502.23
March 26, 2012	March 23, 2012	BCC	\$43,621.85
March 28, 2012	March 26, 2012	BCC	\$595.79
March 28, 2012	March 27, 2012	BCC	\$149.00
			\$6,687.89
			\$33,754.86
			\$7,712.97
			\$38,146.95
			\$95,270.17
March 28, 2012	March 27, 2012	BC, ML	\$163.66
			\$10,403.49
			\$3,525.00
			\$12,727.87
			\$828.22
			\$1,762.50
			\$30,312.71
			\$32,753.30
			\$1,102.76
			\$3,606.68
March 28, 2012	March 28, 2012	BC, ML	\$1,897.86
			\$668.43
			\$1,852.89
			\$1,408.99
			\$940.61
			\$1,373.97
			\$1,659.56
			\$100.00
March 9, 2012	PHC Amerisource ACH		\$80.00

March 29, 2012	March 29, 2012	BC, ML	\$15,214.37
			\$1,085.65
			\$316.85
			\$1,260.00
			\$876.55
March 30, 2012	March 27, 2012	BC, ML	\$91.31
March 30, 2012	March 29, 2012	BC, ML	\$283.20
			\$17,787.97
			\$5,477.35
			\$1,140.00

All Claims Lists were returned to the Accounting Department.

THURSDAY, MARCH 1, 2012

BCC met in regular session; all three present. Afternoon: JC served as Official Judge for Missoula County Spelling Bee, held at Sentinel High School.

ADMINISTRATIVE MEETING

Amendment – BCC signed, dated March 1, 2012. Renewal Contract between County and *It Starts With Me* Health Promotion Programs for Wellness services. Payment for services will be increased by \$5,250 for additional work described in Exh. B. Wellness Budget/\$60,000; estimate of expenses/ \$72,000 (Wellness Committee to work on the difference). One original to Heidi Fritchen/Risk & Benefits for further signatures/handling.

Subcontract – BCC signed, dated March 1, 2012. Between County and Office of State Public Defender for services provided under Contract #12-331-74068-0 between MT DPHHS (Addictive/Mental Disorders) and County for Strategic Crisis Intervention Plan. Amount/\$35,041 from State for local OPD office. Term/August 4, 2011-June 30, 2012. Two originals to Kim Campbell/OPG for further signatures/handling.

Grant Contract – BC signed, dated July 11, 2011 for grant period July 1, 2011-June 30, 2012 between County (as sponsor of Missoula Art Museum) and MT Arts Council. Amount/\$7,110 (pass-through from Cultural/Aesthetic Project grant funded by MT Cultural Trust Fund, as appropriated by 62nd Legislature).

Letter – BCC signed, dated February 29, 2012. To Senator Jon Tester, Missoula Office, thanking him for his hard work/continued efforts to fight closure of USPS Mail Processing Center in Missoula County. Twenty-eight essential jobs were saved.

Requests for Records Disposal/Transfer Authorization – BC signed requests from Motor Vehicle: Five boxes of misc. Correspondence (1/1/2007-12/31/2009) – Dead Letters, Refunds-Return Checks, Returned Mail, Title Letters. To be destroyed

Additional discussion item(s): None.

Tax Abatement Requests – At meeting with Clerk & Recorder, BCC approved following letters dated March 1, 2012:

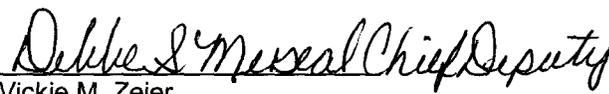
- 1) Denying request from Four Winds Log Craft, Seeley Lake, to refund and have parcel reassessed for years 5002-2011 for Taxpayer ID #2207302. MT DOR feels classification up to this time was correct/unchallenged, so any prior years have no legal authority for refund.
- 2) Discussion re: C. Daniel Lessnau and issue with road to property. Info to JC; will confer with DNRC/Mary Sexton.
- 3) Approving request from Michael/Sylvia Burnside, Missoula, for reassessment and refund of overpayment of taxes interest for Taxpayer ID #509103 (for years 2008-2011).
- 4) Approving request from Richard Wolke, Kalispell, to refund motor vehicle taxes/fees paid in error for Vehicle #2626414 (contingent on proof of vehicle being totaled).
- 5) Approving request from Summit Beverage, Missoula, to refund motor vehicle taxes/fees paid in error for Vehicle #1954327.
- 6) Approving request from Summit Beverage, Missoula, to refund motor vehicle taxes/fees paid in error for Vehicle #2495817.
- 7) To Dr. Dale Thoman, Missoula, re: waiver of penalty/interest on Tax ID #2010090721. Situation resolved on January 25th; payment received from SunTrust Mortgage and receipted. Penalty/ interest waived.
- 8) Denying request from Jenna Wright, Missoula, for partial refund of motor vehicle taxes/fees for Vehicle #1934360. BCC has no authority to waive these fees.
- 9) Denying request from Christopher Rice, Missoula, to waive penalty/interest for Tax ID #517106. Taxes were delinquent.
- 10) Approving request from S.M. Douglas Ammons, Missoula, to refund 2nd half real estate tax payment paid in error for Tax ID #27600.
- 11) Approving request from Faithful Express, Inc., Missoula, to refund motor vehicle taxes/fees paid in error for Vehicle #1907705 (contingent on documentation showing proof of sale).

- 12) Denying request from John/Virginia Dove, Missoula, to waive penalty/interest for Tax ID #516306. Taxes were delinquent.
- 13) Approving request from Bennett Law Office, Missoula, to refund motor vehicle taxes/fees paid in error for Vehicle #2633189.
- 14) Approving request from Mike Brown/R. Brown, Inc., Missoula, to refund motor vehicle taxes/fees paid in error for Vehicle #1957429.
- 15) Denying request from Mike Brown/R. Brown, Inc., Missoula, to refund motor vehicle taxes/fees paid in error by his father for Vehicle #2474899. BCC has no discretion in this area.
- 16) Discussion: re: Bryan Woods and delinquent 2005 personal property bill. He was exempt 2006-2010. He will be in to pay week of March 5th.
- 17) Approving request from Lon T. Jones, Missoula, to refund motor vehicle fees paid for personalized plate ordered on incorrect background.
- 18) Denying request Tracy Cuplin, Missoula, to waive penalty/interest for Tax IDs #90179850 and #90179851. Taxes were delinquent.
- 19) Denying request from John Edwards, Three Forks, to reassess last five years and to apply refund to future tax bills for Tax ID #5469656. County Tax Appeal Board found no error in the data.

FRIDAY, MARCH 2, 2012

BCC met in regular session; quorum present. ML out of office all day.

Resolution No. 2012-007 – BCC signed, dated February 22, 2012. [Approved at Public Meeting held February 22, 2012]. Adopting Procedure to Address Citizen-Requested Public Highway System Studies.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chair
BCC

MONDAY, MARCH 5, 2012

BCC met in regular session; all three present. Afternoon: BCC accompanied Sarah Richey, et al on Site Visit to Travelers' Rest.

Monthly Report - JC examined/approved/ordered filed the Monthly Reconciliation Report for Justice Court 1, John E. Odlin, Justice of the Peace, for month ending February 29, 2012.

Monthly Report - JC examined/approved/ordered filed the Monthly Reconciliation Report for Justice Court 2, Karen A. Orzech, Justice of the Peace, for month ending February 29, 2012.

Monthly Report - BC examined/approved/ordered filed Monthly Reconciliation Report for Clerk of District Court, Shirley E. Faust, for month ending February 29, 2012.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) Census and Maps Link (*info*); 3) OPG Director's update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Travelers' Rest Bond Project Proposal; 3) Parks update; 4) Communications; 5) Director's update.

TUESDAY, MARCH 6, 2012

BCC met in regular session; all three present. Evening: BC attended meeting of Lolo Community Council.

ADMINISTRATIVE MEETING

Restriction Agreement – JC signed, dated February 28, 2012. Between County and Nikki Diane Munro to receive first-time homebuyer assistance (deferred payment loan) through City-County Affordable Homeownership Program for property at 1401 Cedar Street, Unit 8, Missoula. County to provide \$17,000; balance after assistance/\$711.81. Term/February 28, 2012-February 28, 2032. To Cindy Wulfekuhle/OPG.

Contract – BCC signed, dated February 27, 2012. Between County and Main Street Design to develop strategic plan to interpret the confluence of Blackfoot/Clark Fork Rivers. Term/February 29, 2012–June 15, 2012. Amount/\$20,000; funds from State Historic Preservation Office and mitigation funds. One original to Philip Maechling/OPG.

Request – BCC approved a CBO (Poor) Fund grant of \$7,500 to Poverello Center for purchase of property at 1106-1112 West Broadway (to be used as site of new homeless shelter/soup kitchen). Closing on property/April 23, 2012. To Cindy Wulfekuhle/OPG.

Board Appointment – BCC appointed Dick Ainsworth as a member of the Missoula Consolidated Planning Board, to fill an unexpired vacant term to December 31, 2012 (at which time he will eligible for a new 3-year term to 12/31/2015).

Contract – BCC signed, dated March 6, 2012. Between County and Great West Engineering, Inc. to develop preliminary engineering report for TSEP funding for Riverview Bridge. Term/begins upon execution of contract; terminates 30 days after closeout of TSEP Bridge PER. Amount/\$15,000 from Bridge Fund. One original to Philip Maechling/OPG.

Letter – BCC signed, dated March 6, 2012. To Montana's Congressional Delegation (Baucus/Rehberg/Tester) re: MAP-21 (reauthorization of surface transportation program). BCC urges the Delegation to support the Casey-Blunt off-system bridge program amendment, and restore funding.

Memorandum – BCC signed Memo to County Employee denying his/her grievance of January 23, 2012. As the result of a thorough investigation re: submission of time slips, the BCC does not wish to substitute their discretion for that of Sheriff Ibsen in this matter, and declines to set aside penalty he has imposed.

Additional discussion item(s): Transportation Issues.

WEDNESDAY, MARCH 7, 2012

BCC did not meet in regular session; JC and ML out of the office all day.

PUBLIC MEETING – None held this date.

THURSDAY, MARCH 8, 2012

BCC met in regular session; all three present.

ADMINISTRATIVE MEETING

Contract – BCC signed, dated February 14, 2012. Between County and John Dunnigan for Free Stage Entertainment at intervals (not to exceed 8 hours/day) throughout the fair days (August 8-11, 2012) at the Western MT Fair. Amount/\$3,000. One original to Steve Earle/Fair.

Resolution No. 2012-010 – BC signed, dated March 8, 2012. Qualifying Resolution for acquisition of land by MT FWP for Travelers' Rest State Park Project with up to \$300,000 2006 Open Space Bond funds.

Resolution No. 2012-011 – BCC signed, dated March 8, 2012. Budget Amendment for Tech Fund in amount of \$12,138 for funding of 10 licenses for Novell Service Desk for Incident Management Software (Trouble Ticket). Term/April 1, 2012-January 1, 2020. For total disclosure, expenditures included in formal FY12 Operating Budget/Revenue Estimates for County.

Contract – BCC signed, dated March 6, 2012. Between County (MCCHD) and Shodair Children's Hospital for services of Registered Nutritionist at Shodair's Regional Metabolic Clinic. No maximum annual amount; fee schedule set forth therein. Term/September 1, 2011-June 30, 2012. Originals to Julie Mohr/Health Dept. for further signatures/handling.

Amendment – BC signed. #1 to Task Order #12-07-5-01-032-0 to Contract between MCCHD and MT DPHHS (MCH Block Grant). Addresses language added re: reporting for Compliance with the Federal Funding Accountability/Transparency Act required for SFY2012. Originals to Julie Mohr/MCCHD for further signatures/handling.

Task Order – BC signed. #12-07-5-51-102-0 to Contract between MCCHD and MT DPHHS (Children's Special Health Services). MCCHD will receive max of \$18,500 for Western Region Pediatric Clinic Services (Registered Dietician services and for day-of-clinic Public Health Nursing). Term/February 1, 2012-June 30, 2012. Originals to Julie Mohr/MCCHD for further signatures/handling.

Amendment – BC signed. #2 to Task Order #12-07-5-21-014-0 to Contract between MCCHD and MT DPHHS (WIC Program Nutrition Services). Adds section "Reporting for Compliance with the Federal Transparency Act". MCCHD must now complete/submit to DPHHS Addendum One (FFA Act and TA Common Data Elements Report). Originals to Julie Mohr/MCCHD for further signatures/handling.

Amendment – BC signed. #1 to Task Order #12-07-5-21-060-0 to Contract between MCCHD and MT DPHHS (Breastfeeding Peer Counselor Program Nutrition Services). Adds section "Reporting for Compliance with the Federal Transparency Act". MCCHD must now complete/submit to DPHHS Addendum One (FFA Act and TA Common Data Elements Report). Originals to Julie Mohr/MCCHD for further signatures/handling.

Form – JC signed 2010 Income Tax Returns/Form 990 for County Comprehensive Medical Benefit Plan. Original to Heidi Fritchen/Risk & Benefits.

Program Agreement/Contract – BCC signed, dated March 8, 2012. Contract between County and Nelson Nygaard Consulting Associates, Inc. to conduct review of the transportation demand management ("TDM") agencies operating in the Missoula area. Term/March 12-September 30, 2012. Amount/not to exceed \$45,180. Funding Agreement – BCC signed. Project #CM 8199(111) TDM Study/Evaluation-Missoula between MT DOT, Missoula OPG, and BCC. For comprehensive review of TM programs/ services in Missoula area prior to conclusion of 2012 Long Range Transportation Plan (see above). Total project cost/\$50,000; \$6,710 from MOPG; \$43,290 from MDT/CMAQ funds. One original of contract/two originals of agreement to Ann Cundy/OPG for further signatures/handling.

Resolution No. 2012-009 – BCC signed, dated March 8, 2012. Rezoning property legally described as Fraction of Lots 16 & 17 of Block 20, East Missoula Addition, located in Section 24, T 13 N, R 19 W, PMM, from C-C2 (General Commercial) to C-R3 (Residential). Hearing held November 9, 2011.

Additional discussion item(s): 1) Seeley Lake Wood Stove Change-Out Grant; 2) Update on Maclay Bridge.

FRIDAY, MARCH 9, 2012

BCC met in regular session; quorum present. ML out of office all day.

Vickie M. Zeier
Vickie M. Zeier
Clerk & Recorder
Chief Deputy

Bill Carey
Bill Carey, Chair
BCC

MONDAY, MARCH 12, 2012

BCC met in regular session; all three present.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) 33 Bar Ranch Subdivision for Lease/Rent (*info*); 3) OPG Director's update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) District Boundary discussion; 3) Staffing priorities; 4) Communications; 5) Director's update.

TUESDAY, MARCH 13, 2012

BCC met in regular session; all three present.

ADMINISTRATIVE MEETING

Contract – BCC signed, dated March 13, 2012. Between County and Montana Electronics, Inc. to replace console radio system and expand capabilities from six to eight positions in County 9-1-1 Center. Term/March 8, 2012-March 8, 2013. Amount/not to exceed \$290,582. Two originals to Chris Lounsbury/OEM.

Letter/Form – BC signed Deficiency Letter from DNRC re: Beneficial Water Use Permit (Form 600) for new irrigation system at Larchmont Golf Course. Letter authorizes DNRC to make required corrections on Form 600 (submitted by engineering firm Tetra Tech). BC also signed Form 600.

Resolution No. 2012-012 – BC signed, dated March 13, 2012. Adopting parameters of the 2005 Detention Center Bonds advanced refunding. Staff estimates saving \$653,535 over next six years when last debt service payment is made on 7/1/2018. Four originals to Dorsey Whitney.

Contract/Resolutions – BCC signed Exhibit A/Attachment A6 to contract between County and A&E Architects for Architectural/Engineering Fees for Courthouse/Annex Phase II Construction Documents. Estimated Cost/ \$487,927. Resolution No. 2012-013 – BC signed, dated March 13, 2012. Reimbursement Resolution for Phase II of Courthouse/Annex Space Needs Project (above). Resolution No. 2012-014 – BCC signed, dated March 13, 2012. Budget Amendment for Capital Improvement Program from Construction Management to Cash in amount of \$238,827 for Courthouse/Annex Space Needs Project (per above). One original contract to A&E.

Board Appointments – BCC reappointed Laura Bakker and Wally Sept to new 3-year terms (April 1, 2012 – March 31, 2015) on the Big Sky Park Stewardship Committee.

Requests for Records Disposal/Transfer Authorization – BC signed request from PHC: 2 boxes/Adult Dental Charts (1/1/2001-12/31/2001); and 29 boxes/Patient Charts (1/1/2001-12/31/2001). To be destroyed

Additional discussion item(s): Shavings at 2012 Western MT Fair.

WEDNESDAY, MARCH 14, 2012

BCC met in regular session; all three present.

Plat/Agreement – BCC signed. Owners/Developer: Timothy and Nancy German. German Addition, a subdivision of Lot 21 in Phase II of Orchard Park, Phases I and II, located in the NE¼ of Section 35, T 12 N, R 20 W, PMM, Missoula County. Total area/3.19 acres). Improvements Agreement/Guarantee – BCC signed, dated March 14, 2012. Improvements remaining are 5-foot sidewalk with 7-foot boulevard along Expedition Drive. Estimated costs/\$2,280; secured by personal check by Timothy German. Improvements to be made on/before February 5, 2014.

CAO MEETING

Amendment – BC signed. #1 to Task Order #11-07-3-01-083-0 to Contract between MCCHD and MT DPHHS (County & MT Cardiovascular Disease/Diabetes Prevention Program) for service delivery January 1, 2011-September 30, 2012. Amendment incorporates \$3,000 bonus to expand services to include at least nine adults receiving Medicaid. Three originals to Julie Mohr/MCCHD for further signatures/handling.

Agreement – BCC signed, dated February 8, 2012. Between MCCHD and Missoula (Region 5) Office of Child and Family Service Division of MT DPHHS to clarify roles/responsibilities of CFSD and County for services outlined in MCCHD's "Missoula Foster Child Health Program". Term/November 1, 2011-June 30, 2012. Two originals to Julie Mohr/MCCHD for further signatures/handling.

Commitment Letter – BCC signed, dated March 14, 2012. To Ray LaHood, US Secretary of Transportation, Washington, D.C., in support of TIGER IV Grant Application for "Missoula County Airport Landside Access Project". County commits to cash contribution of \$2,400,000 as part of non-federal match requirement for project. Original to Greg Robertson/PW.

Resolution No. 2012-018 – BCC signed, dated March 14, 2012. Denial of a petition to create/establish East Fork of Ashby Creek Road as a county road based on reasons stated in Viewers' Report. Property is situated in Sections 3, 10, and 11, T 12 N, R 16 W, PMM, Missoula County. Hearing held December 7, 2011.

Letter – BCC signed, dated March 14, 2012. To Ray LaHood, US Secretary of Transportation, Washington, D.C., in support of \$10 Million TIGER IV Grant Application as part of \$17 Million funding package for transportation infrastructure in Urban Fringe Development Area west of City of Missoula (to provide landside access to areas surrounding the Missoula International Airport, and complete grid streets network for area residents/workers). Original to Greg Robertson/PW.

Letter – BCC signed, dated March 14, 2012. To Glacierland RC&D Council, Green Bay, WI, asking for County's proposal to serve as administrator for available \$285,000 funding through Glacierland RC&D Council for Wood-Burning Appliance Change Out Program in community of Seeley Lake.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated March 8, 2012. Amount/\$27,219.10. To County Auditor.

Additional discussion item(s): Development Services Working Group update.

PUBLIC MEETING – MARCH 14, 2012

1. CALL TO ORDER

Commissioner Present: Commissioner (Chair) Bill Carey, Commissioner Michele Landquist, Commissioner Jean Curtiss

Staff Present: Chris Lounsbury, Director 9-1-1

2. PLEDGE OF ALLEGIANCE

3. PUBLIC ANNOUNCEMENTS

Smart 9-1-1 ~ Chris Lounsbury, Director of 9-1-1 presented the new 9-1-1 system for 911 callers. For more information visit www.smart911.com

4. PUBLIC COMMENT

None

5. ROUTINE ADMINISTRATIVE ACTIONS

Bi-Weekly Claims List (\$2,707,080.23)

Commissioner Landquist made motion that the Board of County Commissioners approve the Bi-Weekly Claims List in the amount of \$2,707,080.23. Commissioner Curtiss seconded the motion. The motion carried a vote of 3-0.

6. PROCLAMATION

March for Meals Month
Commissioner Curtiss read the Proclamation.

7. ADOPTION

Resolution to Expend SRS Title III Funds (Secure Rural Schools and Community Self-Determination Act of 2000)

We have finished the 45 day public comment period which began January 11, 2012 and ran through February 24, 2012. For questions please call Chris Lounsbury at 258-4469.

Executive Session

Commissioner Curtiss made motion that the Board of County Commissioners approve the use of \$120,000 in Title III Funds for use in reimbursing local fire service agencies for Firewise Communities Program to be apportioned as follows:

- a. Missoula rural Fire District: \$25,000
- b. Frenchtown Rural Fire District: \$25,000
- c. Seeley Lake Rural Fire Department: \$25,000
- d. Swan Ecosystem: \$25,000
- e. Missoula City Fire Department: \$20,000

Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

8. CONSIDERATION ~ (WITHDRAWN PER CLIENTS REQUEST)

BOOK 111 PAGE 0003

~~33-Bar Ranch Subdivision for Lease or Rent (3-unit or 4-unit) East side of Highway 83, near Condon (767 Hultman Road)~~

9. OTHER BUSINESS

None

10. RECESS

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

Following Public Meeting – Resolution No. 2012-017 – BCC signed, dated March 14, 2012. Authorizing Use of Funds under Title III of the Secure Rural Schools and Community Self-Determination Act. \$120,000,000 to be used in reimbursing local fire service agencies (Missoula RFD, Frenchtown RFD, Seeley Lake RFD, Swan Ecosystem, and Missoula City FD) for Firewise Communities Program projects to assist homeowners in fire sensitive ecosystems to protect life/property from wildfires. Hearing held March 14, 2012.

THURSDAY, MARCH 15, 2012

BCC met in regular session; all three present. Late afternoon: BCC participated in *State of the Community*, held at University Theatre.

ADMINISTRATIVE MEETING

County Payroll Transmittal Sheet – BCC signed. Pay Period: 05/CY2012 - Pay Date/March 9, 2012. Total Payroll/\$1,267,070.68. To County Auditor.

Contracts – BCC signed two (2) contracts between County (PHC) and following to serve as Pharmacy Managers at PHC: 1) Raina White and 2) Brent Dehring. Amount/\$96,000 yearly. Term/January 17, 2012-June 30, 2013. Two originals of each to PHC.

Grant Application – BC signed, on behalf of Frenchtown Community Coalition (“FCC”), submission paperwork to SAMHSA for Drug Free Communities Support grant funding for prevention councils to reduce underage substance abuse. FCC hopes to fund a coalition coordinator, p/t youth development councilor, and ½ time Project Success councilor. Amount/\$125,000. Project term/October 1, 2012-September 30, 2013. Originals to Peggy Seel/OPG for further signatures/handling.

Resolutions - BC signed, dated March 15, 2012. Resolution No. 2012-016 – Reimbursement Resolution relating to financing of certain proposed project (see next entry); establishing compliance with Reimbursement Bond Regulations under the Internal Revenue Code. Resolution No. 2012-019 – BCC signed, dated March 15, 2012. Budget Amendment for Capital Improvement Program in amount of \$15,000 (Cash to Pre-Construction Expenses) for costs associated with space preparation in Courthouse and Annex in advance of final construction.

Additional discussion item(s): 1) Maclay Bridge update; 2) Conference Room B14 visit.

FRIDAY, MARCH 16, 2012

BCC did not meet in regular session. JC at Mental Health/CDC meeting in Kalispell; BC out of office all day.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chair
BCC

MONDAY, MARCH 19, 2012

BCC met in regular session; all three present. Afternoon: BCC held Milltown State Park Development Discussion with Greg Robertson, et al. Evening: ML attended Meeting of East Missoula Community Council.

TUESDAY, MARCH 20, 2012

BCC met in regular session; quorum present. JC out all day at MEP Board Retreat. Evening: ML attended Linda Vista Homeowners Assn. Meeting, held at LV Golf Course.

ADMINISTRATIVE MEETING

Bid Award – BCC awarded bid for 10,000 tons/Asphaltic Plant Mix to L.S. Jensen, lowest qualified bidder in amount of \$50 per ton or \$500,000. Approx. \$150,000 of total to be reimbursed to County by MDT for final year of overlaying Frenchtown Frontage Road. To Jeff Seaton/Public Works.

Additional discussion item(s): 1) Mountain Line alternate routes; 2) Deep Creek.

WEDNESDAY, MARCH 21, 2012

BCC met in regular session; all three present. Afternoon: JC attended Board of Health Accreditation Committee Meeting, held at Env. Health Conference Room.

CAO MEETING

Memorandum of Understanding and Letters – BC signed. County (OPG) is lead applicant for Grants to Encourage Arrest Policies and Enforcement of Protection Orders Program (*JUST Response Program*). MOU is among participating partners (set forth therein). Amount/\$300,000. Term/September 1, 2012-August 31, 2014. Non-Supplantation and Certification Letters – BCC signed, dated March 21, 2012. To Susan Carbon/OVW/DOJ Programs, Washington, D.C. certifying program will be used to supplement existing funds for program activities, and certifying/setting forth certain laws/official policies/practices of Missoula County. Originals to Kim Campbell/OPG.

Request – BCC reviewed/approved request from Morrison-Maierle (on behalf of Missoula Airport Authority) to waive review fee for two boundary line relocation exemption applications submitted to OPG, allowing TIF District Boundary to be redrawn for the Airport Authority. Total amount waived/\$400. Barb Martens/Projects Office will pay out of TIF Funds. Original to Jennie Dixon/OPG.

Resolutions – BCC signed, dated March 21, 2012, canceling May 2012 Special District Trustee Elections (and electing by acclamation parties who filed nominating petitions for open positions) for the following:

- 1) #2012-020/Big Flat Irrigation District – No petitions received for 3-year positions; new members to be appointed.
- 2) #2012-021/Bonner Community Council – Karl Uhlig and Olivia Ruitta elected by acclamation for new 3-year terms.
- 3) #2012-022/Clinton Irrigation District: Kathleen Veseth elected by acclamation for new 3-year term.
- 4) #2012-023/Clinton Rural Fire District ("RFD") – No petitions received for 3-year positions; new members to be appointed by BCC.
- 5) #2012-024/East Missoula Community Council – Ken Jenkins elected by acclamation for new 3-year term. No petitions received for remaining vacant terms; to be appointed by BCC.
- 6) #2012-025/East Missoula RFD – Michael Birnbaum and Richard Andrew Neff elected by acclamation to new 3-year terms.
- 7) #2012-026/Evaro-Finley-O'Keefe Community Council – Ada Reep elected by acclamation for new 3-year term. No petitions received for remaining vacant term; to be appointed by BCC.
- 8) #2012-027/Frenchtown Irrigation District – J.W. Boyer, Jr. elected by acclamation for new 3-year term.
- 9) #2012-028/ Frenchtown RFD – Mary Alexander and Jolene Sayler elected by acclamation for new 3-year terms.
- 10) #2012-029/Greenough-Potomac Fire Service Area – Bryan Runnion and Dean DeVos elected by acclamation for new 3-year terms.
- 11) #2012-030/Lolo Community Council – Gary E. Buehler elected by acclamation for new 3-year term. No petitions received for remaining vacant term; to be appointed by BCC.
- 12) #2012-031/Missoula Irrigation District: Shawn F. Clouse elected by acclamation for new 3-year term.
- 13) #2012-032/Missoula RFD– Steven J. Cunningham and Kenneth R. Peers elected by acclamation for new 3-year terms.
- 14) #2012-033/Seeley Lake Community Council – Jan Guelff and Chris Stout elected by acclamation to new 3-year terms.
- 15) #2012-034/Seeley Lake/Swan Valley Hospital District – Twyla Johnson and Dean Wollan elected by acclamation to new 3-year terms; Walt Hill elected by acclamation for unexpired term for one year.
- 16) #2012-035/Swan Valley Community Council – Kenneth Donovan and Vernon Sharp elected by acclamation to new 3-year terms.
- 17) #2012-036/Swan Valley Fire Service Area – William C. Shoup elected by acclamation for new 3-year term.
- 18) #2011-037/West Valley Community Council – No petitions received for 3-year position; new members to be appointed.

Agreement – BCC approved/signed. Between County and Montana Interactive, LLC for State Payment Portal Integration for Over the Counter and Online Payment processing for all County Departments including the iTax Payment Service for collection of property taxes (for annual savings of approx. \$600,000). Implementation will begin March 13, 2012 and end approx. September 2012. Original to Andrew Czorny/CFO for further signatures/handling.

Letter – BCC signed, dated March 20, 2012. To Denise Elliott, re: Shavings at 2012 Western MT Fair. All departments will be charged: \$1 per rabbit/chicken, and \$5 per larger animal to cover cost of bedding. BCC is unaware of any grants/alternate funds at this time to help defray costs, but will continue to explore all avenues.

Additional discussion item(s): None.

PUBLIC MEETING – None held this date.

THURSDAY, MARCH 22, 2012

BCC met in regular session; all three present. Morning: BC and JC participated in *Meals on Wheels* Delivery Program. Early evening: JC participated in NARA *Pilot Community* Proposal Discussion, held at Big Sky Brewing; ML attended Fair Planning Meeting, held at Fairgrounds.

ADMINISTRATIVE MEETING

Renewal Agreement – BC signed. Between County (MCCHD) and CHC Software, Inc. for HDIS Module – Community & Public Health Services software used by MCCHD for health data/reporting. Amount/ 22.5% of purchase price of Modules. Term/January 16, 2012-January 15, 2013. Two originals to Julie Mohr/MCCHD.

DUI Task Force Agreements – BCC signed between MCCHD and following for funding (not to exceed \$5,000) from Driver's License Reinstatement Fees for term July 1, 2011-September 30, 2012: 1) Probation and Parole, MT Dept. of Corrections, for; and 2) OPG's Missoula Underage Substance Abuse Prevention (MUSAP). Three originals to Julie Mohr/MCCHD for further signatures/handling.

Task Order – BC signed. #12-07-5-31-035-0 to Contract between MCCHD and MT DPHHS (Maternal, Infant, and Early Childhood Home Visiting Infrastructure Development). MCCHD will receive \$100,000. Term/April 1–September 30, 2012. Three originals to Julie Mohr/MCCHD for further signatures/handling.

Budget Transfer – BCC signed, dated March 22, 2012. Control #12-004 for OPG in amount of \$7,500 to assist Poverello Center with purchase of former Trail's End property (1106-1112 West Broadway).

Request – BCC reviewed/approved recommendation of County Parks Board to allocate up to \$3,000 in Parks Matching Funds to develop Master Plan for Gateway Gardens (aka Hellgate Park). Original to Lisa Moisey/Parks.

Contract – BCC signed, dated April 2, 2012. Between County and DHM Design for Design Development Services on County-owned recreational portion of Fort Missoula Regional Park. Term/March 22–October 31, 2012. Amount/not to exceed \$80,000 (from Parks Fund).

CDBG/MT DOC Grant Documents – BC signed. Request for Funds Form in amount of \$19,074.45 (final drawdown), and Final Closeout Certification for Mountain Home Montana construction project. Original to Jean Harte/OPG for further signatures/handling.

Additional discussion item(s): 1) Personnel grievances; 2) Government Services Poll; 3) Conversion to new Public Meeting space; 4) JC will serve on Prevention Mill Levy Grants Review Committee.

FRIDAY, MARCH 23, 2012

BCC did not meet in regular session. BC and ML out of office all day.

Plat – [BCC signed July 11, 2011. Plat held by OPG; released to Eli & Associates March 2012]. Owner/Donald A. Calder, Jr. Mountain Acres No. 2, Lot 8, located in the SW¼ of Section 36, T 13 N, R 18 W, PMM, Missoula County. Total gross area/338 sq ft).


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chair
BCC

MONDAY, MARCH 26, 2012

BCC met in regular session; all three present. Noon: JC attended *Leadership Montana* Luncheon.

Indemnity Bond – BC signed. Toni Malek, Missoula, Principal for MCPS Warrant #216406, issued January 20, 2012 on County Payroll Fund. Amount/\$386.39 (for wages). Warrant lost.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) Gardner Family Transfer /Boundary Line Relocation (*info*); 3) DNRC Floodplain Meeting update; 4) OPG Director's update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Travelers' Rest Bond Project briefing; 3) Communications.

TUESDAY, MARCH 27, 2012

BCC met in regular session; quorum present. ML out of office most of day at *Exceeding Our Capacity: Forum on Septics, Sewers & Water Quality*, held at Broadway Inn.

ADMINISTRATIVE MEETING

Sub-Recipient Agreements – BC signed. Between County (Office of Rural Initiatives) and Trout Unlimited for ongoing reclamation projects in Nine Mile Watershed. County will act as fiscal agent, transferring state grant money from DNRC for project coordination. Amounts set forth therein. Term/2009-2013. Originals to Sarah Richey/RI.

Request – BCC reviewed/approved Praxis Proposal and Cost Estimate for Reaching Home: Missoula's 10-year Plan to End Homelessness. Total cost/\$14,300; to be jointly funded by City and County (from Poor Fund). BCC proposed Budget Amendment of up to \$7,150. Original to Cindy Wulfekuhle/OPG.

Request – BCC reviewed/approved following as members of FY 2013: 1) CBO Review Team: Bill Carey, Charlie Wellenstein, Marianne Moon, Bob Oakes, and Adam Ragsdale; 2) Substance Abuse Prevention Mill Levy Review Team: Jean Curtiss, Jori Frakie and Michelle Schaefer. Teams read/rank applications for funding and make recommendations to BCC. Original to Jean Harte/OPG.

Resolution No. 2012-038 – BCC signed, dated March 27, 2012. Budget Amendment for Health Dept. in amount of \$100,000 for funding of Maternal, Infant, Early Childhood Home Visiting Infrastructure Development Project. Term/April 1 – June 30, 2012. For total disclosure, expenditures included in formal FY12 Operating Budget/Revenue Estimates for County.

Additional discussion item(s): None.

WEDNESDAY, MARCH 28, 2012

BCC met in regular session; quorum present in afternoon; JC out ill.

CAO MEETING

Memorandum of Understanding (BC signed) and Letter. For Missoula County Rural Domestic Violence Program (for FY13-FY15) application submitted to Office of Violence Against Women at USDOJ. Budget estimate/\$250,000-\$300,000 for one year; total grant amount estimate for three years/\$750,000-\$900,000 (for term October 1, 2012-September 30, 2015). Non-Supplantation Letter – BCC signed, dated March 28, 2012. To S. Carbon/OVW/USDOJ Programs, Washington, D.C. certifying any funds awarded to County Domestic Violence Program through FY2012 OVW Rural Domestic Violence, Dating Violence, Sexual Assault and Stalking Assistance Program will be used to supplement existing funds for program activities. Originals to Shantelle Gaynor/OPG.

Additional discussion item(s): 1) Upper Miller Creek Road Reconstruction Project; 2) Employee Grievances.

PUBLIC MEETING – MARCH 28, 20121. **CALL TO ORDER**

Commissioners Present: Commissioner (Chair) Bill Carey, Commissioner Michele Landquist
Commissioners Absent: Commissioner Jean Curtiss

Staff Present: Jennie Dixon, OPG, Nancy Heil, Rural Initiatives

2. **PLEDGE OF ALLEGIANCE**3. **PUBLIC ANNOUNCEMENTS**

None

4. **PUBLIC COMMENT**

None

5. **ROUTINE ADMINISTRATIVE ACTIONS**

Weekly Claims List (\$869,294.68)

Commissioner Landquist made motion that the Board of County Commissioners approve the Weekly Claims List in the amount of \$869,294.68. Chair Carey seconded the motion. The motion carried a vote of 2-0.

6. **HEARING (Certificate of Survey)**

Gardner (Linda) Family Transfer
Jennie Dixon read the staff report.
Jennie Dixon asked Linda Gardner the basic Family Transfer Questions.

Executive Session

Commissioner Landquist made motion that the Board of County Commissioners approve the request to create one (1) additional parcel by use of the family transfer exemption and a boundary relocation for .27 acres based on the fact that there does not appear to be an attempt to evade subdivision review. Chair Carey seconded the motion. The motion carried a vote of 2-0.

7. HEARING**Travelers Rest State Park Open Space Bond Project**

Nancy Heil, Rural Initiatives read the staff report ~ two (2) parcel totally 23.7 acres would be added to the adjacent Travelers Rest State Park. The proposal is to use \$300,000 or up to 30% of the appraised value of these properties. The State would contribute \$300,000 and another \$100,000 would be raised by other sources.

Pelah Hoyt with Five Valleys Land Trust: We're sponsoring this application to acquire about 24 acres at Travelers Rest. We've signed a purchase and sale agreement with the land owners and we are in the process of assigning that purchase and sale agreement to Fish, Wildlife & Parks.

Loren Flynn, Park Manager at Travelers Rest State Park: This is a project that's been on our radar and our wish list for many years. Travelers Rest in itself has been a place where people have been coming together for probably 10,000 years. It's a very unique historic site; it's the only archeologically verified Lewis & Clark camp site in the nation. It's a national historic landmark. The park was established in 1999.

Showed PPT Presentation.

Senator Cliff Larsen: My Senate District 50 includes Lolo and the Lolo drainage. I think it's one of the most remarkable historical sites in the State Montana. It's the only documented location that we know for certain that Lewis & Clark actually camped. It has relative value for the native peoples that work with Lewis & Clark. I look forward to your approval of this project and just remind you that at the 61st Legislature approved permanent funding for the park.

Alisha Vanderheiden: Rural Community Member serving the Open Lands Committee. OLC voted unanimously to recommend approval this project. Members remarked on the unique open space values this project provides within an area right for development. I'm happy to provide testimony today because this is an irreplaceable opportunity to protect a landscape that joins historical, cultural and natural values seamlessly and provides those opportunities for the benefit of the neighboring community, as well as Montana residents and out-of-state travelers.

Bruce Mihelish, President of Travelers Rest Preservation and Heritage Association: We've formed a brilliant partnership with Fish, Wildlife & Parks, with Five Valley's Land Trust and hopefully with the County. We intend to raise \$100,000 to contribute to this project; we're going to raise it through private funds. This is coming from lots of different interested parties from all over the county, including the Bitterroot Valley.

Jack Jenks, Summit Management Group: We're the folks that developed and managed the 40 units of multi-family housing on Hwy 12 next to the Steakhouse. I want to offer my support for this project from two perspectives; #1 is a land owner in the area, I think the benefits that Loren and Bruce have talked about are very clear to approving this project. The other perspective I want to talk to you about was just as a tax payer. Whenever I see these kinds of deals come along, I ask myself are we getting a bang for the buck, from the tax payer buck. I think it's clear in this deal that we are. If we're going to take \$300,000 of Open Space money, \$300,000 of FWP money and buy an asset valued at 1.5 million dollars, that's a pretty good deal. And that's a good use and a wise of tax payer dollars. I support the project.

Commissioner Landquist: My office phone had a message from Joyce Shepperd so for the record I'll ask her question for public record. Is this property in the floodplain? Some is and some isn't, some by the creek is and the rest is not? I'm getting heads saying yes that's correct. Another question, do they have an appraisal yet or just an estimate? I believe that we're waiting for the appraisal and so we're making this; if we approve this today we're basing this as the reason the motion is worded the way it is, is based on that appraisal coming in at what we presume it's going to come in at.

Loren Flynn: That's correct. We have an appraisal that's about 3 years old. We're waiting to your action today but we have an appraisal scheduled contingent upon that.

Commissioner Landquist: Her third question was; A lease option 50 or 100 year lease option looked at?

Loren Flynn: Yes, the Holtz are only interested in selling it.

Commissioner Landquist: Her fourth question was; can they build on the land?

Loren Flynn: No. The deed restrictions on that land would preclude that. The land in the riparian area is under conservation easement, which also precludes that.

Commissioner Landquist: But you could if you needed too, or could you if the park became so popular and warranted having a guard station or something?

Loren Flynn: Not the way that the deed restriction language is that's been agreed to. We can do that in other parts of the park, that aren't part of this proposal but not on these lands that we're using the Open Space Bond.

Commissioner Landquist: I'm happy to see the proposed trails, are some of those trails going to be improved to be ADA compliant so that wheelchairs can get through or will they all be dirt?

Loren Flynn: That's going to depend on going forward. The trails that we have built are ADA accessible and depending on the location and the potential use, yes that's something we always look at. Our management direction currently states that the trails will not be paved, they'll be gravel but that still can meet the ADA requirements.

Commissioner Landquist: I know that this does fit with the goals and objectives of the Lolo Land Use Plan and the Parks and Trail Plan for Missoula County. This project does offer public access which is really not one of the criteria's we have in our Open Lands criteria but the fact that this one does offer that, that's an added bonus.

Executive Session

Commissioner Landquist recommend that the Board of County Commissioners approve the expenditure of 30% of the appraised land value in an amount not to exceed \$300,000 in Open Space Bonds funds via the attached resolution, for the acquisition of land by Montana Fish Wildlife and parks, based on findings that the project qualifies for funding, recommendations of the Open Lands Citizen Advisory Committee, public hearing comments, and staff's analysis, with the condition that a deed restriction stating that the land shall be managed for open space and trails be placed on Parcel 1 prior to release of Open Space Bond funds. And that a mechanism for monitoring be in place. Chair Carey seconded the motion. The motion carried a vote of 2-0.

8. OTHER BUSINESS

None

9. RECESS

Being there no further business to come before the Board, the Commissioners were in recess at 2:03.

Following Public Meeting: Resolution No. 2012-039 – BCC signed, dated March 28, 2012. Expending up to \$300,000 of 2006 Open Space Bond Proceeds for acquisition of land by Montana Fish Wildlife and Parks to add to Travelers' Rest State Park in Lolo. Public Hearing held March 28, 2012.

THURSDAY, MARCH 29, 2012

BCC met in regular session; all three present. Noon: BC and JC attended Missoula Cultural Council Awards Luncheon, held at DoubleTree.

ADMINISTRATIVE MEETING

County Payroll Transmittal Sheet – BCC signed. Pay Period: 06/CY2012 - Pay Date/March 23, 2012. Total Payroll/\$1,258,324.02. To County Auditor.

Contract – BCC signed, dated March 29, 2012. Between County (PHC) and MMW Architects for architectural services for Lowell School Clinic. Amount/10% percent of construction cost, estimated at \$40,000. Term/June 11-November 12, 2012. Two originals to Kim Mansch/PHC.

Improvements Agreement/Guarantee – BCC signed, dated March 7, 2012. Between County and B&E Corp. for Windsor Park Subdivision Improvements remaining are set forth in Exhibit "A". Estimated costs/\$54,264; secured by Irrevocable Amended Letter of Credit from First Security Bank in amount of \$67,830. Expiration date extended to March 10, 2013. Improvements to be made no later than December 10, 2012.

Letters – BCC signed, dated March 29, 2012, notifying current/interested recipients in County Community-Based Organization (CBO) Programs of availability of County funding, and enclosing County Funds Application for FY 2013. Letters to:

- 1) Child Day Care/General/Mental Health Organizations (Missoula Art Museum, Child Care Resources, Western MT Mental Health Center; ORI (for specialized transportation), and MUTD.; budget/\$500,000;
- 2) Poor Fund Organizations (those that provide basic/critical needs assistance to at-risk populations); budget/\$800,000.

Deadline/April 25, 2012. Future contract date/July 1, 2012-September 30, 2013. Originals to Jean Harte/OPG.

Grievance Responses – BCC reviewed, and denied via Memos dated March 29, 2012, two County Employee grievances:

- 1) BCC disagrees with alleged contract violation of Article 9 (Promotions), but has asked HR to review selection procedures.
- 2) BCC sees no compelling evidence that supervisor acted arbitrarily, capriciously or discriminatorily, or that there was an abuse of discretion.

Originals to Steve Johnson/COO.

Additional discussion item(s): None.

FRIDAY, MARCH 30, 2012

BCC met in regular session; quorum present. JC out of office most of day at Missoula Aging Services Ad Hoc Meeting, held at AS Offices.

Vickie M. Zeier
Vickie M. Zeier
Clerk & Recorder
Deputy

Bill Carey
Bill Carey, Chair
BCC

MISSOULA COUNTY COMMISSIONERS' JOURNAL: APRIL, 2012

BCC = BOARD OF COUNTY COMMISSIONERS

BC = Commissioner Bill Carey, Chair
 ML = Commissioner Michele Landquist
 JC = Commissioner Jean Curtiss

The following Claims Lists were signed during the month of APRIL 2012:

Date Signed	Claims List Date	Who signed	Amount
April 3, 2012	April 2, 2012	BCC	\$1,864.88
			\$9,538.90
			\$39,080.77
			\$2,194.79
			\$76,441.00
			\$29,878.04
April 3, 2012	April 3, 2012	BCC	\$5,000.00
			\$100.00
			\$5,706.89
April 2, 2012	April 2, 2012	BCC	\$268,482.00
April 5, 2012	April 3, 2012	BC, JC	\$15,612.53
April 5, 2012	April 4, 2012	BCC	\$5,177.91
			\$6,992.40
			\$800.00
			\$25,174.57
			\$3,331.57
			\$3,179.09
April 5, 2012	April 5, 2012	BCC	\$105.46
			\$35.00
			\$990.26
			\$28.08
			\$5,067.00
			\$871.25
April 9, 2012	April 4, 2012	BCC	\$95,037.86
April 9, 2012	April 5, 2012	BCC	\$23,152.00
			\$43,814.03
			\$4,694.70
			\$12,758.78
April 9, 2012	April 6, 2012	BCC	\$6,208.95
April 10, 2012	April 9, 2012	BCC	\$40.00
			\$7,731.66
			\$81.98
			\$120.00
			\$3,198.25
			\$8,781.65
			\$6,960.02
			\$11,597.82
			\$10,895.95
			\$1,227.79
April 11, 2012	April 9, 2012	BCC	\$4,696.15
			\$162.50
April 12, 2012	April 9, 2012	BCC	\$1,602.60
April 12, 2012	April 11, 2012	BCC	\$469.77
			\$71.44
			\$43.44
			\$1,193.41
			\$54,877.99
			\$9,762.56
			\$357.96
			\$3,640.82
			\$31,122.35

April 12, 2012	April 12, 2012	BCC	\$15,869.37
			\$5,169.92
April 13, 2012	April 12, 2012	BC, ML	\$2,413.83
April 13, 2012	April 11, 2012	BC, JC	\$2,009.66
April 13, 2012	April 12, 2012	BCC	\$70,312.43
			\$12,800.09
			\$1,657.36
			\$3,250.99
			\$4,278.53
			\$2,775.51
April 16, 2012	April 12, 2012	BCC	\$8,861.40
April 16, 2012	April 16, 2012	BCC	\$1,013.11
			\$1,687.31
			\$1,594.50
			\$1,092,728.95
			\$646.46
April 17, 2012	April 16, 2012	BCC	\$3,173.72
			\$55.00
			\$130.51
			\$41.70
			\$11,149.98
			\$10,165.50
			\$1,612.56
April 17, 2012	April 17, 2012	BCC	\$34,173.55
			\$1,379.65
			\$356.21
			\$2,727.00
			\$811.99
			\$1,298.69
			\$90.00
			\$80.85
			\$3,530.65
			\$13,664.04
April 17, 2012	April 17, 2012	JC, ML	\$25.00
April 18, 2012	April 18, 2012	BCC	\$84.44
April 18, 2012	April 17, 2012	BCC	\$496.90
April 18, 2012	April 18, 2012	BCC	\$2,394.91
			\$150,492.68
			\$2,094.29
			\$923.11
April 19, 2012	April 18, 2012	BCC	\$7,500.00
			\$5,388.24
			\$11,867.55
			\$1,100.00
April 20, 2012	April 19, 2012	BC, JC	\$258,112.42
			\$702.01
			\$8,283.95
			\$2,861.37
			\$11,704.56
			\$8,362.17
			\$2,120.23
April 24, 2012	April 19, 2012	BC, JC	\$2,841.62
April 24, 2012	April 23, 2012	BC, JC	\$113,325.03
			\$68,497.42
			\$303.19
			\$168.92
			\$413.01
			\$2,251.77
			\$8,462.09
			\$42,943.58
			\$5,075.79

April 24, 2012	April 24, 2012	BC, JC	\$64,623.55
			\$4,383.00
			\$2,281.04
			\$2,147.22
			\$580.80
			\$3,432.50
			\$343.31
			\$5,099.14
			\$3,283.04
April 25, 2012	April 23, 2012	BC, ML	\$91,879.74
April 25, 2012	April 25, 2012	BC, ML	\$25,005.68
			\$1,703.37
April 26, 2012	April 25, 2012	BC, JC	\$2,302.48
			\$4,627.50
			\$1,204.67
April 27, 2012	April 25, 2012	BCC	\$15,441.97
			\$1,817.14
			\$11,120.43
			\$305.45
April 27, 2012	April 26, 2012	BCC	\$30,658.92
			\$4,956.25
			\$19.30
			\$1,052.15
			\$5,663.00
			\$22,092.32
			\$421.26
			\$159.95
			\$5,611.32
			\$893.14
			\$1,500.00
April 30, 2012	April 26, 2012	BCC	\$11,829.83
April 30, 2012	April 27, 2012	BCC	\$110,589.37
			\$78,474.93
April 30, 2012	April 30, 2012	BCC	\$141,966.67
			\$10,121.34
			\$6,809.92
			\$1,717.50
			\$320.38
			\$20,578.19
			\$2,392.35
			\$109.60

All Claims Lists were returned to the Accounting Department.

MONDAY, APRIL 2, 2012

BCC met in regular session; all three present.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) Stenerson Subdivision/Creation of Phasing Plan; 3) Reilly Acres Subdivision (*info*); 4) LiDAR contract approval; 5) West Company Gravel Pit proposal (*info*); 6) OPG Director's update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Land Stewardship Award 2012; 3) Communications; 4) Director's update.

Letter – BCC signed, dated April 5, 2012. To Randy Stenerson/Stenbro, LLC, conditionally approving phasing plan for Stenerson Subdivision. Final plat submittal deadline for Phase 1 is extended to June 15, 2012 (subject to submittal of Weed Management Plan in COA \$25). Approved final plat submittal deadlines for the three phases are: Phase 1 = March 4, 2017; Phase 2 = March 4, 2018; Phase 3 = March 4, 2019.

TUESDAY, APRIL 3, 2012

BCC met in regular session; all three present. Evening: JC attended Historical Museum Annual Meeting & Dinner, held at Holiday Inn.

ADMINISTRATIVE MEETING

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Amendment – BCC adopted/signed, dated April 3, 2012. Exhibit 8.20: Missoula County Employee Benefits Plan Amendment, effective July 1, 2012. Concerning Definitions; Medical, Dental and Vision Benefits (as set forth therein). One original to Heidi Fritchen/Risk & Benefits.

Form – BCC reviewed/approved (BC signed) revised Community Council Financial Agreement Form, making it easier to apply for yearly allowance of \$1,000 per Council for basic expenses. Original to Laurie Hire/RI.

Board Appointments – BCC appointed following to serve unfulfilled terms (to November 30, 2014) on the Open Lands Citizens Advisory Committee: 1) Alternates Jock Conyngham and Jeanne Hall; and 2) Regular Members Andy Hayes and Sharon Sweeney.

Passthrough Grant Agreement – BCC signed, dated March 20, 2012. Between County and LIDAR for elevation data/mapping for floodplain hazard identification of Bitterroot River Valley, Swan River, and Clearwater River, MT. Amount/up to \$50,000 (funded by DNRC). Term end/March 29, 2013. One original to Todd Kliez/OPG.

Additional discussion item(s): Government Services Poll.

WEDNESDAY, APRIL 4, 2012

BCC met in regular session; all three present.

CAO MEETING

Certificate of Completion – BC signed, dated April 4, 2012. For RSID 8495 SRF loans (2008 Lorraine South Water Main Extension Project). Total loan amount/\$142,000. Project complete; Mountain Water Co. accepted main in 2009. Original to Amy/Public Works.

Agreement – BCC signed, dated April 4, 2012. Between County and Greg Potter for certain grounds maintenance at the Historical Museum. Term/April 15-October 15, 2012. Amount/\$18,270. One original to Bob Brown/Historical Museum.

Counter Offer - To purchase Lot 1, Block 4, MDP – Phase 1 (Epic Steel). [See May 1, 2012 Journal entry].

Letter – BCC signed, dated April 4, 2012. To MT DOT/Community Transportation Enhancement Program, Helena, formally requesting to leverage \$100,000 of CTEP 2011 funding allocation to Upper Miller Creek Road Reconstruction Project (including transfer of said funds to Western Federal Lands Highway Division under Agreement No. DTFH70-09E-00018). Funds are for pedestrian/bike enhancement purposes. Original to Greg Robertson/PW.

Letter – BCC signed, dated April 4, 2012. To Treasure State Endowment Program, MT DOC, Helena, supporting Seeley Lake Sewer District's effort to secure funding for development of comprehensive wastewater collection/treatment facility. Original to Greg Robertson/PW.

Additional discussion item(s): Appointment to Airport Authority Board; staff to submit RCA.

SPECIAL PUBLIC MEETING – April 4, 2012**1. CALL TO ORDER**

Commissioners Present: Commissioner (Chair) Bill Carey, Commissioner Michele Landquist, Commissioner Jean Curtiss

Staff Present: James McCubbin, Deputy County Attorney; Greg Robertson, Public Works Director; Tim Worley, OPG; Jim Carlson, Environmental Health Director

2. PLEDGE OF ALLEGIANCE**3. PUBLIC ANNOUNCEMENTS**

None

4. PUBLIC COMMENT

None

5. ROUTINE ADMINISTRATIVE ACTIONS

Weekly Claims List (\$771,306.65)

Executive Session

Commissioner Curtiss made motion that the Board of County Commissioners approve the weekly claims list in the amount of \$771,306.65. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

6. HEARING

Reilly Acres (12 lots on 28.3 acres) Target Range ~ McCauley Butte
Tim Worley read the staff report.
Representative, Greg Martinsen read hand-out

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Jean Curtiss: In regard to your statements about where the pathway on Humble Way should be located. While it may have been planned, it's not built, right?

Greg Martinsen: No.

Commissioner Curtiss: I think there's one more thing. As I was reading through this I had some questions regarding the dry lay sewer so I talked with Mr. Carlson this morning. I think has some additional comments from the Health Department regarding what's required in the sewer service area.

Jim Carlson, Director Environmental Health: With regard to the proposal for dry lay sewer, it's important to understand that this subdivision is in the Wastewater Treatment Plant Service Area, as Greg indicated. I'll read the beginning of that special management area that's included in the City-County Health Code Regulation 1, which is our septic rules; The Wastewater Treatment Plant Service Area, the purpose of the MWTPSA requirements are to place landowners on notice that permission to use wastewater disposal in this area is temporary and intended to be replaced with discharge to a public sewage treatment plant. The following restrictions apply to all land within that area. I'll skip to subsection 6...first of all, there is a requirement where there are community systems or dry laid systems, the engineering aspects of that have to meet City of Missoula standards and the ten state standards that apply to publicly owned treatment work systems and we have a letter from the City Engineer that affirms that compliance. However, in subsection 6 it says if a property is in the MWTPSA as part of a proposed subdivision of land as defined in MCA 76.4102 containing three or more lots of less than five (5) acres the developer must provide a multi user or a community system that may be easily connected to public sewer when mains are available to serve the property, except as follows; a properly designed and inspected dry lay, pressure gravity main connecting the lots with appropriate easements may be used in areas where the division or subdivision lands contains no more than 14 lots, that applies here and all phases approved after September 21, 1994. When the City Engineer makes the appropriate findings to the department and the department in this case would be the Department of Health, our department. A. that the design of the dry laid system meets Public Works criteria's for design of sewers and b) that the dry laid main is preferable in a given instance to community or multi-family system for eventual connection to public sewer because sub i, the dry laid system will be less expensive for future homeowners to connect to public sewer or because of site characteristics make it infeasible to connect to community or multi-family in the future. That stipulation or finding is not part of the letter and based on my experience with this regulation and the lay of the land in the situation I think probably after the subdivision is built, if they were on a community system it would be very difficult to make a finding where connection would be less expensive at that time then using the dry laid main. Kevin is out of town at the present time, I went over to the City to talk to him. I do know that at the time this was written he wasn't in full understanding of his responsibilities under the City-County Health Code. As a further comment a little bit outside of the specific subdivision review, I want to remind the Commission that back in the 90's when the City, the County, the Health Department and other interested parties developed the VNRP, Voluntary Nutrient Reduction Program, which was eventually approved as a mandatory requirement, we promised as City-County Government and Health Department to connect approximately 3500 septic systems of the 7,000 that existed at that time to public sewer. The other part of that promise which is now part of our EPA approved TMDL is to insure that as new septic systems are built in this area that we connect up an equivalent number so that once we get down to half of that 7,000 number we only have about 3,500 systems. We need to keep working together as City-County and City-County Health to ensure that where systems are built in outlying areas in the MWPSA we're working on connecting older homes closer in. So when we see subdivisions that are approved so far away from sewer it's difficult sometimes to see what we're going to be doing to connect more existing homes to keep that number going. I wanted to update you guys on that promise, which is now a requirement that was made about a decade and a half ago.

Alan McCormick, Garlington, Lohn & Robinson: Representing Reilly Acres, LLC. I'd like to address a couple of topics here related to the recommended findings of fact pursuant to the denial. We appreciate that farmland is a sensitive and controversial topic and certainly there are soils that are located on this property that are identified as prime agricultural soils. And certainly someone could in theory cultivate the property and generate some income from it. But the fact that there are soils on the property identified as prime agriculture soils does not trigger any state statute or any local regulation or policy procedures or any other requirement that prohibits the development of those soils. Rather the agriculture preservation that is discussed and the Target Range Plan, in particular, is a matter of conversations. I first want to point out that finding #27, I believe it's on page 7 of Tim's original staff report, has an unintended misstatement of law. And this says that you must mitigate, you must design the subdivision to avoid impacts to agriculture. When in fact the way the state law works is that there is a process of weighing the primary criteria and it's in the process of weighing the process that the county commissioners are required to give a give or take to the health department whether there are significant adverse impacts to any one of those criteria. Upon determining that there are potentially significant adverse impacts, the Commissioners are then empowered of course to adopt mitigation and that mitigation can run the gamut, generally as outlined within the subdivision regulations and then in accordance with the policies and procedures the County has adopted. The County has acknowledged in this case, that when it comes to agriculture mitigation, there is no strategy requirement mitigation policy or procedure put in place to deal with mitigation for agricultural impacts. In this case we disagree that there are potentially significant adverse impacts to agriculture and Ag water users that would justify significant mitigation or justify the denial of the subdivision. Greg Martinsen already explained that there are procedures, there's easy ways to deal with agriculture water users situation here by providing an easement that would reach any of the four lots or the five lots that are across the top there that are identified in the staff report as not currently capable of receiving agricultural water. In terms of effects of agriculture itself, there's only one case in Montana that's dealt with that issue and in that case the Supreme Court up held the denial when there was an adverse impact on adjacent

agricultural land use that could not be appropriately mitigated. In this case there are no significant agricultural uses adjacent to this property that would be impacted by the development. This development is consistent with the pattern that was started a couple of decades ago. It's always been setup for this kind of development and the pattern of development is consistent with the houses that are to the North and the houses in the other development in this area. This is the Target Range Plan, Montana Supreme Court says this is the preeminent...not the Target Range Plan itself but the growth policy and neighborhood plans are the preeminent planning document. And what strikes me about the findings of fact is not so much what's written, but what's missing. When you go through the 100 and some pages of the Target Range Plan there are a number of things that strike you. It's thorough in its analysis of agriculture and agriculture uses and rural style of development and how it addresses policies and procedures to those things. Right off the bat, it talks about the importance of agriculture and a recommendation to protect soil and agriculture and the county and state governments can help preserve agriculture resources through zoning regulations. One of the primary recommendations is that the county should work with land trust and local organizations and government to develop strategies to preserve Ag land for businesses. As we already noted that hasn't happened yet. Oddly enough...Tim would it be easy for you to pull up that soil map that shows the entire Target Range area? The plan does acknowledge what Tim's already told us, and that's the area has about 75% of it, is agricultural soils designated for prime agricultural importance, if irrigated. Having trouble getting the map to display but it basically showed two colors; there were a couple spots of white and the majority of the area, including almost all of the undeveloped area was agricultural soils of prime importance, we knew this when UFFDA was adopted. UFFDA recommends 400 additional dwelling units in this area; they're going to go on those agricultural soils. The land use and zoning recommendations in the Target Range Plan says, create rural zoning districts, change the zoning it recommends from two dwellings units per acre to one unit per acre, in a limited area and encourages a variety of tools to protect national resources. Page 16 of the plan talks about Target Range homeowners wanting to preserve some of the rural agricultural character and history of the area, main objectives in that regard are to provide incentives through zoning regulations to protect remaining agricultural soils and prompt Missoula County to find financial and other incentives. Page 17 there's recommendations and strategies change the zoning in areas which still have substantial open space, provide zoning where there isn't. Create partnership with folks like CFAC to inventory the best parcels that are out there remaining for farm and agricultural users. Curiously enough, the water infrastructure section says the majority of Target Range homeowners are strongly opposed to extension of sewer into the area and so I know that's not a surprise to you. And so with respect to the sewer issue and the water infrastructure the recommendation for the long term goal is to maintain a low residential density and they define low residential density throughout the area as 1-2 homes per acre. It does suggest that maintain that existing infrastructure for irrigation and the capacity for irrigating soils, all of that's being maintained here. There's easements being provided for the existing irrigation ditch and there's no construction that would negatively affect the ability to continue to get agricultural water to users downstream, certainly no effects on upstream. And there's an easy mitigation and fix to address the agricultural water users concern addressed in the staff report. The plan curiously identifies open space as a facility and it gives a recommendation for facilities, including identifying important open space that needs protection to protect critical open space and view sheds. Collaborate and develop a strategy and procedure to protect open space Ag soils with a target date of January 1, 2011, we missed that by a little bit. Procedures would include voluntary conservation open space money and evaluate areas identified as important open spaces to target, none of that has happened yet. Then there's a large section taking all of this into consideration for land use and zoning. This is not a situation where you have enacted a generalist plan and then wait for someone to come along with a subdivision proposal and then we say, well we know what the plan says but we've always got to do the site specific analysis to take into consideration of the criteria. Obviously, that's true but in this case we have a very in-depth evaluation and planning process that's occurred in this area. It says that the average density is one dwelling unit per acre in the neighborhood, level of density under current zoning would negatively impact many of the resources that are very important to residents; we acknowledge this. We acknowledge that 54% or on page 54, 88% of survey responders felt that it was very important to preserve rural character. 56% said one acre, roughly one acre a little bit more of the dwelling unit density is appropriate. 35% of the respondents said they prefer 2 dwelling units per acre for the Target Range area. Page 55 acknowledges that existing zoning does not reflect the higher density of two dwelling units per acre so even though the comp plan, UFFDA and the Target Range Plan all say two dwelling units per acre existing zoning is more density than that, most of it is 1 dwelling per acre. And so it concludes there's no need to change existing zoning to accommodate the expected density in the future. The point I'm making in all of this, is we've had these conversations about what's appropriate for this area and we didn't have them in a vacuum, we didn't have them where we said we'll evaluate agricultural soils later and decide what we want to do for this area. We had these conversations knowing full well that this area has important agricultural soils and the conclusion we reached and particularly on page 57 of the plan. It says, the proponents of this neighborhood plan recognize that; a) the Target Range neighborhood is special, largely developed where transition from urban to rural values distinctive character. B) Existing parcels of land in the neighborhood may be subdivided in the future as the neighborhood develops further. C) Owners of existing parcels of land that are susceptible to subdivision, such as this one, have valuable vested property rights and development rights that are legally protected and should not be infringed. D) The overall arching goal of the neighborhood residents is to preserve residential character of the Target Range neighborhood, while preserving parcel owners property rights and development rights. Then the next page, page 58 talks about resources in the Target Range neighborhood that are at risk and agricultural soils and agricultural water as well as open spaces, view sheds, riparian habitat, all of those things are identified as at risk. So what does it do then? It then says this is how you're going to deal with those at risk situations. We're going to use land use tools that don't deny property rights and Title 76 specifically calls out the criteria we're talking today. We're going to recognize those require a balance. Then it says, here's what we're going to do with the zoning area. For 78 parcels we're going to recommend that you change from CRR2 to CRR1, not anything bigger. And then for the rural zoning district outside of that, the changes they suggest some changes in language to RR1 designation. And then it

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also talks about the current zoning district on this property, and it suggests that you add encouragement to this zoning district language to use land use tools to identify the plan to address and encourage people to utilize some of the voluntary conservation tools that are identified in there. How many times have you guys sat here and said well we don't have zoning for the entire area or if we only had zoning, this would be a lot easier. We dealt with that in the Seeley Swan plan quite a bit. It was all setting up in the comprehensive plan in that area, the neighborhood plan in that area to create zoning that could be implemented because that's what our supreme court tells us to do. We did that in 2005 and in 2005 even the Missoula County Consolidated Planning Board recommended approval of the zoning district out there and that zoning district has some important language. You'll recognize this in the Target Range Plan. Recognize the purpose statement as its part of the purpose to recognize the citizens and to maintain the rural and low density pattern of developed. District is being expressly created to perpetually create these characteristics in the rural design. Plan unit developments, planned variations and cluster developments are neither encouraged nor deemed necessary to meet the intent of the district. In fact, folks have said, why don't you cluster? Wouldn't this be the perfect place to do ½ acre lots, instead of one acre lots and you could perhaps set aside some of the ground. Well, in 2005 both the Missoula County Consolidated Planning Board and this body adopted something different that actually prohibits those things from happening. Again, the purpose of the district is to retain the areas unique rural character. But this is important, probably the most important in all of this language. The regulations are strongly prescriptive, so that citizens will know exactly what's expected of them. In fact, we've had that conversation how many times about zoning being an important tool because it implements the policies. State law requires, case law requires that zoning districts be consistent with, made in accordance with, is the actual language, in accordance with the adopted plans. Subdivision regulations have to be made in accordance and substantially comply with the adopted plans. In the recent case involving, it's not a hard decision but the city of Missoula told us just how much we are required to rely upon these planning documents. Yes there are provisions in the planning documents that are very strong, strongly orientated towards preserving agriculture. But after all that conversation these plans came to the conclusion that a one acre dwelling development density out here was appropriate and consistent with the existing rural zoning district, that's applicable to this property. I understand how important preservation to agriculture is. You may be surprised to find out that my master thesis many, many years ago was on an innovated zoning technique for the preservation of agricultural lands in Clark County Virginia. That planning...zoning, last time I checked that zoning district was still in place. They used an innovated technique where they actually assigned development density rights to each parcel in the county; it's a very small county. But before they did that they conducted a study and the study was to determine; what's the minimum size parcel you need in order to have a viable agricultural operation. Now that area of Virginia is up near Winchester, sort of sandwiched between Winchester and the DC area but it's across a ridge so it's protected from the growth of the DC area. You'll find this funny; the parcel size they came up with was 40 acres. It's primarily cattle and horse. They have something we don't, called rain. And the rain allows for a much higher production on a much smaller area. Now I'm not suggesting to you today that you adopt a 40 acre minimum lot size or a minimum agricultural operation but the point of that is, what they did was an analysis to figure out what is the size in our area, on all of the considerations that would be appropriate that someone could have for a viable agricultural operation. The next step then was to adopt a zoning ordinance that would allow that to happen. What they did was they went out and said if you've got one acre, you have one more development right. You have 10 acres; you have four more development rights. You have 100 acres; you have six more development rights. But then they said, here's how you're going to use those development rights. You can subdivision and create no bigger than two acre lots and those lots have to front on an existing county road. The point was if you had a 100 acre lot, you've got five development rights for that lot. The subdivision wasn't going to be a problem, it's practically automatic but you had to do the development for it in a lot size and in a location that would preserve the bulk of that property. You couldn't just stick a 10 acre lot, a five acre lot and one acre lot in the middle of that 100 acre lot and destroy it for agricultural value. That may not work here, but it was the right way to go about figuring out what the strategy was going to be for the protection of agricultural resources. Doing a piece meal, subdivision by subdivision and pulling out the important agricultural preservation language from the plan without acknowledging all the other plan and the conclusions that are reached at the end of it are not the right way to go about it. So I can certainly answer any questions that you have when we're done with this process.

Public Comment:

Fred Stewart: I live ¼ mile from this particular site. I ask that you take the recommendation from your OPG staff and city board to heart and deny this particular proposal. Isn't it interesting how we can look at the same information and come up with some slightly different conclusions? I'm not an attorney and I have no intention to be an attorney but the previous speaker referenced a number of things in the neighborhood plan that was exactly what I wanted to mention with a slightly different conclusion at the end of it. The Montana Code Annotated does require that you look at agricultural land and agricultural soils in your evaluation and then look at possible ways to protect those resources. In the neighborhood plan, when we put that together in a draft phase that CFAC has referenced, we looked at a requirement for larger parcels to use conservation design tools to protect resources at risk. Between the draft and the final that require was changed to suggest or encourage because of the fact that as a neighborhood we wanted to be able to come together before the Commissioners and be a unified force to have this planning document approved. So because of the discussion in the neighborhood we changed from required to recommend. So that's part of the process that we went through. So the wording I think is really quite appropriate that on page 58 we said that we would like to see voluntary, not required, voluntary conservation easements or voluntary conservation development proposals by the developer for existing parcels. Throughout the document we talk about resources that are very important and the agricultural resources were one of those things that are really quite important. At the beginning of the neighborhood plan, the idea of conservation design and clustering was something that most of the people working on the plan were not particularly interested in. But, Office of Planning & Grants put on a session to show how conservation design tools could be used

and at the end of that several hour session with residents in the evening looking at actual parcels in the Target Range area, almost the entire group came to the conclusion that these are tools that could really be very effectively used. If we go back to 2005 and the wording that has been brought up about the existing zoning in the area, the existing zoning says that we're going to have a required minimum lot size and that tools like conservation design are not seen as necessary to protect resources. Between 2005 and 2009 and 2010 when we were working on the neighborhood plan, the difference was that people in the neighborhood became aware of what could be accomplished with that type of a tool, became aware of it and convinced to the point that in the neighborhood plan, again we're talking about the same wording but a different conclusion. On page 60, we suggest a wording change for the zoning in the Target Range West End Rural District. Because of the fact that we recognize that one acre minimum lot size precluded the use of tools like conservation design and that's why we get into a situation with a parcel like this that has very good agricultural potential that if you wanted to protect half of the land, it means that half of the residential development slots or lots have to go away. When you have a minimum lot size you preclude the ability to really use conservation design and accomplish development for residential lots at the same level. We became aware of that, so this is an education process between the time that we did invest in rural zoning district and the neighborhood plan. Hopefully we're becoming more aware of things in the neighborhood as time goes by. So in the neighborhood plan we have recommended changes for zoning and when the neighborhood plan is fully implemented then this wording will be in place and we won't be talking about this same issue about minimum lot size because the wording says; want to add the wording, land use tools which includes a conservation design are encouraged to be used to preserve the resources considered at risk. So now we've gone from, don't use those tools to we're encouraging people to use those tools. And the minimum lot size would be adjusted to permit the total number of dwellings equal to a density of one dwelling per acre. All other aspects of that zoning district would remain unchanged. So now on this particular parcel we could still have eleven lots for residential development and we could protect, I'll just pull the number out, we could protect six acres for agricultural use. So it's not that you have to have one and get rid of the other, we can have the residential development and we could have the protection of these resources. With the support of the community, I believe, because we recognize in the neighborhood plan that there's a tradeoff here between protecting the resources and recognizing the land owner has a need to be able to develop the land, and a recognition for the need for development lots in the future to meet the growth in the area. So I think that the neighborhood plan goes a long way toward trying to resolve the issue that we're dealing with today. How we protect the resources and how we allow the land owner to be able to utilize some of those characteristics of their land. I'm not a planner, as well as not being an attorney. I believe though that based upon the training session that we went through it would be relatively easy to design a development here without giving up parcels for residential lots with maintaining agricultural use on a significant portion of that land and lowering development costs. Putting a road through the middle of this parcel that's about a half an acre of pavement, pavement is expensive. There could be a design such that for example, a number of homes would be on Humble Road would be facing onto Humble Road at a minimal level of development cost. The septic could theoretically be put into the agricultural areas as far as the drain field that wouldn't be a problem for agriculture. And with some...again I don't want to get into areas that I'm not qualified in but it seems to me that there are lots of opportunities for a design that would do both things, protect Ag land and provide the development opportunities with reduce costs. I'll cut short some of these other things I wanted to say but every time I hear talk about the amount of land that's necessary for a viable agricultural operation, I'm made aware of what's going on in the neighborhood. In my particular instance, I have two acres that's going into an orchard, that's small. It's going to generate, when it's fully operational it's going to generate 20,000 lbs. of apples a year, that are not going to be shipped in from someplace else. It'll be a local operation, that's just two acres, this land is extremely productive. The fact that on my parcel nothing had been happening there for more than 30 years, it was just grassland, it wasn't hayed, it wasn't pastured, it was just sitting there. Well once I got it, the soil is there, the potential is there. 20,000 lbs. of apples is going to be coming from there. There are a large number of small operations going on and it's not to provide the livelihood for a family of four and send your kids to college, obviously that's not what we're trying to talk about here. We're trying to talk about maintaining a resource that has potential as time goes by to provide income and food for the people in Missoula. I'm not going to be able to live on what I produce, I hope to pay the property taxes and I like farming but I think that these are some of the things that people are looking at in trying to maintain these soils and these lands because once it's under a half an acre of asphalt, we're not going to be growing anything on it. Thank you for your time.

Commissioner Landquist: How many apple trees do you have Fred? Or are you planting there to produce that?

Fred Stewart: There will be just over 200.

Willis Curdy: My wife and I have lived in our home at Kona Ranch Road for 30 years, we've lived in the Big Flat/Target Range Area for that many years. I've been a Missoula resident for over 45 years. I also was a member of the Target Range Neighborhood Planning group. I would like to second everything that Fred said about the planning process and what we went through. It was a very enlightening, educational experience. I do have a couple things I want to add to what was noted by Mr. Martinsen and Mr. McCormick. The face of agriculture is changing in Missoula County. What was grazing land a few years ago is now community farms, apple orchards and who knows what in the future. In light of high fuel prices, food resources being used and shipped other directions, this community is going to have to depend more and more on what we produce here. That's a fact of life. So with that in mind, I would like to remind everybody that this acreage that's part of this proposed subdivision, well in theory, it could be a farm, well it could be a farm and has the viability to become a farm, so therefore, I oppose the subdivision plan as planned and I would like to second Mr. Stewart's comments that alternatives could be used to utilize other portions of the land for homes and keep the agricultural land in that purpose. One other comment was made by Mr. Martinsen concerning a pipe

that would run from the irrigation ditch to the lots that didn't have direct access to the water. For years I was on the Big Flat irrigation ditch commission and we faced this problem time and time again where a subdivision or an area was cut off from the Big Flat ditch and there was this idea this very laudable idea to pipe the water from the ditch to these other residences, but the vulgarities of home ownership, the changes in home ownership neighborhood, changes in terms do I need to or must I guarantee water access to the person next to me changes. And folks, like I said, it's laudable but it's not workable, I've seen it happen, I've seen it fail and that's just a fact of life. I would like to log Mr. McCormick's comments on transfer development rights; I think that's something we need to look at. TDR's are a very important tool that can be used in this community to maintain our agricultural land, plus provide the development that's necessary to meet a growing community. I would like to encourage the Missoula County Commission to move forward with haste to develop an agricultural plan and policy that can help preserve this land, instead of sitting here in these meetings having one side fight against the other in a last ditch effort to save Ag land. We need to get our act together so that we can put together a plan we can compensate land owners for fair market value for the land or encourage them to be kind and give us a nice development gift, but we need to make this happen, it's not happening.

Commissioner Landquist: In the interest in time. Have you looked at this property?

Willis Curdy: Yes.

Commissioner Landquist: In your mind, give me a little thought here because I know that you know how, not that maybe others in the room don't know how to grow hay, but I know Mr. Curdy here knows what he's doing when it comes to quality hay. I looked at that ground the other day, I don't grow hay, I buy hay and you know that. I was trying to figure out in my mind how many tons to the acre that might produce or how many overall tons if it was based on two cuttings. What would you yourself project if you were farming that because I know you know how to grow hay?

Willis Curdy: For everybody that knows, my family and I run 110 acres up in the Bitterroot, we raise hay, we raise barley malty, and we raise oats and barley, so I get it. I know how to do it, the other folks around us know how to do it and we've done it for years. My Dad ran 80 cows on dairy farm; I couldn't stand to be around a dairy farm all the time, that's why we don't do it. But looking at that land, with the water that's available, access to good quality, clean water you can go five with adequate fertilizer, I know some here probably wouldn't agree with that but with good, adequate fertilizer you could raise 5-6 tons per acre. And the going rate of hay right now you could get anywhere from...we're selling hay for \$160/ton for good grass hay and there's folks out in the Frenchtown Valley that sell it for \$210-\$240 a ton and they're selling it. So it can be done.

Andrea Davis: I'm the Executive Director of Homeward, we're a non-profit affordable housing organization located in Missoula & Billings. We have Properties State wide and I'm here because of an overall interest in land use planning. For our relatively small valley when it comes to the expansion of population. We support CFAC's overall desire and policy initiative they've put forward for a comprehensive agricultural policy for land use and I couldn't agree more with Willis that here we are as community members arguing over parcel after parcel, hop scotching over parcels, when really we should be talking about bigger picture issues and I know we can't do that today but as an organization that has done land use that continues to utilize existing infrastructure in order to make housing affordable for our existing residents and for projecting demographics in to the future. I'm concerned about this existing design. I would support both the planning boards' recommendation and the Office of Planning and Grants decision to decline this particular application. I would encourage you to send this back for a more thought out design that considers some of the testimony and findings in the reports. In terms of development tools that could be utilized there was some mention today, Homeward has utilized planned urban developments as well as special districts in order to conserve agricultural land a primary project that you are very likely well aware of is our Orchard Garden Project, which is off of Reserve and 3rd, we had a little over 4 acres there, we preserved two acres for farm land and we were able to cluster our development. I also attended some of the Target Range public meetings that were mentioned by previous speakers and the term enlightenment was used and I can say I actually witnessed that, when the gentleman that was commenting on his McCauley Butte development several years ago and the opportunity to cluster that development in order to save conservation land, in order to conserve open space, in order to conserve the Butte quite frankly, was put on the table, it was welcomed with applause from the folks at Target Range neighborhood. That's been an evolution for that neighborhood and that planning document, quite frankly and I just don't feel that it's a closed book decision in order to approve this design today. So again, there are tools that we could utilize that would protect prime fertile soil. We know that we've got a limited resource and I just want to share an anecdotal story; I was in Billings last week visiting with some folks from the First Interstate Bank foundation actually and they were talking about how jealous they are of the City and County of Missoula because we have multiple farmers markets, that for the majority of the year we have the opportunity to buy local produce, but we aren't going to have that opportunity the more we see local lands disappear. Quite frankly, in one acre tracts that are covered by sod and I have a personal concern actually about using irrigation...I understand the need to pipe irrigated water to tracts of sod but the reality is we're pulling water out of the Clark Fork that we're trying to save, that we're trying to save a fishing industry and a tourism industry and we are watering sod, many times with chemicals. I just don't see the long term wisdom in that, I hope as a community we can come together to welcome some better conservation tools.

Jay Getz: I own property within about 100 yards of the development that we're talking about. The thing that is puzzling to me is that we've...in 2010 we approved the zoning and it was supported by the Target Range property owners at that point. It doesn't make sense to have postage size lots in the Target Range area and I think it needs to hold a rural character but I think for us to second guess the

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zoning that's already in place, is just not a good idea and therefore I'm in favor of approving the subdivision for Reilly Estates. And on just a second note, that if prime soils are so important in every development that we do then we need to find a way to fund these and compensate the property owner at fair market value to set these acreages aside. We just cannot approve subdivisions when they're in the zoning plan and long term plan and not be willing to compensate, it just financially doesn't make sense for anyone that owns property in Missoula County.

Betsy Hands: I'm here as a legislator for Missoula, I've served three terms in the house and as a legislator I've served on local government and natural resources. I'm currently serving on the working group that's actually reviewing the subdivision for lease solutions and so I'm following many of these discussions through my role as a legislator about how do we look at our subdivision and platting act. And as a legislator I'm an advocate for good government and good planning. I went to the State...to Helena to be able to speak to Missoula needs and the State's needs for good planning. I'm here to ask for you to deny the Reilly Acres Subdivision as proposed. I'm very familiar with the subdivision and platting act and the discussions we've had in Helena and thought it was important to come here to speak to that piece and it's clear that you have the authority to deny a subdivision based on its impacts and lack of mitigation for those impacts. Bottom line, there's a clear call and it's for the elected official and that's you to consider our community resources including agriculture, which are so valuable, and have been spoken to by other opponents to this proposed subdivision. We want to preserve Montana and Missoula's heritage and we need to plan for these resources for future generations. It's our duty here to protect agriculture from short sided developments. And lastly, obviously it's becoming very clear that we need to adopt farmland conservation policies on how to mitigation the impacts of farmland and including mitigation practices like conserving one acre of farmland for each acre that's destroyed due to inefficient housing developments. I thought Ms. Davis made some great arguments for why we need to have a wise look at our planning into the future. And I think it's really important to recognize that we at the State really value the local governments to look at each individual proposal and understand the accumulative impacts and understand that that's why we gave the local authority to look at the criteria that you should be reviewing when you're looking at subdivisions that are proposed to you. I really hope that you listen to the Missoula residents and the neighbors that are here to ask for you to consider how do we conserve these resources into the future.

Neva Hassanein: I'm here this afternoon to represent the Community Food and Agriculture Coalition (CFAC), which I'm a member and have been in front of you all many times about issues related to subdivisions and agriculture. I'd like to present today CFAC's official testimony and give you our letter and have that included into the record. I'd like to briefly touch on a few of the facts about this subdivision. We have carefully considered this subdivision as we do all of them. We often send people out from our organization out to the land to look at, to review the proposals specifically and we have come to the conclusion that as proposed this subdivision does not adequately mitigate the impacts to agriculture. The flat area to the property encompasses over 11 acres, which are nearly covered in soils that are prime farmland that are irrigated specifically Grants Dale and Desmits loam. Now as you probably know, less than 2% of the land area in Missoula County has these prime, if irrigated soils. And yet we've seen a lot of these already subdivided over the last several decades. What are prime soils? People throw that term around so I decided to pick up and share with you the definition of where this comes from. This is a term that is specifically identified by the Federal Government, by US Department of Agriculture to look at specific criteria that these soils must have in order to be designed prime. They are considered of National importance. The other soils that we often talk about are soils of state wide or local importance, well the prime soils are of national importance, they're like a national security, a national treasure trove, in many ways. They are the highest quality and most suitable for producing food, forage, fiber or oil seed crops. The Federal Government has gone about identifying classified soils because it's recognized as being critical for meeting the nation's agricultural needs. When managed well, and this is often a point that we don't talk much about, prime soils can produce not only a good yield but you can do so in a way that is less likely to damage the soil or any surrounding resources. When we lose prime soils we're putting essentially more pressure on other types of soils which are more likely cause degradation and they're typically less productive. I just wanted to sidebar for that because we have been losing our agricultural soils for many years, here in Missoula County. In the early 80's a report that was requested by the County Commissioners recognized this and urged a policy be created, I hope it happens in my life time or much sooner than that. In this case there's been some discussion about the zoning, minimum lot size of one acre. Now I think that the zoning is important for you to consider, I'm not an attorney but the zoning does not negate your responsibilities to mitigate the impacts to agriculture. It is just one indication; it's a minimum lot size. As OPG pointed out in their report once you add in the drain fields and driveways and so on. The net lot size is going to be anywhere between .88 - .928 of an acre for 11 of the lots that contain nearly all of this prime farmland soil. OPG's conclusion is that it would render those lots unfit for "agriculture". The proposed design also impacts agricultural water users' facilities as Tim Worley explained. If I understood the developers representative correctly, they're proposing making some changes to try to address that, which I appreciate but haven't had time review and wasn't quite able to follow what was being proposed. So in essence what do you have before you? You have another subdivision, another subdivision where the impacts of the development to agriculture are gone completely unmitigated. Now the developers attorney wants to claim that only the Target Range plan really should take precedence here but you asked the UM, University of Montana Land Use Law Clinic to prepare a report and they've done a very thorough job looking at not only the codes, and not only at your regulations, but also the State Constitution, which I actually hadn't really thought much about in this regard until I was reading this report but the Constitution has a unique provision that reflects our states agricultural heritage and requires that the Montana Legislature "Protect, Enhance and Develop all of agriculture". They go on in the land use clinic report to explain that the code has been setup to really ensure that the agricultural heritage is protected. One of the major findings of this report that you all asked for is to say that local governments are not only empowered to mitigate the impacts to agriculture but you actually require it to. Obviously we believe at community food and agriculture

coalition that we would like to have a comprehensive policy that a range of parties engage in to work with you to develop that provides fairness and predictability to land owners and developers, but that's not the question before us, it's also not the question before us whether or not you can make a living off a parcel of X size or Y size. As somebody's expertise in the area of food and agriculture I can tell you that it really depends on what you grow. You can have a pretty small farm and grow high end, high value salad greens and sell those to grocery stores and do darn well and I won't quote the dollar amounts of some of my friends that are doing that. Or you can do much more extensive type of operation with 10's of 1,000's of ranching acres. The example from Virginia is an interesting one in that it caught my eye about the 40 acre idea because 80% of the land in Missoula County with the best agricultural soils has already been cut up into parcels less than 40 acres. That's not my statistics that comes from the Natural Resources Conservation Service here in the county. 80% is already less than 40 acres, that is really disconcerting. It's time to really come up with a good policy and I know you are committed to doing that and I look forward to working with you on that in the coming months. The last thing I want to say is that we have to stop treating our soil like dirt. It is an essential resource, everything that we've done today we've did because we ate something that first grew out of dirt and we had energy to do it and with air to breathe and the water we drink but we need soil. It's so underappreciated and I feel like kind of a fool up here waxing aliquant about soil but it really is a true treasure. We can't predict...when you make a subdivision decision based on say, impacts to wildlife, maybe you want to be sure that an elk herd is going to be protected in an area, you can't predict whether that elk herd is going to use that area all the time. I think the same thing is true here, the question before you is not whether somebody is going to come along and farm this and whether they're going to make a living, it's whether we're going to protect an agricultural resource that is an intergenerational resource. It belongs as much to the future as it does to us.

Paul Ferguson: I live next to this area and was involved in the previous zoning questionnaire, 85% of the people agreed to 1 house per acre, 1 acre per house to specifically exclude the cluster developments. The one behind the Butte was specifically excluded from this zoning area and I would like to approve this subdivision. As promised, it would fit in with the neighborhood; 1 house per acre, 1 acre per house. It would be a little bit odd to have a farm, a small farm right in the middle of all the housing there. And as far as making it economic, you might have to grow something very illegal to be able to make a living out of it. The Target Range neighborhood plan specifically the wording was made vague because it was produced by a well intention focused group and it was through OPG before the neighborhood found out about it, so the language had to be made vague. But I think 85% of the people agree to 1 house per acre, 1 acre per house is part of the democracy of this Country.

Stephanie LaPorte: I live at 2009 S. Eaton Street West. I'm here today to encourage you to take the recommendations to deny this subdivision and I'd like to speak on the Montana Subdivision and Platting act because as some people have mentioned; yes I think we need to go forward to develop a mitigate policy and I encourage and welcome your efforts to do so but you already have tools in your tool kit right now to require mitigation or shouldn't deny this subdivision under the Montana State Law. I was really interested in seeing why that law came about, what were they thinking about when they talked about agriculture and that. Were they talking about impacts to neighboring agricultural operations, are they just talking about; oh, the traffic from your subdivision is going to interrupt Bob's cows when he's moving them across the street or are they talking actually talking about agricultural land, the subdivision of agricultural land? So I went back and I read all of the minutes from the 1973 Act until now, the 2011 Session. What I found was that they overwhelmingly, especially in the enactment of the subdivision review criteria 1975, were supporting the protection of the agricultural soils. So the Act was first passed in 1973 in order to give communities a process to follow in regards to how land was subdivided within their jurisdictions. One of the main purposes of this act according to the minutes was to "bring order out of the confusion by bringing local order subdivision and local government therein." And in 1975 this act was amended in order to empower local governments to review subdivision for their impacts and the public interest. The Chief Sponsor of the bill, who is Representative Vincent from Gallatin County, said that the amendments were invisible approach, a local control approach and an express public opinion. There's no question from what I read from all those minutes, the intent of Vincent was to protect agricultural land and the agricultural land base of the State and that the Montana Subdivision and Platting Act was meant to prevent this type of development from carving apart the agriculture land base of our State. The legislative history for the 1975 amendments illustrates a clear intent to protect agricultural land and in fact, according to the meeting minutes, it says, "Representative Vincent stated that he was a proponent of this piece of legislation primarily because of the tragic intrusion on the agricultural land base of Montana." He said that this especially brought home to him in his own County of Gallatin County, "one has to drive but a short distance to see some of the best agricultural land covered by houses and subdivisions." I think it's really interesting to note that seven different review criteria that were put into place in 1975, which include effects to local services, effect to taxation, effects to the natural environment, it was a loss of agricultural land base that compelled to the Chief sponsor to act and to give you the power to review this subdivision and other subdivisions like it. The review criteria created to speak directly to local problems, to enable local governments to have a better ability to make sure the subdivision in their area is occurring in a manner that did not compromise public interest. If a proposed subdivision is unable or unwilling to mitigate their impact to agriculture, the law says that it is in your rights and responsibility to deny that subdivision or to send it back and require mitigation. I just want to make one more comment on the idea that if a farm is next to...if it's surrounded by other developed land that it somehow doesn't deserve to be protected anymore, well we have 8% of the land in this county is farmable. 2% has prime agricultural soil and since the 80's we've lost almost 30,000 acres of that to subdivision so what land is left that doesn't have a housing subdivision next to it? If that's going to be death to all the farms in Missoula County then we're pretty much dooming them all right now. I know that agricultural soils are hard to visualize and think about and it took me a little while to understand the impact of them. It wasn't until I visited a farmer, it was a small farm, it was probably five acres, growing vegetable production, I saw this life and this vibrancy, food that was being produced for the

people in our community and then we walked over a hill and we looked next door and it looked like a barren moonscape because that section had been subdivided and was in the process of being developed. When they develop, when they put it concrete and asphalt, they're not just putting a house on top of soil, they scrape the whole thing down, you get down to the bare bedrock, you're destroying the agricultural soils and once they're gone they take thousands of years to rebuild especially in an area like Montana. For my sake, for the sake of my children and my grandchildren, I ask that you please think about that future and think about how long it takes to get those soils back. Thank you very much for your time today.

Rick Robinson: 2275 Wyoming Street. I'm here to urge to Commissioner to vote for approval of this proposed subdivision. We've heard a lot of interesting comments lately about different things that could be done to reconfigure it, possible cluster housing, many other things, the bottom line is; people that live in this neighborhood approved zoning a year and a half ago. They did not want cluster housing, that wasn't part of zoning, they want one house per acre, that's what this subdivision is going for and I think it should be approved.

Casey Herrin: 4311 23rd Avenue. Since I've been living in Missoula, the most prominent characteristic I've come to appreciate is the communities' strong will to maintain rural landscapes and to protect these lands from unregulated development. This is apparent first and foremost in several plans and policies that emphasize a clear vision of farming and not sprawl. These plans have been referenced several times today in polarized context but certain facts and figures should not be ignored, so I'd like to quote a few excerpts from these plans for your consideration. In the County Growth Policy Survey from 2005, 79% of Missoula County residents surveyed supported development pattern objectives that protect agriculture and forest operations from encroaching residential development. While 86.9% of those residents believe the issue raised by growth can be managed by local government. And these residents support a range of implementation tools, including protecting sensitive lands by regulation. Under the Missoula County development patterns and land use objectives our county government is to encourage continuation of agriculture and forestry operations and protect them from adverse impacts of urban development. The Target Range neighborhood plan has been referenced a few times today and I think that one idea that's becoming more and more important is the cost of fuels and transportation and as that increases the awareness of the benefits of eating local and buying local will start to take hold, especially in this time of economic uncertainty. And these values of these lands with prime agricultural soils of importance will greatly increase in value to our neighborhoods and to the larger community of Missoula as a whole. Any further residential commercial development on these special lands will certainly undermine the ability of Missoula to maintain and enhance ____ security now and in the future. As you know, you and many residents of Missoula and in the Target Range neighborhood specifically have put in countless hours to create the plans that we currently have. So not only do you not only have a clear documented will of the people represented, you have explicit mandate that's already been mentioned from State law to prevent development from adversely agriculture. We're at that point right now with Reilly Acres and we have been for a while so I urge you to be consistent with the vision that has been laid out sought after by the residents that have put their faith in you. I urge you to deny the current proposal for the Reilly Acres Subdivision. Thank you.

John Whitmarsh: I live on Ringo Drive, this is an area of beautiful homes and everybody takes pride in their homes and their lawns. This subdivision will keep that in context. It's a wonderful place to live, close to the river, close to Blue Mountain, we're close to everything. It is a rural feeling. Bob Rangitsch has owned this land longer than most of us, especially the people that are opposed to it, have been alive. I find it ironic that we start the meeting with the Pledge of Allegiance to the United States of America and then we line up to disapprove what one man wants to do with his property. I find that quite ironic. I know this is what he wanted and I urge you to approve this subdivision.

Tim Skufca: I'm on the Planning Board and in our last board meeting we talked about this extensively and hopefully you had time to read through the minutes, you can see what we talked about and went through. I believe the board made a thoughtful and justified decision to deny this subdivision. The easiest decision is to look at the fact that the subdivision completely ignored any mitigation to farmlands, so I won't go through that. The other two arguments that have been made is that the 28 acres that we're talking about are moderately used for farmland at present, well the fact that farmland is currently underutilized is a poor excuse to carry on with that kind of attitude. The frightening direction of energy cost is enough to reevaluate that notion. Once we get to \$5 or \$6 a gallon gas prices, that whole concept is going to change. Another argument is that Reilly Acres, just like the gentleman that spoke right before me is that the existing subdivision to the North has been...this current subdivision is just a continuation of that subdivision and that is not fair to the owners to deny this because the vision that was agreed upon years ago, we can't deny that now. Well, my attitude towards that is that two wrongs don't make a right. The existing subdivision was approved in a less than enlightened era of subdivision approval. We shouldn't carry on with that kind of attitude. Enough has been said about our progeny and my kids and my kids - kids, and all that but talk about rural housing I'd like to point out an important trend, a trend even the real estate documents support and that's one acre lots are becoming an undesirable market. It's clear that once again due to energy costs the trend is towards the urban center. The demographics of our communities prove that we're getting older and less mobile. It's not wise to continue creating rural fabric that's obsolete, there's plenty of entitled lots out in that area, that we don't need to continue creating that. One last note, years ago when I was taking planning classes at the University of Colorado, the general philosophy was for community development was to develop the hillsides and to preserve the valleys for farmland. It was wise, it's a wise philosophy. Many Montana's feel that property rights rule, I believe this is changing or must change. The sooner we as a community feel that owning farmland is not a right but it's a responsibility and the sooner we become more cohesive and a resilient community that's the better use of those dwindling resources. Just as river front and wetlands properties require special attention, so do farmlands. So I'll end with the fact that it's important to realize the progress that has been made

on a State level that mandates mitigation of farmland. I hope that you will take OPG's recommendation and denial. Thank you.

Peggy Morrison read a letter from Ed & Laura Taylor: I live at 4415 South Avenue West. I was a member of the Target Range Neighborhood Plan Working Group. I'm also a member of the Target Range Homeowners Association, as well as a 13 acre owner of hay land that I raise to feed my own horse and the horses in the neighborhood. Ed & Laura Taylor had to work today and asked if I would bring this to you. (Letter)

There are a couple things I would like to mention in regard to the information that has been put before you this afternoon. Clustering back in 2005 when the west end zoning was put into effect meant taking a parcel of land, plunking all of your development in one corner, leaving the rest of it open so that it could in the future be built upon. And this was something that those of us that lived on the west end area said; we don't want to see that over here. There was a prime example of it on the corner of 7th & Clements and that was our model that we did not want to see. The difference between the definition of clustering as we used it in the west end zoning district and the current conservation design development is that any open land that remains is in perpetuity. So once the design is put into effect, putting the houses on smaller parcels of land, that open space that remains will remain in perpetuity. There will be no and can be no intention to further develop it. So when we use clustering and we use the term conservation design development we really are talking two different philosophies and I would hope that could be kept in mind. I would also like to reiterate Tim's comment that it seems and we heard this clear back when dealing with UFDA when it was in the draft stages that trends are to smaller pieces of land and with a cluster design development people can have smaller pieces of land and still have the open space around them. Farmers Markets ~ wonderful places. We have two small farmers markets in our area, one at Orchard Homes Country Life Club and one at the Target Range Grade School, the Target Range Farmers Market. We see land to table, farm to table, production of a sustainable food crop here where people can buy local and not pay transportation expenses. I would ask that you deny Reilly Acres as proposed and ask them to please go back and consider some of the conservation design development options that are out there. Thank you.

Bonnie Buckingham: Executive Director of the Community Food and Agriculture Coalition (CFAC). As you know, CFAC is a grass roots organization working to develop a sub sustainable and just local food system, one in which farmers and ranchers make a decent living, while people of all economic backgrounds have access to fresh healthy local food. And our success in these areas really depends on the vibrancy of working farms and ranches and without the land we cannot support a local food system. Over the past several years now CFAC and residents of Missoula County have come before you consistently voicing our concerns. Reilly Acres is our 30th subdivision. We have had some incremental progress; 250 acres have been permanently protected for Ag land as a condition for approval but even when the impacts have been entirely unmitigated warranted and obvious denial as is the case with Reilly Acres we have been largely unsuccessful in getting positive results. Reviewing individual subdivisions for their impacts to agriculture and by extension community food security is a messy and unpredictable process for everyone involved. We need commitment from you to create that predictable development review process. In was back in 2010 that CFAC released our report, Losing Ground and proposed a multi-prong and comprehensive approach to address the loss of farmland and to create a predictable development review process. Now two years later, we are still coming back subdivision by subdivision with little success in curbing the trend in development on our most fertile soils. Now is the critical time to stop this trend until a predictable review process is in place. I, along with the other people that have spoken, urge you to deny Reilly Acres as it is proposed today for the reasons already discussed and to commit to upholding your promise made late last winter to move forward with farmland conservation policy. Instead of approving every subdivision until such policy is in place, lets deny them until we have that clear and understandable policy. We are losing the very foundation of our food security in this county. And you not only have the power to change that, but you have a clear mandate from Montana State Law, as well as from the people who chose to live and work and eat here. Thank you.

Bob Rangitsch: I live NE of Ovando on 300+ acres. 48 years ago when my parents moved to the current location of Reilly Acres, I was involved with my father to put the hay up and to put a few horses on it, run a few cows that my grandfather wanted to tinker with in his old age. My overall thoughts in hearing everybody's response is I surely deeply admit the feasibility of denying this project seems not very economically sensible or practical. One point that I would like to bring up and I'm not a lawyer and I'm not a planner but in a one acre plot, it would seem to me and heard from other folks, rather than turn that back 1/2 of that one acre into weeds and sod, the land owner would have the opportunity to put in a garden. He could call that Joe Smith Gardens or whatever and make it a commercial type of operation, if that's legal and doesn't avoid any legal confrontation or zoning problems and still support the local farmers market. Surely with 1/2 an acre there's a lot of potential for that happening. I can't deny that there are some soils out there that would be conducive to farming. I personally helped my dad dig many fence posts out there by hand and I can concur that there was some top soil on top, but there was also a lot of rock and sand and specific clay as we dug deeper. I can remember picking up surface rocks that were very prominent throughout the whole property. So there are rocks out there but it doesn't make it not feasible for farming, I realize that, I live in the Blackfoot Valley and we have rocks up there. I raise 200-240 acres of hay in Ovando, so I'm well versed on the cost of hay. I was somewhat surprised that the quoted figure before was pushing \$200/ton. I raise certified wheat seed-free hay; I have a lot of Missoula customers that buy that for the sack of not introducing more weeds. My price this year is \$150/ton for wheat seed-free certified hay and actually that price might be just a little bit high in this market condition from last year but that's my going rate, my asking price. I get about 2 tons per acre and I'm irrigated with a pivot system. The feasibility of quoting something—what dad used to run there, if we got 4 tons an acre, I would be surprised. There's another cost factor in agriculture that wasn't mentioned besides the cost of the land, it does have to be fertilized, it does have to be irrigated and that all costs money. You have to have pumps, you have to have the cost of fertilizer, you've got herbicides issues. Weeds are a problem, especially in Missoula County. Powell

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County has some incentives for land owners like myself to compensate us to maintain some control of weeds. In addition to farming, another expenditure - there is the equipment required. Now granted, depending on the type of farm product that you want to produce, maybe the equipment isn't as costly as haying equipment. We never farmed it, we had a few cows, we put up enough hay for our critters but that was about it. My dad didn't believe in too much fertilizer or too much herbicide, the cost didn't seem to outweigh the benefit for him at that time and in the era of those years, I don't think it was a critical as it is right now. The other thing that jumps out at me, we're talking about denying agricultural land, I live in a very rural area of course but aren't we also denying or possibly denying the opportunity for red blooded Americans to raise a family in a rural setting, on a small piece of acreage? A young family starting off can't afford to buy a 10-20 acre plot and raise a family and get them off to school and produce an income that would support that, they need an area that's close to town, that they can get a job and they still want the rural area. Are we denying those people the opportunity to pursue that? It's not like we're surrounded in that particular development by agricultural land. There's a move in America to move towards rural areas and if this is a semi-rural area on one acre, I question whether or not we're denying some good American rights to purchase something that they feel comfortable with to raise a family life. I know it's been mentioned before that this plan was originally started by my father in 1994 or whenever it was before he passed away and his intent was to continue it on and maybe that has no creditability. We did try to honor the 205 zoning change, which happened after the original subdivision north of the property that dad had and we held back, we didn't try to ram that through before he passed away or before the 205 zoning change, knowing that something was happening. We tried to preserve what was coming, in lieu of trying to preserve that. So I guess the big things that have crossed my mind is being a rancher myself and knowing what acreage is required and we have a garden up in Ovando and it's a very productive garden, probably the size of this room, it feeds us and we supply a couple neighbors with vegetables. It seems to me that if it fits within the legal guidelines in the covenants and the zoning for a landowner of one acre to have one half of that or some part of it as a source of income, not necessarily a lot of income but to supply local produce to the community, that option is there. If I'm wrong legally to make that possible or not then I stand corrected, I haven't talked to Alan about that. That's about it. I grew up on the land, I helped a lot there. I know that dad tried very hard to keep his horses and mules going. We put up a little hay and sold some hay on the side, it was a venture to make money on the side for recreational use and for the sake of my grandfather to raise a few cows. He flood irrigated it at that time in the beginning that was a real pain in the neck trying to get enough water to every spot on the property that would support a production. Now with pumps and irrigation systems that's totally feasible. Oh, the other thing, the pipeline potential; one of the things in the Ovando/Blackfoot Valley -from NCRS and numerous agencies is a serious consideration of use of pipelines. It was mentioned earlier that maybe that's not feasible, wouldn't work; well under proper design and proper consideration that would work. You can put individual water monitoring systems on each head gate, to each parcel. Underground water pipes are actually more efficient and you're not getting the loss of the soils or evaporation and the amount of water that it would take to irrigate -any specific amount would be enhanced, rather than an open ditch. I think the pipeline possibility or offering that easement to the owners that are not affected by the ditch is totally viable and very potentially useful for them, if they so desire. Those are my big points and if anybody has questions I'd sure be available to talk.

Patty Rangitsch: I grew up out in Target Range too. I have a home out there now at 2840 Ringo Drive and I remember when we put the house in, the soil was very rocky, to this day I'm still picking up good sized rocks and trying to get them out of the lawnmowers way. There was a lot of clay and a lot of sand and I know that our toilets and stuff have a lot of sand in them to this day and we built the home in 1994. As far as everything else, it's been very difficult to sit still and not say a lot about this but one of my biggest things that comes to my mind ~ we lost my dad in 2004 and my mother in 2006 and three of us live right out in the area. In all that time, not one single person ever came forward, ever came to us and said; would you be interested in selling a piece of land down the road for agricultural purposes; farming, grazing horses? We all try to be real neighborly; I would assume someone would have come forth before this point to say something about all of this. I have never heard a word about it; it just struck me as really odd that everyone in that neighborhood and all the people that have come forward in the surrounding area have never approached us about that. Would you consider selling hay, putting hay through again, that type of thing? That particular land, the flat land has been vacant and not irrigated because we all work and can't. The system isn't feasible anymore so it dried out and has become quite unsightly, so I'm really surprised we weren't approached by anybody, at any time. Thank you.

Brandy Snider: I live in Target Range. I've lived there since about 1991 over behind Dale's Dairy. My husband and I bought a parcel, 5 acres of knapweed, later turned that into hay. I raised llamas, horses and then we subdivided and we did one acre parcels. I'm also in real estate. Twelve years ago my husband and I bought and sold over 9 residences in Target Range on an acre or more. We've had people knock on our doors and buy our homes because they're on an acre and there's room. There's room to grow gardens, there's room for children and there's room for your dogs. Now being in real estate I do understand that we are getting older and there is a need for main level housing in this community; main level town homes, main level condos, whatever and we are working on that. However, there's a really big need for people to have their own space. I would give anything to have Fred as my neighbor because Rose Crest Park is behind me 80% maybe 75% of that park is nap weed. It's been knapweed since we first bought our property, the owners at the east end, we've worked really hard to irrigate it, mow it, and we get no assistance from County Parks. The other end is full knapweed and we try to plow down in the summer, through the knapweeds so there's a path down there. I would give anything if someone like Fred would come along; work with us and plant apple trees. Another thing they could look at is perhaps planting apple trees along the irrigation ditch to accommodate people, which I think would be a great idea and would keep it simple. I fully support this subdivision and Jennifer Taylor from Prudential Montana who's available if you'd like to call her also would support it. I'm also on the Government Affairs for the Missoula Organization of Realtors, which we've been discussing it. I think what we need is quality homes, in a quality location with the opportunity for people to have a quality life style and I think that's what this subdivision offers.

Jerry Ford: I've been listening to all of this and made me think, Missoula has more non-profit organizations than any other city in Montana. And with the size of land they're talking about here, I'm also a CPA and a real estate broker and I prepare a lot of the returns for the farmers around here, which we were farmers somewhat too ~ I don't see anybody making any money on anything the size they're talking about. They put in a lot of work and produce a lot of good things, which is great but they don't make any money so I don't know how you're ever going to do that. This development, I listened to it in here today that one acre sized lots complies with a lot of things and everything I could hear, there's 17 acres left there for natural and all that. And the owners from what I'm hearing today are trying to comply with everything that you're requesting, so I really urge you to work with them and make this subdivision work. Thank you.

Commissioner Carey: I'd like to note that we've received quite a few emails on this and it's pretty well split between pro and con.

Commissioner Landquist: I haven't seen any of these from today (emails) but I know the ones that I was keeping track of that came in prior to that, some are from today and some of the same people are here today. What I did have was 25 against it, 6 for it and there were 2 oddly enough, one that was for it and one that was against it that both suggested clustering, it's my understanding that due to the fact that is zoning, with a minimum of one acre, unless they were to come in and undue that zoning, clustering's not an option for that at this juncture. That's the beginning of one of the things I wanted to point out as to why we're not looking at clustering there at this juncture or why the developer and his rep weren't able to look at it, so I'll leave it at that at this point.

James McCubbin: I have a few comments on some legal things but mostly record keeping as well. There have been a number of documents referenced by various comments and I don't think we have all of those referenced documents in the record, so I'd recommend that those be included. Tim, if you could help me out, there was reference to the Growth Policy, I don't see that referenced in the staff report so I suggest that be added. The neighborhood plan is but I don't think the growth policy is. There's discussion of the City-County Health Code, at least Regulation 1 by Jim Carlson, so that should be added as a reference in the record. There was a reference to a prior report that you had received from the University of Montana Land Use Clinic at the Law School, can't remember the exact title of that ~ that was not too long ago, so we should have that; that should be referenced in the record. And there was a reference from Ms. Buckingham to a 2010 CFAC Report, I think she said it was called 'Losing Ground', that sounded like it was incorporated in her comments but I don't think we have a copy of that in our records, I assume Tim probably has that I don't personally recall that. So that should be added.

On a procedural note, Commissioner Landquist just mentioned that you've just received a few emails, you previously had most of the emails that have been received but I do suggest that we take a 5 minute break before your deliberations so you have time to actually read those and consider them, would be my recommendation.

Going through some of the comments that had legal things to talk about; In Mr. Martinsen's presentation he discussed the driveway to the southernmost lot as being in substantial compliance with the width in our regulations for fire access, he was asking that they not have to improve that driveway further if the subdivision is approved. I note that if it's not meeting a width requirement, it would need to be required to be improved to that standard because it's a regulatory requirement, unless there's a variance. As far as I know there's not a request for a variance on that, so I don't think without a variance request that you can accommodate that request.

With regard to Mr. Carlson's comments, I think those comments put us into quite a bit of a quandary as to whether the subdivision application is sufficient at this point if it doesn't have information about a sanitation plan that can be approved under our health code. I'm looking at Tim, maybe he can ponder that for a moment or if you have thoughts.

Tim Worley: Greg Martinsen might be able to speak to it as well, but to my understanding they submitted specifications for a sewer main in the street and then a dry lay connection in each lot that were at least from the City Engineers perspective, I didn't hear anything from Health to contrary. From the City Engineers perspective it met the Wastewater Treatment Plant service area guidelines, I guess, or engineering guidelines for what that needs to look like.

James McCubbin: Unfortunately Jim had to leave but my understanding from his comments was that we don't have findings that allow us to do other than to require a community sewer treatment system for the subdivision.

Tim Worley: My understanding was that they have an either or choice.

Commissioner Curtiss: No, I think it's a little more strict than that. City Engineer could make that finding but it's not in the letter.

James McCubbin: So we don't have it at this point.

Commissioner Curtiss: They'd have to. So if they can't show...the design of the dry laid system has to meet City Public Works criteria and it has to be preferable in a given instance to a community system because it would either be less expensive to connect to in the future or because it's not feasible to do a multi-family system so I think there would just have to be some more information from Public Works.

James McCubbin: Normally we would call this a sufficiency issue if we caught it at the sufficiency stage. At this point if you determine that the subdivision should be approved then probably the way we could deal with that is add a condition of approval requiring that we have a statement of those findings

by the City Public Works Department before final plat is approved. If that can't be had then it seems that the City-County Health Code would require a community system. (Portion of the audio is mumbled....)

Greg Martinsen: I would say that's just a minor technicality that we can take care of.

James McCubbin: Okay. I understand the specifications for the line meet the requirements; it's just this other element. So if we did a condition, if there's an approval, sounds like that would cover that. It's just something that came up that would need to be addressed, if there's an approval. I find it interesting that both proponents of the subdivision and opponents of the subdivision all agree that we need to have a more comprehensive agricultural policy of some kind and because you know that I always like to agree with everybody, I'm going to agree with that as well.

I have a few things that Alan McCormick in particular had commented on, put two lawyers in a room and we're likely not to agree with each other on everything and that's the case here. Mr. McCormick sighted to Finding #27 in the proposed findings that staff had prepared as being an incorrect statement of law. I disagree with that. The finding at #27, sights to the Missoula County Subdivision Regulations, not to the statute. The subdivision regulations at the section sighted, which is 4.1.13 sub 2b, does have the language that's sighted in that finding. The regulations read that...and the regulations summarize the Montana Subdivision Platting Act and the Subdivision Platting Act doesn't say this but the subdivision regulations can also add refinements in our interpretation and application of the law. So perhaps the phraseology of the regulation is not ideal, to that extent I'll agree with Alan but the regulations require; the Montana Subdivision and Platting Act, including whether the proposed subdivision has been designed so that it does not have an adverse impact on the criteria listed below. Pursuant to 7636083 etc, it goes on to discuss the various subdivision impacts. So the indication from our subdivision regulations is that you look to the design of the subdivisions, not just the other ways the subdivision might affect the various criteria. Maybe I'm splitting hairs here but I think that Tim did sight correctly towards our subdivision regs; it's just what I was trying to get at there.

Alan had also discussed his position and I'm sure Alan will stand up and correct me if I summarize him incorrectly; that you should weight the impacts upon the various subdivision review criteria. I disagree with that. I think as a policy matter that probably should be the way things go but that is not the way that I read current State law. A number of years ago and I'm going to have to come up with this date because I discussed it with Planning Board too and forgot to look up the date. A number of years ago the legislature removed from the subdivision review criteria what there used to be was a consideration of the public or community interest, I can't remember the exact words but it was to that effect and some of you may recall that. I think when that was a factor it would be hard to determine the community interest without weighting the various impacts, but we don't have that as a tool anymore, I'm not really clear as to why it was taken out. I think there was a concern that it was interfering development because a lot of comments you would get and other County Commissioners would get, would be; we don't like this because it's bad for the community so deny it, so I think the thought was having that personal 'I like it' or 'I don't like it' factor was not appropriate in subdivision review, so it got taken out. Now what we have under State law and as refined in our subdivision regulations is you look at these listed things. We have the primary review criteria and then we also have things like compliance with zoning, compliance with the growth policy to a certain effect, not as a sole factor and so on. The current statutes don't really say; look at the criteria and then decide are you affecting one more than others and have you mitigated one enough that you can ignore another one, that's not what we've got. You have to look at each and every one of the criteria and determine whether there's likely to be adverse impacts and whether they're adequately mitigated. I think the clear reading of that statute is it's on a criterion by criterion bases, it's not a weight impacts on 3 out of the 7, or something like that...again, not sure that's a great policy position but that's the law that we've got that we need to operate under.

Commissioner Landquist: We need to weight each one?

James McCubbin: No, I'm saying that you should not or that you have to consider each one individually, not weight one against another. That's my reading of the law.

With respect to the zoning, again you can't approve a subdivision that's not compliant with zoning but compliance with zoning doesn't mean that you don't go through the review criteria with respect to that subdivision review. The zoning and the subdivision are related, they're land use reviews that we have in Montana but zoning approval does not equate to subdivision approval and it's not an entitlement to subdivision approval either. Maybe it should be but that's really policy argument for the legislature than for us here today. Regardless of whether its zoning compliant, I think the only super relevance that we have is, if it's not compliant with zoning you can't approve it but if it is compliant with zoning you still have to go through the subdivision review criteria and determine whether those impacts and whether they're adequately mitigated.

Going back to that overall Ag policy and a number of people have commented, Alan had included this but there are other comments that (in auditable) review of impacts particularly on Agriculture but of any impacts on a subdivision by subdivision basis is really not a great way of going about doing things. I agree with that but again that's a policy argument for the legislature and hopefully they'll be hearing things because I think these comments are getting to them over time but we've got the law that we've got. I believe that's all the things that I felt the need to comment on.

Alan McCormick: I just want to briefly make reference to what James and I are talking about with the weighting of the criteria and I'm looking at the statute here, 7636083 is the primary criteria. And State law says that subdivision must undergo review for the following primary criteria and that's on agriculture, wildlife, public health and safety, all those sorts of things. But 763608, sub section 2 says the governing body shall issue written findings of fact that weight the criteria in sub section 3. That's where my comments came from. I don't know what James is talking about, James is referring back to the old days when we had the public interest criteria, we had to take into consideration where things were publicly warranted or not, that disappeared in 1993 but there's still this obligation to weight

criteria. This is really an academic conversation, it's probably interesting only to James and I but since he put that on the record I thought I'd put the counter on the record for that too.

Commissioner Carey: Before we take a 5 minute break, let's be clear about what what's before us. We're looking at whether or not the developer has mitigated the negative impacts to agriculture and to water facilities, correct?

James McCubbin: I think that's part of it but before you get to that you have to determine; are there negative impacts of the subdivision on each of the review criteria? And as long as I've got the mic, I agree with Alan's quote of the statue, just my reading of that is and 'weight' is not a great word but it's that you look at each of the criteria individually and I'm speaking from having read the case law and so forth. Alan and I could disagree about that all day long but ...I think you do need to determine whether there's an impact and then if there's an impact whether it's negative.

Commissioner Curtiss: I would like to thank everyone today for their input, as you can see it's not an easy thing and that's exactly why we don't have a policy done yet. It's not easy. We do have that assigned to our open land committee and they've been bringing things forward and we will work on that. I guess the thing to me is that as you look through here you have to have balance to life in what we weight, it says that we have to weight things but that doesn't mean that if I put four things on this side and three on the other that it doesn't become equal. It depends on what the important value is to protect each one. I think you can compare it in some ways to the fact that in the swan we have grizzly corridors that people have to protect. They were arrived at because they protected the corridors that were left existing with the land use that was in place. So if you already had a house there you weren't in the grizzly corridor but it might walk right by you. So now if I want to build a house where it's really clustered next to you, I might be in that corridor and it needs to be protected to provide that. In some ways this is the same. I was thinking about it yesterday, I remember the Hughes Gardens that were out in the valley, in the canyon and we just put a huge housing dense development on top of what used to be great gardens, I don't know if we could of dug deep enough to find that soil now or not because there's been other things there; there's been a parking lot and an athletic club and that kind of thing. It is true it takes a while to make dirt soil that grows well. I believe that looking at this particular subdivision and what needs to be protected here There are some things that the project addresses, like hillside and some wildlife habitat and things that are important to protect but there's also that Ag soil and the Ag water users stuff, which it sounds like there might be an alternative to protect that piece. Whether we like it or not, it's been defined as to the impacts on an Ag enterprise or on Ag lands defined by statue, it isn't just land that was Hughes Gardens or that's Benson's Gardens or that you raise 100 cows on, it's the potential. I just don't see that this subdivision has mitigated that piece and I'm willing to let you have time to mitigate that and come back with that. I think we can all kind of design what it might look like in our minds but that's not our job. Like it or not garden scale, somebody having a garden in the back yard doesn't qualify as Ag mitigation.

The other piece is the zoning. Zoning in this case it's the maximum density that the zoning there would allow just one lot. One house per minimum lot size of an acre but the land itself always trumps zoning too, the land could be too steep, land could be too wet, land could be critical habitat and in this case the land has agricultural lands and agricultural water use facilities that need to be protected. While zoning gives some development rights for sure and since both of you are sitting here and you were here when you wanted to zone it this way, I told you from the beginning I didn't think it was a good idea because it would not allow clustering in the future. I know that your picture of cluster and what that meant and compared to conservation development was different and you probably understand it better now but I think the same thing could of happened and we could of been looking at a different subdivision with some different flexibility in that zoning.

Greg Martinsen: We could take you up on that offer Jean ~ more time. To work on it a little bit with you?

Commissioner Curtiss: We can't design it but we can help, we're willing to give you some ideas. The reason we have to have more time is I think it has to be done by April 10th, so you'd have to give an extension.

Greg Martinsen: Then we will. Three weeks from today?

Commissioner Curtiss: I think we're scheduled to meet on the 18th this month. We can set special meetings, if it fits our schedule.

Tim Worley: I'd like to tap James on this as far as what constitutes an amended application.

Commissioner Curtiss: That's the trouble when it's amended and when it's new.

James McCubbin: If we're going to discuss ways to potentially mitigate the impacts, I think that's entirely appropriate, but that is going to be a factor in our discussion is how far can we go through with conditions in mitigation versus what's redesign that requires a new public process? It's a judgment call that we'll have to deal with as we look at different possibilities.

Commissioner Carey: Put that on the record please Tim.

Tim Worley: I'll be relatively brief because I think the findings under the Ag and Ag water section largely do the trick, but for us we pretty much reference the local subdivision regulations in seeing this landscape, at least the flatter portion where you have the 11 of the 12 lots as meeting the definition of Agricultural land because of prime soils and soils of state wide importance. You don't even have the lesser category in there, the local importance, you have the two higher tier soils of importance with the

former being 90+% of that flatter landscape. So you have agricultural land by definition from the subdivision regulations, you have 11 of the 12 lots being around at one acre and located on that prime soil and soils of state wide importance landscape of the flatter portion. You also have an irrigation ditch resource that currently cuts through and un-subdivided parcel and some of that water will be extended to the lots south of the extension of Ringo Drive but north of the extension of Ringo Drive those lots wouldn't have access to Ag water although there was some proposals today as to how that might get piped in the future ~ that's not part of the application, per say, right now. So in essence what you have is you have an impact to Agriculture by a definition, you have an impact to agriculture water user facilities by a definition and there's actually a finding that points to proposed subdivision are associated improvements that will alter the movement or availability of water, that's what I spoke to in my PowerPoint presentation. Since you have both of those things coupled together we think that those two criterion that there's an unmitigated impact to those two criteria.

Commissioner Curtiss: So you know, I have to go to Helena three weeks from today, so it would have to be four weeks; two weeks or four weeks.

Tim Worley: I'm not exactly sure how best to proceed with this, our back pocket response if this were to go in the approval direction is that we would probably need something more like six weeks to craft conditions that we would then work with Greg on and then bring before Public Works, bring before the Health Department, bring before Missoula Rural Fire to get their review of conditions of approval. I don't know if that's what we're talking about, sounds like we're talking about an updated or newer application but as far as our time frame, we were thinking more like six weeks to bring it all the way back around.

James McCubbin: And I think that's a good point because going from a set of findings for denial versus a set findings for conditional approval is going to take some work. However, I note that if Tim ends up feeling or collectively end up feeling that this needs to go back out for agency review, we've probably gone too far. If it requires additional review by people to figure out if the mitigation would be appropriate, we're probably talking about a new subdivision application. Normally if you are crafting conditions of approval you don't have another hearing on conditions of approval, you do that at the closing of a public hearing. So we don't have sufficient information for you to do that, I think that's sort of a witness test, if you will, as to what's going too far on conditions. That's certainly a very broad, grey line but I think we really feel that if you have to get more agency comment to decide if it's going to work or not, you've probably gone too far. That's not to say it's not worth trying, it's definitely worth having some meetings and we'll have probably staff with the development team and figure out a way to make something work.

Commissioner Curtiss: So we shouldn't close this hearing but rather recess it?

James McCubbin: That's probably most appropriate. I think we need to get a stipulation with the development team as to which...

Commissioner Landquist: Does that also mean that we don't make a determination as to whether we are approving it or denying it? Because if we deny it, then it has to go back through?

James McCubbin: Correct. Particularly if you're leaving the hearing open, it's preliminary to make any determinations. So I don't think we actually need a written request for an extension, the way I'm reading the law in the subdivision regs, as long as we have it clear in the record as to what we're all agreeing to in terms of an extension. So we can either set a firm date, might be the cleanest way to have a follow-up or...and then if we haven't gotten to the point where we're ready for that meeting then we can get another request for an extension in writing and just further extend it out.

Commissioner Carey: So the proposal now is to recess it for six weeks?

Commissioner Curtiss: That's okay with the developer?

Commissioner Carey: Yes.

Commissioner Landquist: Can I speak to some of the things about this? I also want to take the time to thank everybody today for attending this meeting and adding your input, it's all invaluable and you can tell that we're all wrestling with this right now; it's not just the Ag land. I want to preserve Ag land as much as anyone else but then I want to preserve the rights for someone to develop their property, if that's what they deem they need to do. I did go out and look at that piece of property and it did speak to me, in a number of ways; really nice homes, really nice lawns, well kept. I could visualize the other houses fitting into the neighborhood continuity, going with the neighborhood plan, going with the zoning but then I looked at the irrigation ditch and I look at the original primary property. I saw the out buildings and the fruit trees and I saw healthy fruit trees and I saw healthy ground, it's been well taken care of. I know that one of the Rangitsch's spoke about how it looks so unsightly; I saw no noxious weeds on the place. I saw good soils, good grasses, I saw deer coming off the side of the bluff by the trees so I can appreciate. I've read the plan and I can appreciate the things that have been ~ the measures that have been taken to protect the little wildlife corridor there. What you're looking at is sidewalks, but I also struggle with the things that maybe could have gone one step further. I also appreciate the family and the long range goals; this is just completing one of the steps that were outline in 1994. But this again, I imagine this primary subdivision that initiated carving up this ground was different then the way they were doing it. By today's standards, as far as when a subdivision comes in, they're looking at doing it in phases and having these portions of the plan done by certain dates so they have phase 1, phase 2, phase 3 and this would have been the last phase of however many phases that it's taken you to get to this point. The Commissioners recently spoke with various

departments and staff folks who work on these subdivisions to ask them if they had any of the same concerns we were feeling, about these phasing plans. Feeling like how applicable is a phasing plan, the last stage of the phasing plan and if it's going to be moved so far out that traffic patterns have changed or other things didn't happen that made that subdivision make sense that point and time. We were all kind of struggling with it every time one came up to us for yet another ~ well they just want to do this last one in 20 years. We had to do our transportation plans and our other land use plans every so many years so how applicable how much did that make sense? So what we have come up with is staff all looked at it, we've all looked at it is that 10 years seems to be the time limit that we've all expressed the concerns for extending these preliminary plat periods for the final phases, can't be any greater than 10 years after the original approval period. This is a good case and point because back when you were doing those beginning stages of the subdivision, Missoula County it was real typical on the subdivision applications for all to say, 'no significant impact to Ag land', that's how it was mitigated for that sign-off statement and we can't do that anymore. We have to look at that with the rest of the things. The State has for many years now expected us and required us and we're sworn to our oath to uphold the State Laws and mitigating for Ag land and loss of Ag land and water uses. There's one of those and that's the primary things that really bothered me about this, let alone you weren't maybe leaving enough with the original property to use the Ag land that's there and the out buildings and that that would of sufficed for me. But I've heard some other really good ideas here today so I'm open to other things as well but that primarily was the big hitter for me because I struggle with as I was reading the application. I started at the beginning and I didn't like the idea that people could be in the Missoula irrigation district and not have water, then I got to the point where the letter came from the irrigation district that said if it's one acre or more it has to have water. Then I saw the letter after that that says, no if you do this and this and this, so I like the water issues straightened out however you figure out to mitigate the laws of Ag land and or the water transportation system for that Ag land. I do have a problem, maybe its status quo, but I think there's got to be a way to de-annex yourself from the district. I have a problem with people paying for services they are never going to get so if they're in the district they should have access to that water. We are still struggling with an adequate and fair equitable, ethical way to apply the law when it comes to Ag land, each piece of property is going to have its special features to that property just like this particular piece of property has that scenic value that the bluff provides and the wildlife corridor and it has the Ag soils. Some other properties are going to have other special features, water frontage, more forestry, whatever, there's a whole lot of criteria checklist that we have to look at as well as zoning and land use plans. I said this a zillion times in the small time that I've been a Commissioner, we've already built on the easy portions of land and they're going to get harder and harder from here on out. I'm also looking forward to the day that we have an equitable and predictable way of mitigating for Ag land. I'm also appreciative to CFAC and the amount of outreach that you've done as an organization and the people that understand and appreciate and support your mission and your message, but I guess I can't urge you enough because of the support that you have to please add another prong to your organization. I don't think that we'll ever have the tools or options to offer people without being able to help purchase those development rights. So far I'm not thrilled with anything that I'm hearing because I think we're going to need a lot of different tools in our toolbox to help mitigate and offset Ag land losses ~ that's a huge concern for me at this point. Nothing is set in stone, it's the path that we've gone to employ the Open Lands Committee and then to go to the Planning Board and then to us but it's going to be a recommendation, like other recommendations and it still has lots of public process to go. I think that sums up what I wanted to say here. I'm glad if we have the opportunity to have the developers work on this a little bit more, it really isn't our job to redesign it, but I think Tim there's plenty of evidence in the record, as he was moving along, that well we don't have anything set in stone for what's expected for mitigation. The law is pretty clear on a few of these things and if you would of come up and done some water irrigation mitigation before maybe this would of looked differently to the planning board too, I don't know.

Commissioner Carey: For me, there's an obvious and significant impact on prime soils when you put 11 houses on top of it, so hopefully we can work something out. We're willing to take a look at it.

This hearing is in recess six weeks from today, tentatively ~ May 16th.

7. OTHER BUSINESS - None

8. RECESS

Being no further business to come before the Board, the Commissioners were in recess.

THURSDAY, APRIL 5, 2012

BCC met in regular session; all three present.

ADMINISTRATIVE MEETING

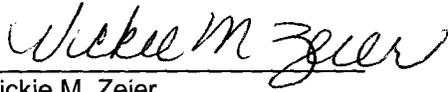
Renewal Agreement – BC signed. Between County, Western MT Mental Health Center and HUD for FY 2011 Share House Continuum of Care grant (#MT0015B8T001103). Amount/\$147,498 (County to receive \$3,687.45 for administering grant). Originals to Melissa Gordon/OPG.

Board Appointment – BCC appointed Barbara Martens to replace Commissioner Bill Carey on the Airport Authority. This term is retroactive from January 1, 2012 through December 31, 2016. Two County Employees (appointed by BCC) are required to serve on the Airport Authority.

Additional discussion item(s): 1) Maclay Bridge update; 2) Riverview Drive Bridge TSEP Grant Application

FRIDAY, APRIL 6, 2012

BCC did not meet in regular session. BC and ML out of office all day.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chair
BCC

MONDAY, APRIL 9, 2012

BCC met in regular session; all three present. Late morning: ML and JC attended City Club "Reaching Home" meeting (JC Co-Presenter).

Indemnity Bond – BC signed. Big Bear Sign Co., Inc., Missoula, Principal for AP/Claims Warrant #27-236607, issued September 9, 2011 on County Building Reserve Fund. Amount/\$471 (for parking signs). Warrant lost.

Monthly Report - JC examined/approved/ordered filed the Monthly Reconciliation Report for Justice Court 1, John E. Odlin, Justice of the Peace, for month ending February 29, 2012.

Monthly Report - JC examined/approved/ordered filed the Monthly Reconciliation Report for Justice Court 2, Karen A. Orzech, Justice of the Peace, for month ending February 29, 2012.

Monthly Report - BC examined/approved/ordered filed Monthly Reconciliation Report for Clerk of District Court, Shirley E. Faust, for month ending February 29, 2012.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) OPG Director's update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Parks Projects update; 3) Dry Gulch Access Road update; 4) Communications; 5) Director's update.

TUESDAY, APRIL 10, 2012

BCC met in regular session; all three present. Early afternoon: JC attended Geographic Local Fire Management Leadership Workshop (Neighborhood Relations), held at Northern Rockies Training Center.

ADMINISTRATIVE MEETING

Proclamation – BCC signed, dated April 10, 2012. Declaring week of April 8-14, 2012 as National Public Safety Telecommunications Week, recognizing 9-1-1 Dispatchers for their efforts and hours and hard work under very difficult circumstances.

Interlocal Agreement – BCC signed. West Central Montana Drug Task Force – Local Drug Task Force Agreement for FY 2013, to combat drug-related trafficking, manufacturing and violence. Between County Sheriff's Office, Missoula Police Dept., County Attorney's Office, Ravalli County Sheriff's Office, Mineral County Sheriff's Office, Lake County Sheriff's Office, and Flathead Agency (Tribal Police). Renewal of existing grant for partial funding for one deputy, one county attorney, and one paralegal in Missoula County. Two originals to Mike Dominick/Sheriff's Dept.

Contract – BCC signed, dated April 10, 2012. #12-07-4-51-011-0 between County (PHC) and MT DPHHS for HIV Medical Case Management/Prevention Services. Amount/\$27,234. Term/January 1-December 31, 2012. Two originals to PHC.

Joint Resolution – County #2012-040; City #7686. BCC passed/adopted/signed, dated April 10, 2012. [City Council passed/adopted March 26, 2012]. Pertaining to amending the 2005 OPG Interlocal Agreement between Missoula County and City of Missoula. Entities will work together to negotiate a new interlocal agreement and notice is given pursuant to Section 11 of the current interlocal. One original each to County and City for recording.

Bid Award – BCC awarded bid for FY2012 Dust Abatement Program to WE Dust Control, lowest qualified bidder in amount of \$306,787.95. Approx. 80 miles of County roads will be dust abated. To Greg Robertson/Public Works.

Additional discussion item(s): None.

WEDNESDAY, APRIL 11, 2012

BCC met in regular session; all three present.

CAO MEETING

Letter – BCC approved/signed, dated April 11, 2012. To Jack Wilkinson c/o Territorial Landworks, Inc., Missoula, approving request for boundary line relocation between Tracts 1A & 1B of COS 6153 located in T 13 N, R 20 W, Section 25, PMM, Missoula County. Request does not evade MT Subdivision/Platting Act.

DUI Task Force Contract – BCC signed, between MCCHD and County Sheriff's Department to provide DUI-related enforcement/educational activities to reduce alcohol-involved traffic crashes (from Driver's License

Reinstatement Fees for term July 1, 2011-September 30, 2012). Amount/up to \$5,000. Two originals to Julie Mohr/MCCHD.

Contract – BCC signed, dated April 9, 2012. Between County and Lawn Care Services for mowing/maintenance care services for Cottage and Canyon View Parks (2012 growing season). Amount/up to \$2,550. Term/April 15-October 31, 2012. One original to Lisa Moisey/Parks.

Contracts – BCC signed. Between County and following for services at Western MT Fair 2012:

1. Harmony Artists, Inc., (Doo-Wah Riders Band) for two musical shows on August 10, 2012 (in two different locations). Amount/\$3,500.
2. Fast Track Entertainment, Inc., for Kids Pedal Tractor Pull Event. Term/August 7-12, 2012. Amount/\$5,450.
3. James & Beth Haar, Trackless Train, for train rides five hours per day, August 8-12, 2012. Amount/\$3,000.
4. Sankey Pro Rodeo Company for PBR Bullriding August 7-8, 2012 and PRCA Rodeo August 9-11, 2012. Amount/\$72,000.

One original to Fair.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated April 9, 2012. Amount/\$107,322.12. To County Auditor.

Additional discussion item(s): None.

NO PUBLIC MEETING HELD THIS DATE

Tax Abatement Requests – At meeting with Clerk & Recorder, BCC approved following letters dated April 12, 2012:

- 1) Denying request from Maria Umhey, Milltown, to cancel personal property taxes for Taxpayer ID #80516058. Certain limited circumstances do not apply to her case.
- 2) To David/Elsie Dodd, Richland, WA, for property to be "revalued" (Tax ID #5853352) due to devaluation/limited use of parcel. Request has been sent to DOR for review; BCC will make final decision in May 2012.
- 3) Denying request from C. Daniel Lessnau, Clinton, to refund penalty/interest for Tax ID #5856563. BCC has no legal authority to do so.
- 4) Approving request from Lori Kelley, Missoula, to refund motor vehicle taxes/fees paid for 2009 Subaru Outback.
- 5) Denying request from Rocky Mountain Biologicals Inc., Missoula, to waiver penalty/interest for Tax ID #80517669. BCC approved partial payments on monthly basis to Treasurer's Office.
- 6) To Timothy Dodd, Missoula, re: business personal property taxes for Tax ID #80684180. Parcel to be removed from uncollected delinquent taxes since business was sold in 2007.
- 7) To Alan Childs, Condon, re: business personal property taxes for Tax ID #80605340. Parcel cannot be removed from uncollected delinquent taxes submitted to DOR, but will not be turned over for collection.
- 8) Denying request from John Haller, Missoula, to refund motor vehicle taxes/fees paid for GMC Truck. Certain limited circumstances do not apply to his case.
- 9) Approving request from Myra Greene, Missoula, to back out 2nd half of 2011 tax payment/apply to 2010 delinquent taxes for Tax ID #3042208. Refund check will be issued for additional interest paid in 2011-2012 for 2010 taxes.
- 10) Approving request from David Fields, Missoula, to refund motor vehicle taxes paid for 1990 Ford Ranger.
- 11) Denying request from Dawn Aitken, Missoula, to refund motor vehicle taxes/fees paid for 1998 Van. Certain limited circumstances do not apply to her case.
- 12) To Jennie Webb, Condon, re: business personal property taxes for Tax ID #80515793. Parcel will be removed from uncollected delinquent taxes submitted to DOR. BCC will not turn over taxes for collection.
- 13) Approving request from Lon Ockler/Masonic Temple Assoc., Missoula, to abate/correct property taxes for years 2009-2011. DOR will correct and issue refund.

THURSDAY, APRIL 12, 2012

BCC met in regular session; all three present.

Indemnity Bond – BC signed. Frenchtown High School, Missoula, Principal for MCCHD Warrant #30218191, issued February 24, 2012. Amount/\$500 (for Ghost Out event). Warrant never received.

Indemnity Bond – BC signed. Community Medical Center, Missoula, Principal for Sheriff/Detention Warrant #210764, issued September 26, 2011 on County Expenditure Fund. Amount/\$267 (for August labs). Warrant lost.

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Indemnity Bond – BC signed. Mendenhall Equipment Co., Missoula, Principal for Sheriff/Detention Warrant #210764, issued December 12, 2011 on County Expenditure Fund. Amount/\$543.41. Warrant lost.

ADMINISTRATIVE MEETING

County Payroll Transmittal Sheet – BCC signed. Pay Period: 07/CY2012 - Pay Date/April 6, 2012. Total Payroll/\$1,250,097.44. To County Auditor.

Request – BCC approved variance to Purchasing/Contracts Policy for contractor selection process for Courthouse Renovation Project and LaLonde Ranch. Current policy does not specifically provide for certain variations on the selection process. To Barbara Berens/Auditor for further action.

Amended Agreement – BCC signed. Supersedes Agreement between County and MDT (signed in February of 2012) for Missoula to Lolo Trail Feasibility Study FY 2011 Public Lands Highway Discretionary grant funding. Amendment clarifies that \$20,000 in matching funds provided by County & City of Missoula is not subject to indirect cost allocation (IDC) levied by MDT. Two originals to Jeff Seaton/PW for further signatures/handling.

Bid Award – BCC awarded/BC signed bid for reconstruction of Upper Miller Creek Road to L.S. Jensen, lowest qualified bidder in amount of \$2,016,000. To Greg Robertson/PW.

Amended Agreement – BCC signed, dated April 12, 2012. Between County and Lloyd A. Twite Family Partnership (dated September 2, 2010) for Upper Miller Creek Road Project (Mockingbird Lane/Linda Vista Boulevard). Amendment memorializes revisions to scope of project to reduce costs. One original to Lloyd Twite.

Letter – BCC signed, dated April 12, 2012. To Lloyd Twite Family Partnership, Missoula, re: Upper Miller Creek Road Project, and stating it is County's intention to collect traffic mitigation fee as outlined in preliminary plat subdivision conditions for Invermere Subdivision. Funds will be transferred to City of Missoula as outlined in interlocal agreement between County and City, recorded January 28, 2008.

Additional discussion item(s): Bonita Bridge.

FRIDAY, APRIL 13, 2012

BCC met in regular session; quorum present. ML out of office all day.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chair
BCC

MONDAY, APRIL 16, 2012

BCC met in regular session; all three present. Afternoon: BCC met with Nick Engelfried, et al (Blue Skies Campaign).

Replacement Warrant - BC signed. Dorothy Wacholtz, Principal for MCPS Warrant #28-217876, issued April 6, 2012 on County Payroll Fund. Amount/\$231.58 (for wages). Not received in mail; no bond of indemnity required.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) Mahn Shoreline Permit; 3) Loose Caboose/SLR Fee Waiver request; 4) OPG Director's update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Planning Projects update; 3) Communications; 4) Director's update.

Shoreline Permit – BC signed. #12-08 for Applicants Dan/Andrea Mahn to replace roof/roof support structure, increase insulation, and replace stairway to dock landing at 4219 Highway 83 N, Owen Shore Lots, Lot #3, Lake Inez. Original to Mitch Doherty/OPG.

Letter – BCC signed, dated April 18, 2012. To Malcolm Lowe/The Loose Caboose LLC, conditionally approving request to waive current preliminary plan review, variance request and final plan review fees, subject to reduced fees of \$200 for preliminary plan review, \$100 per variance request, and \$50 for final plan review for Loose Caboose Subdivision for Lease/Rent.

TUESDAY, APRIL 17, 2012

BCC met in regular session; all three present. Evening: JC participated in *What Can We Do?* (Community Conversation re: Underage Drinking/Drug Abuse), held at Sentinel Auditorium. ML attended Shelby Water District Meeting. BC attended discussion on Missoula's coal train issue, held at UofM Campus.

ADMINISTRATIVE MEETING

Requests – Per Park Board's recommendation, BCC approved the following:

1. Expenditure of \$150 from Parks Fund for "Leave No Weeds" Program (to promote weed awareness for 5th grade students). To Lisa Moisey/Parks

2. Expenditure of up to \$2,882.50 from Parks Fund for needed repairs on five (5) dug-out roofs and two (2) backstop hoods at Fort Missoula Regional Park. To Lisa Moisey/Parks
3. Allow Horseman's Council to host "Dirty Dash" Event at Missoula Equestrian Park, September 15, 2012, subject to conditions. To Lisa Moisey/Parks.

Resolution No. 2012-041 – BCC signed, dated April 17, 2012. Budget Amendment for Public Works/Road & Bridge in amount of \$13,149 to transfer Salary & Benefits from Building Codes to Road Dept. for .5 FTE employee. For total disclosure, expenditures included in formal FY12 Operating Budget/Revenue Estimates for County.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated April 13, 2012. Amount/\$2,957.35. To County Auditor.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated April 17, 2012. Amount/\$4,409.01. To County Auditor.

Additional discussion item(s): 1) Milltown Farmer's Market on Black Bridge; 2) OPG reorganization.

WEDNESDAY, APRIL 18, 2012

BCC met in regular session; all three present. Noon: BC spoke at Rotary Club meeting.

CAO MEETING

Request – BCC approved request to rescind Asphalt Bid Award to LS Jensen and reject FY2012 Asphalt Bids for Public Works' maintenance program. A portable asphalt plant is going to be installed at Clearwater Junction for the Highway 83 South reconstruction project, and most of the County's FY2012 program was work in Seeley Lake. This move will save gas/improve efficiency (vs. hauling from Missoula). Staff will re-advertise the solicitation.

Request – Per Space Needs Project Team, BCC approved Owner's Project Requirements (OPR) for the Missoula County Historic Courthouse and Courthouse Annex Renovation Project, dated April 2012. This is a LEED required document intended to provide a clear path for the design team to follow. Design team will response will come in the form of the Basis of Design (BOD) document.

Resolution No. 2012-042 – BCC signed, dated April 18, 2012. Accepting/adopting findings of Environmental Assessment and determining that an Environmental Impact Statement is not necessary for the Riverview Drive Bridge replacement.

Letter – BCC signed, dated April 18, 2012. To Mr./Mrs. Brian Naugle, Missoula, informing them the US Board on Geographic Names has approved/applied the name *Sim-heh Creek* to the unnamed stream near the Naugle's home on Grizzly Mountain Road. *Sim-heh Creek* is an Anglicized spelling of *Smxe*, the Salish word for grizzly bear. The Naugles wished to have the creek named Grizzly Creek.

Additional discussion item(s): Public Works Departmental update.

SPECIAL PUBLIC MEETING – April 18, 2012

1. CALL TO ORDER

Commissioners Present: Commissioner (Chair) Bill Carey, Commissioner Michele Landquist, Commissioner Jean Curtiss

Staff Present: Erik Dickson, County Engineer, Road Department.

2. PLEDGE OF ALLEGIANCE

3. PUBLIC ANNOUNCEMENTS

April 21st - This weekend at the Historical Museum at Fort Missoula will be an opening of a new display, World War II Posters that won the war. Unique posters of WWII.

April 28th - Forestry Day at Fort Missoula 10-4. Logging competition, antique sawmill demonstration, logging equipment, forestry displays, chain saw carving, high wheel demonstrations. Go to www.forestrydays.com or call 546-9304.

Missoula County is gearing up for its 2nd Land Stewardship Award Program. Seeking outstanding land stewards, you can nominate yourself or someone else who's taken good care of their land and water and whatever kind of practices you've done on the land to show that you're taking good care of land, water, fish, wildlife and other ecosystems that might be a part of your property. Those nominations are generally due June 1st. You can contact the Missoula County Rural Initiatives Stewardship Award Program at www.co.missoula.mt.us/rural or call 258-3432 for more information.

4. PUBLIC COMMENT

None

5. ROUTINE ADMINISTRATIVE ACTIONS

Bi-Weekly Claims List (\$1,723,203.57)

Executive Session

Commissioner Landquist made motion that the Board of County Commissioners approve the Bi-Weekly Claims List in the amount of \$1,723,203.57. Commissioner Curtiss seconded the motion. The motion carried a vote of 3-0.

6. COMMENTS/DECISION

TSEP Grant Draft Environmental Assessment (Riverview Drive Bridge across Clearwater River) West of Seeley Lake

Erik Dickson read the staff report.

Brief description of the bridge; 100 feet long, imposed of five spans of mix and match steel structure and timber deck. Built possibly in 1967 or earlier, records aren't exactly clear but given the lack of construction records there's sort of a default date in our database as to when that was construction. It's built as a one lane bridge in 1982 a walkway was added to the upstream side so I think even almost 30 years ago there was evidence that the separation was needed. It wasn't until almost 30 years later in 2009 that the approach walkway was built from Hwy 83 West to the bridge, so I think it's clear that there's been some conflict between vehicles and pedestrians on that bridge. As a single lane bridge does not meet current design standards, so for the TSEP application in the do nothing option, I don't think it's very feasible. It does have a load limit on it now that was really a design feature that was inherent with the bridge when it was constructed. There's no real structural deterioration of the members indicating that the weight limit now is a result of deterioration, it's just a design error that was there originally and somewhat impacts how areas west of the bridge are accessed. When they had the fires in 2007/2008 west of Seeley, they had to use that bridge and we're technically and legally over weight but they needed the quickest access to get to that area. Things like that indicate that a replacement bridge is necessary.

Commissioner Landquist: What is the weight limit?

Erik Dickson: It's varied. For a tandem axel dump truck it will be 11 tons, for a logging truck I believe it would be 18 and for a logging truck with a pup trailer it would be 19 tons. That's based on MDT analysis in the late 90's. So aside from the structural inadequacies for emergency traffic there's also safety concerns as I mentioned because of the apparent need for the pedestrian walkway that was added and when that was added there was a non-standard pedestrian vehicular traffic separator installed, it does not meet any sort of current design standards, I don't think it could then. There's no end treatment, it's just a blunt end of two timber curbs that are bolted down to the decks so there's no really safe separation between the traffic and the pedestrians. Besides that being an old steel structure with a timber deck, there are continued maintenance problems, we've had to re-deck it three or four times in the past 25 or 30 years. It's an ongoing maintenance problem, timber decks and vehicular traffic just doesn't work well.

If we were to try to rehabilitate the structure with what's there, it would essentially require taking the bridge apart because of the structural design element that limits the weight limit, now we would have to add a fifth row of girders. So you would have to take everything apart, add another row and put it back together with probably a timber or possible steel deck with an asphalt overlay. Then you'll still be left with a one lane bridge put it with the problems with the pedestrian separation. Or if they try to widen the existing bridge to two lanes and the pedestrian facility, then it's going to look even worse than it does now because you're going to have different materials and different ages trying to patch it all together. I don't think that the 'do nothing' again and the rehab options are feasible. Great West Engineering completed the environmental assessment based on several options. They did consider a multi-span bridge and a clear-span bridge both Fish Wildlife and Parks and the US Fish Wildlife Service preferred the clear span structure to keep every bit of the abutment out of the stream. It's going to increase the water quality, increase the flow capacity; it's going to eliminate a lot of the problem with the existing four peers that are in the river. The recommendation from them is to proceed with a 120 foot long pre-cast concrete bridge, right now the existing bridge is 100 feet long with five span steel. It would remove the abutments and any encroachments into the river, it would provide the current legal design loading and it would provide the current required pedestrian facilities, it would just basically bring everything up to standard and put a bridge in place that is necessary to access to the west side of the bridge for the next 75 to 100 years. If the bridge is not replaced there are detour routes through Placid Lake Road but that's 11 miles and also 2 1/2 miles of that is across Plum Creek Land that has no dedicated easement and forest service roads that do not have year around maintenance. To the north they can use Boy Scout Road to the Westside Bypass but again that's almost 7 miles of forest service road that again does not have year around maintenance.

As of now staff recommendation is to except the environmental assessment as prepared by Great West Engineering.

Commissioner Curtiss: Action today is to accept this environmental assessment as being adequate and accurate. What are the next steps?

Erik Dickson: Once we have the environmental assessment that will essentially give us the final approval to complete the grant application, which is due May 4th. We have our 2nd public meeting scheduled for tomorrow night in Seeley Lake to present the final preliminary engineering report and the draft grant application. With this resolution that would give us the opportunity to move forward to complete grant and secure. If it's a successful grant application, the construction anticipated for 2014.

Commissioner Curtiss: So this would be another TSEP grant this was a planning grant, that one would be an infrastructure grant?

Erik Dickson: Yes, separate construction grant for 50% of the cost.

Commissioner Curtiss: And we estimate the cost to be...or is that the next steps, figuring out cost?

Erik Dickson: Right now there estimate is \$945,000.00, so with a 50% match we would be able to budget that either in one fiscal year or carry over funds for two years. We also have the opportunity once we do receive notice of a successful grant as we finalize design and construction plans we have the opportunity to contribute in kind labor equipment and material. So we can reduce our cash position with matching labor equipment funding.

Commissioner Curtiss: Other than that it would be from the county bridge fund?

Erik Dickson: Correct. And if the Commissioners do approve of the environmental assessment it's kind of a two-part signature, one resolution certainly for all three but then the environmental assessment itself on the last page there is room for just one authorized representative signature for Commission Chair. Completing both of those documents would allow us to move forward.

Commissioner Landquist: What we're looking at here as exhibit A is the environmental assessment, correct?

Erik Dickson: Correct.

Commissioner Landquist: I see on the last pages 14 & 15, the contributors to this EA, the list of those entities and agencies that makes me feel comfortable.

And on page 14, #3 where the question is asked is and EA or EIS required and the answer to that is pretty much...the analysis comes back that the EA is an adequate level of environmental review because the project will not significantly affect the quality of the human environmental, therefore, a full blown EIS is not required, correct?

Erik Dickson: Correct.

Commissioner Landquist: I know I asked you this one other day regarding how long this bridge will be out of play when the time comes to replace it, if that's how we go. And what other alternatives will be in...I believe you said that a temporary bridge will have to be put in? So is there any EA assigned to that, or is that addressed somewhere in here and I've missed it?

Erik Dickson: No that would be part of the permits for the permanent structure.

Executive Session

Commissioner Curtiss made motion that the Board of County Commissioners adopt the resolution accepting the findings of the Environmental Assessment (EA), determining that an Environmental Impact Statement (EIS) is not necessary for the Riverview bridge replacement and authorize a chair to sign the EA. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

7. OTHER BUSINESS

None

8. RECESS

Being there no further business to come before the Board, the Commissioners were in recess at 2:04.

THURSDAY, APRIL 19, 2012

BCC met in regular session; all three present. Evening: ML attended Public re: Riverview Drive Bridge TSEP Application, held at Seeley Lake Elementary School.

ADMINISTRATIVE MEETING

Agreement – BCC signed, dated April 15, 2012. Between County and The Poverello Center for grant funds to help with purchase of former Trail's End on West Broadway to be used as site for new homeless shelter/soup kitchen. Term/April 23-June 30, 2012. Amount/\$7,500. One original to Jean Harte/OPG.

DUI Task Force Special Activities Contract – BCC signed, between County and MT Highway Patrol (DOJ, State of MT) to provide DUI-related enforcement/educational activities to reduce alcohol-involved traffic crashes (from Driver's License Reinstatement Fees for term July 1, 2011-September 30, 2012). Amount/up to \$5,000. Two originals to Julie Mohr/MCCHD.

Agreement – BCC signed, dated April 19, 2012. Between County (OEM) and Eric Sedgwick/CMI HQ, LLC to provide radio design, development, frequency coordination and programming services for County's Public Safety Communications System. Term/April 23, 2012-April 23, 2013. Amount/not to exceed \$70 per hour. One original to Chris Lounsbury/OEM.

Letter – BCC signed, dated April 19, 2012. To Shane Stack/MDOT, Missoula, commenting on proposed intersection improvements planned for entrance to Town Pump/Bonner. BCC supports round-about option.

Additional discussion item(s): 2012 Budget Review/2013 Preliminary Budget Parameters recommendation.

FRIDAY, APRIL 20, 2012

BCC met in regular session; quorum present. ML out of office all day. Late afternoon: JC met with Terry Weidner (Mansfield Center Director), et al, with Delegation from Vietnam.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chair
BCC

MONDAY, APRIL 23, 2012

BCC met in regular session; all three present.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) OPG Director's update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Presentation: Land Use Regulations; 3) Communications; 4) Director's update.

TUESDAY, APRIL 24, 2012

BCC met in regular session; Quorum present. ML out of the office ill. Evening: BCC attended Maclay Bridge Informational Meeting, held at Big Sky High School.

ADMINISTRATIVE MEETING

Resolution No. 2012-043– BCC signed, dated April 24, 2012. Approving “organized market” operated by the Milltown Bridge Market at Milltown Bridge in Missoula County (with certain conditions, set forth therein). Approx. dates: May – October 2012.

Resolution No. 2012-045– BC signed, dated April 24, 2012. Appointing Special Assistant Attorney General Jesse Laslovich as Special Deputy County Attorney for the prosecution in the Matter of State of Montana v. Kevin Kolenda. No hourly fee or compensation for services will be paid to Mr. Laslovich.

Budget Transfer – BCC signed, dated April 24, 2012. Control #12-010 for County Attorney in amount of \$5,520 (from vacancy savings to Contracted Services) for contract for tech assistance with New Dawn Tech and upgrade of JustWare program.

Budget Transfer – BCC signed, dated April 24, 2012. Control #12-005 for Justice Court (Dept. 2). Misc. transfers in total amount of \$960 to reconcile projected shortages in certain line items by utilizing overages in others (as set forth therein).

Resolution No. 2012-044 – BC signed, dated April 24, 2012. Reimbursement Resolution relating to financing of certain proposed project (Creamery Building Re-Model by PHC); establishing compliance with Reimbursement Bond Regulations under the Internal Revenue Code. Total cost of project/\$904,000 (of which up to \$425,000 would be reimbursed from a future debt issuance).

Additional discussion item(s): 1) Trails prioritization criteria; 2) 2012 Budget Review/2013 Preliminary Budget Parameters recommendation (*cont'd to Wednesday, April 25th*).

WEDNESDAY, APRIL 25, 2012

BCC met in regular session; quorum present in afternoon. Morning: JC attended MEP Board Meeting, held at Catlin Plaza. BC and ML attended 5th Annual Downtown BID Ratepayers Breakfast, held at Florence Hotel. All afternoon: JC attended Public Health System Improvements Task Force Meeting, in Helena.

CAO MEETING

County Payroll Transmittal Sheet – BCC signed. Pay Period: 08/CY2012 - Pay Date/April 20, 2012. Total Payroll/\$1,236,514.85. To County Auditor.

Contract – BCC signed, dated April 25, 2012. Between County and Western MT Addiction Services for substance abuse services/case management for participants in Missoula Co-Occurring Treatment Court (per grant from US Dept. of Justice Bureau of Justice Assistance). Amount/\$105,980. Term/April 16, 2012-September 30, 2013. Two originals to Brenda Desmond.

Lease Revision to New Lease w/Seeley Fire District for Missoula City-County Departmental Facilities in Seeley Lake (*cont'd from April 10, 2012; postponed to June; see June 28, 2012 Journal Entry*).

Resolution No. 2012-046 – BCC signed, dated April 25, 2012. Authorizes submission of Treasure State Endowment Program Construction Grant Application (by Great West Engineering) to MT DOC to replace the Riverview Drive Bridge over the Clearwater River.

Resolution No. 2012-047 – BCC signed, dated April 25, 2012. Accepts/adopts the Final Preliminary Engineering Report (by Great West Engineering) to complete bridge improvements for Riverview Drive Bridge. Public Meeting held April 18, 2012.

Form – BC signed, dated April 25, 2012. TSEP construction grant application Form for MT Public Facility Projects for the Riverview Drive Bridge replacement. County was awarded \$15,000 TSEP .grant

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Board Appointment – BCC reappointed Kathy Maradeo to a new 3-year term on the Seeley Lake Cemetery District Board (May 1, 2012-April 30, 2015).

Board Appointment – BCC appointed Fred Bremer to fill an unexpired term (T. Ingraham's) to December 31, 2012 on the Lolo Mosquito Control Board.

Board Appointments – BCC appointed following to terms on the Weed Board: 1) 1st Alternate Jim Olivarez to Regular Member to fill unexpired term (B. Deschamps') to December 31, 2014; 2) Doug Kopp as Regular Member to fill unexpired term (C. Gucker's) to December 31, 2012; and 3) Fred Bremer as 1st Alternate Member to fill unexpired term (J. Olivarez') to December 31, 2013. [Note: Mr. Bremer subsequently resigned due to commitment issues].

Additional discussion item(s): 1) 2012 Budget Review/2013 Preliminary Budget Parameters recommendation; 2) Maclay Bridge update.

NO PUBLIC MEETING HELD THIS DATE. BUDGET KICKOFF

THURSDAY, APRIL 26, 2012

BCC met in regular session; quorum present. Early morning: JC attended MEP Investors Breakfast, held at UofM. Morning: ML attended Mountain Line Regional Coordinating Committee meeting, held at Holiday Inn. BC attended Retirement Celebration at Detention Center. JC attended *Holding Up Half the Sky*, Women's Leadership & Development Conference, held at UofM.

ADMINISTRATIVE MEETING

Amendment & Resolution No. 2012-048 – BCC signed, dated April 26, 2012. To Contract between County and Western MT Addiction Services (dated October 25, 2011) for provision of after school programming (Flagship), outpatient treatment to adolescents and adults, and residential treatment. Amendment increases payment for service by \$37,398.71. All other terms/conditions remain same. BCC also signed Resolution No. 2012-048, dated April 26, 2012. Budget Amendment for OPG in amount of \$30,994 (from 4th Qtr. Alcohol Tax Payment to Contracted Services). One original contract to Peggy Seel/OPG.

Budget Transfer – BCC signed, dated March 22, 2012. Control #12-012 for Capital Improvement Program in amount of \$135,000 (from CIP Cash to Pre-Construction Line) for 2nd Floor/Courthouse renovation. \$150,000 to be reimbursed from a future debt issuance. Resolution No. 2012-049

Letter – BCC signed, dated April 26, 2012. To Debra Demarais/CDBG-ED Program, Helena, stating the County will not proceed with the Emergent Access planning grant (#MT-CDBG-EDPG11-01), due to extenuating circumstances.

Additional discussion item(s): None.

FRIDAY, APRIL 27, 2012

BCC met in regular session; all three present. Morning: BCC held meeting with Dale Bickell, et al re: OPG Reorganization Kick-Off. Afternoon: ML held meeting with Jeff Seaton, Sean Hire, et al re: County Recycling Program.



Vickie M. Zeier
Clerk & Recorder



Bill Carey, Chair
BCC

MONDAY, APRIL 30, 2012

BCC met in regular session; all three present. Afternoon: BCC participated in Audit Exit Conference, held in Admin 206.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) Smoot Shoreline Permit; 3) Garnet View Lots Subdivision Condition Amendment; 4) Wye Commercial Subdivision; 5) OPG Director's update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) DNRC Reclamation Grants; 3) Parks Projects update; 4) OLC update; 5) RI Projects update; 6) Communications; 7) Director's update.

Letter – BCC signed, dated May 1, 2012. To Nathan Smith, Potomac, approving amendment (re: filing of Weed Management Plan) to Condition of Approval #15 for Garnet View Lots Subdivision.

Letter – BCC signed, dated May 1, 2012. To Ken Williams, Missoula, approving amendment (re: filing of Weed Management Plan) to Condition of Approval #20 for Wye Commercial Subdivision.

Shoreline Permit – BC signed. #12-09 for Applicant David Smoot to replace pier dock with floating dock at 1115 N. Perimeter Road, Locke Addition (Lot O), Big Sky Lake Estates. Original to Mitch Doherty/OPG.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated April 27, 2012. Amount/\$10,401.80. To County Auditor.

MISSOULA COUNTY COMMISSIONERS' JOURNAL: MAY, 2012

BCC = BOARD OF COUNTY COMMISSIONERS

BC = Commissioner Bill Carey

ML = Commissioner Michele Landquist

JC = Commissioner Jean Curtiss

The following Claims Lists were signed during the month of MAY 2012:

Date Signed	Claims List Date	Who signed	Amount
May 1, 2012	PHC Cardinal Health ACH		\$44,675.63
May 1, 2012	April 30, 2012	BCC	\$383.37
			\$241.73
			\$4,620.00
			\$78.40
			\$282.32
			\$15,365.09
			\$43.40
			\$66.00
May 2, 2012	May 1, 2012	BCC	\$121.61
			\$20,000.00
			\$129,189.63
			\$1,609.95
			\$3,636.48
			\$13,502.24
			\$47,383.18
			\$5,225.60
			\$25,479.20
			\$704.63
May 2, 2012	May 2, 2012	BCC	\$75.19
			\$279.39
			\$417.50
			\$743.43
			\$375.00
			\$33.82
			\$21.45
			\$23,862.18
			\$29,506.93
May 3, 2012	May 3, 2012	BCC	\$1,506.66
			\$3,836.37
May 7, 2012	May 3, 2012	BC, ML	\$62.50
			\$18,857.45
			\$81.00
			\$6,375.00
			\$7,366.72
			\$2,915.50
			\$1,679.30
			\$11,779.60
			\$2,884.58
			\$10,607.68
			\$25.00

May 7, 2012	May 7, 2012	BC, ML	\$3,503.56
			\$12,246.24
			\$2,922.81
			\$2,464.41
			\$1,422.68
			\$2,727.20
			\$1,068.89
			\$6,177.41
			\$3,268.98
			May 8, 2012
May 8, 2012	May 8, 2012	BC, ML	\$1,269.00
			\$15.00
			\$861.40
May 9, 2012	May 7, 2012	BC, ML	\$71,539.03
May 9, 2012	May 8, 2012	BC, ML	\$1,595.00
			\$750.00
			\$3,538.03
			\$41,017.23
May 9, 2012	May 9, 2012	BC, ML	\$258.00
			\$181.36
			\$844.30
			\$165,216.05
			\$676.34
			\$4,040.68
			\$160.00
			\$10,327.80
			\$58.76
			\$9,430.00
			\$7,143.50
			May 15, 2012
\$828.72			
\$8,804.95			
May 15, 2012	May 11, 2012	BCC	\$15,406.32
May 15, 2012	May 14, 2012	BCC	\$4,214.84
			\$15,094.42
			\$2,932.65
			\$23,653.78
May 16, 2012	May 14, 2012	BCC	\$1,053,690.38
			\$239,876.78
May 16, 2012	May 15, 2012	BCC	\$1,375.07
			\$1,390.12
			\$68.70
			\$141,853.95
			\$500.00
			\$65,122.38
			\$22,391.75
			\$12,547.98
			\$10,481.76
May 16, 2012	May 15, 2012	BCC	\$6,498.22
			\$14,293.91

May 16, 2012	May 16, 2012	BCC	\$1,339.37
			\$9,689.19
			\$50.06
			\$10,520.67
			\$26,375.40
			\$4,268.91
			\$359.91
			\$210.00
			\$4,829.25
			\$875.53
			\$845.62
			\$6,999.95
			\$3,528.57
			May 17, 2012
			\$2,360.26
			\$695.00
May 18, 2012	May 17, 2012	BC, JC	\$7,050.00
			\$2,930.97
			\$1,955.41
			\$142.34
			\$18,819.51
			\$18,070.48
			\$11,280.55
			\$30,000.00
May 22, 2012	May 18, 2012	BCC	\$2,103.56
			\$144,290.66
May 22, 2012	May 21, 2012	BCC	\$18,301.07
			\$40,652.68
			\$8,127.65
May 22, 2012	May 22, 2012	BCC	\$3,391.25
May 23, 2012	May 22, 2012	BCC	\$3,629.85
			\$6,547.39
May 29, 2012	May 22, 2012	BCC	\$5,934.89
			\$4,378.15
			\$2,276.00
May 29, 2012	May 23, 2012	BCC	\$500.13
May 29, 2012	May 24, 2012	BCC	\$1,274.96
			\$94,657.78
			\$80,139.00
			\$50,141.90
			\$1,514.23
May 31, 2012	May 29, 2012	BCC	\$165,349.08
			\$4,094.67
			\$5,065.32
			\$9,405.15
			\$17,093.20
			\$85.38
			\$9,783.31
			\$3,785.76
			\$10,710.28
			\$3,454.77
			\$1,979.43
			\$3,217.25
			\$1,472.33

May 31, 2012	May 30, 2012	BCC	\$3,496.36
			\$30,803.31
			\$172.28
			\$11,824.57
			\$8,405.10
			\$170.55
			\$786.24
			\$2,360.44
			\$109.95
			\$9,959.88
			\$35,288.12
			\$2,246.59

All Claims Lists were returned to the Accounting Department.

TUESDAY, MAY 1, 2012

BCC met in regular session; all three present. Afternoon: JC attended *Missoula Best Beginnings Council* meeting, held at Dickenson School.

ADMINISTRATIVE MEETING

Contract – BCC signed, dated April 25, 2012. Between County and Hogan Facilitation Services to conduct a Terrestrial Weed Management Workshop May 1-2, 2012. Term/April 30–May 4, 2012. Amount/\$1,600; funds from Extension Service/U.S. Forest Service. Two originals to Jerry Marks/Weed District.

Board Appointments – BCC appointed following to East Missoula Community Council: 1) Keri McWilliams to new 3-year term to 2015; and 2) Richard Fifield to unfulfilled term (N. Cramer's) to 2013. Both members will need to run in the Special District Election held in May of the year in which their term expires.

PCI Letter – BC signed. To resume Contract Time with Knife River for Airway/Expressway Roundabout and Median Landscaping as of April 23, 2012. Final completion date is May 17, 2012. [Due to inclement weather, contract time was suspended. Total contract amount/\$839,160.50. Originals to Barb Martens/Projects.

Counter Offer – BC signed. Re: Lot 1, Block 4, MDP-Phase 1, a 2.87 acre parcel. Epic Steel offered to purchase parcel @ \$2.62/sq. ft (\$327,545); Offer Review Committee's Counter offer is \$3.20/sq. ft. (\$400,055). Original to Barb Martens/Projects.

Additional discussion item(s): None.

WEDNESDAY, MAY 2, 2012

BCC met in regular session; all three present. Morning: ML attended Chamber Agri-Business Committee meeting, held at Perkins Restaurant.

CHIEF ADMINISTRATIVE OFFICER MEETING

Grant Applications – BC signed. Two applications for submission to DNRC for implementation of mine reclamation work in Ninemile Valley (Kennedy, Sawpit and Ninemile Creeks). County is acting as fiscal sponsor for the work; Trout Unlimited and subcontractors to perform project work. Term/January 2013-October 2015. Two grant amounts of \$468,289 and \$551,400 (County to retain 2% for administrative costs). To Nancy Heil/RI.

Contract – BCC signed, dated May 2, 2012. Between County (PHC) and UofM for Dr. Rebecca Kinney's employment at PHC. Dr. Kinney is employed through UofM; County will purchase .37 FTE of her professional physician services. Amount/\$36,033. Term/January 2-June 30, 2012. Two originals to PHC.

Settlement Agreement – BCC signed. In District Court Case *Headapohl v. Missoula City-County Health Board/Department* (re: floodplain/subdivision/building permit issues). To Marnie McClain for further handling/signatures.

Letter – BCC signed, dated May 2, 2012. To DEQ Opencut Mining Program, Helena, supporting proposal by West Company, Inc. ("West") for gravel extraction on the Wilkinson property in Petty Creek. BCC understands material extracted will be used for Petty Creek Road construction project, and West will abide with DEQ dust abatement requirements. West will also comply with hours of operations/timeline as stated in their application.

Additional discussion item(s): None.

NO PUBLIC MEETING HELD THIS DATE

THURSDAY, MAY 3, 2012

WWW.L11.PAGE 06/11

BCC met in regular session; all three present.

Monthly Report - JC examined/approved/ordered filed the Monthly Reconciliation Report for Justice Court 1, John E. Odlin, Justice of the Peace, for month ending April 30, 2012.

Monthly Report - JC examined/approved/ordered filed the Monthly Reconciliation Report for Justice Court 2, Karen A. Orzech, Justice of the Peace, for month ending April 30, 2012.

ADMINISTRATIVE MEETING

Report – BC signed 2012 HOME Program Annual Certification for Homeowner Rehabilitation, which is run by District XI Human Resource Council and MT DOC grant administered by OPG. Original to OPG.

Renewal Grant Agreement – BC signed. Between County and HUD for YWCA Ada's Place Continuum of Care contract for Transitional Housing program. Term/July 1, 2012–June 30, 2012. Grant amount/\$100,201; County to receive \$2,385 for administering grant.

Resolution No. 2012-050 – BCC signed, dated May 3, 2012. Authorizing smoking in designated areas only on County Fairgrounds property.

Form – BCC signed. State Designation Form to designate State-Approved Chemical Dependency Service Providers in Missoula County to receive earmarked alcohol tax monies for alcohol prevention, intervention and treatment. For FY 2013, Western MT Addiction Services has applied for funds (Indian Center did not submit application); 100% of funding (\$120,000) to be allocated to WMAS. Original to OPG.

Contract Documents – BC signed. Between County and L.S. Jensen for reconstruction of Upper Miller Creek Road (Mockingbird Lane to Linda Vista Boulevard). Project to begin week after school is out; to be completed prior to start of school in Fall. Bid amount/\$2,016,000.

Letter – BCC signed, dated May 3, 2012. To Dan Bucks, DOR, Helena, on behalf of Bud Wilson, resident of Missoula County. BCC believes appraisal was unreasonably high and asks DOR to reconsider its position on taxes owed by Mr. Wilson for years 2005-2009.

Additional discussion item(s): 1) Alcohol Tax Dollars update; 2) Upper Miller Creek Road; 3) Butler Creek Railroad Crossing.

FRIDAY, MAY 4, 2012

BCC met in regular session; quorum present. JC out of office through Monday, May 14th.

Replacement Warrant - BC signed. Thomas C. Redmon, Missoula, Principal for Lolo School District #7 Warrant #060-25203, issued February 17, 2011 on County Schools Payroll Fund. Amount/\$536.60 (for coaching). Not received in mail; no bond of indemnity required.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated May 3, 2012. Amount/\$8,840.20. To County Auditor.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chair
BCC

MONDAY, MAY 7, 2012

BCC met in regular session; quorum present. Afternoon: BC/ML attended OPG Meeting to present *You're Great Award*; BC also spoke at Senior Corps Week Gathering, held at First Lutheran Church. JC out of office through Monday, May 14th.

Monthly Report - BC examined/approved/ordered filed Monthly Reconciliation Report for Clerk of District Court, Shirley E. Faust, for month ending April 2012.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) Water's Edge Subdivision/Covenant Amendment (*action*); 3) OPG Director's update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) MOU Agenda review; 3) Planning Projects update; 4) Communications; 5) Director's update.

Letter – BCC signed, dated May 7, 2012. To Dick Ainsworth/Water's Edge Properties, LLP, Missoula, approving amendment to Living with Wildlife Covenants (re: barbecues/grills) for Water's Edge Subdivision. BCC also approved waiver of \$895 covenant amendment fee, subject to reduced fee of \$200.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated May 7, 2012. Amount/\$35,475.29. To County Auditor.

TUESDAY, MAY 8, 2012

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BCC met in regular session; quorum present. JC out of office through Monday, May 14th.

ADMINISTRATIVE MEETING

Agreement – BCC signed, dated April 20, 2012. Between County and Brent Jordan for 2012 Western MT Fair PRCA Rodeo Announcer/Commentator. Amount/\$3,000. Term/August 9-11, 2012. To Steve Earle/Fair.

Agreement – BCC signed, dated March 17, 2012. Between County and Brent Jordan for 2012 Western MT Fair Professional Bull Riding Touring Pro Division Announcer/Commentator. Amount/\$2,800. Term/August 6-8, 2012. To Steve Earle/Fair.

Contract – BCC signed. Between County and Glacierland Resource Conservation & Development to manage grant funds in amount of \$285,000 for Wood Stove Changeout Program in non-attainment or near non-attainment air quality areas (Seeley Lake Wood Stove Changeout). Grant proposals due December 1, 2013. Original to Chase Jones/OPG.

Bid Award – BCC awarded bid for maintenance asphalt (for FY2012-13 Dust Abatement) to Knife River, lowest qualified bidder in amount of \$552,000. To Greg Robertson/Public Works.

Resolution No. 2012-051 – BCC signed, dated May 8, 2012. Resolution for Inclusion of Lot 2 of German Addition subdivision in Rural Special Improvement District No. 901. Property is within adopted District service area boundary.

Additional discussion item(s): Expired Permit Letters to Property Owners/Press Release (Building Division). [BCC approved Press Release].

WEDNESDAY, MAY 9, 2012

BCC met in regular session; quorum present in morning. BC in/out of office and JC out of office through Monday, May 14th.

Replacement Warrant - BC signed. Debra Bingham, Hayden, ID, Principal for MCPS Warrant #217925, issued April 6, 2012 on County payroll Fund. Amount/\$142.29 (for wages). Not received in mail; no bond of indemnity required.

Replacement Warrant - BC signed. Ronald Sarin, Missoula, Principal for Elections Warrant #30217806, issued February 16, 2012 on County 1000 Fund. Amount/\$30 (for Election Judge training). Not received in mail; no bond of indemnity required.

Replacement Warrant - BC signed. Crucell Vaccines, Miami Lakes, FL, Principal for Health Dept. Warrant #3021815, issued February 24, 2012 on County 2270 Fund. Amount/\$1,700 (for Vaccines/PX Drugs). Not received in mail; no bond of indemnity required.

CHIEF ADMINISTRATIVE OFFICER MEETING

Contract – BCC signed., dated May 5, 2012. Between County and Jerald Dewey to determine establishment/assess population levels of biological control agents in County. Amount/\$5980; funding from BLM, Plum Creek, DNRC, FWP and Weed District. Term/June 10-December 1, 2012.

Contract – BCC signed., dated May 10, 2012. Between County (Weed District) and WMA Noxious Weed/Range Specialists for herbicide treatments of new invader infestations in County. Amount/\$10,000; funding from grant and MT DOT for sites along state highways. Term/May-September 2012.

Request – Per 2007 legislative changes, BCC approved appointees/confirmed list of all County Fire Wardens submitted by DNRC. Original to Chris Lounsbury/OEM.

Grant – BC signed. Sub-Grant Application Form for County Sheriff's Office Regional Juvenile Detention continuation grant from MT Board of Crime Control for period July 1, 2012-June 30, 2013. Amount/\$279,080 for Region; \$88,081 for Missoula County.

Lease Agreement – BCC signed. Between County and Missoula Batting Cages for 3-year lease at Fort Missoula. Term/March 2012-March 2015. Lease fees/\$1,250 annually. To Lisa Moisey for Parks Board Chair signature.

Letter – BCC signed, dated May 9, 2012. To Senators Baucus and Tester, Washington, D.C., urging their support for revising language in MAP-21 (Moving Ahead for Progress in the 21st Century) in order to allow all MPOs to prioritize CMAQ funding, as well as their continued support for non-motorized and transit funding in the Transportation Bill.

Additional discussion item(s): None.

Tax Abatement Requests – At meeting with Clerk & Recorder, BCC approved following letters dated May 10, 2012:

- 1) Denying request from Jill Frazier, Missoula, to waive 2007 personal property taxes for Tax ID #80829600. BCC has no legal authority to waive bill if a sale occurred after January 1st deadline.

- 2) Approving request from Gregory Allen Lee, Missoula, to refund motor vehicle fees that were issued in error for Vehicle #2857813.
- 3) To Larry/Brenda Daniel, Great Falls, re: refund request for past six years Tax ID #447200. BCC has requested info from Wes Redden, DOR, before decision is made in June.
- 4) Denying request from Joan Butler, Seeley Lake, to waive penalty/interest for Tax ID #3007900. BCC can only do so in very limited circumstances; Ms. Butler does not meet that criteria.
- 5) Denying request from Thressa Scott, Missoula, to refund motor vehicle taxes/fees paid for vehicle that was totaled three months after registration was renewed. BCC can only do so in very limited circumstances; Ms. Scott does not meet that criteria.
- 6) Denying request from Kathy Field, Missoula, to refund motor vehicle taxes/fees paid for vehicles registered in her son's name and later in business name. BCC has no legal authority to do so.
- 7) Approving request from Controller, Zip Beverage, Missoula, to refund motor vehicle taxes/fees paid in error for vehicle #1FTYR101D12PA04148; contingent on receipt of proof of sale indicating sale before January 6, 2012.
- 8) To David/Elsie Dodd, Richland, WA, re: request for reduction in property taxes [see April Journal entry]. After review, the Dodds received a letter from the Missoula DOR addressing the Dodds' concerns. Since Ryan's road is an easement on their property, there is no reduction in value to property, and BCC has no legal authority to do so.
- 9) To Robert McNatt, Seeley Lake, re: request to prorate his 2011 mobile home taxes for #90127000. BCC has referred his request to DOR for review; reply will be forthcoming.
- 10) Denying request from Margit Meriwether, Missoula, to waive penalty/interest for Tax ID #80519087. BCC can only do so in very limited circumstances; Ms. Meriwether does not meet that criteria.
- 11) Denying request from Rick Snowden/Bitterroot Motors, Missoula, to waive 2007 personal property taxes for Tax ID #80510474. BCC has no legal authority to waive bill if a sale occurred after January 1st deadline.
- 12) Approving request from Julie/Joel McLennan, Missoula, to refund overpayment of taxes for Tax ID #3744305. MT Law allows BCC to refund overpayment for up to five years; DOR will prepare paperwork to abate taxes for 2008-2012. Refund check will be sent in several weeks.
- 13) Denying request from David Goodin, Missoula, to refund motor vehicle taxes/fees paid for vehicle #3022099 because he is 100% disabled through VA. MT DOJ requires exemption be provided at same time vehicle is renewed.

PUBLIC MEETING – May 9, 2012

1. CALL TO ORDER

Commissioners Present: Commissioner (Chair) Bill Carey, Commissioner Michele Landquist

Commissioner Absent: Commissioner Jean Curtiss

Staff Present: Deputy County Attorney, James McCubbin, Rural Initiatives, Karen Hughes

2. PLEDGE OF ALLEGIANCE

3. PUBLIC ANNOUNCEMENTS

Schedule viewing of West Twin Creek Road (Hearing held December 7, 2011)

Commissioner Carey and Steve Niday: Viewing is scheduled for May 22nd leaving the Administration Building at 11:30, if anyone is interested in joining.

4. PUBLIC COMMENT

Rob Brack, lives west of Reserve Street on Spurgin Road. My comments today are not directly related to the public hearing but they do share some similarities to the issue. It's pretty well known that Missoula County is in an economic slump, housing prices are down about 30%, foreclosures are up and the building trade employment is down markedly. At its best the state and local government can be a positive force contributing to strong economic activity but at its worst it can be a serious hindrance. The form of trade is the most desirable situation of course. The citizen and business people should be able to rely on their governing officials to be consistent, fair, expeditious and cost effective. And that same citizen or business owner should not run into situations where the right hand is contrary to the left hand. In that regard, the Missoula County Commissioners have approved just over 300 construction mortgage parcels, as well as, about an equal number of remainder parcels as an approved exemption from subdivision for state law beginning in August of 1973 through September 2003, when the law changed. My review of the public records indicates a significant percentage of these properties of record were conveyed to other parties very soon after recording, if not immediately after recording at the Missoula County Clerk & Recorders Office. My wife and I recorded such a property on January 17, 2002 after having received approval from the Missoula County Commissioners. In the spring of 2011 we put our remainder parcel up for sale with the Missoula County Clerk & Recorder based upon interpretation by the County Attorney's Office refused to record the deed; so much for being able to rely on consistency and fairness in Missoula County on this issue. Because of this unusual retroactive interpretation I suddenly was unable to sell my house even though I had followed the law that was in effect at that time. So we were forced at considerable expense to bring suit against Missoula County Clerk & Recorder and District Court last December. Judge McClain ruled that the conception mortgage exemption we used was legal and that the Clerk & Recorder was ordered to record the deed as described. The deed was recorded but the Clerk & Recorder has chosen to appeal this ruling to the State Supreme Court, which leaves this issue for 600 other properties and its owners in limbo. The judge also rewarded the payment of my attorney fees as of that date, which was around \$27,000, but because of the appeal of

the ruling by the Clerk & Recorder, I have received no monies but my attorney fees have continued to increase because of the Clerk & Recorder's appeal. I'm at a loss to understand the appealing of this ruling, instead of accepting what was a common practice, particularly by the Clerk & Recorder, has now been ruled legal by a District Court and that effects over 600 properties and many more owners in Missoula County, how that is in the public interests baffles me. It is my belief that the Commissioners have the ability to adopt the District Courts ruling as a policy and prove consistency and common sense that citizens have a right to expect. To her credit, County Commissioner Jean Curtiss has tried to do just that, back on August 18, 2010 when she stated and it's in the public record. Since we voted to approve the boundary relocation with conditions which had a lot of financial implications for the family, I did some more research. I talked to a couple past Deputy County Attorneys who were both once making these recommendations at that time. Both of them stated that the way the County dealt with it at that time was based upon an Attorney General opinion. Even after the legislation had changed they respected previously approved mortgages exemptions as legally separate lots, it was not the practice of the County Attorneys to have memo of the policy at that time that is why we don't one. Based on that we've been told by our County Attorney's that we do have the authority to make this decision. Those minutes were August 18, 2010. I applaud the Commissioners today for taking this action on for Lease or Rent ruling that would be a hardship for Missoula County residents in providing a practical solution for them. I would ask that the Commissioners review the issue that I just discussed and take the time to same approach. Also, property owners who have ever used a construction mortgage exemption or buyers of a property creative by such should check with the appropriate officials to determine whether they will face the same situation as my wife & I have. Thank you for the attention to this matter. I do have the ruling and my attorney's latest brief.

5. ROUTINE ADMINISTRATIVE ACTIONS

Bi-Weekly Claims List (\$1,942,291.67)

Executive Session

Commissioner Landquist made motion that the Board of County Commissioners approve the Bi-Weekly Claims List in the amount of \$1,942,291.67. Commissioner (Chair) Carey seconded the motion. The motion carried a vote of 2-0.

6. HEARING

Enact Revised Land Use Fees for Services Rendered by the Missoula OPG (Subdivision for Lease or Rent)

Karen Hughes, OPG gave details about the staff report and pointed out public comment received by email and/or mail.

Proposal is to reduce fees charged for subdivision review for minor subdivisions for lease or rent. It includes the preliminary plan review fee the variance view and the final plan fee. The current fees are based on an average 50% cost recovery and the new fees would be significantly reduced from that. The current fee for preliminary plan review for a minor subdivision for lease or rent as well as a minor subdivision to create lots is \$5,000 and it would be reduced with this proposal to \$200. The variance fee per variance is currently \$500 and would be reduced to \$100 and the final plan review fee would be reduced from \$710 to \$50.

Public Comment

Sterling Miller: Co-Owner Dunrovin Ranch, Lolo. After reading yesterday's Missoulian newspaper it sounds like the County is 'punting' on making any revisions or exemptions to subdivision for lease or rent until the Legislature takes action in the next session. I'm on the stakeholders committee that is considering a new legislation, we've met about 6 times in Helena to consider and try to draft new legislation for the legislature in the next session and that process is ongoing. However, over a year ago or just about a year ago, the Commissioners directed Rural Initiatives to come up with a proposal and to use a public process to come up with the proposal to make certain exemptions to make subdivision for lease or rent or to make the process for undergoing subdivision for lease or rent easier. I have commented at every opportunity where there's been an opportunity provided for public comment in that process within Missoula County and I need to say; if that is what's been going on in Missoula County, it's an example of what's being considered an public open process, then the people conducting that need to take remedial public process 101. Because I have been involved in public processes through most of my public career, I have never seen a more closed, top down process then this one that has been ongoing in Missoula County. A real public process involves allowing the stake holders and interest groups to identify the problems which need to be addressed and to have a meaningful say into how those issues are addressed and none of that has happened. It's been a completely top down process with no indication that there's been any consideration given to any comments made by myself or any other member of the public. The reason I'm here today in part, I tried several weeks ago, I sent Karen a message, an email that said I welcomed the initiative to try and reduce the fees associated with subdivision for lease or rent. However, that was only a small portion of the problem facing subdivision for lease of rent. There were other things that could and needed to be addressed by the county to make this process less onerous and less damaging both to business and private property owners in the county of Missoula. I received no response to that message so I sent it to another person in Rural Initiatives and that person said he can't talk to me until he cleared it with Mr. McCubbin here. So that's just an illustration of how closed this process is. Mr. McCubbin has refused to talk to me in 3 years that we have been involved in this process and his supervisor, Marnie McClain over a year ago said that she was not available to answer any more of my questions. What I was pushing her to do was to respond to where the county had the authority to define connection of two structures. If two structures are connected then they are not subject to subdivision to lease or rent, I pushed her to define that and she gave me a definition of that so I said, where's the authority for that definition? Rather than provided that authority she just said she's not available to answer any more of my questions. In fact, in one of the

proposals that was drafted for Rural Initiatives, they did identify what constituted a connection, so it's clear that there was no pre-existing definition that it had been adopted by the Commissioners, just like everything else pretty much that goes on with subdivision for lease or rent. This is made up internally with no...with not even oversight by the Commissioners, it appears to me. I have many other things I could say about failures of this public process but I'll skip over them. The legislature that I'm meeting with, that committee, I'm the only stake holder from the citizenry on that whole process. Everybody else that's in that process is either a county or state employee or a lobbyist. Here is Missoula County because of our efforts that we undertook to get legislation passed in the last session, they asked me to form a stake holders group here in Missoula County of land owners to participate in this process. They allowed us only one seat, so there's only one person representing the citizens in that process, nevertheless, it has become very clear throughout this process what an outlier Missoula County is in this whole process of subdivision for lease or rent. There's really only been three counties who have been engaged in enforcing subdivision for lease or rent in the way Missoula County is; one of those is Ravalli County and they were doing that when Mr. McCubbin was employed there. When he was dismissed there and came instead, was hired by Missoula County, then that problem became worse in this county. And the other county is Lewis & Clark County. All the other counties, pretty much with rare exceptions, across the State that are participating in the process have NOT been enforcing subdivisions for lease or rent. The people in that process acknowledge the problem that we have in Missoula County and what an outlier Missoula County is. They also acknowledge that Missoula County has less cost to be strict about interpretation of subdivision for lease or rent than any of the other counties because we have such a plethora of regulations controlling development in this county, compared to any other county in the State. Most counties in the State, I found out, only five counties in the state require building permits for crying out loud. I'm not in favor of not requiring building permits, don't get me wrong, but we have a plethora of regulations to control and restrict unnecessary development in Missoula County that we can take advantage. For us to be adopting such an extreme position with respect to subdivision for lease or rent reflects a personal agenda by some people in the County bureaucracy, especially the County Attorney's Office and that's been exemplified in other things as well. One of the horrible things about this subdivision for lease or rent, we applied three years ago, over three years ago for a permit to build a garage, that garage would have been perfectly acceptable to build. However, they decided that there was an unauthorized subdivision, to use Karen's term, on our property in the form of a structure that was built in 1985, a decade before Missoula County even started to enforce subdivision for lease or rent requirements. That structure was legally built. It's where our guest ranch uses the house clients that come to visit our guest ranch facilities and that's what the county is now considering an unauthorized subdivision and we can't get off square one in this County! We've spent \$17,000 so far trying to get permits to do various things, some of which are legitimate things, like upgrade our septic system. We can't get a single permit, we're exactly the same way we started until we comply with this subdivision for lease or rent, it's a completely ridiculous situation. This garage that we applied for we've twice had the county tax assessor come and say that they needed to reassess our property because of this garage we applied to get a building permit for. Well, we had to chase them out, said go talk to the County Attorney, we can't build the garage.

Commissioner Landquist: Was that permit that you sought to build the garage before or after you already had started building the garage?

Sterling Miller: We started building the garage and then we were told we needed a building permit so we immediately applied for a permit and that's when this came...so as soon as we needed a permit we applied for one.

We can't comply, we came in and discussed with the County Planning Office whether or not we should undergo...it cost about \$40,000 for us to prepare the documentation for a minor subdivision application. We talked to two private consulting firms about this and those are the things, both of them have told us it makes no sense what-so-ever for us to apply because we wouldn't be approved because we're serviced by a private road and the county requires a much wider 50'-60' easement to get to our property and since we're on a private there's no way we could get an easement like that so we're completely stuck! And we can't comply with subdivision for lease or rent even if we had the \$40,000. My point is; what is happening to the tax base in this county? The county assessor told us that there's construction being stopped all over Missoula County because of this subdivision for lease or rent, people are not able to build things, it has a huge impact. According to the tax assessor on the property tax base and of course has impacts on the schools. In addition to that, because we have an unauthorized...this relates to what the gentleman said here, because we have to what Karen Hughes defines as an unauthorized subdivision on our property, it makes our property unsellable. We can't sell it to anybody because it has an unauthorized subdivision. Anybody that wanted to buy our property would have to get a bank loan and a bank could not get mortgage insurance, guarantee insurance for a property with an unauthorized subdivision on it and so that makes our property essentially unsellable except to somebody that could finance it themselves...who would that be? It would be some big time developer like Nick Kaufman, who could with deep pockets, buy our property at a song and subdivide it. Essentially what the public policy that's being promoted by this county is doing is promoting subdivision of that kind that they're saying they're not...they want to avoid. It's completely ridiculous situation for the county to be doing. In addition to that it affects the property tax base, as I mentioned. If somebody has an aging parent that they want to put up in a separate building or a boom-a-rang child or somebody to care for in aging...if my children want to care for me as I'm aged, in order for them to do that they would have to undergo this extremely expensive and difficult process called subdivision for lease or rent, if they ever could succeed in doing it. Even more ridiculous is the fact that when you ask the county staff what their justification is for this subdivision for lease or rent, they will say that because people in the county won't approve zoning regulation, this is the only tool they have to control economic develop in unzoned areas. But the ridiculous thing about that is that nothing in the way Missoula County is applying the subdivision for lease or rent exempts zoned areas. There have been proposals promoted by Rural Initiatives of them proposed to exempt areas that are already zoned. So the county is imposing a completely additional potential set of restrictions on landowners. So what is the incentive on how a landowner can use his property? So what is the incentive for a landowner to pass zoning when that doesn't exempt

you from this additional layer of compliance that's imposed by the county? Now I understand ~ I don't understand how they're doing it, but I understand that the county is not actively enforcing subdivision for lease or rent within the city of Missoula but as the City Attorney, Jim Nugget's letter pointed out when he wrote to the Attorney General on Subdivision for Lease or Rent, during the comment period on the Attorney General's draft decision, there's nothing keeping the county from applying for subdivision for lease or rent on already zoned areas.

I'm going to suggest some things that the county can do and that is entirely within your ability and purview to do and that you should do without waiting for the legislature to take action here in Missoula County to address some of the problems I've had. The first thing you could do and I think it's entirely important, is to stop calling subdivision for lease or rent a 'subdivision'. It is so confusing and nobody understands that, everybody...the common, excepted interpretation of subdivision is that you're splitting up a parcel and selling portions of it. The County Attorney's opinion is that if you rent something then that's a transfer of possession and that amounts equivalent to cutting up your property and selling it, well that's just ridiculous!

Commissioner Landquist: So what should we call it?

Sterling Miller: I call it...if you want to go undergo a review process for multiple buildings on a single parcel; you could call it a 'review process'. And then have a...just eliminate the term subdivision all together when you're talking about what's called now, Subdivision for Lease or Rent, because it has nothing to do with a subdivision as that term is so misunderstood. Everybody misunderstands as people say, well if you're undergoing a subdivision then of course you should undergo so some review because that has impact, But if you're just building an apartment above a detached garage, for your mother-in-law or for somebody to rent ~ that is not a subdivision in any reasonable interpretation of the word 'subdivision'. It may be a legal interpretation, I don't deny that, the courts and the Attorney General have identified that that's a legal definition but that doesn't make it a good public policy or a good use of the English language.

Here are some things that need to be done; when you have...these things can be and should be done by the county. First you should exempt areas that already have zoning from having to undergo subdivision for lease or rent. 2. You should grandfather in all existing structures or structures under construction as of...and this is my suggestion, the January 2012 date of the Attorney Generals opinion. This whole Subdivision for Lease or Rent process has been flying under the radar; nobody really knows about it, it's almost impossible to get documentation of it. I've worked really hard and I have some documentation of how many of these have been approved and that aren't very many. I have no idea how many are applied for but in our case what really happens, I think, is people want to do something so they come in and talk to the Office of Planning & Grants or Rural Initiatives and they're told they can't, so they don't even bother to apply. That's exactly the situation we're on so there's a lot more. The list I've been provided by Rural Initiatives reflects just the proof of subdivision for lease or rent. The whole idea that subdivision for lease or rent applies for just the existence of the structure regardless of whether it's leased or rented or not is ridiculous. Now Mr. McCubbin's opinion is that he has no way of knowing whether it might be leased or rent in the future, therefore, it has to undergo subdivision review if there's any potential that it might be used for lease or rent in the future. Well I don't say that you pre-punish people for things, you shouldn't pre-punish people if they're not going to lease or rent anything but you should make it clear that there may be separate regulations that apply if you actually do lease or rent something. So this idea of just the existence of a structure, like a workshop or something, or a horse stall or even a pasture with no structure on it what-so-ever that might be leased or rent exposes you to this expensive review process needs to be changed.

The final thing and I really think this is really important; that you should exempt either structures or dwelling units less than a certain threshold number. Now I have...you know HB494, that almost passed had four structures, well there's a problem with structures because you can have a structure that has a 100 dwelling units in it and that's the same as an apartment above the attached garage, so that's wrong. You may want to go with dwelling units; I would suggest a low number, some number where it's fairly reasonable that the actual impacts are going to be minimal ~ HB494 said four structures but I'd be willing to think that it would be reasonable to say anything less than four dwelling units...maybe five, should be exempt. You could just do that. There's nothing saying that you're not exposed to subdivision review unless you exceed a certain threshold of applicability and that's it.

Now the final thing is that this whole business of connected structures, you can actually define those in a reasonable way, like the Public Works Department does, which is a much more open and flexible definition. It doesn't recall making a place like ours, which is an open facility, which is accessible to the public and appealing to the public, we don't have to make a wall fortress of it in order to comply with the subdivision regulations.

Those are some things that I think are easy to be done. Now really the thing that is important to do as an addition to making those exemptions, you have to make the process by which people apply for a subdivision for lease or rent, or this subdivision, or this lease or rent process much easier. Right now we have the whole minor subdivision process is what you have to undergo, that's a 17 page document and that's what cost \$40,000 to apply, in some cases like that youth camp for Cerebral palsy kids up in Seeley Lake, the people there say it cost them more than \$200,000 just to prepare the paperwork for that. That's a huge imposition on the citizens of this county. What needs to be done is have a lower standard of review and application, this has been implicitly been recognized by this fee proposal that reducing fees dramatically. Now what you have to do in addition to that, is reduce the amount of review and level of review that's required, now that's not as easy as that other things that I've said but there are things that can be done. And I would say that you talk about a 50% recovery fee, you should reduce the level of review for anything less than the threshold number of structures or dwelling units, reduce it so it's comparable so you can get a 50% recovery on that. You don't have to subsidize people applying for this kind of review; you just have to make the level of review that's required compatible with the likely kinds of impacts. Likely kinds of impact if you put a threshold on the number of structures that are exempt and one that will minimize the kinds of impacts, like I've suggested four or four dwelling units,

either of those, then you can be sure that these huge developments that people trot out as something that they're trying to avoid won't be exempted. For access restrictions for example, I suggest that you say and I know this is something that Michele has been concerned about but I have talked to the fire department and they require nothing more than a 20' drivable surface for emergency vehicle access. However, the County Planning Department said you need a 50' or 60' foot access when I talked to them, therefore you should require nothing more than what for emergency...for the width of the easement, nothing more than what is required by the fire department, which is a 20' drivable surface. AND to avoid problems like Derek had in Lewis & Clark County and that we have there, it's unreasonable to expect the property owner who wants to have these structures on his property, it's very unreasonable to expect that he will be able to get easements from his neighbors and other roads that lead to his property. In Lewis & Clark County they were requiring this 60' easement even on county and state roads and they have no chance of getting that. So my suggestion is that we not have access requirements that extend beyond the ownership of the applicants property.

There's all kinds of other things that are on the minor subdivision review that can be eliminated, this community impacts and these can all be eliminated or reduced because we're only exempting a certain number of structures. If you had a large number of structures, then you should have to undergo some of these review processes, but for a small number of structures you shouldn't and there's no distinction making it currently. All this business about community impacts, impacts on local services, transportation facilities, bus routes, utilities and services, emergency services because these impacts will be minor for fewer than the threshold number of structures or buildings. Waive the public hearing requirement, that will save money. If you waive parking and other common area designations, impacts on agriculture unless there's a conversion from agriculture being considered from lands classified as agriculture. Soil analysis and agriculture water, none of this is necessary for a small number of structures or residences on a person's property. Irrigation, water rights documentation, vegetation analysis including critical plant communities, weed management reports, sidewalks, bike lane requirements, eliminate all reports related to geology, hydrology soils and slopes, all that stuff for these kinds of minor impact uses of a person's property, none of this is necessary.

Here are some things that are okay, in my view, to require as part of this subdivision...not 'subdivision', part of this 'review process' for multiple structures on a parcel. It's okay to require compliance with existing growth policies or comprehensive plans and compliance with covenants, that only makes sense. It should be sufficient just to be able to provide hand drawn maps; you shouldn't have to pay for fancy maps. Do not exempt any structures proposed to be built on areas that are identified in county documents as ecologically sensitive areas, such as wetlands or critical wildlife habitat areas or identified archeological historical sites, such as Travelers Rest. There's a big proposal here where involved a few years ago with people wanting to build a trailer park on top of Travelers Rest, before the State stepped in and other private individuals stepped in to prevent that from happening. Now you don't want people doing that - that's an identified archeological historical site, well then people should have to undergo but people just can't. The county should not just be able to go ahead and mandate all these kinds of reports without there being any bases for thinking that some of these concerns might actually apply. I don't think there should be any exemptions for public health issues associated with sewage disposal or other reasonable issues associated with public health or safety.

Finally, I think it's important that you make it very clear that any exemption that is provided in the purpose of this review process does not carry over until the parcel owner ultimately decides to subdivide and really subdivide and sell portions of his property or portions of his structure separately. So the fact that they're authorized to build these things does not allow them to subsequently get to avoid actual subdivision review for actual subdivisions. So with that, I commend the county for recognizing that some modifications need to be done to this subdivision for...what they're calling subdivision for lease or rent process and for recognizing that one step in that process is reduction of fees. However, it's completely inadequate to let it stop there, there are other things that the county should be doing to eliminate or minimize the impact on the economic development, the tourism and the legitimate private uses of private land in Missoula County currently.

James McCubbin: To Mr. Miller's comments with regard to the topic and that he supports it, which is fine. Unfortunately, in the other materials he did make a couple misrepresentations regarding the County Attorney's Office that I'd like to respond to.

Chair Carey: That's fine.

Commissioner Landquist: Do you want to respond now or do you want to finish taking public comment? I think we'll all have something that we want to respond to Sterling's public comments. I'd rather hear what everybody else has to say before we get into 'cat and mouse games'.

Chair Carey: Is there further comment?

Garold Lazarowski: My comment is about rent and lease. Goes back to the first time Sterling came to the Swan Valley and started talking about it and in the times that I've had the opportunity to talk with Rural Initiatives and other people about what exactly subdivision for rent and lease is over time, it's very difficult for anybody living in the community to really understand what this means, in many ways. To me it means, if you're going to rent and lease something that should be very clear about what that means except for that any of us might at some point, rent their house and go live in the South when they get old or something. So there's a lot of stuff that goes on up there but I do believe that there's a difference or should be a difference between residential minor subdivision for rent and lease in business, minor subdivision for rent and lease. And I do believe that the idea reducing rates for residence is a really good idea because in my value, if you go around and look, everybody has four or five buildings around there, not all buildings that you can have your folks in but they maybe have a woodshed, a garage, this and that. I do believe that up to four or five buildings for reduction of rates for residential users, I'm in agreement with that. There are a number of other things with rent and lease that kind of play in here.

One is; in the language you have in the Resolution lumps rent and lease for residential use to also business and so their reduction of rate gets reduced the same rate as a residential user in a minor subdivision review and then in that there is no definition between what a major corporation or what maybe a name might be. A major corporation could fall under these reduced rates and there's no distinction between what a small business in a community might be that exist in that.

The other thing that goes on here, I think, is that in some parts of this rent and lease thing like, we're in the planning stage for a growth planning, which Missoula County is also. Then when you start getting into situations where somebody files for a subdivision for lease or rent, my conception is that under the minor subdivision part really doesn't have to come in front of our local community council to have a discussion of it. It only goes in front of you to have a discussion about it and now it doesn't even go through the planning board, as I understand it. So I think there's a lot of things that are going on here, I think it's very difficult to plan when this is wide open and not thought about. I think you should really consider this and have a really close look. I think really defining what rent and lease means is one way, keep the residential and the business stuff separate.

James McCubbin: Two particular comments by Mr. Miller that I feel I have to respond to. One is that myself and Marnie McClain have refused to communicate with Mr. Miller ~ we will not communicate with him verbally at this point, that is at the direction of the County Attorney Fred VanValkenburg after Mr. Miller misrepresented a conversation that he had had with Fred. Fred directed us after that to keep communication with Mr. Miller limited to writing only. In addition, Mr. Miller claims that I was dismissed from the Ravalli County Attorney's Office, in fact. I resigned and accepted a position here for more money.

With respect to the facts relating to his particular property, I don't agree that his representations of the facts are correct. However, I'm not going to go into detail on those facts because we are on the cusps of being in litigation with Mr. Miller regarding those facts. The County Attorney's Office has received a referral from multiple county departments for violations at the Miller's property in numerous laws and regulations. At the Commissioners request, I'm going to send Mr. Miller a letter offering an additional opportunity to come into compliance without litigation, hopefully without fines and so forth, if possible. I think it would be inappropriate to respond to those factual comments at this point. I should get that letter out this week.

In terms of general problems with subdivisions for lease or rent and so forth, from both Mr. Miller and Mr. Lazarowski, there are definitely problems with implementation of the law and a lot of that stems from ignorance of the law, I guess, by multiple jurisdictions in most of the State for most of the time that law has been in place. However, it's very difficult for a local jurisdiction to fix those issues because it is state law and counties and cities cannot create an exemption from State law, it's just illegal and void to do so. So we're doing the best we can with the law that we've got, there's certainly room for improvement at the legislature and hopefully that will happen. In the meantime, I believe going to the planning board next week, Karen? Oh, in June, excuse me. There's going to be discussion of trying to amend our subdivision regulations.

Karen Hughes: There will be a meeting next week, I'm sorry.

James McCubbin: So next Tuesday evening, there will be discussion of potential amendments to the subdivision regulations, to help define subdivisions for lease or rent and we're trying to approach a yes, no, maybe approach that Karen had originally written up in a memo that I think is still on the Rural Initiatives website. That basically trying to define this is *definitely* a subdivision for lease or rent; this is definitely *not* a subdivision for lease or rent and; this *might* be a subdivision for lease or rent and here are some options that we can do to deal with it, if it's a *maybe* situation. So there's going to be discussion at the planning board next week on that. We're trying to do what we can within the confines of state law.

Karen Hughes: We'll be sending out notice about that discussion, as well, to the public, to folks that have been on our interest list.

Chair Carey: Mr. Miller, we're not going to get into a back and forth...

Sterling Miller: I want to make three very quick points.

Commissioner Landquist: Wait a minute, we're not gonna get into cat and mouse games, Mr. Sterling.

Sterling Miller: He said some things that are just wrong.

Commissioner Landquist: I know but that's going to get into cat and mouse games.

Chair Carey: Well, go ahead and make it brief please.

Sterling Miller: What happened with Mr. VanValkenburg is I went in with an attorney friend of mine and had a conversation about this issue with him and then when I came back, I wrote up a summary of what I thought he had said and I sent to him for his review. He said that that was a mis...and this was going to be part of a letter that I was going to send to the County commissioners and I wanted to be sure that I correctly captured what he said, so I sent it to him for his review. He responded with a very sharply worded letter saying that I had mischaracterized him and I don't think that I had and neither did the attorney that I visited with. But since he said I mischaracterized him, I never sent the letter. So there was no mischaracterization involved. I have never indicated that I'm going to do any kind of litigation what-so-ever, I have never said that Mr. McCubbin's interpretation or the two court cases that have been decided or the Attorney General's decision is wrong. I think that they probably are legally

correct and that is why we've been focusing our efforts throughout this whole process on trying to resolve the problem in the legislative arena. Those are the two...one other thing he said, that he's going to be sending me a letter talking about multiple violations. That needs to be responded to because I...for this garage we tried to build, I pushed and pushed the public works department to identify why they weren't giving this permit to us. They told us it's because we weren't in compliance with subdivision for lease or rent, but I asked them to put that in writing, it took them 2 ½ months to do that in a letter that was obviously written by the County Attorney's Office. And what they said, not only were we not in compliance with subdivision for lease or rent but we're also in violation of health requirements. Well, I don't know what these health requirements are but I assume they are related to the septic system. We have applied for a permit to upgrade our septic system, that application...and that's much of what our \$17,000 that I mentioned was. That application has had no action taken on it because we're in violation of subdivision for lease or rent and the county said that they won't take action on our permit to upgrade our septic system until we comply with subdivision for lease or rent. So if we are not in compliance with anything other than subdivision for lease or rent, it's because the county won't give us a permit to come into compliance! Thank you.

Commissioner Landquist: Sterling Miller, we're hoping that you will find a way to work with the County and the Health Department and the other departments. We're certainly...the letter that we're sending you certainly basically states that we're hoping you will contact us so that we can enter into a compliance agreement, is that the right term? And that will help you guide the way for what you have to do...what comes first the chicken or the egg? What you have to bring into compliance first to allow other things to...permits to be issued to come into compliance. So we're hoping in the best possible way, that you'll get that letter and you will contact us and we will be able to help you help yourself and get into compliance because you are running a top-notch operation out there and we don't make the State Laws, we all try to work to maybe change or modify them, sometimes successfully, sometimes not. I can certainly appreciate your frustration and compassion on this and I'm certainly keeping my fingers crossed with the best possible outcome. So I wanted to state that. You're right on some issues as far as drivable service widths and stuff, which Jean Curtiss and I and Commissioner Carey, all believe that in some cases one size fits all doesn't apply. We built on kind of all the easier spots that there are to build on and now when it comes into looking at certain aspects that we do have to comply with state law on and county law on, some things just flat don't make sense further out in the county, like they do in the closer urban fringe. One of those things is road width, depending on the road width, the length traffic, etc. so that's why we've worked long and hard on this SLR process and we realize that SLR...you're right, it sounds confusing. It's hard to get it...again that's State law, if we could get the state to call it something else then we could but...or maybe we should look at adopting language that says; when it comes to SLR's, Missoula County's gonna call them this.. There again, that's a process. We're hoping this is a beginning step in trying to clear up and deal with a confusing State law that we are held accountable to implement. It's people like yourself and others who have been frustrated it's who have helped bring it to our attention, the complexities of it. So that's one of the reasons, our county and our staff, we all do really have a can-do attitude. How can we better help you? How can we serve the public better? How can we make good sense out of vague odd laws and how are the counties interpreting it? Some of them just aren't, some of them are. Some of them are taking different twists on it. Every county just like different parcels within Missoula County, every county is different and has their special features to their county and their different goals and objectives and their land use plans. I think we're doing the best that we can under these unique circumstances and I think that this is a real good first step in trying to move this forward. As far as it not going through public process, we've trying various public processes and I think all the interested parties and stake holders have been well informed and had numerous opportunities to know that we're working on this, contact the Commissioners directly, contact Rural Initiatives, contact Karen. We've had people in the urban fringe contacting various people in OPG. It has been a very open process. Have we had great big public meetings to hash things out, no we thought maybe staff time could be better utilized working more one on one and grinding through this and then putting out the latest findings, methodologies to those people and letting people really cogitate and think and digest that information and then get back to us. I think Karen Hughes has done a remarkable job working on this and keeping the Commissioners informed every Monday morning with the latest ins and outs that we've come up with or that she'd come up with and we haven't hesitated to tell her what kind of tweaks we thought might be in order, or what was the latest we heard from various constituencies that might be helpful to them. It's unfortunate that it's taken this long for us to kind of memorialize something as a baby step but it's a pretty giant baby step and I'm hopeful that's it going to help. I do have one question for Karen, I think I know the answer but I want it on the record as far as what Mr. Lazarowski, as to why is it that this is not at this juncture going before the planning board?

Karen Hughes: The process for doing subdivision regulation amendments is one that goes through the planning board in accordance with your interlocal agreement. However, the process for dealing with fees is one held to the County Commissioners, there's nothing to say you couldn't send it the planning board but this is simply a situation of dealing with fees, not a land use policy issue.

Executive Session:

Commissioner Landquist made motion that the Board of County Commissioners adopts the Resolution to revise the land use fees, which in effect reduce subdivision fees for minor subdivisions for lease or rent as recommended by OPG and Rural Initiatives, as outlined in the Request for Commissioner Action (RCA). Chair Carey seconded the motion. The motion carried a vote of 2-0.

7. OTHER BUSINESS

None

8. RECESS

Being no further business to come before the Board, the Commissioners were in recess at 2:30.

Resolution No. 2012-052 – BCC signed, dated May 9, 2012. Resolution to revise Land Use Fees for services rendered by the Missoula Office of Planning/Grants for Minor Subdivisions For Lease/Rent, as follows : 1) Preliminary Plan Fee/\$200; 2) Variance Fee/\$100; 3) Final Plan Fee/\$50. Public Hearing held May 9, 2012.

THURSDAY, MAY 10, 2012

BCC met in regular session; quorum present in morning. BC in/out of office and JC out of office through Monday, May 14th.

ADMINISTRATIVE MEETING

No agenda items.

Additional discussion item(s): CAO update.

FRIDAY, MAY 11, 2012

BCC met in regular session; quorum present in morning. BC in/out of office and JC out of office through Monday, May 14th.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chair
BCC

MONDAY, MAY 14, 2012

BCC did not meet in regular session. JC/BC/ML out of office all day.

Planning Status Meeting – BCC/OPG Staff: *CANCELED (BCC unavailable)*.

Rural Initiatives Update – BCC/RI Staff: *CANCELED (BCC unavailable)*.

TUESDAY, MAY 15, 2012

BCC met in regular session; all three present. Morning: BC/ML canvassed School/Special District Election. Afternoon: BC/ML attended Joint TPCC/TTAC Meeting, held at City Council Chambers. Evening: ML attended meeting of Shelby Water District Board of Trustees.

ADMINISTRATIVE MEETING

County Payroll Transmittal Sheet – BCC signed. Pay Period: 09/CY2012 - Pay Date/May 4, 2012. Total Payroll/\$1,257,811.67. To County Auditor.

Addendum – BCC signed, dated May 7, 2012. To June 7, 2011 Agreement between County and Hyalite Engineers, PLLC (“HE”) for Fire Review Services. Daniel Summerfield, principle of HE, left the company effective March 30, 2012. HE wishes to terminate Agreement with County but is willing to sub-contract with Mr. Summerfield until termination date of Agreement (June 1, 2012).

Request – BCC approved request from Lee/Mandy Burns (represented by Mary Inabnit/Eli & Associates) for a one-year extension of preliminary plat approval period for Bratumn Acres Subdivision, extending final plat submittal deadline to December 2, 2012. Request to waive \$470 extension request fee is also included.

Memorandum of Agreement – BC signed. 2012 Air Quality Equipment–Project UPN 6019007/CM STWD (138) between County and MDT for purchase of a sweeper. Amount/\$51,000 from County; \$132,554 from CMAQ funds. Original to Greg Robertson/Public Works for further signatures/handling.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated May 15, 2012. Amount/\$2,927.93. To County Auditor.

Letter – BCC signed, dated May 15, 2012. To Ed Toavs, MDT, Missoula, re: East Mullan Road Speed Study X-route 32211. BCC concurs with MDT’s findings.

Additional discussion item(s): Butler Creek Road RR Xing.

WEDNESDAY, MAY 16, 2012

BCC met in regular session; all three present.

CHIEF ADMINISTRATIVE OFFICER MEETING

Request – BCC approved request from RI/Parks for expenditure of up to \$2,500 for Verbenone Packets for Tom Green Natural Area (Rattlesnake area) and other parks as identified by Park Board/Staff. Project term: Spring 2012-Winter 2012. To Lisa Moisey/Parks.

Additional discussion item(s): 1) Annual Conference Bids for 2014; BCC decided against bidding; 2) Reilly Acres Subdivision.

PUBLIC MEETING – May 16, 2012

COUNCIL PAGE 0651

1. CALL TO ORDER

Commissioners Present: Commissioner (Chair) Bill Carey, Commissioner Jean Curtiss, Commissioner Michele Landquist

Staff Present: Deputy County Attorney, James McCubbin, Tim Worley, OPG, Deb Evison, Public Works

2. PLEDGE OF ALLEGIANCE**3. PUBLIC ANNOUNCEMENTS**

None

4. PUBLIC COMMENT

None

5. ROUTINE ADMINISTRATIVE ACTIONS

Weekly Claims List (\$1,981,244.64)

Executive Session

Commissioner Landquist made motion that Board of County Commissioners approve the Weekly Claims List in the amount of \$1,981,244.64. Commissioner Curtiss seconded the motion. The motion carried a vote of 3-0.

6. PRESENTATION (by Philip Maechling)

Interpretive Plan for the Confluence of the Blackfoot & Clark Fork Rivers

Taber M. from Main Street Design, Massachusetts: Working on an interpretive plan for the confluence of the Blackfoot and Clark Fork Rivers.

7. HEARING (continued from April 4th)

Reilly Acres (12 lots on 28.3 acres) – Target Range – McCauley Butte.

Tim Worley: Continuation of the Reilly Acres Hearing. Hearing was held open until today, May 16th to address the issue of particularly impacts to agriculture and agricultural water user facilities. We discussed this issue this morning with Greg Martinsen, the applicant's representative, who does have a new plat design, which I'll show here in just a second. I think our first order of business today is to assess whether we have what constitutes a material change to an application. The original plat is on the screen, 12 lots on 28 acres. Greg Martinsen and I have been in communication for a few weeks now and he showed me 2-3 weeks ago a concept that did show a change in the direction of...for lack of a better term, an agricultural lot in the heart of the subdivision and that's come to fruition in this alternative plat, I guess you can say, that actually discontinues the through road which would be the extension of Ringo Drive. You might remember Ringo Drive would connect all the way through to Humble on the west side with the original layout. With this redesign it terminates essentially where it does now, which leaves more room for a 3.8 acre resource protection zone lot. This lot would have a residential component as well above the irrigation ditch or south of the irrigation ditch. My presumption is that this area here would be directed toward a conservation use presumably agricultural. Some other changes are the tier of lots on the western edge of the project that would have either singular access or presumably shared access off of Humble Road. Also, one thing Greg brought back was a concept that he originally worked with, with the original Reilly Acres Subdivision and that's a resource protection zone for the largest of the twelve lots. To keep that toe slope of McCauley Butte area in some sort of protective conserved state that could never be developed. Some other aspects of the redesign that we received yesterday, Lot 23 drops in size by, I think, roughly a couple of acres and again has this resource protection zone overlay. The thing Greg and I and Missoula Rural Fire have done, we've been in communication about the driveway to the existing home on largest of the twelve lots. In some locations it doesn't have the 20 foot unobstructed width that's required by the fire code and by the county fire standards. So there's a graphic, I believe Commissioners you have that graphic showing a couple locations where there's some widening proposed of that or maybe a semi-circular turnout. Greg can explain these issues a little better but this was Chris Newman's recommendation for dealing with an existing paved driveway facility that is fairly long but straight so there's a good site distance, you could say. It's not this comes around a curve or anything so that if there are folks existing the homes if there's a fire that you couldn't see another vehicle coming up like a fire truck. This was proposed as mitigation for the length of driveway and Greg can correct me if I'm wrong but I think its 500+ feet or something like that. 633 James says.

Commissioner Landquist: Doesn't that last slide that you just showed us that driveway; doesn't that then create a through road or something? It was looked at early on when there was a commissioner here a road that goes through another lot ~ access that through lot or something was the term that used for that road.

Tim Worley: That would be one issue that it does, it would in the new design serve two properties instead of one. At the point at which it serves two there's sort of a road review issue.

Commissioner Curtiss: But it's not bisecting a lot, that particular lot?

Tim Worley: Right, it's not bisecting a lot as far as I can tell.

Greg Martinsen: The newer design for that particular roadway is designed to service 2-3 lots; it's in your packet with the full 20 foot travel way up to the end of the easement and then the driveway to the house that's on lot 23.

The way it's been redesigned we put an easement in that comes up the hill that's intended to service lot 22, lot 17 and lot 23. We changed the design on the roadway to put an additional 8 foot wide strip along the length of that easement so it complies with the subdivision standards and that is a little story that's in the packet I gave you this morning, it explains that.

Tim Worley: I think our first order of business is to access whether we have what constitutes an amended application here. Because of the shifting of the lots because of the 3.82 acre resource protection zone which essentially I think might be an agricultural lot but I'm not certain of that and because of the new road access, I think staff's recommendation and this is in your Request for Commission Action. I put this together mainly so that there's something on the record that we can look back to, regardless of what decision the Commissioners make today. Our recommendation is that this is...that these changes are material, therefore, that this is a new application. I think on a pragmatic level and James can correct me if I'm wrong, the main thing that staff would like to see is just enough time to let agencies weigh in on all these changes. For instance, I don't think Public Works has gotten a chance to see these particular changes. These were received yesterday about 11:30 and I had to run up to the Swan ½ hour after that so I didn't really get a chance to disseminate the information. So again, our recommendation is that yes these are material changes that this is a new application which practically speaking would require starting over. Then the question for James is sort of the middle ground here is; could time be extended for this applicant to get the information out to relevant agencies and then weigh in or is this too big a change to the original application to sort of marry the two together?

James McCubbin: I think what we have to look to is the subdivision regulations and Tim gave you that citation; it's 4.1.7 for amended applications. Really the process is for staff to make a determination of whether there's been a material change and that determination has been that there is a material change. I appreciate Tim what you're trying to do, trying to make this so we can review it at this point but I don't think that's really legally viable under the statutes or under our regulations. If the changes are significant enough that we need to get new input from agencies, which leads to the conclusion that its material changes that would require a new application process. Under our regulations there's an opportunity for the applicant to appeal staff's determination of whether changes or material and whether a new application is needed. Basically at this point given Tim's determination that the changes or material were essentially done with this process unless the applicant wants to appeal that to you, in which case then it will be the Commissioners decision as to whether the changes are material. The usual appeal process would be given a written notice within 10 working days of Tim's decision, of OPG's decision of an appeal. I think because we are on public record the applicant wanted to appeal that today, we could do that verbally on the record. Then it would be the Commissioners decision as to whether to proceed right now today with that evaluation or you could schedule it for another meeting to make that determination. But I do think we need to either cease these proceedings or have an appeal of Tim's decision on whether it's material changes and a new application.

Commissioner Carey: So if this Board basically takes no action the recommendation of staff holds?

James McCubbin: That's correct. Maybe being a little more specifically, if the applicant doesn't appeal Tim's determination then we're done here.

I would suggest you open it to the applicant to decide what they're going to do. Another option also would be for the applicant to withdraw the new information, the new proposal and request that you make a decision on the original subdivision application that was what you had at the last session.

Alan McCormick, Garlington, Lohn & Robinson representing Reilly Acres LLC: We're not interested in appealing Tim's decision here. The changes have been made to address your request for mitigation and in the bigger scheme it would be nice if these subdivision processes were a little more fluid where these kind of changes can be developed in the process and everyone be provided additional time to weigh in on those and participate in the process and let everyone move forward. Nevertheless, having read your subdivision regulations they don't leave a lot of wiggle room when you talk about determination of material versus immaterial changes so it seems reasonable in this case with Tim's determination that this is a material change at least as far as that's defined in your subdivision regulations. It makes better sense for us now to restart that process so it can move along quickly. The question that we have is one related to fees, obviously as Tim's searching here, is there a way that we can move this forward being sending it out to agencies, letting the process move forward. I think we're all coming to the conclusion that the subdivision regulations don't allow us to do that. Nevertheless, it also isn't the same thing as requiring all the work to be redone from scratch. So if there's a mechanism here that we can withdraw the current application so that you don't have to take action on it, submit the new application with this being the new plan and move that forward but have some accommodation for the amount of fees, with everybody understanding that most of the work has been done, we'd like to explore that with you today, if that's possible.

Commissioner Landquist: I think it's worth exploring but I don't think we can say yes or no that that would be applicable, until we know if you're really going to withdraw this and resubmit, if it's going to be the same resubmittal and how much. Staff when they have to review a subdivision they still have to start from the beginning of the packet and look through everything that's changed.

Commissioner Curtiss: So it would be basically roads and a few other comments from agencies.

Alan McCormick: To be clear, we're not appealing Tim's determination that it's a new application until that decision is made, so to the extent that it sounds like I'm hedging based on your decision about the fees, I don't mean to convey that, I'm not hedging. What I'm asking is let's figure out this process; do you want us to formally withdraw the current application so that that's clear, you don't have to make a

decision on it and we can do so in writing if necessary. Then let's get this new application in, figure out what needs to be submitted. Greg will prepare the new packet, be a complete packet. There isn't going to be much that changes in that, that's what makes it easier on him to be able to resubmit that packet because it's 99% done. What's changed here is obviously the layout, the reduction in road, the provision for the agricultural lot, provision for preserving more of the hillside and it's our interpretation on the parklands statute that the preservation of the hillside area there with the wildlife habitat and the scenic resources qualifies for a waiver of parkland dedication. So that's a new provision here, the rest of it's fundamentally the same.

Commissioner Curtiss: The other items that are listed in 4.1.7, sub 6 are the easements and access which a few of those have changed.

James McCubbin: So Alan, just to clarify, so the new application particularly if there's some kind of an accommodation on fees, the new application would be substantially the same as what's been presented today.

Alan McCormick: Certainly. There's no reason to deviate from any of the other background information and analysis, the traffic count stays the.. the school generation stays the same all that sort of stuff..

James McCubbin: I guess I'd recommend we ask Tim; can you estimate how much work on that application you would have versus on a 100% never seen anything before application.

Tim Worley: I think it's going to be less work actually because a lot of the findings that got us to this point are being ferreted out I think one challenge is going to be just making sure that all the pieces are updated correctly. Big changes in applications, that's one thing that we find that you might have a left over, like a legacy piece of the application that talks about density or lot sizes or whatever that doesn't...that's from the old application. That's sort of an editing issue from the applicants' perspective. I think a lot of it will have been done up to this done.

James McCubbin: Commissioners, ultimately fees are a matter that you have discretion on, fees are really a budget issue. We've discussed this before, I'm just saying for the record that I do think you have the discretion to waive or reduce fees when you find it to be appropriate. I note that in prior subdivisions where we faced this type of situation, we ended up with a lawsuit because not everybody was on board on the same procedure. That certainly cost the county some money even though the litigation has gone dormant but we still have litigation out there that I've had to work on and so forth, I recognize that the position that Mr. McCormick has taken and the applicant has taken here is one that is the path will cause the least extra expense to the county. Not a legal issue but from my point of view I think that's something that you might fairly take into account.

Commissioner Curtiss: Does this have to go back to Planning Board?

James McCubbin: It will have to start with a new application...essentially had a pre-app so I think we could just submit an application. It would be a new application, new element review, new sufficiency review, new Planning Board Hearing, new Commissioners Hearing.

Commissioner Landquist: Meaning staff from OPG with the Planning Board will have to redo minutes and be there?

James McCubbin: That's correct.

Commissioner Landquist: It's going to cost us some time. I don't think we say at this juncture and predict how much staff time is going to go into it. I think it's fair to say we've always tried to be open minded and aware of how much these things cost and we'll certainly entertain...I know speaking for myself, entertain lowering the fees once we get to the point that it's back on our table and we can say how much staff time did it incur but setting a price on that right now, I'm not going to go out there on that limb.

Commissioner Curtiss: Well they need to know what fee they have to submit with it. So we need to tell them.

Commissioner Landquist: The reapplication fee, the refilling fee. Modified subreg.

Tim Worley: One comment I can make is that the super structure of the staff report is already there, it's not being created from scratch. So that's a big change that will...it will take me much less time to put together a staff report because the...who, what, when, where of this project is fundamentally the same. We now do what's essentially a full bibliography sited bibliography, I'd say 90% of that's going to be the same.

Commissioner Carey: It's a practical matter; can you estimate what you're NOT doing because it's already there?

Tim Worley: That's basically the difference between creating a staff report almost from scratch and one where a lot of the bones of the project are already there. So that's a really substantial change.

Commissioner Curtiss: It's only certain chapters that are going to get changed.

James McCubbin: You need to estimate how much staff time is involved, that includes taking minutes and everything else on the next go around.

Tim Worley: A lot of those minute taking and things like that will actually stay pretty fixed. But I would say from my perspective it would probably be less than ½ the time that it took to do this from scratch.

Commissioner Curtiss: I know it's in here somewhere but what were the fees that were submitted?

Tim Worley: I don't remember I didn't bring the whole file with me.

Commissioner Curtiss: I'm willing to waive the fees based on the assumption that the developer will let us and I don't need a new book but what I would want is if Chapter 1 was amended that there be a different colored page or something that said this is Chapter 1, Chapter 2, some of them aren't going to change at all...the well logs and that kind of stuff isn't going to change.

James McCubbin: There will have to be new books as it is because technically it's a whole new process, so we need to have a separate administrative record. That's unfortunate, that's going to be a lot of costs.

We are moving to do a lot of this electronically now, so it could be electronic.

Commissioner Landquist: It was \$7,700.00.

Alan McCormick: James was referring to some litigation earlier about whether something should have been a new application or not and we are trying to avoid any of those kinds of arguments, we think that's to your benefit and certainly to our benefit as well. I think it's in our best interest, at least for our purposes to create an entirely new application; it's obviously going to look very similar. We could probably provide some annotations to or include an annotation rather than just try to insert new page into it, we'll create a new book for you, annotated perhaps and show you what has changed and help you in your review process of it. I think for purposes of making it as clean as possible, we ought to start from scratch like we submitted an application you haven't seen before.

Commissioner Carey: If we reduced the fee by ½ is that something that's reasonable?

Commissioner Landquist: Deb just bent my ear briefly to say that with fire review fees it came to \$7,994.00 that they paid so far.

James McCubbin: If you're going to establish a fee I would recommend that you just establish it as a percentage of whatever fees would otherwise apply, instead of trying to come up with dollar figures today.

And if you're going to have a motion, don't forget public comment as well.

Commissioner Curtiss: The fire fee we have to pay out of pocket, we pay that person (in auditable) so I don't know if it's easy to say ½.

Greg Martinsen: The actually subdivision review fee was \$7,200.00. There was a \$500 fee for the variance. There was \$294 for the fire review fee. So the basic subdivision review fee for Tim to review the packet that I produced was \$7,200.00, if that help you any. My clients concern is I'm not too much unlike Tim except it takes me longer because I don't type very well. So keep in mind it's going to cost them some money too.

Commissioner Curtiss: Will there still be a variance in here because of the sidewalk? Is that the sidewalk variance?

Tim Worley: Yes assuming the sidewalk proposals the same there would be that one variance.

Commissioner Carey: So we're talking about \$3,600.00 if we do half of that. Is that something you will support?

Commissioner Landquist: I'm not sure.

Commissioner Curtiss: Plus the fire fee so that would be \$3,894.00.

Commissioner Landquist: I'd say an even \$4,000.00.

Commissioner Curtiss: I'd propose that we charge \$3,894.00.

Commissioner Landquist: I'm not going to second.

Commissioner Carey: I'll second that motion.

James McCubbin: We'll need public comment before you close the hearing and how long is that valid? Are we talking about application tomorrow? Two months from now? Five years from now? It's worth putting a date on that.

Commissioner Curtiss: How much time do you need?

James McCubbin: Three months.

Commissioner Carey: Okay, three months.

Public Comment

Annie Houser: Representing the Community Food and Agriculture Coalition, I'm taking over for Paul so I'm sure I'll be seeing a lot more of you. Thank you for not appealing. We're really grateful to have the opportunity to comment again on this subdivision. And definitely support Tim's recommendation in that respect. I guess the only other thing that I'd like say is that although now given that you may get a few reduction, it might not seem so desirable but given just a little bit that we've seen of this and some preliminary thoughts that Paul and I had, we still have some pretty significant concerns about the impacts to agriculture here. The size, I think it was 3.82/84 something like that, that's still a lot smaller than it's really going to create a viable plot for agriculture. And then, just some questions about water availability on this site that we've been hearing from Morrison Maierle and some studies that they are doing for the Missoula Irrigation District about some of the water in this area. I do not really understand how access to this site would function so obviously there are a lot of questions that we would have that we'll be really glad to be able to see the plat and have the time to comment on it. Having the opportunity to make some larger changes, I don't know whether this would be anything your client would be interested in but, I'm sure this has already crossed your mind, the opportunity now to think about doing a rezoning and creating some smaller lots and a larger more functionally agricultural lot is something that we think could produce some really interesting options.

Fred Stewart: 4675 South Avenue W. I appreciate the response of the owner and the developer to respond to the comments from last time and I think it's entirely appropriate for you to cut them a little bit of slack in terms of the fees, given the discussion that was presented. Thank you.

Kimberly Chambers: I'm not real familiar with this; I was called while I was in DC about this matter. I'm here on behalf of Missoulians. I very much appreciate the work that you three do and our council does. I know that we are fighting a fine line of agricultural; we're also fighting a fine line of keeping Office of Planning & Grants profitable and being able to justify all of our hard work that we do. We're also really working hard to be able to put homes out there to keep jobs going and I appreciate watching how you guys really worked at reducing fees, I wasn't really familiar with all of that. And I appreciate that you guys took the time to analysis what a developer stands up and does for our Missoula Community. I know that each one of those homes out there are going to employ anywhere from about 60 people, if you count your supplies, up to 120. Right now we are fighting tooth and nail to be able to keep our economy going. We're also fighting to keep agricultural land and I appreciate that. When you do take this into consideration, I think that we need to think about giving people the rights to have a large home or a large lot of their own to be able to have their own gardens on and maybe not have small homes that cause them to have to go to a community garden. I know there's a lot of people, for instance, myself that would hate to have anyone see my weed patch that's in my garden and I think that you are doing a great justice here so thank you very much.

Commissioner Curtiss: I think we need to clarify whether the three months is for you to submit, not to come back here but to *submit*. Okay so, August 15th to submit.

Deb Evison, Public Works: We had some questions for the Developers that we would like to ask you if at all possible. At element review were you requested to perform a soil study on this property?

Greg Martinsen: What kind of soil study?

Deb Evison: A soil study. This has to do with Engineering concerns as well so that's where our question comes from.

Greg Martinsen: In the packet there are approx. 40 soil profile descriptions and there's a thorough examination of the soils by Ecosystem Research Group.

Deb Evison: Okay and then at sufficiency were you told to mitigate for those soils? For agricultural soils. Was it discussed what possible mitigation could be for those soils that were discovered on that property?

Greg Martinsen: I don't understand what the question is Deb, I'm sorry.

Deb Evison: That's okay, so you punched about 40 holes in the ground and you looked at the soils that were on the property and they said that there was soils of significant agricultural use on them so they were prime if irrigated, is that correct?

Greg Martinsen: Those 40 holes that we dug were done for the sewer system for drainfield previous work and the work that Ecosystem Research Group did was done from the agricultural standpoint. Nothing was done at this point and time from an engineering standpoint. That design for the roadway from your concerns will be addressed when we provide you with the packet.

Deb Evison: The new packet?

Greg Martinsen: Yes. I guess I don't understand what you're asking.

Deb Evison: That's okay; we'll have to have a complete sufficiency review. We just had additional comment but since you're redoing it we briefly saw that new layout and we had some additional questions but they can be answered at sufficiency.

Lorna Richardson: 4404 Mount Avenue. I would like to say that this is marginal agriculture land; it should be subdivided, if that is what the owners choose. There's subdivision all around the property. We have used the property, adjoining the Rangitsch property at 2900 Humble and it is infested with domestic deer and it produces very little, I think very little hay is produced there; it's marginal, if any. It's

not really prime agriculture land and you're wasting your time saying it's all agriculture. Subdivision should be at the owner's discretion. Thank you.

Executive Session

Commissioner Curtiss proposed a reduced fee of \$3,894.00 for new submittal, Commissioner Carey second the motion. Commissioner Landquist opposed.

Three month extension to submit a new application ~ August 15th.

Commissioner Landquist: It's not that I don't have a problem using our discretion to reduce the fees, I don't appreciate being pressured at this juncture to reduce the fees knowing what we don't know; who's reviewing what at sufficiency. Normally when we're asked to reduce ~ consider reducing or lowering fees, it's when something's been submitted before us and then we can ask staff and others how much more time did you have to put in to this? And we have something more concrete rather than just taking a wag at it. I'm just not willing to do that especially seeing what's before us at this juncture and what was reviewed the last time by Public Works as far as the road not going through and some of the emails that we have from folks. From the last time that's not worth reading now but they were concerned about the roads not going through as promised and so on. I'm not real thrilled with the design, not real competent that it's going to go through a piece a cake and that staff isn't going to have to work real hard on some of this. That's why I'm not approving a set amount, it's not that I don't have a problem using our discretion to lower the fees, I'd just rather do it after the fact, after it's been re-reviewed and resubmitted.

Commissioner Curtiss: So we just need to make sure the record reflects that officially this packet was withdrawn.

8. OTHER BUSINESS

Twin Creek Road Abandonment Decision ~ June 6th Public Meeting (viewing will be May 22nd)

9. RECESS

Being no further business to come before the Board, the Commissioners were in recess at 2:38.

THURSDAY, MAY 17, 2012

BCC met in regular session; all three present.

Amended Plat – BCC signed May 17, 2012. Owner/Missoula County – EWR, LLC. Relocation of common boundary in order for EWR (Sun Mountain Sports) to purchase Missoula Development Park Phase 2, Block 8, Lots 1A (3.71 acres), 2A (3.56 acres), 3A (1.78 acres) and Park 9A (2.23 acres), located in the NW¼ of Section 1, T 13 N, R 20 W, PMM, Missoula County. Total sales price \$197,610.40; closing on/about May 31, 2012.

ADMINISTRATIVE MEETING

Contract – BCC signed, dated May 17, 2012. Between County and Vannoy Enterprises, LLC for mowing services on County-owned land within the MDP. Amount/\$9,375. Term/May 17, 2012-approx. September 3, 2012. One original to Barb Martens/Projects.

Use Agreement – BCC signed, dated May 17, 2012. Between County and Missoula Rural Fire District for use of Maclay Bridge subject to certain restrictions set forth in *Exhibit 1, Excerpts of MDT Load Rating Analysis* defining approved fire trucks. One original to Erik Dickson/PW.

Resolution No. 2012-053 – BCC signed, dated May 17, 2012. Budget Amendment for RI adding accounts for two new DNRC/Conservation grant-funded projects in Ninemile Creek watershed: 1) Josephine Creek project in amount of \$23,515 (for reclamation planning); and 2) Twin/Housum Project in amount of \$228,345 (for reclamation implementation). For total disclosure, expenditures included in formal FY12 Operating Budget/Revenue Estimates for County.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated May 17, 2012. Amount/\$34,993.90. To County Auditor.

Letter – BCC signed, dated May 17, 2012. To James/Mandy Burns, Lolo, approving extension request for Acres Subdivision. Plat approval expiration date is extended to December 2, 2012. BCC also waived \$470 preliminary plat extension fee.

Additional discussion item(s): 1) Maclay Bridge update; 2) Fairgrounds Advisory Committee meeting; 3) May 23, 2012 Public Meeting; 4) 2012 Community Council Handbook Revisions/Updates.

FRIDAY, MAY 18, 2012

BCC did not meet in regular session. Morning to mid-afternoon: JC attended Mental Health/CDC meeting. ML out of office all day.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chair
BCC

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MONDAY, MAY 21, 2012

BCC met in regular session; all three present. Late morning: BCC met with Fairgrounds Advisory Committee, held at GLR Building. Afternoon: BCC attended Chamber Governmental Affairs Bi-Annual Meeting, held at Chamber Offices. Late afternoon: BCC met with Rural Land Managers re: MOU, held in Admin B14.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) OPG Director's update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Communications; 3) Project updates [a. USFS Welcome Creek; b. BPA substation/upgrades; c. BLM mining claims]; 4) Director's update.

TUESDAY, MAY 22, 2012

BCC met in regular session; all three present. Afternoon: BCC attended Airport Annual Budget Review meeting; JC also attended meeting with Andrew Czorny, et al, re: Greenough Potomac Fire District.

Site visit: BC participated in site visit to West Twin Creek Road.

ADMINISTRATIVE MEETING

Contract – BCC signed, dated May 18, 2012. Between County and Five Valleys Land Trust ("FVLT") to monitor on an annual basis all County-held conservation easements listed in *Exhibit A*. Amount/not to exceed \$4,000. Term/June 1, 2012-December 31, 2013. One original to Pat O'Herren/RI.

Resolution No. 2012-054 – BCC signed, dated May 22, 2012. Budget Amendment for OPG/Seeley Lake Woodstove Changeout Program showing Revenue of \$339,800 (\$285,000 Grant-Glacierland RC&D/Forest Service; and DEQ/Health Dept./DNRC/Foundation funds) and Expenditures in amount of \$311,938 for program implementation. For total disclosure, expenditures included in formal FY12 Operating Budget/Revenue Estimates for County.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated May 22, 2012. Amount/\$6,511.15. To County Auditor.

Letter – BCC signed, dated May 21, 2012. To U.S. Representative Dennis Rehberg, voicing concerns about specific items in the Transportation Bill (MAP-21). BCC also urges his support for maintaining the language in the House bill to allow all MPOs to prioritize CMAQ funding, as well as support for non-motorized and transit funding in the Bill. Original to Ann Cundy/OPG.

Additional discussion item(s): Flagship Program Substance Abuse Prevention Levy Funding Application Deadline Appeal. [See May 31st Journal Entry].

WEDNESDAY, MAY 23, 2012

BCC met in regular session; all three present. Evening: JC attended Spring 2012 All Community Councils Meeting, held at East Missoula Community Center. JC also attended *Forest Jobs Community Conversation*, held at Stensrud Building.

CHIEF ADMINISTRATIVE OFFICER MEETING

Request and Budget Transfer – BCC approved County Park Board Matching Grant Subcommittee recommendation to award up to \$16,000 in Matching Capital Grants and up to \$3,920 in Matching Maintenance Grants for Parks/Various Volunteer and Community Groups who applied for said grants. Budget Transfer – BCC signed, dated March 16, 2012. Control #12-013 for Parks in amount of \$19,290 to provide unique project codes for three Spring FY12 County Parks Matching Grants, as follows:

- 1) Potomac School District #11: \$15,000 for site grading/discing, soil amendment, irrigation, etc.
- 2) Nine Mile Community Center: \$1,000 to build rustic style covered pavilion for use at site;
- 3) East Missoula Lions Club: \$3,920 to mow/weed eat park for entire season.

Board Appointment – BCC appointed Todd Hughes to a new 3-year term (June 1, 2012-May 31, 2015) on the Clinton RFD Board of Trustees. Mr. Hughes missed filing date for Special District Election held May 8, 2012. He must run in the May 2015 Special District Election for another new 3-year term to 2018.

Board Appointment – BCC appointed Devin Jackson to a new 3-year term (June 1, 2012-May 31, 2015) on the Lolo Community Council. Mr. Jackson missed filing date for Special District Election held May 8, 2012. He must run in the May 2015 Special District Election for another new 3-year term to 2018.

Amended Agreement – BC signed. Amendment #2 to Agreement #DTFH70-90-E-00018 between WFLHD and FHWA (original: September 1, 2009) for Miller Creek Road Reconstruction Project. Amendment accomplishes the transfer of \$100,000 of CTEP funds from MT DOT and commits them to County for Miller Creek Road Project. Project will be fully funded (amended total amount: \$1,282,606.62). Two originals to Greg Robertson/PW for further signatures/handling.

Aging Services Revised By-Laws – BCC did not sign. Returned to Aging Services for changes.

Letter – ML signed, dated May 23, 2012 [BCC as a whole did not comment]. To Bob Ream, MT Fish/Game Commission, FWP, Helena, supporting FWP's proposed Wolf Season, Quotas and Boundaries Plan.

Additional discussion item(s): None.

NO PUBLIC MEETING HELD THIS DATE

THURSDAY, MAY 24, 2012

BCC did not meet in regular session. Most of day: BC/ML participated in RI Field Trip to Dry Gulch Access. Early evening: JC attended MAM *Circle of Giving* Celebration, held at Missoula Art Museum.

ADMINISTRATIVE MEETING – CANCELED (Commissioners on field trip).

FRIDAY, MAY 25, 2012

BCC did not meet in regular session. JC/ML out of office all day.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chair
BCC

MONDAY, MAY 28, 2012

THE COURTHOUSE AND ADMINISTRATIVE BUILDING WERE CLOSED FOR THE OBSERVED MEMORIAL DAY HOLIDAY.

TUESDAY, MAY 29, 2012

BCC met in regular session; all three present.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) OPG Director's update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Communications; 3) Spring 2012 All Community Council update; 4) Director's update.

ADMINISTRATIVE MEETING

County Payroll Transmittal Sheet – BCC signed. Pay Period: 10/CY2012 - Pay Date/May 18, 2012. Total Payroll/\$1,256,572.37. To County Auditor.

Agreement – BCC signed, dated April 23, 2012. Between County (Public Works) and Mary L. Hayes (1281 Potomac Loop, Potomac) for pit run gravel mined from Hayes gravel pit property for road maintenance operations. Approx. quantity/50,000 cubic yards (per October 2011 survey). Term/extended 10 years from date of execution. Amount/\$.50 per cubic yard. One original to Erik Dickson/PW.

Resolution No. 2012-055 – BCC signed, dated May 29, 2012. Budget Amendment for OPG/Transportation to show CMAQ and local match revenue for TDM Programs Review being conducted by OPG-Transportation staff and Nelson/Nygaard, Inc. Amount/Revenue=\$47,762; Expenditure=\$50,000. For total disclosure, expenditures included in formal FY12 Operating Budget/Revenue Estimates for County.

Letter – BCC signed, dated May 29, 2012. To Gary Matson, Bonner-Milltown Community Council, thanking him for letter dated May 16th re: MDT plans to install certain improvements in vicinity of Town Pump. MDT has rejected idea of roundabout at this location, and will install a traffic signal.

Letter – BCC signed, dated May 29, 2012. To Ed Toavs, MDT, Missoula, re: Speed Study for East Missoula (U-8211/East Broadway). BCC concurs with MDT's recommendations to extend current 35 mph zone both to the north and south, as well as reducing speed limit from 45 to 35 mph through Hellgate Canyon.

Additional discussion item(s): Tamarack Drive/Juniper Drive in Milltown. [Public Works will draft letter to Mrs. Greil].

WEDNESDAY, MAY 30, 2012

BCC did not meet in regular session. JC/ML out of office most of day at MACo Districts 10 & 11 Meeting, held in Polson.

CHIEF ADMINISTRATIVE OFFICER MEETING – CANCELED (BCC unavailable).

NO PUBLIC MEETING HELD THIS DATE

THURSDAY, MAY 31, 2012

BCC met in regular session; all three present.

ADMINISTRATIVE MEETING

Contract – BCC signed, dated May 18, 2012. Between County (OPG) and St. Patrick Hospital Sub-Acute Clinic to continue services under current (FY12) Strategic Crisis Intervention Plan (“SCIP”) initiatives for HB 130 (DPHHS funding for crisis mental health contract services/training/law enforcement/detention center diversion). Term/August 4, 2011–June 30, 2012. Amount/\$51,700.

Contract and Budget Transfer – BCC signed, dated April 12, 2012. Between County (OPG) and Western MT Mental Health Center to continue services under current (FY12) Strategic Crisis Intervention Plan (“SCIP”) initiatives for HB 130 (DPHHS funding for crisis mental health contract services/training/law enforcement/detention center diversion). Term/August 4, 2011–June 30, 2012. Amount/\$33,845. Budget Transfer – BCC signed, dated May 31, 2012. Control #12-106 for OPG in amount of \$3,800 from “contingency” to hire student intern to work at Detention Center per SCIP initiatives. Term/February 20–June 30, 2012.

Agreement – BCC signed, dated May 31, 2012. Between MCCHD and City of Missoula for delivery of *Be Your Best Diabetes Prevention Program*. Term/July 1, 2012–June 30, 2013. City to reimburse MCCHD \$500 per participant; funding from DPHHS grant. City Employee Medical Benefits Plan will reimburse MCCHD for employees covered by plan who qualify for/complete the program, with no co-pay to the employee. Three originals to Julie Mohr/MCCHD.

Agreement – BCC signed, dated May 31, 2012. Between MCCHD and Missoula County Risk & Benefits for delivery of *Be Your Best Diabetes Prevention Program*. Term/July 1, 2012–June 30, 2013. County to reimburse MCCHD \$500 per participant; funding from DPHHS grant. City Employee Medical Benefits Plan will reimburse MCCHD for employees covered by plan who qualify for/complete the program, with no co-pay to the employee. Two originals to Julie Mohr/MCCHD.

Agreement – BC signed. Between Evelyn Interis and MCCHD and Maternal/Child Health Information Resource Center for Graduate Student Internship Program (to conduct needs assessment of maternal/child health population of County, in collaboration with County Coalition for Families/Infants/Children. Term/May 21–August 10, 2012. No fiscal impact. Originals to Julie Mohr/MCCHD.

Board Appointment – BCC appointed Don Davies to fulfill an unexpired term (Bryce Rieger’s) to May 31, 2014 on the Clinton RFD Board of Trustees. Mr. Davies must run in the May 2014 Special District Election for another new 3-year term to 2017.

Resolution No. 2012-056 – BCC signed, dated May 31, 2012. Canceling the 2012 Soil Conservation Supervisor Election, and electing by acclamation Elizabeth Maclay and Richard G. Ramberg to four year terms.

Memorandum of Understanding – BCC signed, dated May 31, 2012. Between Missoula County (9-1-1) (“MC”) and Ravalli County 9-1-1 (“RC”), Hamilton, MT for MC to provide backup 9-1-1 service to RC residents should a service disruption occur. [MC has partnered with Flathead County to provide backup services for MC residents.] No fiscal impact. No term. This MOU memorializes services which have historically been provided. One original to Chris Lounsbury/OEM.

Memorandum of Understanding – BCC signed, dated May 31, 2012. Between Missoula County (9-1-1) (“MC”) and Granite County 9-1-1 (“GC”), Philipsburg, MT for MC to provide backup 9-1-1 service to GC residents should a service disruption occur. [MC has partnered with Flathead County to provide backup services for MC residents.] No fiscal impact. No term. This MOU memorializes services which have historically been provided. One original to Chris Lounsbury/OEM.

Contract – BCC signed, dated April 19, 2012. Between County and Mountain Valley Plant Management LLC for treatment of noxious weeds through the County Weed District Herbicide Treatment Projects Program. Included are: 1) Clark Fork River Perennial Pepperweed Treatment Project; 2) Blackfoot River Leafy Spurge Project; and 3) Blackfoot Road Treatment (Garnet Range Road/Nine Mile Prairie Road Treatments). Amount/\$16,500 (supported by grants and agreements with BLM). Term/June 1–October 30, 2012. One original to Jerry Marks/Weed District.

Contract – BCC signed. Between County and Mountain Valley Plant Management LLC (“MVPM”) for monitoring and survey for aquatic invasive plants in water bodies in Missoula County and a couple surrounding counties. MVPM will survey 17 lakes and 3 rivers. Amount/\$9,500 (supported by grant from MT DNRC). Term/June 4–October 30, 2012. One original to Jerry Marks/Weed District.

Contracts – BC signed. Between County Weed District and MT Dept. of Agriculture for following various noxious weed projects for term to October 31, 2013 (unless terminated pursuant to Section 20 “Termination”:

1. Leave No Weeds Project (#MDA 2012-012); involves approx. 1,100 fifth grade County students. Amount/\$8,000; MT Noxious Weed Trust Fund (“NWTF”)=\$4,000, Weed Dist=\$1,000 matching funds; BLM=\$3,000.
2. Missoula Conservation Lands Restoration Research Project (#MDA 2012-010) to continue monitoring resident native/non-native plant communities throughout grazing season, and success of establishing native plants by seed. Amount/\$16,206; NWTF=\$9,205, Missoula City Parks & Rec=\$7,001 matching funds.

3. Can Biological Control/Targeted Grazing be Integrated to Suppress Spotted Knapweed? (#MDA 2012-011). NWTF=\$25,678, Weed Dist=\$3,500 matching funds.
4. Sentinel/South Hills Weed Management Area (#MDA 2012-028). NWTF=\$12,000 to reimburse landowners up to 50% of cost for weed control.
5. Clearwater River Yellowflag Iris Eradication Project (#MDA 2012-024). Amount/\$12,500; NWTF=\$5,000, DNRC=\$1,515, MT FW&P=\$3,874, Weed Dist=\$2,111.
6. Swan Valley Cooperative Weed Management Project (#MDA 2012-738). NWTF=\$10,000 to reimburse landowners up to 50% of cost for weed control.

One original to Jerry Marks/Weed District.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated May 30, 2012. Amount/\$14,618.82. To County Auditor.

Requests for Records Disposal/Transfer Authorization – BC signed requests from County Attorney: For 1) Three boxes of Dependent Neglect (1/1/2007-12/31/2007), and 2) One box of Dependent Neglect (Active) (1/1/2000-12/31/2000). To be destroyed

Letter – BCC signed, dated May 31, 2012. To Rosie Buzzas, Flagship Director, Missoula, regarding her late application for Substance Abuse Prevention (“SAP”) Levy Funding on behalf of The Flagship Program and consequential appeal. BCC has instructed SAP Review Team to recommend funding, although a penalty reducing the grant award will be imposed.

Additional discussion item(s): FEMA Digital Flood Insurance Maps. BCC authorized to sign after modified.

MISSOULA COUNTY COMMISSIONERS' JOURNAL: JUNE, 2012

BCC = BOARD OF COUNTY COMMISSIONERS

BC = Commissioner Bill Carey, Chair
 ML = Commissioner Michele Landquist
 JC = Commissioner Jean Curtiss

The following Claims Lists were signed during the month of JUNE 2012:

Date Signed	Claims List Date	Who signed	Amount
June 1, 2012	May 29, 2012	BCC	\$9,405.15
June 1, 2012	May 30, 2012	BCC	\$9,925.90
			\$11,147.39
June 1, 2012	May 31, 2012	BCC	\$6,164.36
			\$369.49
			\$9,857.43
			\$30,277.60
			\$4,349.00
			\$4,789.97
			\$3,838.24
May 4, 2012	PHC Amerisource ACH		\$62.32
May 10, 2012	PHC Cardinal Health ACH		\$34,070.82
			\$37,991.42
May 18, 2012	PHC Amerisource ACH		\$3.36
May 25, 2012	PHC Amerisource ACH		\$135.26
	PHC Cardinal Health ACH		\$37,510.71
	PHC Cardinal Health ACH		\$53,833.27
June 4, 2012	June 4, 2012	BCC	\$2,036.88
			\$17,547.60
			\$1,355.25
			\$610.25
			\$33.96
			\$2,000.00
			\$30.00
			\$350.75
			\$3,266.00
			\$367.70
			\$5,039.93
			\$7,172.10
			\$186.43
			\$1,946.20
			\$5,363.34
			\$990.86
			\$18,095.11
\$1,269.34			
\$643.76			
\$9,650.54			
\$6,422.25			
June 6, 2012	June 5, 2012	BCC	\$4,936.57
			\$5,116.08
			\$35,303.94
			\$25,638.41
June 6, 2012	June 6, 2012	BCC	\$16,280.23
			\$638.00
June 7, 2012	June 6, 2012	BCC	\$117.82
			\$3,969.77
			\$40,646.48
			\$140,066.84
			\$1,739.10
			\$1,425.00

June 7, 2012	June 7, 2012	BCC	\$5,089.47
June 11, 2012	June 4, 2012	BCC	\$7,300.00
June 11, 2012	June 7, 2012	BCC	\$15,891.31
			\$4,637.00
			\$16,610.75
			\$16,860.08
June 12, 2012	June 11, 2012	BCC	\$1,197,793.78
			\$55,961.04
			\$409.80
			\$5,113.64
June 13, 2012	June 12, 2012	BCC	\$74,435.18
			\$10,154.99
			\$416.32
			\$450.73
			\$149,611.30
June 13, 2012	June 13, 2012	BCC	\$243,693.81
			\$4,000.00
			\$6,649.61
			\$107.50
			\$175,116.39
			\$2,564.84
			\$1,000.00
June 14, 2012	June 13, 2012	BCC	\$32,330.96
			\$7,256.58
			\$1,572.29
			\$4,592.25
			\$1,457.65
June 18, 2012	June 13, 2012	BCC	\$5,427.84
June 18, 2012	June 18, 2012	BCC	\$4,793.32
			\$38,675.48
			\$18,138.16
			\$7,496.08
			\$51,780.15
			\$10,073.69
			\$8,461.93
June 19, 2012	June 18, 2012	BC, ML	\$14,949.67
			\$4,362.00
			\$5,012.28
			\$17,236.10
			\$9,263.23
			\$25,432.00
			\$14,443.41
June 19, 2012	June 19, 2012	BC, ML	\$8,123.20
			\$6,182.80
			\$8,106.00
			\$450.00
			\$10,724.70
			\$8,330.80
			\$101,345.65
			\$62.72
			\$1,698.09
June 13, 2012	June 20, 2012	BCC	\$854.73
June 19, 2012	June 20, 2012	BCC	\$1,834.80
			\$4,697.33
			\$18,411.75
			\$3,000.00

June 20, 2012	June 20, 2012	BCC	\$1,430.92
			\$3,759.96
			\$1,508.40
			\$300.00
			\$4,672.58
			\$1,655.76
June 22, 2012	June 20, 2012	BCC	\$188,672.54
			\$961.62
			\$1,257.51
			\$4,733.38
			\$98.65
June 22, 2012	June 21, 2012	BCC	\$13,402.91
			\$6,677.33
			\$8,417.08
			\$1,256.65
			\$17,286.58
			\$11,750.57
			\$1,107.89
			\$377.90
			\$50,213.86
			\$5,678.76
			\$5,737.50
			\$6,702.66
			\$12,818.09
June 8, 2012	PHC Amerisource ACH		\$80.00
June 11, 2012	PHC Cardinal Health ACH		\$49,496.87
June 11, 2012	PHC Cardinal Health ACH		\$55,902.54
June 15, 2012	PHC Amerisource ACH		\$35.55
June 25, 2012	June 21, 2012	BC, JC	\$5,000.00
			\$38.25
			\$640.00
June 25, 2012	June 22, 2012	BC, JC	\$93,868.42
			\$154,491.23
June 26, 2012	June 22, 2012	BC, ML	\$173,449.10
June 26, 2012	June 21, 2012	BC, ML	\$33,065.21
June 26, 2012	June 25, 2012	BC, ML	\$24,791.52
			\$8,315.05
June 26, 2012	June 26, 2012	BC, ML	\$1,835.51
			\$626.02
			\$1,485.18
			\$246.52
			\$415.00
			\$7,893.79
			\$99.95
			\$46,337.25
			\$11,089.98
			\$1,895.94
			\$867.82
June 27, 2012	June 26, 2012	BC, ML	\$146.21
			\$1,574.29
June 27, 2012	June 26, 2012	BCC	\$3,629.19
			\$46,468.13
			\$216.60
			\$7,404.68
			\$1,063.48
			\$55.11
\$5,821.23			

June 25, 2012	PHC Cardinal Health ACH	111 PAGE 0664 \$30,792.40
June 25, 2012	PHC Cardinal Health ACH	\$56,826.07
June 29, 2012	PHC Amerisource ACH	\$315.54

All Claims Lists were returned to the Accounting Department.

FRIDAY, JUNE 1, 2012

BCC met in regular session; quorum present. ML out of the office all day.

Vickie M. Zeier
 Vickie M. Zeier
 Clerk & Recorder

Bill Carey
 Bill Carey, Chair
 BCC

MONDAY, JUNE 4, 2012

BCC met in regular session; all three present. Late morning: JC attended Substance Abuse Mill Levy Review Team Meeting, held in Admin 229.

Monthly Report - JC examined/approved/ordered filed the Monthly Reconciliation Report for Justice Court 1, John E. Odlin, Justice of the Peace, for month ending May 31, 2012.

Monthly Report - JC examined/approved/ordered filed the Monthly Reconciliation Report for Justice Court 2, Karen A. Orzech, Justice of the Peace, for month ending May 31, 2012.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) Cruz Shoreline Permit; 3) OPG Director's update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Communications; 3) Director's update.

Shoreline Permit – BC signed. #12-10 for Applicant Bill Cruz to build stationary dock with walkway and attached floating dock; stone patio-stair landing; stairs to dock; light post; water pump at 5893 Lindbergh Lake Road. Original to Todd Klietz/OPG.

TUESDAY, JUNE 5, 2012

BCC met in regular session; all three present in morning.

Site Visit: Afternoon: BC accompanied Greg Robertson on site visit to NineMile Road.

Monthly Report - BC examined/approved/ordered filed Monthly Reconciliation Report for Clerk of District Court, Shirley E. Faust, for month ending May 2012.

ADMINISTRATIVE MEETING

Continuation Contract – BC signed. Between County and ESRI for software used by multiple departments and is key software for County GIS. Amount/\$54,000 for period July 1, 2012-June 30, 2015. One original to Jim Dolezal/IS.

Contract – BCC signed, dated June 5, 2012. Between County and Working Dogs for Conservation Foundation for provision of at least one dog and handler to search for targets (dyers woad) on face of Mount Sentinel (under supervision of Marilyn Marler at UofM). Amount/\$7,500. Term/June 1-October 31, 2012. One original to Jerry Marks/Weed District.

Board Appointments – BCC reappointed current members 1) Christine Prescott and 2) Kathryn Doney to new 5-year terms (July 1, 2012-June 30, 2017) on the Library Board of Trustees.

Additional discussion item(s): None.

WEDNESDAY, JUNE 6, 2012

BCC met in regular session; all three present.

CAO MEETING

Board Appointment – BCC appointed Stacy Rye as a new member of the Missoula Development Authority to a vacant 3-year term (July 1, 2012-June 30, 2015).

TSEP Forms – BCC signed forms for reimbursement request for Riverview Drive Bridge Preliminary Engineering Report Grant by Great West Engineering. Amount of reimbursement: \$15,000; actual cost of PER: \$31,278.62. Original to Dawn/Accounting.

Memorandum – BCC signed Memo to Jeff Howe, MT PES, denying County Employee's grievance of May 9, 2012. After review, the BCC determined the grievant did indeed resign from her position at PHC, and was not involuntarily terminated.

Letter – BCC signed, dated June 5, 2012. To J. Petterson/FEMA Region 8 Mitigation Division Director/ Denver, re: Flood Risk Study Project/Missoula, MT. County is undergoing a Digital Flood Insurance Rate Map (DFIRM) update, and received notice that ongoing flood hazard analysis within County would be placed on hold. BCC requests FEMA Region 8 continue to prepare and process the DFIRM panels for our community, but ask that FEMA ensures that the DFIRMs are *consistent* in how they represent certain areas behind unaccredited levees (as set forth therein).

Additional discussion item(s): None.

SPECIAL PUBLIC MEETING – June 6, 2012

1. CALL TO ORDER

Commissioners Present: Commissioner (Chair) Bill Carey, Commissioner Michele Landquist, Commissioner Jean Curtiss

Staff Present: James McCubbin, Deputy County Attorney, Steve Niday, Surveyor, Kim Cox, Clerk & Recorder

2. PLEDGE OF ALLEGIANCE

3. PUBLIC ANNOUNCEMENTS: None

4. PUBLIC COMMENT: None

5. ROUTINE ADMINISTRATIVE ACTIONS

Bi-Weekly Claims List (\$1,336,598.46)

Executive Session

Commissioner Curtiss made motion that the Board of County Commissioners approve the Bi-Weekly Claims List in the amount of \$1,336,598.46. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

6. DECISION

Petition to Abandon a Portion of West Twin Creek Road

Steve Niday gave report. Viewing held May 22, 2012

Public Comment
None

Executive Session

Commissioner Curtiss made motion that the Board of County Commissioners accept the Viewer's Report to abandon the portion of West Twin Creek Road as described. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

7. HEARING

Petition to Abandon a Public Utility Easement (Remick's Swan River Tracts #2, Block 2, Lots 1-6)

James McCubbin gave report.

Commissioner Curtiss: Since we don't have to view anything physical other than the documents that are attached, is there a reason why we can't make a decision today based on what we've already seen in the packet?

James McCubbin: I don't think there's any legal reason why you can't. The only thing would be consistency with our usual process in case somebody expected to have another session.

Commissioner Curtiss: In most cases they come to the first hearing not the second. We have some people here that might make us realize that we need to have a second hearing but we can wait until after public comment.

James McCubbin: There's not any direct law, that I'm aware about abandonment of solely a utility easements. We've been applying and it's my understanding that various other counties have been applying essentially the process for public road easements when abandoning utility easements. But there's nothing in the law that really addresses that. The Board of County Commissioners, when you have a public easement is the only board that could possibly be the one that controls whether that gets abandoned. The only question is procedurally what's there. It does not make sense to require a physically viewing of something that is not a physical thing. A road is a physical thing, you go out, you look, is it a useful road? What's the location? So forth. A utility easement is much less. The other thing in this situation in particular is that the Commissioners are directly familiar with this land from recent subdivision review.

Public Comment

Toby Dumont, PC: We're just trying to finish out the formality of the condition of approval.

Commissioner Curtiss: Toby, well it was required by the conditions of the subdivision that you bring this to us. Do you really want it abandoned?

Toby Dumont: inaudible

Commissioner Landquist: That's just for the purpose utilities. This being fairly rural what utilities?

Commissioner Curtiss: It would be phone and power.

Commissioner Landquist: So there's adequate access for them to bring them in without having this easement?

Toby Dumont: This easement was created with a different thought development of the lot prior to the subdivision ~ prior boundary relocation. So now through the subdivision we're bringing power in a different route.

Commissioner Landquist: So this cleans it up so that you can plan other things where this easement is now?

Commissioner Curtiss: This easement doesn't actually serve the property that was in the subdivision that we recently approved, was part of a previous one.

Commissioner Landquist: I find it a tad goofy since we do have maps of it, the roads being already being proved to be abandoned. I think by holding this up to go see something that is visible other than what you would go out on sight and look at maps. I don't have a problem making a decision on it today.

James McCubbin: One thing maybe we could just make a record of Toby, is can you identify who the folks are and do we have representatives of all the property affected here present with us?

Toby Dumont: We do have owner representatives here, John is here today.

John Keller: I have minority interest in the project. We're totally okay with abandoning this easement because as I indicated before it really serves no purpose given the subdivision preliminary plat approval.

Kim Cox: I did verify the signatures on the petition and it does meet requirements.

Executive Session

Commissioner Curtiss made motion that the Board of County Commissioners accept the petition to abandon the public utility easement. The private road is something they can deal with separately and don't need our permission, so just the public utility easement as requested. Commissioner Landquist seconds the motion. The motion carried a vote of 3-0.

- 8. **OTHER BUSINESS:** None
- 9. **RECESS:** There being no further business to come before the Board, the Commissioners were in recess at 1:48.

THURSDAY, JUNE 7, 2012

BCC met in regular session; all three present. Afternoon: ML attended discussion meeting re: Septic Regulations, held at MOR Office. Evening: ML attended Fair Planning Committee Meeting at Fairgrounds.

ADMINISTRATIVE MEETING

Grant Contract – BCC signed. Amendment #2 between Weed District and MT DNRC for Aquatic Invasive species Matching Grant for period June 1-October 30, 2012. MCWD will check 16 lakes/3 rivers for aquatic invasive weeds. Amount/\$8,000. Two originals to Jerry Marks for further signatures/handling.

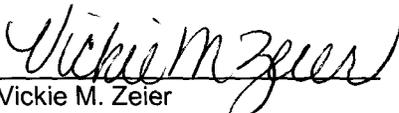
Request – BCC approved/signed and authorized Public Works to administer Frenchtown School District #40 Safe Routes to School Grant Funding in amount of \$18,467. This will connect terminus of County's CTEP bicycle/pedestrian trail to school property. Term/June-September 2013. Original to Jeff Seaton/PW.

Additional discussion item(s): None.

FRIDAY, JUNE 8, 2012

BCC did not meet in regular session; ML and JC out of office all day.

Replacement Warrant - BC signed. Jared Bean, Missoula, Principal for Financial Services Warrant #31317228, issued May 4, 2011 on Payroll Fund. Amount/\$111.66 (for wages). Not received in mail; no bond of indemnity required.


 Vickie M. Zeier
 Clerk & Recorder


 Bill Carey, Chair
 BCC

MONDAY, JUNE 11, 2012

BCC met in regular session; all three present. Evening: JC attended Bonner Community Council meeting.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) Kehrwald Acquisition; 3) JTL/ Knife River Gravel Pit Settlement Agreement (Discussion/update. BCC agreed County Attorney's office should enter into proposed stipulation on behalf of County); 4) OPG Director's update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Communications; 3) Land & Water Conservation Funding update; 4) Planning Projects update; 5) Director's update.

County Payroll Transmittal Sheet – BCC signed. Pay Period: 11/CY2012 - Pay Date/June 1, 2012. Total Payroll/\$1,284,706.25. To County Auditor.

Request – BC signed *Designation of Applicant Agent, Declaration #/FEMA-DR1966*, designating Todd Kliez, Floodplain Administrator/OPG to represent Missoula County in endeavor to obtain Federal financial assistance under Disaster Relief Act (or otherwise from President's Disaster Relief Fund) to acquire the Johnson property, located at 3417 Kehrwald (with 25% local match). Original to T. Kliez/OPG.

TUESDAY, JUNE 12, 2012

BCC met in regular session; all three present. Noon: JC attended Missoula Downtown Association Luncheon, held at Holiday Inn. Evening: BC attended Lolo Community Council meeting.

Replacement Warrant - BC signed. Presstek Ink, Hudson, NH, Principal for Central Services Warrant #30218139, issued February 23, 2012 on County 1000 Fund. Amount/\$547.08 (for printing supplies). Not received in mail; no bond of indemnity required.

ADMINISTRATIVE MEETING

Board Appointments – BCC appointed following to Aging Services Governing Board:

- 1) Reappointed members Karl Jones and Max Bauer to new 3-year terms (July 1, 2012-June 30, 2015);
- 2) Appointed Bob Homer to new 3-year term (July 1, 2012-June 30, 2015);
- 3) Appointed Edine Loran to new 3-year term as 12th Member (July 1, 2012-June 30, 2015);
- 4) Appointed Jonathan Weisul to fill unexpired term to June 30, 2014).

Yearly Contract – BCC signed, dated June 5, 2012. Between County Attorney and MT DPHHS for full-time of paralegal to provide services to assist attorneys in child abuse/neglect cases (enables DPHHS to meet federal IV-E requirements in judicial matters). Amount/\$40,898.99 (paid by DPHHS). Term/July 1, 2012-June 30, 2013. One original to Marnie McClain/County Attorney's Office.

Contracts – BCC signed, dated June 11, 2012. Between County and A&E Architects for the following:

- 1) Master Agreement for phased implementation of renovations to the Missoula County Fairgrounds Master Plan (includes provision for four 1-year renewal periods). Term/June 1, 2012-May 31, 2013.
- 2) Task Order #1 (Ice Rink Parking Area Paving). Amount/\$13,101. Term/June 1, 2012-October 5, 2012. Task Order #2 (Fairgrounds Facilities Assessment). Amount/\$20,000. Term/June 1, 2012-July 31, 2012.

Funding included in FY12 Budget. One original to Barb Berens/Auditor.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated June 12, 2012. Amount/\$27,847.59. To County Auditor.

Additional discussion item(s): None.

WEDNESDAY, JUNE 13, 2012

BCC met in regular session; all three present. Early morning: JC attended NARA event, held at UofM.

CAO MEETING

Lease Agreement – BCC signed, dated June 13, 2012. Between County and Bakke Kensington Partnership for Extension Service/Weed District office space at 2825 Santa Fe Court (Missoula). Term/July 1, 2012-June 30, 2015. Amount/102,935 annually. Copy to Jerry Marks/Weed District.

Letter – BCC signed, dated June 13, 2012. To Senator Jon Tester, Washington, D.C. and Faye Krueger, USFS, Missoula, thanking them for their efforts to resolve timber sale contracts that involve helicopter logging by local mills, and cost effectiveness thereof.

Letter – BCC signed, dated June 13, 2012. To Montana's Congressional Delegation (Baucus, Tester, Rehberg), Washington, D.C., encouraging their support of the Land and Water Conservation Fund, as the County benefits from this funding to develop/expand community parks/facilities.

Additional discussion item(s): Personnel grievance.

NO PUBLIC MEETING HELD THIS DATE

Tax Abatement Requests – At meeting with Clerk & Recorder, BCC approved following letters dated June 15, 2012:

- 1) Letter to Shannon Sloan, Alberton, re: request for assistance with her mother's 2011/2012 property taxes. BCC requests all info be sent to DOR so they can verify same, and see if there is any recourse for her mother in reducing property taxes.
- 2) Approving request from Rita Hagler/Temp Right Services, Missoula, to refund motor vehicle taxes for Vehicle #1171410 (because vehicle that was sold was renewed in error).
- 3) Approving request from Peggy Melville, Missoula, to refund motor vehicle taxes for Vehicle #12730032 (contingent on proof of sale for sold van).
- 4) Letter to Cheryle Lee Blakney, Huson, re: forgiveness for 2011/2012 trailer property taxes for #90422860. BCC requests all info be sent to DOR so they can verify same. County records show 2011 taxes were reduced from \$144.31 to \$127.76; and 2012 taxes have been removed. [Note: MT DOR sent letter to Ms. Blakney June 19, 2012, stating mobile home was destroyed November 19, 2011, and taken off tax rolls for 2012. Taxes were prorated for portion of year that property was unsuitable for use].
- 5) Approving request from Heather Wilson/Action Services LLC, Missoula, to refund motor vehicle taxes for Vehicle #2894227 (because vehicle that was sold was renewed in error).
- 6) Letter to Nathaniel Johnson, Missoula, re: refund on property taxes overpaid for Tax ID #2391008. BCC requests all info be sent to DOR so they can verify same.
- 7) Approving request from Debbie Lillebo-Weisser, Missoula, to refund motor vehicle taxes for Vehicle #896860 (contingent on proof that vehicle was totaled).
- 8) Letter to M.G. & Joanne Moss re: issue that County does not forward tax statements. Certain mail cannot be forwarded pursuant to MT Law (ballots, etc.) The Moss' were asked to provide an address by October 15, 2012 so they can receive a copy of their bill.
- 9) Denying request from Ashby Kinch, Missoula, to refund penalty/interest for Tax IDs #2259503 & 5868600. BCC can only do so in very limited circumstances; Mr. Kinch does not meet that criteria.

THURSDAY, JUNE 14, 2012

BCC met in regular session; all three present. Evening: ML attended West Valley Community Council Meeting.

ADMINISTRATIVE MEETING

Declaration – BCC signed, dated June 14, 2012. Declaration of Covenant Limiting Use to Agricultural Purposes Only, and Boundary Line Relocation between County and Daniel/Lina Vap, owners of property located at 777 Vintage Road (Tracts 2 and 4 within SE¼ of Section 21, T 12 N, R 19 W, PMM, Missoula). Vaps have two parcels and will end up with two residential parcels, and two restricted to agricultural use. Original to Jamie Erbacher/OPG for further signatures/handling.

Grant Application – BC signed Scope of Work application for \$114,533 in MT State DES Emergency Management Performance Grant funding to cover portion of DES Coordinator's salary/office costs, and \$40,000 towards Emergency Operations Center Renovation. Original to Chris Lounsbury/DES.

Letter – BCC signed, dated June 14, 2012. To Richard Opper/MT DEQ, Helena, urging DEQ to require Stimson Lumber Company to complete investigation/cleanup of PCB contamination adjacent to Blackfoot River. BCC strongly opposes consultant's proposal to establish new site-specific cleanup levels and risk-based remedial action approach.

Letter – BCC signed, dated June 14, 2012. To Family and Youth Services Bureau, Silver Spring, MD, supporting Mountain Home Montana's application for Maternity Group Home funding through the Administration for Children and Families.

Memorandum – BCC signed Memo to County Employee denying his grievance of February 22, 2012. BCC does not agree he was denied due process, and decision to terminate employment was made carefully and deliberately.

Additional discussion item(s): None.

FRIDAY, JUNE 15, 2012

BCC met in regular session; all three present. Late afternoon: JC attended Five Valleys Land Trust Open House & Retirement Farewell for Greg Tollefson, Director of Conservation.



Vickie M. Zeier
Clerk & Recorder



Bill Carey, Chair
BCC

MONDAY, JUNE 18, 2012

BCC met in regular session; all three present.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) OPG Director's update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) Communications (BPA Invitation); 3) Planning Projects update; 4) Director's update.

ADMINISTRATIVE MEETING

Contract – BCC signed, dated June 20, 2012. Between County and DJ&A Engineering to determine feasibility of non-motorized (bike/ped) trail construction between Missoula and Lolo. Amount/\$120,000 (\$10,000 MC Share). Term/June 26, 2012-April 15, 2012. Two originals to Jeff Seaton/PW for further signatures/handling.

Board Appointment – BCC reappointed Lynda Brown to a new 3-year term (July 24, 2012-July 24, 2015) on the County Compensation Committee.

Board Appointment – BCC reappointed Anne Rupkalvis to a new 3-year term (July 1, 2012-June 30, 2015) on the County Parks Board.

Request for Records Disposal/Transfer Authorization – BC signed request form from Elections for Federal Primary Stubs (vote/non-voted); provisional-secrecy & outer envelopes; test ballots (auto-mark); unused materials. To be destroyed

Additional discussion item(s): 1) Nurse Family Partnership; 2) Gas Tax Presentation.

TUESDAY, JUNE 19, 2012

BCC met in regular session; all three present. Morning: BC/ML canvassed Primary Election with Barb Berens, Auditor. Evening: ML attended Shelby Water District Board Meeting.

ADMINISTRATIVE MEETING – CANCELED

WEDNESDAY, JUNE 20, 2012

BCC met in regular session; all three present. Evening: ML attended Evaro-Finley-O'Keefe Community Council Meeting.

CAO MEETING

Request – BCC preapproved FY13 Budget Enhancement Request from Shirley Faust/Clerk of Court in amount of \$5,100 to hire temporary workers to assist with processing 10,000 jury questionnaires for trials scheduled to be held in September 2012. Document to Shirley Faust.

Grant Agreement – BC signed, dated June 20, 2012. Between County and Seeley Lake Community Foundation ("SLCF") for Seeley Lake Wood Stove Changeout Program. This Agreement releases \$25,000 matching funds from SLCF for implementation of project (per contract with Glacierland Resource Conservation & Development to manage grant funds in amount of \$285,000). Project end: December 1, 2013. One original to Chase Jones/OPG.

Letters – BCC signed, dated June 20, 2012. To Members of: 1) Swan Valley Community Council; and 2) Seeley Lake Community Council, re: their letters/comments to US Fish/Wildlife Service on the Benton Lakes National Wildlife Refuge Complex Comprehensive Plan. BCC requests that comments made by the Councils on projects such as this one be directed to the BCC (as Community Councils are advisory to the BCC).

Additional discussion item(s): None.

PUBLIC MEETING – June 20, 2012

1. CALL TO ORDER

Commissioners Present: Commissioner (Chair) Bill Carey, Commissioner Michele Landquist, Commissioner Jean Curtiss

Staff Present: Todd Kliez, Floodplain Coordinator

2. PLEDGE OF ALLEGIANCE

3. PUBLIC ANNOUNCEMENTS: None

4. PUBLIC COMMENT: None

5. ROUTINE ADMINISTRATIVE ACTIONS

Bi-Weekly Claims List (\$2,697,524.81)

Executive Session

Commissioner Landquist made motion that the Board of County Commissioners approve the Bi-Weekly Claims List in the amount of \$2,697,524.81. Commissioner Curtiss seconded the motion. The motion carried a vote of 3-0.

6. HEARING

Floodplain Permit Variance Request (Grass Valley – French Ditch Company)

Todd Klietz read the Staff Report and showed presentation.

Carl Saunders: You can cross that channel and walk down the sandbar and around the little island to the sight with an excavator but I can't get trucks in there to haul the material back out again. The channel is about up to my knees so I can get across there with an excavator no problem but running field vehicles in and out of there we would tear up everything.

In 2005 bulk of the water was still going around the main channel. The damn was installed in 1905 and for most of the 100 years we haven't had any problem getting water there. We didn't notice that there was a problem in 2009 because as you can see the flood waters, if you turn to the 2009 map, you can see the water returning to the North Channel across the area exactly and this is what we're proposing to do, is to make that a normal, regular channel.

From our point of view the cheaper place to do this was at the right hand vision of it and we could remove it and not need this variance but I couldn't get land owners permission for it. And as our attorney explained to me, if we actually did it there and caused damaged to these people, they could sue us for causing damage from changing the channel of the river and diverting water at their property. We really weren't willing to assume that liability for future use of high water coming around there by expanding that flow of water where it's normally been.

Our concern is just to get water in to the channel so we can irrigate. Last year by August we were unable to back up enough water to get it to the end of the ditch and didn't know why. We flew the river and could see from the air all of these logs that were at the sandbar spot and why we weren't getting any water over there. At that point and time which was February I started pursuing getting the applications to get this done; it took me until April/May to get this done.

This is why we chose the spot that we did to do the work was that it met there criteria to allow us to get the water back into it. It's probably the best alternative.

Commissioner Curtiss: I understand you have applied for but don't have 310, 404 and 318 permits yet?

Carl Saunders: The 310 permit I thought I had but they just sent me a letter saying it was accepted as a project. I honestly don't know whether this is going to need to be done because I don't know what this year's high water did to that sandbar and if it's moved that material out of the way. By mid-July I know we're going to need more water than what we're currently getting in order to irrigate.

Commissioner Landquist: So you're taking a proactive approach in case you do need it this year?

Carl Saunders: Yes. I find it ironic that in the 100 years since the Damn's been in there we didn't have any pumps until the Milltown damn was removed. There was 16-18 inches of silt when we removed the boards. The silt went down the river once we removed the boards. I talked to Diana from the EPA, had they known this problem existed they had a contract with Envirocon to take that silt out and remove the problem but of course nobody told us that. We didn't know we had other options at the time.

Jim Custer, Board Member of the Grass Valley French Ditch: I have to echo his comment on did the removal of the Milltown Damn have anything to do with it. Last year for the very first time and we've been there for 74 years, the river decided to take out a large chunk of very fertile land. How important is it to keep water flowing to that ditch? The ditch company originally served about 4000 acres; it goes a long way, down into Grass Valley in fact just past the pulp mill. That's some of the most productive lands that remain in the valley; those folks would like to see their crops well water so hopefully you'll approve this.

Commissioner Curtiss: The River is what they called sand starved because it hadn't had a lot of silt for years so I'm sure it was a big bunch.

Peter Nielsen, Health Department, WQ: My first involvement with this project was in 1986. The river at that time was having the same problem. I worked with the Regional Fishery Manager at that time with FWP to come up with a solution. Their proposal was to do a gravel diversion dike at the head of the island. They wanted to do at that point a gravel diversion, we came up with an alternative project to do the diversion a little different way, it seemed like it worked for a while, it wasn't real permanent but it seems like it's gotten through till this point. Big events like removal of a damn or a big flood tends to bring a lot of material downstream. A lot of the material from last year came from Deer Lodge County as it turns out not from removal of the damn. There was a lot of gravel that came out; they had the same problem up in Turah, cut off a side channel just like that, where the Yellowstone Pipeline was. The Damn certainly did trap sediment over the years and as Jean mentioned it was sand and gravel starved downstream. So there's been a period of a few years where we've had a build of sand and gravel downstream, that's occurring. The only thing I want to request of you is to, if you choose to approve this variance is to make it conditional on the applicants obtaining all of the permits, which I think is required.

Hearing closed.

Todd Klietz: In order for the County Commission to grant a variance, Missoula County Floodplain Regulations require you to address several different issues. They're on the 2nd page of the application. First one, variances shall not be issued for areas within the floodway. If any additional increase in flood elevations or facilitates after allowable encroachments into the floodway fringe would result. This brings to the heart the issue that DNRC raised which was that there has not and hasn't been the opportunity to...for the applicant to prove that this excavation and the placement of the fill would result in zero rise. That is something the applicant could do if required.

Commissioner Curtiss: Can that be determined by the pre and post survey? The Pre survey and then the engineers estimate to how much is going to get laid out there.

Todd Klietz: The pre and post topography is a part of that. What that does is demonstrate what the conditions were before and of course what they are afterwards. The actual zero rise would be determined through hydraulic analysis that a professional engineer would have to look at both the original hydraulic model that FEMA did for this particular stretch of the river and then anticipate the changes would occur with the excavation.

Commissioner Curtiss: It doesn't say any of that in any of these questions, it doesn't use the word zero rise. So that's in our regulations.

Todd Klietz: Right, it does say increase in flood elevations.

Commissioner Landquist: I do have one question. Have you looked at your irrigation ditch, the channel of the ditch to see if over time sediment has built up the elevation of that making it contributing to some of the problems to get the amount of flow that you need? Has that been closely investigated on your part?

Carl Saunders: In 1998 we hired Eli & Associates to survey the ditch. We found 8-10 inches of sediments in the first mile and a half in the ditch, then we went in and hauled off about 300 dump truck loads in that mile and a half.

Commissioner Curtiss: Todd, I guess I'm still confused as to how the applicant can meet the first one which is not increasing flood elevations and then the one that is listed as C, which basically says the same thing. They have to have an engineer or someone model that is that what it is?

Todd Klietz: Correct, because it's in the flood way. That's the reason why they're seeing you today is that placing fill even though the fill is generated from that exact location, once it's picked up out of the river by man and redeposited then it's considered instead of a natural destruction it's considered an artificial obstruction has to be proved that they're not raising the flood elevation by .00 feet...a zero rise, flood elevation increase that they're charged with, insuring that they don't do.

Commissioner Curtiss: So those two questions we could potential answer in the affirmative if we say, when an applicant verifies zero rise that we could approve.

Todd Klietz: As a condition of a variance.

Executive Session

Commissioner Curtiss: I do appreciate the set of photos that both you had Todd and Mr. Sanders because it shows the dynamic section we have and that probably the City of Missoula would look a lot different if we let the river go where it wanted to go. It is obvious that the river has chosen to go south in this case.

I do believe that they have made a case to allow for a variance with some conditions. I would move that the Board of County Commissioners Conditional approve. How do we word it? I believe that they've met this criteria.

Section A, is a showing of good and sufficient cause and I believe that the applicants have shown good and sufficient cause because this diversion was created in 1905, they have a right to the water, they have told us that there was a lack of flow in that North channel last year which used to be the main channel and the pictures verify that the main piece of water has moved. So I believe that we can say that they have shown a good sufficient cause.

Commissioner Curtiss made motion that the Board of County Commissioners approve Section A of the Variance. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

Section B, determination that a refusal of the permit would because of exceptional circumstances cause a unique or undue hardship on the applicant or community involved. The variance I think is needed partly because while it is possible to walk an excavator in the fairly shallow water to get there, they cannot get trucks on site to carry these materials off site so it would require an undue hardship on the river if they continual walked that piece of equipment up and down the river to carry buckets full of soil to a truck. I think they meet that.

Commissioner Curtiss made motion that the Board of County Commissioners approve Section B of the variance. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

Section C, a determination that granting of the variance will not result in increased flood heights, present additional threats to public safety, be an extraordinary public expense, create nuisance, cause fraud, victimize the public or conflict with existing state and local laws. Again, this was one that we can conditionally approve but the applicant will have to verify or prove that the work that they are proposing

and the depositing of materials in the flood plain will not result in a raise in the flood levels. So that one we can conditionally approve.

Commissioner Curtiss made motion that the Board of County Commissioners conditionally approve Section C. Commissioner Landquist second the motion, keep in mind that something Todd just said their going to be doing some excavation and depositing but also I'm looking at the removal of some trees and burning them, that also helps take out some volume and obstruction in the river too. The motion carried a vote of 3-0.

Next is a determination that the proposed use would be adequately flood proofed. I think in this particular case that question is **not applicable**.

Section E, the determination that a reasonable alternative location outside the floodplain is not available. I believe that they have met this because they it's taken them a year to get to this point because they do have to have permission from adjacent land owners and the land owners prefer that these sediments be placed in the floodplain rather than doing some different diversions that might have effected their property more difficulty.

Commissioner Curtiss made motion that the Board of County Commissioners approve Section E, as there is no reasonable alternative. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

Section F, the determination that the variance requested is the minimum necessary to avoid a ford relieve considering the flood hazard. It seems like the photographs show us that this is necessary thing, especially with all that sediment that has built up there and the logs that have floated down, it will be necessary to clean that channel out and their engineer is going to have to show us what the minimum is necessary to make that balance of not raising the flood waters.

Commissioner Curtiss made motion that the Board of County Commissioners approve Section F. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

The variance shall not be issued for areas within a floodway if any additional increase in flood elevations or velocities after allowable encroachments into the floodway ridge would result.

Commissioner Curtiss made motion that the Board of County Commissioners conditionally approve this expecting the applicant to verify that with the help of a consultant to show that zero rise has been met, recognizing that if the modeling doesn't work out or the project doesn't work out they have to correct it. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

Commissioner Curtiss made motion that the Board of County Commissioners approve the variance based on all the input and information that was in the packet and conversations here today, contingent upon the applicants also getting all the necessary permits that are required by the different agencies in the community or in the State. Also recognizing that they may not use this depending on what Mother Nature did this winter. Commissioner Landquist seconded the motion. The motion carried a vote of 3-0.

7. OTHER BUSINESS

None

8. RECESS

There being no further business before the Board, the Commissioners were in recess at 2:23.

THURSDAY, JUNE 21, 2012

BCC met in regular session; all three present.

ADMINISTRATIVE MEETING

Grant – BC signed. West Central MT Drug Task Force Subgrant #11-G01-91264 between MT BOCC and County (Sheriff's Dept.) in amount of \$133,527 for services outlined therein. Term/July 1, 2012-June 30, 2013. Two originals to Dawn Seaton/MCSD for further signatures/handling.

Amendment – BC signed. Modification 6 to Contract #510040 between MCCHD and MT DEQ (Public Water Supply Inspections) as follows: 1) Changes Contract Termination date from 6/30/2012 to 12/31/2012; and 2) DEQ reimbursement to County changed from \$29,155 to \$35,355 for services performed, as stated/assigned in contract, between signature of contract and 12/31/2012 (changed from 6/30/2012). All other provisions remain unchanged. Originals to Julie Mohr/MCCHD.

Budget Transfer – BCC signed, dated June 21, 2012. Control #12-008 for Health Dept. in amount of \$16,000 to correct line item that was omitted by mistake from the original budget, as well as move additional funds into a line item. Original to Finance.

MOA – BC signed, dated June 1, 2012. Between County Park Board and Potomac School District #11 for Spring FY12 Capital Matching Funds Grant for priority tasks (site grading/discing/soil amendment/ irrigation, etc.) Amount/up to \$15,000. Funds must be spent by June 1, 2014. One original to Christine/Parks.

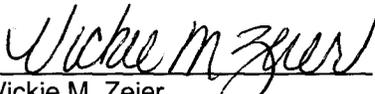
MOA – BC signed, dated June 1, 2012. Between County Park Board and East Missoula Lions Club for Spring FY12 Capital Matching Funds Grant to mow/weed eat park for entire season. Amount/\$3,920. Funds must be spent by June 1, 2014. One original to Christine/Parks.

MOA – BC signed, dated June 1, 2012. Between County Park Board and Nine Mile Community Center for Spring FY12 Capital Matching Funds Grant to build rustic style covered pavilion for use at site. Amount/up to \$1,000. Funds must be spent by June 1, 2014. One original to Christine/Parks.

Additional discussion item(s): 1) Compensation Committee and related compensation issues; 2) Legislative Policies.

FRIDAY, JUNE 22, 2012

BCC met in regular session; all three present.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chair
BCC

MONDAY, JUNE 25, 2012

BCC met in regular session; all three present.

Planning Status Meeting – BCC/OPG Staff. Agenda: 1) Public Comment; 2) County Subdivision Regulation SLR Amendment; 3) OPG Director's update.

Rural Initiatives Update – BCC/RI Staff. Agenda: 1) Public Comment; 2) OLC Bylaw Revisions; 3) Communications; 4) Director's update.

TUESDAY, JUNE 26, 2012

BCC met in regular session; quorum present. JC out all day at MP Health Improvement Task Force Meeting, Helena. Afternoon: BC/ML participated in County Employee Service Awards Ceremony, held in the Courthouse.

ADMINISTRATIVE MEETING

County Payroll Transmittal Sheet – BCC signed. Pay Period: 12/CY2012 - Pay Date/June 15, 2012. Total Payroll/\$1,291,744.49. To County Auditor.

Renewal Grant Agreement – BC signed. Between County and Western MT Mental Health Center/Turning Point for SHARE House Continuum of Care contract for transitional housing/supportive services to homeless alcoholics/drug addicts. Term/January 3, 2012–January 2, 2013. Grant amount/ \$147,498; County to receive \$3,687.45 for administering grant. One original to Melissa Gordon/OPG.

MOU – BCC signed. Between County and City of Missoula for Ben Weiss (OPG/Missoula in Motion) to serve one-year special assignment as City Bike/Pedestrian Program Manager (following Phil Smith's retirement). Mr. Weiss will remain County employee, but salary/benefits to be paid from City General Fund. Term/July 1, 2012-June 30, 2013. One original to Heidi Bakula/City.

Larchmont Claims - BCC signed one (1) Signature Page for A/P Invoice Register dated June 26, 2012. Amount/\$45,646.41. To County Auditor.

Additional discussion item(s): None.

WEDNESDAY, JUNE 27, 2012

BCC met in regular session; all three present.

CAO MEETING

Addendum – BCC signed, dated June 27, 2012. To Agreement between County (Detention Facility) and Benefis Spectrum Medical, Inc. for provision of medical services. Amended are: 1) Effective date is July 1, 2012 through December 31, 2012; and 2) Compensation is \$268,682.50 for same term. Two originals to Dawn Seaton/MCSD.

Resolution No. 2012-057 – BCC signed, dated June 27, 2012. Approving an "organized market" operated by the East Missoula Community Farmer's Market Inc. at 4007 Highway 200 East, Missoula (contingent on compliance of requirements described in Attachment A).

Request – BC approved request from RI/Parks to expend up to \$2,400 from FY13 Park Budget for projects at Big Sky Park (Fastpitch and Equestrian Park Lease areas). Projects duration: Spring-Summer 2012. One original to Lisa Moisey/Parks.

Request – BCC approved FY13 Budget Enhancement Request from Parks Budget in amount of up to \$5,000 for additional five hours per week (from 20 to 25 hours) for Parks Assistant, beginning July 1, 2012. Document to Lisa Moisey/Parks.

Grant – BC signed. Western Region Juvenile Detention Subgrant #13-L05-91284 between MT BOCC and County (Sheriff's Dept.) in amount of \$88,081 for Missoula County (\$279,080 total for Region) for services outlined therein. Term/July 1, 2012-June 30, 2013. Original to Gary Elliott/MCSD.

TSEP Exhibit 12-C – BC/JC signed. TSEP Certification of Completion and Status of Funds Report for Preliminary Engineering Grant on behalf of Seeley Lake Sewer District. Total project cost/\$36,912; eligible reimbursement amount from TSEP/\$15,000. Final PER submitted to TSEP May 4, 2012. Original to Greg Robertson/PW.

Additional discussion item(s): 1) Public Works Dept. update; 2) Administrative Meeting request.

PUBLIC MEETING – June 27, 2012

1. CALL TO ORDER

Commissioners Present: Commissioner (Chair) Bill Carey, Commissioner Michele Landquist, Commissioner Jean Curtiss

Staff Present: James McCubbin, Deputy County Attorney, Greg Robertson, Public Works Director, Mike Barton, OPG Director, Karen Hughes, Rural Initiatives

2. PLEDGE OF ALLEGIANCE

3. PUBLIC ANNOUNCEMENTS

Don't forget the Fourth of July festivities at Fort Missoula.

We have a number of Boards and Councils that have openings for members. Check out our website or call our office at 258-4877.

4. PUBLIC COMMENT: None

5. ROUTINE ADMINISTRATIVE ACTIONS

Weekly Claims List (\$1,118,359.51)

Executive Session

Commissioner Curtiss made motion that the Board of County Commissioners approve the weekly Claims List in the amount of \$1,118,359.51. Commissioner Landquist second the motion. The motion carried a vote of 3-0.

6. PRESENTATION (by City Council Chair Marilyn Marler)

City Council Resolution on Proposed \$.02 Gas Tax

Marilyn Marler City Council President read the resolution of the Missoula City Council requesting the Missoula County Commission adopt a resolution and referral to the people of Missoula County for authorization of a local option motor fuel excise tax. Excluding all diesel fuels and not to exceed \$.02 per gallon, in accordance with Montana Code Annotated 7-14.301.

We're not asking that you take any action today; we're viewing this as the beginning of a conversation. We are asking you to put something on the ballot for the fall. We're not asking you to approve a new tax; we're asking you to give people an opportunity to vote on this. Again, not a decision that you have to make today, or this week or even in the next few weeks, we encourage ongoing discussion with the community at all levels about this.

Public Comment

Greg Svoboda: Opposed

Mike O'Herron (City Council Ward 5): For tax

Alex Taft (City Council Ward 3): For tax

Dick Haines: For tax

Chuck Thompson: Opposed

Jeannette Zengraff (Advocates for our Republic): Opposed

Bill Nooney: Opposed

Jason Weiner (City Council Ward 1): As of the particulars to collecting this, it is spelled out in the statute as you know, I'm sure. The County Treasurer is responsible for administering the tax and that retailers are permitted to retain a portion of the proceeds in order to cover administrative costs. Give us the help and let the people of Missoula have a say.

Larry Dunham: Opposed for the tax outside the City limits.

Candy Matthew-Jenkins: Opposed

Ed Childers: For tax

John Salmonson: For tax

Dave Otto: Opposed

Executive Session

Commissioner Curtiss: The County adopted the complete streets resolution that the City adopted knowing what complete streets look like in the county areas but not necessarily look like or have the same capacity as the ones in the city. Recognize the issues that the city is dealing with and think it's a good idea that you're looking for different ways to do that. I think that there's a lot to weight and we're not planning to give you an answer today because we've heard a lot from you and we've heard a lot from public and we have other things to look at. I think it's a creative way to look at it.

Commissioner Landquist: I agree. I think this city has clearly identified that there's a problem here and fixing old sidewalks, creating new sidewalks and providing for that infrastructure, we're not getting the money for doing it, that used to be trickling down. I want to thank everybody who came here today to talk either for it or opposed to it. I want to go on the record to let people know that we've received a number of emails for it and against it since this has become a community conversation and they will be entered as part of the record here today. We're not prepared to give an answer one way or another right now, we do need to think about it a bit more. There's a lot to evaluate here such as state gas tax in general and how that's spread out and capped and where all that money is going to and maybe that problem can be looked at from a larger scale, rather than the smaller scale that we're talking about. We'll continue to take input.

7. HEARING

Amendments to the Missoula County Subdivision Regulations, Section 4.6 (Subdivisions for Lease or Rent)

Mike Barton gave staff report update. The item before you today would amend the county subdivision regulations. This matter has been noticed and it has been referred to the Planning Board. The Planning Board held a public hearing on this June 5th. After the receipt of public testimony, the Planning Board approved the amendment with some changes that are noted on the staff report and pass the recommendation to you with only one dissenting vote. While your Rural Initiative Office does your regulations, our office, Office of Planning & Grants had requested this change. The impetus for it comes not only from the discussion in the most recent legislature about regulations that governor's subdivision for lease or rent but also from an Attorney General's opinion that was issued in January of this year. The amendment before you today would allow the permitting staff to accept a use agreement that would preclude any rental or lease hold situations and our permittees could accept that as evidence that a development proposed was not a subdivision. And that that level of review would not be required as part of the permitting process.

Public Comment

John Kellogg, Professional Consultants: We fully accept the concept that they're bringing forward here. I have one minor addition to the adjustments; in order to more accurately describe the purpose of the structures that are being looked at under this proposal. The words in Rural Initiatives proposed paragraph 3, 'which are accessory to the primary use of the parcel', I think that phrase, when we're looking at rental and use, a rental and lease, is an unnecessary phrase. So in addition to the adjustments that have already been made, I would recommend that that additional wording be struck.

Commissioner Curtiss: Could you be clearer as to what you mean ~ what piece?

John Kellogg: In the actual amendment to the Subdivision Regulations that Rural Initiatives has proposed there are three paragraphs under 4.6.1. The third paragraph says additional buildings, structures or other improvements proposed for an undivided parcel which are accessory to the primary use of the parcel and could also potentially be leased or rented by separate persons or entities. The being accessory to the primary use is something that's important in zoning and could be enforced through zoning regulation. When we're talking about leasing or renting and the concern being that this structure, improvement, whatever is not leased or rented then whether its accessory to the primary use of the parcel is inconsequential. And so I think it's taking the definition or taking the identification of the structure beyond what's necessary to accomplish the purposes of what Rural Initiatives is proposing here.

Commissioner Curtiss: Could you give us an example?

John Kellogg: If somebody wanted to...if you had a parcel with a cabin on it, small cabin and you decide that in lieu of a small cabin you want to increase the size of the cabin say maybe even expand it to a residence that you want to operate a business out of. If the area is not zoned then that would be a potential use that could be brought in under this use agreement but it would not be accessory to the initial primary cabin that was built on the property.

Commissioner Curtiss: So you don't think that if a partial changed from residential to now commercial or retail that it shouldn't have some kind of review?

John Kellogg: I think that as a site, if it's not zoned I don't think that's an issue that is necessarily to be reviewed under this proposal. Separate from that, if there's concern in that are over a change in use to commercial, then the county would be potentially interested in rezoning or in zoning that area and controlling that use. However, if the intention here is to make sure that nothing is leased or rented because that would violate the subdivision regulation, then that level of review is unnecessary.

Commissioner Curtiss: I don't think that's our total intention is leased or rent, I think its impact. It's whether or not we need to look at the impacts. So if you have a house and you're going to build a guest cabin so your kids don't have to stay in the house when they come to visit or something, that's one kind of thing but if you're changing completely and it doesn't accessory....I think why accessory is in here is if you owned an orchard for an example and you wanted to put up a building to sell the apples, that's accessory, and that's is commercial but it still relates to your crop, I don't know.

John Kellogg: I couldn't agree with you more that the concern of the county probably is in reviewing a changing use that potentially would create an additional impact. However that's not what we're addressing, I believe, and Rural Initiatives intended to address here. It's just the violation of the rent or lease aspect of subdivision review.

Commissioner Curtiss: What we're really trying to do though is review which projects people may bring to use that aren't a subdivision because they're not creating all kinds of things that we need to review through subdivision. So if you're putting up several cabins and you're going to rent them, it's going to have a different impact so it's that rent or lease language that throws us all off.

Commissioner Landquist: If you're building yourself a studio or shop and it's an extra building on your property you're not going to lease or rent it, that's not going to have the same impact as something that you are going to be leasing or renting. Your coming and going on the property and now you have a tenant coming and going on the property and then sanitary review because you have more people coming and going and using sanitary facilities, those are things that would need to be reviewed but the things that are for your primary residential use on your...or even commercial use but still part of your operations there, that wouldn't have to go through the subdivision for rent or lease process. And that's one of the reasons we're trying to use the language that we are here in this statement.

John Kellogg: I understand where you're going with this, what I'm saying is I think that goes beyond what the scope of the requirement is in order to assure that subdivision for lease or rent regulate law is complied with. So if the intent of this is to address the problem of subdivision for lease or rent, the question of whether the additional use or the new proposed structure improvement is accessory to the existing use is while it certainly may be a concern down the road for the county to address that under zoning regulation, it's not necessary within this regulation to address the accessory uses, it's a zoning issue rather than a subdivision for lease or rent issue. I don't mean to be argumentative.

Colleen Dowell, Attorney Warden Thane: Represents for Sterling and Suzanne Miller. With all apologizes to Sterling, if any of you know our relationship when I worked for the county, hell has indeed frozen over. I am Sterling's lawyer and I am here speaking on behalf of the Millers with regard to all of the work they have done with regard to Lease or Rent Subdivision. As you probably know, when I had James' job in 1994 I looked at the whole issue of Subdivision for Lease or Rent and I believed that Missoula County had the right to review Subdivision for Lease or Rent. We spent a great deal of time answering the question that you just asked Jean, what are we trying to protect against? At that time we were trying to protect areas of riparian resource and looking at the impacts of different kinds of uses on areas of riparian resources. That was not stated in the regulations but that was our primary purpose. When we looked at all of that, we came to the conclusion that single family residential uses, just adding them to a partial were a huge impact because they were built in areas that tended to be in riparian areas, they impacted wildlife because they all came with a road and a dog. Having some say over that type of development was what we had in mind. Times have changed, the Attorney General has spoken and making these distinctions of what we want to review have become more difficult. What I have attempted to do is figure out how to make those distinctions within definitions that exist in Montana law currently. I took the liberty to make a few recommendations. I will say, as drafted, these regulations go a long ways towards solving the regulatory dilemma the planners are put in when trying to be fair to people who just want to add a cabin or add some structure to their lot. I think the use agreement is a good idea and hope to take advantage of that at some point, in advising people in Missoula County. But what is lacking is delineation between what is Lease or Rent, which is in pure real estate terms a transfer of an interest in real estate. It is a transfer of the use of the real estate and that should be distinguished from a transfer of a service, which is transient housing, hotels/motels, bed and breakfast and guest ranches. I searched the statutes for that same distinction and to see if any regulations or statutes had made a definition that allowed rules to be made for some uses that were transient housing and those were defined as uses that allowed a rental or payment of funds, reservations for a place to stay for less than 30 days at a time, and that is used throughout the regulation. So my suggestion is to in search that Lease or Rent subdivision is appropriate if it is intended that there be a rental for more than 30 days at a time. Which would preclude the ability or the requirement that you review, for instance, a guest ranch or bed & breakfast, whose impact are very different from residential development that brings with it all those trips per day and per household and the dog and the road. I think this is a way to get Missoula County to a place where they can do what they want to do, in terms of Lease or Rent review but not have you in a position of reviewing every time, a new Motel goes in that has two separate buildings, for instance, or and number of kinds of review. I think it would add to the benefit of the use agreements and could even be included as an element of a use agreement. You are agreeing that you will not rent your unit for more than 30 days at a time and as a result you would be exempt from Subdivision for lease or Rent review. I would also like to endorse John Kellogg's recommended changes to replace 'use' with 'Lease or Rent'. I also would like to talk about the phrase that addresses accessory to the primary use of the parcel. Accessory use is a zoning term and it is defined in Missoula County's zoning resolution and I can't quote it verbatim but it has something like that is subordinate to the primary use of the property. And so if someone wanted a guest cabin, it would have to be determined in order for #3 to exempt it, it would have to be determined that a guest cabin or a guest house is subordinate to the primary use. And if that's what you wish to do, I would hope you would define how you recognize that; if the house is smaller, if it comes second, some way to make that distinction so that planners know and residents know what the rules are.

Commissioner Landquist: The first part that you were making suggestions to ~ the end of it that said; for periods of 30 days at a time. That would then...anytime you add, as long as you're on a private well, if you're serving the transient public, then you'd have to have a public water supply and go through sanitary review, if you're doing stuff like that.

Colleen Dowell: I know the rules for public water systems depend upon the actual residences served or the number of buildings served. I don't think that for a period of 30 days or more at a time would pull it under the public water system.

Commissioner Landquist: It depends on if you have 25 people or more or how transient they are, stuff like that. I just wanted to throw that out there, I agree with the rest of your changes but I think this part of it stirs muddy in the waters for me. Maybe you know it's been a while since I've dabbled in the water world.

Colleen Dowell: We did have that discussion with my clients.

Commissioner Curtiss: One thing I think that throwing language in here about a guest ranch muddies everything up because guest ranches are dealt with in a whole other section of law, not this one. The other is I don't see why renting for 30 days or renting 4 times for 7 days makes any difference.

Colleen Dowell: I recall looking at statistics for transient types of places like campgrounds, recreational vehicles parks as opposed to mobile home parks and the number of trips per day, for instances, is much fewer in an RV park than in a mobile home park. I think you would find, I don't have those statistics available now, but I would think you would find that the impacts are far less in transient housing. Transient housing also has under it certain designations such as a small establishment and a seasonal establishment. My clients have a small seasonal establishment, which means they serve 9-24 people at a time for less than 120 days per year.

Commissioner Curtiss: I don't believe they even meet the definition in law for a guest ranch.

Colleen Dowell: Yes, that's a definition for a guest ranch either a small or a seasonal. Of course, that's being litigated also.

David Edgell: We're looking at a 3 acre piece of ground; it's just over 3 acres in Target Range. We would like to build 2 houses on that piece of ground; one will probably be bigger than the other. It's for our son; we have a severely handicapped granddaughter that we want to be able to take care of her. I want to know if the for lease or rent will have an effect on this because to subdivide it, it costs probably \$40,000 and so there's big impacts to doing this. We've talked to engineers and they don't know what the impacts going to be. I would like to know. We could do a use agreement but I don't know if that would be considered.

Commissioner Landquist: My understanding is that's one of the reasons why we're doing this is family should be able to accommodate family on your piece of ground.

Karen Hughes: Yes, the intent of this is to make it would administer through the Office of Planning & Grants. The intent of this is if you have a situation where you're not intending to lease or rent, that you have no future intend to do that then this would be the exact kind of scenario that we could use a lease agreement towards all that sort of issue, and not require subdivision review.

Commissioner Curtiss: In the future if it ended up being grandma that needed to live in the house same kind of thing, it would be a use agreement for family to use it.

Commissioner Landquist: But if you wanted to then change it sometime down the road so that if you did want to lease it out to someone that's not related to you, then at that point you would have to go through review to have that use agreement lifted off of your property title.

Matt Arno: I am supportive of these changes. I think exactly for the types of reasons that Mr. Edgell brought up, this definitely should be done. I hope this is the beginning of a review of all or most of the subdivision regulations because I feel like the current regulations are really out of hand. We went from something that was maybe 5 years ago that was maybe not enough and now, in my opinion, we've gone way, way over board. And it's pretty burdensome to the average person trying to build a home or even just do okay in Missoula County. So I hope this is the beginning of a review of all of the subdivision regulations and I think they should be reviewed with common sense in mind. We don't need California style, earthquake standards in our homes. And I shouldn't have to pay for that and if I want to pay for that, then I think that should be my opinion but I shouldn't have the county making me do that kind of thing.

Tom Facey: I represent Missoula County and the State Senate. I'm a member of the Educational Government Interim Committee. Myself and Representative Matt Rosendall from Glendive have been charged with coming up with some ideas on how to change Montana's Lease or Rent Statue. I've been working with Linda Stahl and Karen Hughes and will continue to do so and work with each one of you between now and the session. During the session Representative Rosendall and I have been asked to come up with some ideas by early September, I'm just hear this afternoon to listen to what new issues you are visiting with that were brought up from the public. Something that I think that Representative Rosendall and I and Ms. Stahl and some other stake holders are considering is grandfathering, making sure there's a local option with maybe some minimum criteria from the State. Looking at that impact issue that you brought up, in my mind keeping local control is very important. We've got man camps in Eastern Montana and we've got other issues in Western Montana. So we certainly don't want us telling you what to do, we would rather have you be able to do that. One of our intentions is to give the direction of the court so the court won't be having to guess what the intentions of the statue are and clear that language up. But again, Mr. Chairman and members of the committee, I look forward to working with Mrs. Hughes and Ms. Stahl.

Jeannette Zengraff: I'm speaking for the Advocates for our Republic. We are just so pleased to see this effort to have less government and I'm sure it's a relief for you regarding the decision concerning accessory use coming from the planning departments and having people designated to do that. As far as just a general situation, we really want to make it clear that we favor rules that do in essence for less government. We really are very pleased with the thought that people can be helped by less

government. I would like to be on record too as saying that we are concerned only about one other bill and if I may just take this opportunity just to say for a minute. If someone has several maybe 75 acres that they want to give to their children, grown adult, is there anything in the works that would mandate that that much property be given also to conservation? In other words if they have a lot of property and I just don't even know if anything like that is coming along but I just wanted to share that that would be offensive to us. We feel a man's property if it was zoned, it's a matter of subdivision or a matter of accessory, whatever it is. We definitely don't feel an equal amount should be given for conservation.

Commissioner Curtiss: The law does allow you to give land to your children and it does not allow us to require conservation.

Steve Adler: I'm here mostly on behalf of my own work and my own clients. I've had some experience lately that tells me that what we have proposed right now and I know part of it is timing, it's just we're in a muddle right now, but part of it is simple vagueness. I don't see the vagueness going away. I would like us to work on this, I know we have to deal with it but if we could deal with it in a manner that gives us some specificity some guidelines, some standards, so that people like me and my clients can actually read it and go; okay I get it, I know what they're after, I know what works, I know what doesn't work. We're not there yet and ideally I would like to see a good portion of that work done before we pass a vague law. I have a little difficulty passing a law or passing a resolution that is left vague with a coviate of; oh we'll figure it out later. That's a tough one for me to swallow. I come here with a little disappointment from the last hearing that was at the Planning Board, there were several indicators there that told me that everybody is suffering the same frustration. I think if we can help alleviate that frustration before we pass anything, that'll be a really good move. What I saw at the last meeting was Mr. McCubbin say this is not a good law, it's not a clear, it's not good law, it's not a popular law but it's clear it's what we've got, we've got to pass this. I understand we have to pass something but can we work on it before we pass it? When one of the planning board members brought up the scenario about cabins for their kids and then if their kids move on having cabins with the same impact, no different impact. Mr. Barton was kind enough to say; in that case, I would recommend and I can read the minutes but it was basically that you transfer ownership into a holding company, having the holding company do...and so there are ways around the law but it wasn't the spirit of the law and it tells me that we have a lot of work. And as an end user, I'd like to know what those standards are and how can I represent them to my clients right now, that doesn't exist yet. Perhaps one of the things and I keyed in on this at the hearing is that I have a little problem with the verbiage and this is from the verbiage planning board. Where it says, things are allowed or not allowed and then uses the word potential. So in paragraph 2 and paragraph 3 where it said, paragraph 2; accessory to the primary use of the parcel and could not as a practical matter potentially be used by separate persons or entities. Then again in paragraph 3; additional buildings which are accessory to the primary use of the parcel and could also potentially be used by separate persons or entities. I would like to somehow find to strike the 'potential' of it because that seems to indicate a presumption of guilty before innocence and I know that's a charged statement, I found out from the last meeting that that was not well accepted but that's how I think about it. Something isn't illegal until you actually contravene the law. So how can you say; well in building that wood shop out back, even though it's single family, it is used for the family, it could potentially be used for something else so you're gonna have to go through subdivision review. So either you can't do it or you have to go through subdivision review. At the last meeting I brought up one instance where the owners were looking at a piece of property, they wanted to build a house with a separate garage and a separate workshop. It's zoned, the zoning covers it, they have no intent of renting it out or running a business out of it but what I would say...and I spoke to Mr. McCubbin whose very kind on the phone and guided me through...well if this is what they want to do, here's a way to avoid the issue all together. But that's not what my client wanted. So, in one sense I think the use agreement is a good thing because it allows them to state; I'm not going to do it. But it also carries with that that presumption of guilt that somebody will do; therefore you have to tell us you won't. That may be some antics. So in one sense the use agreement is a good kind of easy way for an owner to say; okay I'm not in the realm of subdivision for lease or rent, I like that idea. One thing that I have reservation about as a citizen is knowing that my City and my County then through the use agreement is enforcing broad state general law through individual contracts with each applicant. How much of a burden is that going to be on the system, on the tax payers to administer each project individual? Is there a better way to administer subdivision law then by individual contract? And then what was brought up at the last meeting that I have concerns about too, you guys may be well aware of this one is; if we go this direction we have a pass of use agreements and the State law changes, what's the legal status of the use agreements? I don't know that's where I'd like to stick with State Law being State Law and administering it the best we know how. I don't know if there's any way we can take that potential and kind of the presumption of guilty out of it and just...yea, it is illegal if you rent it out if you do use it for a separate use for a separate entity that's fine but nothing illegal has been done until somebody actually does that. Presuming somebody will do that I think is over stepping the bounds of good governess. We're stuck on the horns of our dilemma is that we asked the Attorney General for an opinion, we got an opinion, we gotta do something about it but we can take the time to be a little more thoughtful about it? And to really target this at the loopholes that need closing rather than broad general rules which in some cases are (in auditable) the zoning in place. Really honing on where it's needed and take on those loopholes and those omissions rather than create big broad laws that have an ill effect on zoning which basically already covers most of the issues, it covers the use issues. So can we exempt areas out that are covered by other rules and regs that cover the intent of the law?

Commissioner Landquist: Somebody can correct me if I'm wrong but where zonings in place, zoning take precedence so that's not going to....this isn't going to affect that. Would that be correct? Zoning is zoning. This is sort of where things are vague enough that there isn't zoning is where we have the problem implementing this #1. We have been wrestling with this, if one of you wants to talk about one of the reason the language is what it is for the purpose of being able to have that flexibility and that understanding. I've read this a number of times; I can see where maybe here or there

knocking off a couple words just to make it less wordy and it will still say the same thing but I think we need to air on the side of caution here. It's not like we came up with this over night Steve, we've been working on this for a long time now and we want to address this piece of the law so we can get back to work with addressing the other parts of our subdivision but this seemed to be a pressing matter. This is holding up some business going on so we want to move on with it.

Steve Adler: I'm not getting the message that you just stated that basically zoning already covers it and we don't have to worry about it because I'm working on a project right now where I went to OPG, it's a rental property there are 3 buildings on two city lots under one ownership. In working on one of the buildings OPG is now going through the process of determining whether we have a subdivision for lease or rent and what the owners want to do with that property. It's zoned and it's in the City but the subdivision for lease or rent is a separate issue now and what we're facing is looking how to do this project so that we don't trigger subdivision for lease or rent criteria or review. So the message I'm getting is not that zoning already covers it and zoning takes care of it, I'm getting a different message.

Mike Barton: It's difficult to address the various confusions that Mr. Adler attributes to communication with our office. There is no instance that I'm aware of in the city where any multiple structure development that was done before the AG's opinion is now being considered as having to go through subdivision for lease or rent. Now, if this has to do with taking buildings away, what the City is doing is applying it to things since the AG's opinion. I'd also point out there's no suggestion, at least not yet in Missoula County that subdivision is a criminal activity. What we're talking about here is a level of review and the State has been very prescriptive, along with the Attorney General in saying that if a portion of parcel or use or a structure is intended for a lease or rent, it must go through subdivision. We're leaving that for the time being to the subdivision regulation rewrite but we are trying to do is to be very explicit and say, if someone is not going to use additional structures, portions or a parcel or uses for lease or rent then they do not have to go through that level of review. And that's as simply as I can put it and I would be glad to have my staff work with Mr. Adler with the particulars of these applications that are somewhat confusing.

Commissioner Curtiss: I think the other thing about specificity is that if you get too specific then somebody comes in with something you didn't think about and then it's not covered. So what we're trying to do here is to say, if you have a piece of property and you want a house, a garage, a shop, a chicken coop and a place to park your motor home, that you should be able to do that as long as it's for your own use. That's why the use agreements might seem kind of cumbersome at this time but working with the existing State law and the Attorney General's opinion, we think then this gives the ability administratively rather than making you go through review, which you shouldn't have to. It isn't the best of all worlds but as Senator Facey said, his committee is looking at it, it's been looked at at the state level before, and it's not easy because there are things that come up that should be reviewed. If you're going to add 4 cabins to your area, you definitely change the impact on lots of things. We're trying not to....I understand it's easier to say, yep I want to build a chicken coop and a shed, yep it's covered here but what if you want a coffee kiosk, that's one that's come in lately.

Commissioner Landquist: While we were working on this, we've been working on it for a while and coming up with updates. The expression that nothing is fool proof because fools are so ingenious, one of my favorite little phrases because there were some projects that came to us and we thought wow, we never thought of somebody wanting to do that. And yeah that would be, that's clearly an accessory use to that business. Because we're not able to think of every single use, that's why and I'm really truly all about writing and saying what it is we mean and what we don't mean by it so I'm not a big fan of language that isn't real specific, this is one of those areas because the law is so grey that we need to have this language in here that is broad enough for us to use that discretion instead of really specific things. But I would like someone...I'm pointing at James or Karen to answer this question, Mr. Adler's question about if the State law changes, then what happens to these and depending on how it changes, what would happen to these use agreements that we have in place?

Colleen Dowell: I just wanted to follow-up on what Steve Adler was talking about in terms of what I think he means in lack of specificity and vagueness that could be a stumbling block or provide opportunities for stopping people from even coming in and some of them are things that I had suggested that you take out of the regulations. Paragraph 2; and could not as a practical matter. What does a practical matter mean? Be used by separate persons or entities, that's my favorite, what is a person or entity? And there's one other...potentially. None of that is defined and that leaves it up to the planner at the front desk or...those are questions that you hate to have the County Attorney have to answer; is this one potentially or is that as a practical matter? I just think it's very vague and difficult to enforce in that way.

Executive Session

James McCubbin: A bunch of issue have come up that I'll try to address once I think I need to and if I miss anything that the Commissioners have questions about, let me know.

With regard to the language changes proposed by Mr. Kellogg, parts of those were adopted in the planning board's recommendation. I recommend against those changes because we have two categories, we've got the changing the word 'use' to 'lease or rent'. Backing up, what we're doing today or attempting to do is modify our regulations to help OPG planners to determine what is and what is not a subdivision for lease or rent that has to undergo subdivision review. The goal here is to amend our regulations in a way that is legally defensible and gives OPG as broad discretion as we can to determine when something does not have to go through a review. Right now without amending our regulations we basically have a yes or no analysis of whether something is a subdivision for lease or rent. The only time it's not a subdivision for lease or rent is if when we're talking about multiple buildings, because there's an exemption for renting or leasing parts of a building. So if you have more than one building on a partial or proposing more than one building on a partial, the only analysis we

have right now is; could that second house or building or shop or whatever be used as a rent or lease on the property? The reason why we have to look at what it *may be* used for is because that's what's in the definition of the subdivision, it's not because we're presuming somebody's guilty by building a second building, it's because the definition of subdivision includes doing something on your land so that possession of the partial...in order that the title 2 or possession of the parcels (portions of property) *may be* sold, rented, leased or otherwise conveyed. When you're talking about land use law you have to talk about the land, we're not talking about the people and what their current intentions are; we're talking about the status of land. Obviously land changes hands over times and people pass on, people also change their intention over time, so it's not the intention of the parties, it's the status of the land. So if you change the land such that it may be rented or leased or so forth, that's what could potentially trigger the subdivision review. So what we're trying to do is determine when you have a building that could potentially be used as a rent or lease property where we're not going to require subdivision review because we have a legal document that's enforceable that establishes that it will not and cannot litigable be rented or leased out separately. So that's the point here, is to give us a third category, instead of just yes or no, which is what we have right now, we want to add a 'maybe' category. That's kind of a conceptual idea that came out of Rural Initiatives after vetting this with various people is trying to come up with a yes, no, maybe analysis, instead of just yes or no. The 'maybe' category we can address by saying, *maybe* it's a subdivision for lease or rent, the physical structure is there essentially it could be a subdivision for lease or rent but we're not going to require a subdivision review because we're going to do this use agreement that's going to establish it's not a subdivision for lease or rent.

We are not and cannot establish exemptions to state law. What we're trying to do is through our local regulations determine when it's not a subdivision for lease or rent and is not subject for review because it doesn't meet that definition because we have a legally binding document that prevents the people from leasing or renting or otherwise disposing the property in violation of subdivision or platting act.

So that background addresses some of the issues but now I'll go through them.

In terms of the language change, the planning board liked changing the word 'use' to 'rent or lease'. The problem with that is the word 'use' is broader, it's intentionally broader because the statute, the definition of subdivision includes; sold, rented, leased or otherwise conveyed and includes re-subdivision, and further includes a condominium or area regardless of its size that provides or will provide multiple space for recreational camping vehicles or mobile homes. That's a mouth full and it's really broad and what we want to do is cover the whole spectrum of what the legislature included as a very broad definition. By saying use instead of just limiting to rent or lease because again, we want OPG to have that discretion to saying things are not subject to review. So we need it to be broad, it's intentionally broad in order to not have to say; well it's not lease or rent but it might be one of these other things that falls under subdivisions so you have to go under review anyway.

Commissioner Landquist: So would it be the definition if we had to include a definition of what use is, would it be that whole mouth-full that you just read to us, if we were to go there?

James McCubbin: I suppose. I certainly recommend against trying to do anything (in auditable).

Commissioner Landquist: I'm just trying to point that out to the folks that if we go there with definition that's how big and broad that definition of use would be.

James McCubbin: I'm not sure how we would define that. I think use is a plain meaning word and you don't need to define every word you use in regulations. When there's a plain meaning to language, you don't have to define, use the standard plain meaning of the language.

I guess jumping ahead that goes to the word 'potential'. Well we use that word in English language and conversation all the time, it has a meaning and you don't have to define it. Again, the person or entity, those have clear, plain meanings in English language and the word entity clearly incorporates, well corporations LLCs, business entities that are legally existing under Montana State Law. There's no need for us to define those terms and it would actually just cause more confusion if we did because then our definitions could contradict State definitions of those terms. They're well known, well used terms. So that's on the rent or lease vs. use terminology.

Another issue that came out of John Kellogg's comments and it's been address otherwise, is the reference to accessory in the third sub paragraph that's proposed. That's intentionally there and I think this regulation would very hard to legally defend if it were not there. If you're not talking about a second building that's accessory to the primary use of the property, then what we're talking about is two totally separate uses. If it's two totally separate uses how can we with a straight face say; oh it's not a subdivision for lease or rent because you promised, even though it's two totally separate uses. I think we would have a serious legal problem there and I would not want to have to face or read a mandate from the neighbor who opposes the development if we took that out and somebody's establishing a house and a completely separate business, or something like that, that are totally unrelated for one parcel.

Commissioner Curtiss: But accessory use and zoning is pretty limited. So if you're building a house and a garage, that's two separate uses.

James McCubbin: The definition in zoning would not necessarily apply, it might be informative. Do we have that defined in the subdivision regs? Again, I don't know that we need to have that defined because it's a pretty obvious word.

Accessory use: A use clearly incidental customarily found with and subordinate to the main use of the premises.

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Commissioner Curtiss: So a garage goes with the house.

James McCubbin: And a shop in the right circumstances is going to be...again, these are discretionary, factual issues that will need to be determined by OPG. Going to the; should we define things more, should we provide more specific standards or something like that. I don't think we can and I think if we did, it would get us into trouble because we want OPG to have discretion on these matters. There are some people in the community that don't want government officials to have any discretion; I get that from a political point of view. But these are...every single one of these is a unique set of factual circumstances and it's been long held in the law going back to old English law that the land is unique. What you do on the land is unique; there are no two identical parcels of property in this county or in the world. Add onto that, even if you have the same design house and garage or something, you put them in a different location; it's a different set of circumstances. Hopefully and certainly the intention is that we'll interpret this consistently from one project to another. But, if we define things and say a shop up to so many square feet is an accessory use that is not a subdivision for lease or rent, well what if somebody wants something that's 10 square feet bigger and they've got 300 acres up in the Swan, ten miles off the highway and there's no reason to believe that would ever be lease or rented. Do we really want to be held to that specific definition? I don't think so. Or if we have guest cabins not larger than however many square feet, again let's say you have multi-million dollar property with a very large house and you want to build a guest house next to it, that may be entirely appropriate, it may very obviously be an accessory building depending on the scale of the original building and yet the guest building may still be bigger than the house I live in, I know there are guest houses out there bigger than the house I live in but there still legitimate accessory uses. We want to give OPG the discretion to approve those things without subdivision review because they are plain _____ accessory uses that are not going to be rented or leased.

Then the 'as a practical matter' that terminology again; as a practical matter a tool shed, a standard 8x10 little shed is not going to be rented or leased or used by somebody else, but *it's possible* that it could be. There are people that unfortunately live in cardboard boxes, they can certainly live in a tool shed but we don't want to require subdivision review for those kinds of things. So there, the term 'practical matter', you have to look at the ending circumstances.

The two main language suggestions proposed by Ms. Dowell are basically reiterating things that you've heard from Mr. Miller in the past and it's asking you to basically create exemptions to state law. We just legally cannot do that. Exempting guest ranches, there's no provisions in state law that allows you to exempt guest ranches from subdivision for lease or rent so you just legally can't do that. Same with the periods of more than 30 days at a time, I would actually note that the Attorney General opinion that we have incorporates by reference rational from the District Court in Hamilton that in that fact pattern in the Skalkaho Steak House case, they wanted to build four small cabins for nightly and weekend rentals and that was determined to be a subdivision for lease or rent so certainly less than 30 days. The 30 days has nothing to do with whether or not it's lease or rent. So I certainly have to recommend against taking those out.

Some of the other minor language changes Ms. Dowell suggested don't really matter particularly in the third paragraph. The only Clerk & Recorder that makes sense here would be the Missoula County Clerk & Recorder because this regulation only applies to Missoula County but if you want to add that in, I was trying to keep the language as short as possible.

I wanted to clarify for the Senator who I guess we lost. My comment on the law primarily that the exemptions we have to subdivision law are inconsistent so I guess I'm just saying that for the record. I think it's probably clear if you read the minutes from the planning board. But where we have parts of a building can be rented or leased without review, you could have a 100 unit apartment building without review. It doesn't make sense to require a review for a house and a guest house. I certainly wasn't commenting on subdivision regulations or what we're proposing here.

Can we take more time to respond to the Attorney General? No. This has always been law, that's what the Attorney General ruled and we asked for the opinion, we need to be following it. We really just couldn't have an excuse.

Can we create exemptions where it's zoned or otherwise regulate it some other way. No we cannot. Again, we just don't have the power as County to create exemptions from State law.

Which gets us to the zoning vs. subdivision for lease or rent. Both apply, one doesn't replace the other. If there's a proposal to put a second...let's say somebody has a house and they want to build a shop and the shop, we have in our zoning that the foot print of accessory buildings can't exceed that in the main building. That zoning provision would apply regardless of whether or not it's a subdivision for lease or rent. If the proposed building did comply with zoning, that doesn't mean it's not a subdivision for lease or rent. You have to do both analysis, they're just separate I guess is the best I can do to answer that question. It's not the case where it's zoned, where it's permissible by zoning, therefore means it's not a subdivision for lease or rent, that's not true. Particularly because we have unzoned areas that just don't address things at all.

On these agreements, if State law changes...that's a tough questions because I don't know what the change in the State law would be. But, these will be recorded, essentially covenants, very similar to like an Ag covenant that we record when we create Ag parcels that will be enforceable by the County, they'll be of record. It's a contract between the County and the property owner, that they won't use these for any other purposes. If there's a State law that's enacted that expressly prohibits or makes void any such agreements, that we would recognize that State law and not try to enforce any of these use agreements. If the State law changes next year subsequently it certainly could change our ability to or what the terms would be if enter into future use agreements so we'll just have to take that into

account. As every session the legislature addresses land use law it seems so we may have to change our regulations, that's about the best I can answer to that. But banking on or waiting for the legislature to act really is not an option. The legislature has attempted to address subdivisions for lease or rent at least a couple other times in the last decade and nothing really has come of it. There was interim previously that didn't make any recommendations; there were no changes last year even though that was a major aspect, a repeated issue at the legislature last time. I think that addresses all the things that I felt we needed to address.

Commissioner Curtiss: So these lease agreements would transfer with the land so if I bought the house that Mr. Edgell talked about I could have my grandmother, my family member live in the house as long as it wasn't rented or leased.

James McCubbin: Right. And so they will transfer from property owner to property owner. These again have to be unique in terms of describing what the proposed use is but that we would probably describe as some kind of family member use only kind of provisions.

Commissioner Curtiss: I know that the Attorney General's opinion addresses where we used to interpret this law in Montana...in Missoula County to say it applies to residential; he said it also applies to commercial. So if I had a mini storage building and I was going to build another one it would be accessory so I could build more than one, is that right by this interpretation?

James McCubbin: Yes, I think we would have to require a use agreement that you have multiple buildings that are all accessory to the primary use of the property. The problem with mini-storage is they're specifically for rent, so that's one that we still have to probably deal with as a subdivision for lease or rent. This language is designed to address commercial situations, for example, say you have a car dealership, the car dealership has its main building and they want to build two more buildings; they want to build a shop building for their service department and they want to build a car wash building. There are certainly auto body shops that are out there that are independent businesses and there are certainly car wash businesses that are independent businesses. But here, those two additional buildings would be accessory to the primary use as the owners of the car dealership do a use agreement with us that says; this is all going to be one business, this won't be rented or leased or used as separate businesses. So I think that would be good to go. Again, this is depending on OPG's factual determination, I'm not gonna get...I know in the past the County Attorney's Office has gotten involved in factual determinations with OPG, we don't do that now. We try and let OPG do their thing as planners, make factual determinations; if they seek input from us we'll give informal advice as to what we think. But basically a factual determination is for planners and ultimately for County Commissioners to make, not for Attorneys. I give you my take and I think Mike will probably agree with my auto dealership example.

Commissioner Curtiss: So one other one that I do have concerns about how it could be used subjectively. One is the practical matter and the other is potentially. If the intention of this commission in adopting these is to allow people to use their property for their own use without a bunch of review and expense, would it just be a directive from the commission to say if somebody's going to use this all to their use, find a way to make that happen. To me practical matter and potentially...I would potentially rent my bathroom.

James McCubbin: Exactly. And that's why we have potential and practical together. Here's the saving factor on that; any factual determination made by planners is appealable to Mike or whoever the Director of OPG is. And any decision that any staff member that you employ makes, is appealable to you. So if there is a factual determination by OPG that the property owner thinks is an abuse of their discretion and thinks is not consistent with the overall scheme with what your intent is with this regulation, they can bring that to you for your review. We do that not super regularly but it's not infrequent.

Commissioner Curtiss: But all of us are just people that aren't going to be here forever so I can understand some of the concerns so I guess maybe as we go forth and do the whole subdivision regulations we can get a little clearer. That is our intent is to try and let somebody build things on their property that they will use themselves without...you don't want a 40 foot building that shades the neighbors garden either so that's always...

James McCubbin: I don't know how we can do a yes/ no/ maybe approach without their having to be discretion and some subjectiveness on the maybes. If you want to make strict definitions you stay with the yes/no approach. And that's easy. You do a second building that could be rented or leased, it's subject to review. What we're trying to do is create some flexibility on purpose, which involves subjectivity and involves discretion to let people do what they want more and still have it be legally defensible.

Commissioner Curtiss: Let's them put a bathroom in the shop if they really don't want the mud tracked in the house.

James McCubbin: But this will not eliminate all people with issue that have issues with subdivision for lease or rent. This will not eliminate things where somebody wants to have a house and a separate business on one parcel. It will not eliminate people who expressly want to rent or lease out different buildings on their property.

Commissioner Landquist: I'm still struggling with the same language issues that Jean is and I think it's really important that we need...and I said this in one of our briefing meetings, admin meetings or something that people will change. Eventually maybe we'll have a record of this is the way we do it, look back in history but we have plenty of records that say this is the way we used to do it and that's wrong, we figured out that that's wrong because we got a different legal opinion or whatever. I

understand the flexibility we're trying to build in here and I think it's real important that when we say discretion what we're really essentially saying is, we're trying to put that common sense approach back in to this versus discretion because I think discretion is sort of a word that has gotten us in trouble, not us per say, but other entities within the county review system. Too often I've heard oh they'll hear my name and they'll just say no because I've had trouble with them in past so they're going to use their discretion and make it difficult for me. This is why I'm a big fan of trying to say what it is we're trying to say in the language. Am I correct in reading this because you said going back to the yes/no/maybe sort of thing that when you read these three items...you read the first one, that is a subdivision, you read the second one, that's not a subdivision and you read the third one, technically it's not one but if you wanted to do it just right then it would be one.

James McCubbin: Yes, the third one is maybe and I think basically what it is saying you have a situation that can be interpreted as being a subdivision for lease or rent but if we do a use agreement to clarify that it's not, then there you're not going to be required to go through review. It may be a subdivision for lease or rent but we can clarify that it's not by doing a use agreement. I think that's the best we can do. There are problems with doing this, there are potential problems in the future with use agreements, we have enforcement issues and they can certainly come up. This is another thing we need to watch it's kind of like conservation easement or covenants that the county is a party to like fire sprinklers, things like, we've had to litigate some of those. We will have enforcement issues on these. So that will have a burden on the county to monitor it. This is something you are taking on that's a bit more complicated and is more involved and will require more staff time than just a yes/no approach. But the understanding that we received from you in terms of direction and from the public is that yes/no approach is too stringent is not appropriate and so we're trying to create a way to not have to require all these folks to go through subdivision review.

Commissioner Landquist: Okay, so with the yes/no and maybe one answered here in these three things. Looking at #2, I'm looking at a simple change in the 2nd line instead of say could say would...because can I or may I would be one of those words, if you're able to or not. Then striking, so I changed could with would and leave the not but cross out 'as a practical matter potentially and leave 'be used by separate persons'. Anything's potential but this is the one that's not a subdivision, let's look at clarifying that paragraph a little bit more, cleaning that up.

Commissioner Curtiss: I think you just muddy it. Now it says...you want it to say would not ~ that's the part they do in #3, they say it would not. I think what they're looking at in #2 is...especially if you have two separate buildings and you space them further apart and they have a shared driveway with somebody or something. It's looking more at whether you're just building it for your own use or whether you're positioning it such on your property that it way more potential. It just gives them things to ask questions.

Commissioner Landquist: I see what you mean. I read it and read it and read it. Thank you.

Karen Hughes: One thing you might consider, I know you that sometimes you don't get back to problem areas in our regulations but we are in the process of doing the full update to our regulations so we can go back and revisit this. One thing the legislature may force the issue. We're going to be looking at these sections in the near future so if we find something that's really not working if OPG's having a hard time with it, the public's having a hard time with it, the Commissioners are we can look at that. The other thing is in working with OPG and how they administer it, you have some oversight there to see how this is going. This doesn't have to be preserved as a permanent fix; we can look at it again.

Chair Carey: I support the original proposal. I think the amount of work that went into this to craft this is astounding. I don't want to tinker with it right now and you do raise a good point in terms of the future ability to make some changes.

Commissioner Curtiss: So you're saying the original without planning boards changes?

Chair Carey: Right.

Commissioner Curtiss: I agree too because I think uses is more flexible then lease or rent.

Commissioner Landquist: I'm with you too.

Commissioner Curtiss: Again, people are going to tell us whether their intent is to lease or rent. If it is, they go through review. If it's not, we should be able to work it out. We can tweak it later.

Commissioner Landquist: It puts common sense back in things, I like that a lot.

Steve Adler: I'm sitting here kind of frustrated because I'm somebody that has to use this and I realize there are some common language definitions to things. But if things aren't further defined and I read this and I find out that accessory buildings cannot be used by separate persons, that tells me I'm the only person that can use it because if I use a common language of separate person...that's the frustration. I understand there wanting to be some leeway and there wanting to be some broad use but I can't even look at this and define what is meant. I can't believe somebody's going to keep me and my son from using the same property because we're family. But if you want to take a literal translation, we are separate people. So my frustration is in looking at this and it seems like kind of governess wants it both ways. You don't want to put definitions to it but if you don't put some...and I don't mean hard and fast definitions but if you don't put some guidelines to it and I'm somebody who's been on boards and practiced privately, I understand guidelines and I understand you cannot legislate every example but if you can at least work up some guidelines and give some guidance to those people that have to use, that would be most appreciated.

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Chair Carey: Well I think the proof will be in the pudding. We have to start with something so we'll start with this and we'll see how it goes and if we come into bumps in the road we'll figure something out.

Steve Adler: I would certainly volunteer to help out with guidelines or help test them out or whatever if we can get them developed. It just needs at some point to become usable and a valid means of communication, no too vague, to open.

Commissioner Curtiss: So you made a good point there if you look at that, maybe the rented or leased language is better there.

James McCubbin: Use by property owner legally includes allowing guests to be there. Somebody coming on to your property with your permission and is using it with you is the property owners use.

Commissioner Curtiss: Clear language is confusing. Both 2 & 3, Mr. Kellogg had suggested that we scratch 'used' and put 'rented or leased by separate person or entities'.

Commissioner Landquist: I went round and round with that too and then I had to keep looking at the fact that we are under all of this has to do with lease or rent *that is* the use that we're talking about. I went round and round with that a bunch.

James McCubbin: I hate to expand the language, I don't think there's a problem with the *use* in this context but if you want to go that way then I recommend that you go; subject to lease, rent or possession by.

Commissioner Landquist: Remember we talked about that also, used, rent, or barter or there's a lot of things covered by use and that whole legal interpretation that you read us of use that's why I said; so if we were to define *use* the used it's used here is that what we'd put in the glossary for what we mean.

James McCubbin: So again the statue is; in order the title to or position of the parcels. I'm talking about title exchanging here. So possession of the parcels may be sold, rented, leased or otherwise (in auditable). So I think if you put in rented, leased or possessed by others that would be broad enough that it basically covers the statue.

Karen Hughes: You will continue to have this dilemma until you understand or articulate that subdivision is about the transfer of a parcel of land or the creation of a separate parcel it isn't a use. Use is governed by zoning. That's why the definition has to be around that transfer of property creating something that can be transferred like a separate structure. Transferred by possession which is lease or rent.

Commissioner Curtiss: That's not what the Attorney General said.

James McCubbin: Leased, rented or possessed by separate person would be again...more words, I don't know if that's going to help anybody understand it.

Executive Session Motion

Commissioner Landquist made motion that the Board of County Commissioners adopt the proposed amendments that staff prepared to section 4.6 of the Missoula County Subdivision Regulations to address subdivision for lease or rent provisions as shown in attachment A of the Staff Report to the Planning Board and be adopted.

8. **OTHER BUSINESS:** None

9. RECESS

There being no further business to come before the board, the Commissioners were in recess at 3:47.

Resolution No. 2012-059 – BCC signed, dated June 27, 2012. Amending Section 4.6 of the Missoula County Subdivision Regulations pertaining to Subdivisions Created for Lease or Rent, as set forth in Attachment A. Public Hearing held June 27, 2012.

THURSDAY, JUNE 28, 2012

BCC met in regular session; all three present.

ADMINISTRATIVE MEETING

Plan Approval – BCC reviewed/approved/signed County DUI Task Force Annual Plan for SFY2013 (July 1, 2012-June 30, 2013), submitted June 26, 2012 to the State Highway Traffic Safety Bureau, MT DOT, Helena. Originals to Lonie Hutchison/Health Dept.

Contract – BCC approved/BC signed. 7-Year Master Contract issued by DPHHS establishing key requirements for all subsequent contracts/task orders for specific programs/projects with Missoula City-County Health Department. Term/July 1, 2012-June 30, 2019. Original to Mary Pittaway/MCCHD.

Resolution No. 2012-058 – BCC signed, dated June 28, 2012. Budget Amendment for Auditor in amount of \$7,820 showing revenues/expenditures for Veterans Burial Allowance (which exceeded budget by same amount). For total disclosure, expenditures included in formal FY12 Operating Budget/Revenue Estimates for County.

Contract – BCC signed, dated June 27, 2012. One year renewal option between County and Missoula Independent for FY 2013 Legal Advertising. Same rates/terms as detailed in 2011/2012 contract. One original to Barb Berens/Auditor.

Lease – BCC approved/signed, dated June 28, 2012. Revised lease between County and Seeley Lake Rural Fire District for use of premises located at 3360 Highway 83 North (Administrative Building; Small Garage-one bay; and Exterior Secured Area-shared with Lessor/Lessee. Amount/\$23,419 per year + pro rata share of electricity/janitorial services. Term/November 1, 2011-August 19, 2024. One original to Seeley Lake FD.

Additional discussion item(s): 1) Maclay Bridge update; 2) Approval of rescheduled Budget Meeting; 3) Adventure Cycling presentation.

FRIDAY, JUNE 29, 2012

BCC met in regular session; all three present.

SPECIAL ADMINISTRATIVE MEETING

Contract – BCC reviewed but did not approve/sign Detention Center Contract with MT DOC. Contract is not ready.

Additional discussion item(s): None.


Vickie M. Zeier
Clerk & Recorder


Bill Carey, Chair
BCC